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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	22VAC40-201
<b>Regulation title(s)</b>	Permanency Services-Prevention, Foster Care, Adoption, and Independent Living
<b>Action title</b>	Amend Permanency Regulation as a Result of 2017 Legislation
<b>Date this document prepared</b>	August 16, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Subject matter and intent

*Please describe briefly the subject matter, intent, and goals of the planned regulatory action.*

22VAC40-201, Permanency Services, provides standards for local departments of social services (LDSS) for prevention, foster care, adoption, and independent living services. This regulatory action makes changes consistent with the Code of Virginia, including amending the name of the Putative Father Registry to Virginia Birth Father Registry and requiring additional information be added to the registry so that putative fathers can be notified prior to court proceedings for termination of parental rights and adoptions regarding a child that he may have fathered (Chapter 200 of the 2017 Acts of Assembly). Additionally, recent changes to the Code of Virginia require that youth who turn 18 while in foster care shall be enrolled in Medicaid provided they do not object and are eligible. They shall also be given the opportunity to participate in a survey to provide feedback regarding the youth's experience while in foster care (Chapter 187 of the 2017 Acts of Assembly). The intent of this action is to make the regulation consistent with the Code of Virginia and federal laws, and to make any other changes the agency deems necessary after comments and review.

## Legal basis

*Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

The state's legal basis for this action is § 63.2-217 of the Code of Virginia that requires the State Board of Social Services to adopt such regulations as may be necessary to carry out the purpose of title 63.2. This regulatory action to 22VAC40-201 is to comply with the 2017 Acts of Assembly Chapter 200 (HB 2216) amending the name of the Putative Father Registry to Virginia Birth Father Registry throughout the Code of Virginia. Additionally, the 2017 Acts of Assembly Chapter 203 (SB1461) and the 2017 Acts of Assembly Chapter 187 (HB1451) require youth who turn 18 in foster care to be enrolled in Medicaid and be provided the opportunity to participate in a survey to provide feedback regarding their experience in foster care. This regulatory action will provide comprehensive and accurate direction regarding these required activities.

## Purpose

*Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.*

The proposed action is to update regulation to correspond with the name change to the Virginia Birth Father Registry throughout Title 63.2 of the Code of Virginia and to include the process of registration for the putative father. This regulatory action is integral to Virginia's compliance with current state laws. Changing the name to the Virginia Birth Father Registry will eliminate confusion and better represent the purpose of the registry. The Virginia Birth Father Registry protects the rights of a putative father by providing notification of court proceedings for termination of parental rights and adoption regarding a child that he may have fathered, and potentially giving him an opportunity to be in his child's life. Health insurance is integral in providing for the health, safety and welfare of youth aging out of foster care. The proposed revision to the regulation will ensure compliance with state law and direct the LDSS to enroll these youth in Medicaid upon turning 18 years old. The feedback from the survey will be used to strengthen and improve the state's foster care program.

## Substance

*Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

This regulatory action will incorporate technical corrections, language and processes necessary to ensure consistency with the Code of Virginia, federal legislation, and requirements that have been passed into law since the introduction of the current Permanency Services regulation. This regulatory action includes, but is not limited to, amendments to sections 10, 100 and 190 including: changing the name from the Putative Birth Father Registry to the Virginia Birth Father Registry; adding the requirement that youth turning 18 in foster care shall be enrolled in Medicaid providing they are eligible and do not object; and

adding the requirement that youth turning 18 in foster care be given the opportunity to participate in a survey to provide feedback on their experience in foster care.

## Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

There are no other alternatives to the proposed regulatory action, as the action is necessary to make the regulation consistent and in compliance with state law.

## Public participation

*Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.*

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to **Traci B. Jones or Em Parente, 801 East Main Street, 11<sup>th</sup> Floor, Richmond, Virginia 23219, 804-726-7499, and email [traci.jones@dss.virginia.gov](mailto:traci.jones@dss.virginia.gov) or [em.parente@dss.virginia.gov](mailto:em.parente@dss.virginia.gov)**. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

A panel will not be used.