



Exempt Action Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-191
Regulation title	Background Checks for Child Welfare Agencies
Action title	Amend regulation to comply with provisions of the Code of Virginia and reformat to harmonize with data system
Final agency action date	June 14, 2006
Document preparation date	June 14, 2006

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 21 (02) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The purpose of this exempt action is to incorporate changes to the regulation that are required by Chapters 384, 558, and 885 of the 2006 Acts of Assembly. The action requires child-placing agencies to obtain a national criminal history record check on any individual with whom the agency is considering placing a child on an emergency, temporary or permanent basis, including the birth parent of a child in foster care, per Chapter 558. It further provides for emergency placement without a national criminal history record check, if the person submits to fingerprinting and provides necessary personal descriptive information within three days of placement. Noncompliance results in immediate removal of the child from the home.

The action prohibits granting a petition for adoption if an adoptive parent has been convicted of a sexually violent offense or an offense requiring registration in the sex offender registry, per Chapter 384.

The action allows a child-placing agency to approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who has had his civil rights restored by the Governor, provided 10 years have elapsed following the conviction, per Chapter 885.

The action clarifies that only information from the central registry or the Virginia Central Criminal Records Exchange or both will be disseminated to an entity denied licensure, registration, or approval, or denied employment or volunteer service because of information on a sworn statement or affirmation, a central registry finding, or criminal history record report, per §§ 63.2-1720 and 63.2-1721 of the *Code of Virginia*.

In addition, the exempt action reconfigures the current regulation text by separating certain paragraphs or sentences into more discrete units of information to be used for compliance purposes. The current regulation, effective July 1, 2005, is not configured sufficiently to provide the discrete elements required by the Division of Licensing Programs Help and Information Network (DOLPHIN) system. The DOLPHIN is used to manage information about applicants and regulated providers. It also serves as a management tool for the work of licensing staffs.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The State Board of Social Services took final action on 22 VAC 40-191, Background Checks for Child Welfare Agencies, on June 14, 2006.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

This action increases the likelihood that adoptive and foster children will be placed in safe and stable homes by requiring national criminal background checks instead of merely state criminal history records checks. Further, it prohibits granting a petition for adoption if an adoptive parent has been convicted of a sexually violent offense or an offense requiring registration in the sex offender registry.

It provides the opportunity for more families to be adoptive and/or foster families by allowing a child-placing agency to approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who has had his civil rights restored by the Governor, provided 10 years have elapsed following the conviction.