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

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| Agency name | State Board of Social services |
| Virginia Administrative Code (VAC) citation | 22 VAC 40-211 |
| Regulation title | Resource, Foster and Adoptive Family Home Approval Standards |
| Action title | Establish new Resource, Foster and Adoptive Family Home Approval Standards for local departments of social services |
| Document preparation date | April 20, 2005 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the proposed action is to adopt a new regulation specific to the approval requirements for resource, foster and adoptive family homes providers approved by local departments of social services. The new regulation will include many of the provisions from 22 VAC 40-770, Standards and Regulations for Agency Approved Providers, which is being repealed. The new regulation will ensure compliance with changes to federal and state laws and regulations regarding resource, foster and adoptive family homes.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The state legal authority to promulgate the new Resource, Foster and Adoptive Family Home Approval Standards regulation, can be found in §§ 63.2-217 and 63.2-319 of the Code of Virginia. These statutes describe the authority of the State Board of Social Services to adopt regulations as may be necessary to carry out the purposes of the Department and the programs the Department is mandated to provide.

Section 63.2-319 of the Code of Virginia charges local boards of social services with providing child welfare services, including protecting the welfare of children; preventing, remedying or assisting in the solution of problems that may result in the neglect, abuse, exploitation or delinquency of children; preventing the unnecessary separation of children from their families; restoring to their families children who have been removed; placing children in suitable adoptive homes; and assuring adequate care of children away from their homes in cases where they cannot be returned home or placed for adoption. In order for local boards to accomplish these goals, they are required to recruit and approve resource, foster and adoptive family homes that can adequately provide for the safety, permanency and well-being of a child placed in their home.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The new regulation for resource, foster and adoptive family homes providers approved by local departments of social services will include many of the provisions from 22 VAC 40-770, Standards and Regulations for Agency Approved Providers, which is being repealed. The new regulation will ensure compliance with changes to federal and state laws and regulations regarding resource, foster and adoptive family homes.

Substantive changes include: updates in barrier crimes standards for providers: training requirements for providers; updates regarding child sleeping arrangements; medical requirements for providers; gun and ammunition safety in a providers home; a provision for local departments of social services to approve a home as both a foster and adoptive home at the same time; and updates to reapproval requirements. In addition, the new regulation will include changes and updates that will ensure consistency between regulations for approval of local departments of social services and private child placing agency resource, foster and adoptive homes as per federal law. These changes will include: allowing local departments of social services to request Department of Motor Vehicle background checks if desired; requiring resource information from the provider prior to approval; procedures for continuing approval when household members change; and requiring sharing of information about the provider if the provider was previously approved by another agency. The training requirements for providers will be addressed throughout the development of the regulation in order to solicit input from local department of social services statewide so as not to impose an unfunded mandate on localities.

This regulation is integral to protecting the health, safety and welfare of all citizens, as it ensures that individuals approved to care for children in foster care or awaiting adoption are being cared for by individuals who are capable of providing the level of care required.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

There are no viable alternatives to creating a new regulation. The current Standards and Regulations for Agency Approved Providers (22 VAC-40-770) is being repealed. It includes generic provisions that apply to all providers (child care, foster family homes, adoptive family homes and adult services). Because of the uniqueness of each type of provider, such a format is no longer effective. All other foster care and adoption regulations are currently in the process of promulgation as a new, comprehensive Permanency

Services regulation. In order to add the resource, foster and adoptive family approval standards to the Permanency Services regulation at this time, the Permanency Services regulation would need to be pulled back from consideration. This would delay final approval of foster care prevention, foster care and adoption regulations, all of which constitute the new Permanency regulation.

Family impact

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

The proposed regulation impacts family stability in a positive way. The regulation will address training for providers; update standards for the homes in which children in foster care are placed to enhance their safety; and will allow local departments of social services to approve a home as both a foster and adoptive home at the same time. The proposed regulation enhances the quality of providers while assuring greater safety of clients.