



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 Home Approval Standards |
| Action title | Amend Resource, Foster and Adoptive Home Approval Regulations |
| Date this document prepared | October 18, 2012 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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.

This regulation addresses standards for resource, foster and adoptive homes approved by local departments of social services. The purpose of the proposed action is to clarify 1) the circumstances under which variances can be allowed to make state regulations consistent with state and federal law and 2) that resource parents are mandated reporters and as such must be trained. These changes are needed as a result of Code change during the 2012 General Assembly session. Additionally, requirements for maintaining approval are being updated based upon recommendations from regional specialists and input from our workgroup.

Legal basis

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

The state legal authority for this regulation can be found in §§ 63.2-217, 63.2-319, 63.2-901.1. These sections provide general authority for the development of regulations for resource, foster and adoptive family approval standards.

Need

Please detail 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, delineate any potential issues that may need to be addressed as the regulation is developed.

Changes were made to §63.2-900.1 related to kinship foster care as a result of legislation passed by the 2012 General Assembly. New legislation permits variances to be granted to relative foster care providers when meeting the approval standards would cause undue hardship and the variance would not affect the safety of a child placed in the home. This legislation further permits that under specific circumstances, certain crimes are no longer considered barrier crimes for kinship foster care providers. These provisions will contribute to the health, safety and welfare of minor citizens as they make it easier for relatives to be approved as foster parents to care for children who have been placed in foster care. Children placed with relatives when removed from their homes experience less trauma than children placed with strangers.

Additional changes to the regulation concern 1) the status of resource parents as mandated reporters and 2) the requirements for maintaining foster home approval. These provisions will contribute to the health, safety and welfare of minor citizens as they will contribute to consistent training standards and reporting standards for foster parents.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. 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.

Proposed changes to the regulation include revising variance language to limit variances to kinship foster care providers; adding training for mandated reporters to the list of required pre-service training topics; adding the requirement that foster parents report any significant changes to the household composition in advance; and adding the requirement that foster parents engage in in-service training annually.

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. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

No alternatives were considered as this action is necessary to ensure compliance with Code changes that take effect July 1, 2012.

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 on this notice.

Please also indicate, pursuant to your Public Participation Guidelines, whether a Regulatory Advisory Panel or a Negotiated Rulemaking Panel will be used in the development of the proposed regulation. Please state one of the following: 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 will be developing a Regulatory Advisory Panel of stakeholders including but not limited to Regional Resource Family Consultants, LDSS representatives, a FACES representative, foster parents, and staff from the Licensing Division. If you are interested in serving on the panel, please contact Em Parente at em.parente@dss.virginia.gov

The agency is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) 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 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) 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 Em Parente at Virginia Department of Social Services, Division of Family Services, 801 East Main Street, Richmond, VA 23219; by phone at 804-726-7538, Fax 804-726-7895 or email at 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.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This action will not impact the authority and rights of parents in the education, nurturing and supervision of children. It will not discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse or one's children and/or elderly parents. This action will not erode the marital commitment or have any impact on family income.

These proposed changes will benefit individuals providing care for children in foster care by ensuring that the regulations are consistent with state and federal law and other related regulations and by ensuring

that training will support them in meeting the needs of these children. The changes will also benefit children placed in foster care as it will be more likely that they will be placed with kinship care providers.