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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-201
Regulation title(s)	Permanency Services: Prevention, Foster Care, Adoption, and Independent Living
Action title	Amend Permanency Regulation
Date this document prepared	October 19, 2016

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.

The Permanency regulation, 22VAC40-201, encompasses the full range of services for prevention, foster care, adoption, and independent living services. The regulation provides local department of social services with rules on the provision of child welfare services consistent with the Code of Virginia and federal law. The intent of this action is to make the regulation consistent with federal laws and the Code of Virginia, 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 Board of Social Services has authority to adopt regulations as may be necessary to carry out the mandated purposes of the Department of Social Services. The state's legal basis for this action is § 63.2-217 of the Code of Virginia. Throughout Title 63.2, there are requirements for regulations to be developed to implement permanency services. This regulatory action will provide comprehensive and accurate direction regarding the provision of these services.

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.

This regulatory action is essential to protect the health, safety, and welfare of the children and families involved with the child welfare system by addressing conflicts between current Code of Virginia and federal laws and the permanency regulation, and avoiding confusion related to the provision of services. This regulation is integral to Virginia's compliance with federal child and family services programs and regulations.

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 law, and requirements that have been passed into law since the introduction of the current Permanency Services regulation. This includes, but is not limited to: adding the definition of sibling and requirements to notify parents of siblings when a child enters foster care; limiting of permanency goals of Another Planned Permanent Living Arrangement and Permanent Foster Care to youth age 16 and over; establishing standards for normalcy for children in foster care; ensuring that children age 14 and older in foster care are actively involved in the development of their foster care plans, are provided with an opportunity to choose two members of their planning team, are presented with a youth's rights document, receive their credit reports every year, and are provided with personal documents when they turn 18; addressing conditions under which children can be removed from a relative foster home where they have been placed for six months; and extending foster care services to youth who turn age 18 in foster care to age 21. The conditions under which adoption assistance can be continued for a youth who is adopted after age 16 will also be addressed.

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.

The Department of Social Services does not see any viable alternative to the proposed regulatory action, as the action is necessary to make the regulation consistent and in compliance with the Code of Virginia and federal law. The regulation provides guidance to the local departments of social services in addressing the needs of children and families who have come into contact with the child welfare system. Compliance with the state and federal law and regulations is necessary for Virginia to access available federal funding to support child welfare services.

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 not using a panel to assist in the amendment of the regulation. Ad hoc workgroups consisting of state and local constituents will be used to assist the agency in amending the regulation to meet current Code of Virginia, and federal law and regulations.

Comments on this regulatory action will be requested from members of the Child Welfare Advisory Committee (CWAC) and the Permanency Advisory Committee (PAC.) The committees consist of a cross section of individuals from various state and local agencies that are impacted by the services provided to children and families involved with the child welfare system. Input from current and former foster care youth, foster and adoptive families, and families of origin will also be sought.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, 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 Em Parente, 801 E. Main St., Richmond, VA 23219, (804) 726-7538, em.parente@dss.virginia.gov and Traci B. Jones, 801 E. Main Street, Richmond, VA 23219, (804) 726-7537, (804) 726-7499 (fax), traci.jones@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.