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Exempt Action: Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22 VAC40-211
VAC Chapter title(s)	Foster and Adoptive Home Approval Standards
Action title	Foster and Adoptive Home Approval Standards Regulatory Action-2022 Legislative Changes
Final agency action date	August 18, 2022
Date this document prepared	August 17, 2022

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action is necessary to implement the requirements of legislation passed during the 2022 Session of the Virginia General Assembly and to conform the existing regulation to current state law.

Chapter 561 (HB 716) and Chapter 562 (SB 307) of the 2022 Acts of Assembly amend current Virginia Code and create a notice requirement and appeal structure when a local board denies an individual's request to become a kinship foster parent. These new requirements mandate that local boards must provide individuals that have expressed interest in becoming a kinship foster parent with any forms or materials that must be submitted for the approval process within no more than 15 days of such request. If the individual is denied the ability to become a kinship foster parent, the local board shall provide to the individual (i) a clear and specific explanation of the reasons for such denial, (ii) a statement that such

denial is appealable pursuant to § 63.2-915, and (iii) an explanation of the procedure for filing such appeal.

Upon receiving a request for an appeal regarding a kinship foster parent denial, the Office of Appeals and Fair Hearings must conduct a hearing as soon as practicable and a decision rendered within no more than 90 days from the date of receipt of the individual’s written notice of their intent to appeal.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Section 63.2-217 of the Code of Virginia gives the State Board of Social Services the responsibility to make rules and regulations to administer social services in the Commonwealth under Chapter 9 (63.2-900 et seq.) of Title 63.2 of the Code of Virginia.

Chapter 561 (HB 716) and Chapter 562 (SB 307) of the 2022 Acts of Assembly create an appeal process for individuals whose request to become a kinship foster parent was denied and directs the Department of Social Services (DSS) to promulgate regulations to implement the provisions of this act and allows the initial adoption of regulations to be exempt from the Administrative Process Act, except that the Board of Social Services must provide an opportunity for public comment prior to adoption.

Statement of Final Agency Action

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.

On August 17, 2022, the State Board of Social Services approved the exempt action to amend 22VAC40-211, Foster and Adoptive Home Approval Standards.