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

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation</b>	22 VAC 40-201
<b>Regulation title</b>	Permanency Services - Prevention, Foster Care, Adoption, and Independent Living
<b>Action title</b>	Establish New Permanency Regulation
<b>Document preparation date</b>	March 10, 2004

This information is required for executive review ([www.townhall.state.va.us/dbppages/apaintro.htm#execreview](http://www.townhall.state.va.us/dbppages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dbppages/dpb\\_apa.htm](http://www.townhall.state.va.us/dbppages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style, and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### 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 is a joint action to repeal seven regulations and replace them with one comprehensive new Permanency Services regulation that will encompass the full range of services for providing a child with a safe, secure and stable situation in which to grow up.

The seven regulations being repealed are: 22 VAC 40-200 Foster Care – Guiding Principles; 22 VAC 40-210 Foster Care – Assessing The Client’s Service Needs; 22 VAC 40-240-10 Nonagency Placement for Adoption – Consent; 22 VAC 40-250 Agency Placement Adoptions – AREVA; 22 VAC 40-260 Agency Placement Adoptions – Subsidy; 22 VAC 40-280-10 Nonagency Placements for Adoption – Adoptive Home Study; and 22 VAC 40-800 Family Based Social Services.

The new Permanency Services regulation will incorporate comprehensive definitions pertaining to permanency services and provide a regulatory structure for the programs pertaining to permanency for children: Foster Care Prevention, Foster Care, Agency Placement Adoptions – AREVA, Agency Placement Adoptions – Subsidy, Agency Placement, Adoption Appeals, and Non-Agency Adoption Placement.

## Legal basis

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the 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 seven regulations being repealed, and to promulgate the new Permanency Services 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. Rather than dealing with different aspects of permanency for children piecemeal in separate regulations, a new comprehensive Permanency Services regulation will be promulgated that will incorporate all aspects of permanency in one new regulation.

## 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 regulation 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.*

This joint action will repeal the seven existing regulations pertaining to foster care prevention, foster care, and adoption services. A comprehensive new Permanency Services regulation will be promulgated to take the place of and expand upon, these seven regulations. The new Permanency Services regulation will incorporate all aspects of permanency in one new comprehensive regulation which will position all permanency services regulations in one location in the Virginia Administrative Code.

The new Permanency Services regulation will incorporate comprehensive definitions pertaining to permanency and provide a regulatory structure for the programs pertaining to permanency for children: Foster Care Prevention, Foster Care, Agency Placement Adoptions – AREVA, Agency Placement Adoptions – Subsidy, and Non-Agency Adoption Placement.

The new Permanency Services regulation is essential to protect the health, safety and welfare of children in the Commonwealth because it will strengthen the regulatory infrastructure of programs providing for the permanency for children - a strong, stable environment in which to grow up – resulting in the strengthening of the institution of family and improving the health, safety and welfare of children.

## 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.*

Because all programs related to child permanency are interrelated it is most effective to repeal and replace the current regulations with one new comprehensive Permanency Services regulation encompassing all child permanency programs. The alternative would be to update existing regulations and promulgate new regulations in program areas pertaining to permanency that currently do not have regulations. Access to these regulations would be complex and disjointed due to each being located in disparate sections of the Virginia Administrative Code.

### Family impact

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

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This joint action to repeal the seven existing regulations will pave the way for a new comprehensive Permanency Services regulation. The new Permanency Services regulation will strengthen the regulatory framework in the area of child permanency by updating current regulations, providing a regulatory structure for program areas where none currently exist and promulgating all permanency regulations in one comprehensive new regulation located in one section of the Virginia Administrative Code. The impact of the new Permanency Services regulation will be to provide local departments of social services a unified and coherent regulatory structure to guide their work with children and families struggling to achieve a permanent, safe and nurturing home environment.