



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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 Resource, Foster and Adoptive Family Home Standards for Local Departments of Social Services
Date this document prepared	June 20, 2007

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 home 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many of the provisions from 22 VAC 40-770, Standards and Regulations for Agency Approved Providers, which is being repealed.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.

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.

Sections 63.2-217 and 63.2-319 of the Code of Virginia provide the authority for this regulatory action. Section 63.2-217 is the general authority for the State Board of Social Services to promulgate regulations to operate social service programs. Section 63.2-319 mandates that local boards provide child welfare services in accordance with regulations adopted by the State Board of Social Services.

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.

Standards for the approval of homes for children who are in foster care or being placed for adoption are critical to ensuring the health and safety of those children. These regulations provide local departments of social services with the authority to approve or disapprove providers of services to children to ensure children in foster care or waiting for adoption are being cared for by individuals who are capable of providing the level of care required.

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.

This regulation for resource, foster and adoptive family home providers approved by local departments of social services will include many of the provisions from 22 VAC 40-770, Standards and Regulation for Agency Approved Providers, which is being repealed. 22 VAC 40-770 addressed standards for all types of providers for adults and child care as well as resource, foster and adoptive homes. New regulations are being promulgated to address different types of providers separately.

Substantive changes include: updates in barrier crime standards for providers; updates regarding child sleeping arrangements; medical requirements for providers; gun and ammunition safety in a provider's home; dual approval as an adoptive or foster home; and updates to re-approval requirements. In addition, the new regulation will include changes and updates that will ensure consistency between regulations for approval of local department departments of social services and private child placing agency resource, foster and adoptive homes as required by federal law. These changes 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.

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.

State law requires that the processes involving the placement of children in foster care or in adoptive homes be done in accordance with regulations promulgated by the State Board of Social Services. It is vital to have uniform requirements across the Commonwealth that serve to protect vulnerable children. The workgroup developing these regulations includes individuals from a variety of backgrounds. This diversity will help VDSS consider each requirement and its impact, including cost, carefully.

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 regulation will impact the institution of the family and family stability in a positive way. Ensuring that the individuals who are approved as providers have the capacity to nurture and care for children reduces the number of placements that fail and increases stability for children in care. Children raised in a stable environment have a greater chance for success in all areas of their lives.