

## ATTACHMENT TO THE REGULATORY REVIEW CHECKLIST

- Item 1: The purpose of this regulation is to protect children in licensed or registered out-of-home care from persons charged with or convicted of certain crimes. The regulation establishes the criminal record check procedures to be followed by licensed and registered child welfare agencies. The *Regulation for Criminal Record Checks for Child Welfare Agencies* became effective July 1, 1993 and was amended effective July 1, 1995. The proposed revision would provide for technical changes and clarification. Changes in the *Code of Virginia* resulting from the 1998 General Assembly will also be incorporated into the regulation. (As an interim measure, the Code change will be incorporated into the regulation through an emergency regulation.)
- Item 2: The *Code of Virginia*, §§ 63.1-198, 63.1-198.1 and 63.1-202, are the sources of the legal authority to promulgate the regulation. The regulation is mandated by state law and does not exceed the scope of the mandate.
- Item 3: This regulation is necessary to protect the health, safety and welfare of children in licensed or registered child welfare agencies. The regulation requires a sworn disclosure statement prior to employment and a criminal record report within 21 days of employment for all compensated and voluntary employees, caretakers, and individuals approved by child-placing agencies as foster or adoptive parents. The regulation also requires this information for applicants, their agents, and board members who are involved in the day-to-day operations of a child welfare agency or who are alone with, in control of, or supervising one or more children.
- The sworn disclosure statement indicates that the individual has neither a conviction nor pending charges in or outside the Commonwealth of Virginia of those crimes that act as barriers to employment. The criminal record check is conducted to ensure that the person does not have any convictions of barrier crimes in Virginia.
- In addition to other changes required by legislation passed by the 1998 General Assembly, the proposed revision will include a requirement for a central registry check and a prohibition on employment for an individual who is the subject of a founded complaint of child abuse or neglect.
- Item 4: This action is required as the result of an Executive Order Fifteen review analysis. During the 30 day public comment period, notification of the comment period was sent to licensed child day centers, licensed and registered family day homes, and individuals on the Child Day-Care Council's interested party list to solicit input regarding this regulation. No one suggested other alternatives for achieving the purpose of the regulation.

One alternative would be to have no regulation for criminal record reports. This approach is not feasible, however, because the *Code of Virginia* requires that criminal record reports be obtained and sworn disclosure statements submitted.

Item 5: This regulation protects Virginia's children and families. Changes that will be made in the regulation as a result of legislation passed by the 1998 General Assembly will increase this protection. The opportunities for those individuals with a history of child abuse or neglect to abuse children in regulated programs will be reduced, and the additional crimes which are barriers to licensure, registration, or employment will further protect children from potential harm. A safer environment for children in licensed or registered out-of-home care has a positive effect not only on the children, but also on the family as a whole.