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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) Chapter citation(s)	_6_ VAC_20_-_160_
VAC Chapter title(s)	Regulations Relating to the Court-Appointed Special Advocate Program (CASA)
Action title	Comprehensive Review and Update of CASA Requirements
Date this document prepared	10/13/2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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, 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Department of Criminal Justice Services (DCJS) intends to amend 6 VAC 20-160 to modify and update the requirements for the Court-Appointed Special Advocate program. The intention of this regulatory action is to make technical amendments, eliminate unnecessary requirements, and update and clarify language contained within various regulatory sections. This action will also serve as a periodic review of the regulation itself, as one has not been completed in some time.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

DCJS: Department of Criminal Justice Services
CJSB: Criminal Justice Services Board, DCJS' policy board
Department: Department of Criminal Justice Services
Board: Criminal Justice Services Board
CASA: Court-Appointed Special Advocate
CJA: Children's Justice Act

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, 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."

The current regulation and requirements for the CASA program were last updated in 2013. Although no current mandate exists from legislation or otherwise to amend this particular regulation, the agency feels this action is necessary in order update and enhance language, eliminate redundancy, requirements that are no longer applicable, and make technical amendments throughout the existing regulatory sections within 6 VAC 20-160. DCJS sought and obtained formal Board approval from the CJSB to open this Notice of Intended Regulatory Action on October 12, 2023.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Pursuant to § 9.1-151 of the *Code of Virginia*:

A. There is established a Court-Appointed Special Advocate Program (the Program) that shall be administered by the Department. The Program shall provide services in accordance with this article to children who are subjects of judicial proceedings (i) involving allegations that the child is abused, neglected, in need of services, or in need of supervision or (ii) for the restoration of parental rights pursuant to § [16.1-283.2](#) and for whom the juvenile and domestic relations district court judge determines such services are appropriate. Court-Appointed Special Advocate volunteer appointments may continue for youth 18 years of age and older who are in foster care if the court has retained jurisdiction pursuant to subsection Z of § [16.1-241](#) or § [16.1-242](#) and the juvenile and domestic relations district court judge determines such services are appropriate. The Department shall adopt regulations necessary and appropriate for the administration of the Program.

B. The Board shall appoint an Advisory Committee to the Court-Appointed Special Advocate Program, consisting of 15 members, one of whom shall be a judge of the juvenile and domestic relations district court or circuit court, knowledgeable of court matters, child welfare, and juvenile justice issues and representative of both state and local interests. The duties of the Advisory Committee shall be to advise the Board on all matters relating to the Program and the needs of the clients served by the Program, and to make such recommendations as it may deem desirable.

Additionally, The *Code of Virginia* states the following regarding the duties to Court Appointed Special Advocates (CASA) who have been appointed to a case:

§ 9.1-153. Volunteer court-appointed special advocates; powers and duties; assignment; qualifications; training.

A. Services in each local court-appointed special advocate program shall be provided by volunteer court-appointed special advocates, hereinafter referred to as advocates. The advocate's duties shall include:

1. Investigating the case to which he is assigned to provide independent factual information to the court.
2. Submitting to the court of a written report of his investigation in compliance with the provisions of § 16.1-274. The report may, upon request of the court, include recommendations as to the child's welfare.
3. Monitoring the case to which he is assigned to ensure compliance with the court's orders.
4. Assisting any appointed guardian ad litem to represent the child in providing effective representation of the child's needs and best interests.
5. Reporting a suspected abused or neglected child pursuant to § 63.1-248.3

The CJSB is the policy board for the Department of Criminal Justice Services, and in the October 12, 2023 meeting, DCJS obtained formal approval to move forward with these regulatory changes/this Notice of Intended Regulatory Action.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The CASA program is essential in Commonwealth and serves many children and families every year. It is defined as any locally operated court-appointed special advocacy program that utilized court-appointed volunteers to assist in judicial proceedings involving allegations that a child is abused, neglected, in need of services, or in need of supervision and for whom a Juvenile and Domestic Relations District Court judge determines such services are appropriate. DCJS has determined that many technical amendments and updates are needed since the last comprehensive review was completed over ten years ago. Amendments and draft language of new regulatory text will all be under the advisement of the Virginia CASA Program State Leadership Team and the CASA/CJA Advisory Committee. The purpose of this action is to ensure that language is statutorily correct and that unnecessary requirements are eliminated, and also utilize this time to conduct a comprehensive periodic review of the regulation in its entirety. It is for all of these reasons that DCJS has determined that the update of the regulation is essential to protect the safety and welfare of citizens in Virginia, as CASA volunteers represent some of our most vulnerable citizens—children.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

Substantive changes that are being considered and likely be included are the update and clarification of language to ensure continuity in training and volunteer requirements, as well as the elimination of unnecessary or overly burdensome regulatory text and/or requirements. DCJS will be continuing to work

with the CASA/CJA Advisory Committee as well as the Virginia CASA Program State Leadership Team to achieve this.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

DCJS does not have any viable alternatives to the regulatory changes and updates being proposed. Updating language and requirements that have not been revised in over ten years will be neither burdensome nor intrusive, and will not add any financial burden to small businesses, as defined in § 2.2-4007. On the contrary, it will make training and requirements for CASA volunteers across the Commonwealth more cohesive and efficient.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

In addition, pursuant to the ORM procedures and § 2.2-4007.1 of the *Code of Virginia*, the agency is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.