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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| Agency name | Department of Criminal Justice Services |
| Virginia Administrative Code (VAC) citation(s) | 6VAC20-30 |
| Regulation title(s) | Rules Relating to Compulsory in-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Operations |
| Action title | New In-Service Requirements and Review of Partial In-Service Credit |
| Date this document prepared | 10/4/17 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

This regulatory action is intended add a new in-service requirement for dispatchers that dispatch for law-enforcement. The regulatory action will include the in-service requirements for noncustodial employees of the department of corrections designated by the director of Department of Corrections (DOC) to carry a firearm. All of the current in-service requirements the process for obtaining partial in-service credit and multi-media criminal justice training will be reviewed.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Virginia Department of Criminal Justice Services/ Criminal Justice Services Board

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;
2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;
3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;
4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;
5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;
6. [Repealed];
7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;
8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;
9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25.3;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

§ 19.2-81.2.

A. A correctional officer, as defined in § 53.1-1, who has completed the minimum training standards established by the Department of Criminal Justice Services, or other noncustodial employee of the Department of Corrections who has been designated to carry a weapon by the Director of the Department of Corrections pursuant to § 53.1-29 of the Code and who has completed the basic course in detention training as approved by the Department of Criminal Justice Services, may, while on duty in or on the grounds of a correctional institution, or with custody of prisoners without the confines of a correctional institution, detain any person whom he has reasonable suspicion to believe has committed a violation of §§ 18.2-473 through 18.2-475, or of aiding or abetting a prisoner in violating the provisions of § 53.1-203. Such detention shall be for the purpose of summoning a law-enforcement officer in order that the law enforcement officer can arrest the person who is alleged to have violated any of the above sections.

B. Any employee of the Department of Corrections having the authority to detain any person pursuant to subsection A hereof shall not be held civilly liable for unlawful detention, slander, malicious prosecution, false imprisonment, false arrest, or assault and battery of the person so detained, whether such detention takes place within or without the grounds of a correctional institution, provided that, in causing the detention of such person, the employee had at the time of the detention reasonable suspicion to believe that the person committed a violation for which the detention was undertaken. C. It is the purpose and intent of this section to ensure that the safety, stability, welfare and security of correctional institutions be preserved insofar as possible.

§ 53.1-29

It shall be lawful for any correctional officer and any noncustodial employee who has been designated by the Director of the Department, and who has completed the basic course in firearms for correctional officers as approved by the Department of Criminal Justice Services, to carry and use sufficient weapons to prevent escapes, suppress rebellion, and defend or protect himself or others in the course of his assigned duties.

Purpose

Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.

Dispatchers are often the first responders to emergency situations. Dispatchers must quickly assess the information provided by an individual contacting 911 and dispatch the appropriate resources while calming victims, and gathering additional details to relay to law enforcement. The proposed revision protects the health welfare and safety of citizens by ensuring dispatchers that are employed by or in a local or state government agency whose duties include dispatching of law-enforcement personnel receive ongoing training.

On-going training is essential to ensure law-enforcement officers, jailors, custodial officers, courtroom security officers, process service officers, and officers and noncustodial staff of the Department of Corrections to maintain the skills necessary for officer safety, public safety, and to properly manage detained suspects and offenders. DCJS will be reviewing all the current in-service requirements to determine the need for additional training hours and or topics.

DCJS has initiated the process for selecting a vendor to conduct a job task analysis for law enforcement officers. The job task analysis and the review and revision of the training requirements are a long term project. The results of the job task analysis may identify areas of the regulation that need to be modified.

Substance

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

Dispatcher In-Service

In accordance with Executive Order 17 the Department of Criminal Justice Services (DCJS) conducted a periodic review of 6VAC20-60 Rules Relating to Compulsory Minimum Training Standards for Dispatchers in 2015. During the public comment period twenty-four public comments were posted to the Virginia Regulatory Town Hall. A significant issue raised during the public comment period was the need for on-going training and questions related to the absence of an in-service requirement for dispatchers given the other public safety fields DCJS regulates are all required to complete in-service.

The Dispatcher Curriculum Review Committee (CRC) met on August 2, 2016 and voted to approve and present the following recommendations to the Committee on Training (COT) related to in-service.

1. Dispatchers should be required to complete 24 hours of in-service training.
2. Require in-service to be completed every two years.
3. Breakdown of in-service hours are as follows:
 - a. 2 hours of legal
 - b. 22 hours of career development

September 15, 2016 the COT voted to approve the recommendations made by the Dispatcher CRC. A project was started in 6VAC20-60 Rules Relating to Compulsory Minimum Training Standards for Dispatchers to include the in-service requirement but it was later determined it would be more appropriate to include the requirements for dispatcher in-service in a separate project. It was determined it would be more appropriate to include the language in 6VAC20-30 Rules Relating to Compulsory in-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Operations as this is the Chapter in which all other in-service requirements are included.

Review of Current In-Service Requirements

DCJS staff is reviewing the current in-service training requirements for all regulated fields and determining if it is appropriate to revise the existing requirements. DCJS will include language identifying the in-service requirements for noncustodial employees designated by the director of DOC to carry firearms. As stated previously stated, DCJS will be conducting a job task analysis for law enforcement officers. The results of the job task analysis are likely to identify areas of the regulation that need to be modified.

Review of Partial In-Service Credit and Multi-media

DCJS is reviewing the process for obtaining partial in-service credit and the use of multi-media used for training.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

There are no viable alternatives. The categories for training topics for in-service and the number of in-service hours required and the timelines within to complete training are set forth in the Virginia Administrative Code for all public safety fields regulated by DCJS. Ensuring public safety practitioners maintain and enhance their skills through required in-service is essential for the safety of the public and the practitioner.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to **Barbara Peterson-Wilson, address: 1100 Bank Street, 12th Floor, phone number: 804-225-4503, fax number: 804-786-0410 and email address: Barbara.Peterson-Wilson@dcjs.virginia.gov**. Written comments must include the name and

address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

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