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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 VAC20-100
VAC Chapter title(s)	Rules Relating to Compulsory Minimum Training Standards for Correctional Officers of the Department of Corrections
Action title	Amendments to the Compulsory Minimum Training Standards
Date this document prepared	12/11/2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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).

Chapter 6VAC20-100-20 specifies that, under the direction of the board, and pursuant to the provisions of subdivision 9 of § 9.1-102 of the Code of Virginia, the Department establishes the compulsory minimum training standards for full-time and part-time officers of the Department of Corrections. All individuals hired as correctional officers, as defined in § 53.1-1, shall meet or exceed these standards. Through this action, these minimum training standards will be amended to improve performance outcomes, minimum number of training hours, and outdated language for effectiveness and efficiency in training new academy recruits within the Department of Corrections.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

DOC- Department of Corrections
DCJS- Department of Criminal Justice Services
Department- Department of Criminal Justice Services
Board- Criminal Justice Services Board

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 Executive Order 14 (as amended, July 16, 2018), "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."

Though Board approval to amend the compulsory minimum training standards was granted in 2014 and a subsequent regulatory action opened, that action was ultimately withdrawn in 2018 to separate the responsibilities of academies from officers. The Department of Corrections approached the Department of Criminal Justice Services for assistance shortly thereafter in updating and improving the compulsory minimum training standards for new corrections officers, but a new Board approval was never officially sought until December 10, 2020.

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.

Chapter 6VAC20-100-20 specifies that, under the direction of the board, and pursuant to the provisions of subdivision 9 of § 9.1-102 of the Code of Virginia, the Department establishes the compulsory minimum training standards for full-time and part-time officers of the Department of Corrections. All individuals hired as correctional officers, as defined in § 54.1-1 shall meet or exceed these standards. DCJS is the appropriate promulgating agency based on the statutory authority stated in § 9.1-102.

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 Department of Criminal Justice Services and the Department of Corrections are in agreement that an update to the compulsory minimum training standards for new corrections officers is appropriate, and much needed. Current standards are outdated and, in certain instances, not practical and/or efficient. This action seeks to not only improve clarity, efficiency, and effectiveness by amending performance outcomes and training objectives, but also improves the current minimum training standards for new recruits entering employment with the Department of Corrections, as basic corrections officers.

Additionally, legislation established in the 2020 Session of the General Assembly requires specific training and means of dealing with pregnant inmates at DOC facilities. This regulatory action will incorporate this into the revised training standards. The Department will be meeting with the Department of Corrections Curriculum Review Committee, as well as subject matter experts, to revise and improve the current standards in each individual category of training. This action will also serve as a periodic review, as it one has not been conducted in some time.

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.

Substantial changes and improvements will be made and applied to the performance outcomes, training objectives, testing criteria, and lesson plan guides in each individual category of training. These changes will reflect improved and updated language and enhanced training, in addition to amending the existing number of training hours (including field training) required for new correctional officers.

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.

No viable alternatives exist to this regulatory change. The agency maintains that this action will be neither burdensome nor intrusive to the Department of Corrections, and, on the contrary, will improve the efficiency and effectiveness of training.

Periodic Review and Small Business Impact Review Announcement

The agency is utilizing this regulatory action to also conduct a periodic review of this regulation. In addition, pursuant to Executive Order 14 (as amended, July 16, 2018) 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.

The Department of Criminal Justice Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Kristi Shalton, Division of Law Enforcement; 1100 Bank Street, Richmond, Virginia 23219, or at (804) 786-7801 or via email to kristi.shalton@dcjs.virginia.gov. In order to be considered, comments must be received by 11:59 pm 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.