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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-201
Regulation title	Permanency Services – Prevention, Foster Care, Adoption and Independent Living
Action title	Establish New Permanency Services Regulation
Date this document prepared	October 17, 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.

This is a joint action to repeal eight regulations and replace them with one comprehensive new Permanency Services regulation that will encompass the full range of services for providing a child with a safe, secure and stable situation in which to grow up. Currently regulations addressing permanency services for children are contained in eight different regulations which were promulgated at different times. Combining these regulations into one comprehensive regulation will ensure consistency in definitions and language and will limit the number of regulations individuals must use when addressing issues related to permanency services for children.

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.

The state legal basis for this action is § 63.2-217 and § 63.2-319 of the Code of Virginia. These statutes provide the authority for the State Board of Social Services to adopt regulations as may be necessary to

carry out the mandated purposes of the Department of Social Services. Section 63.2-319 directs local departments of social services to provide child welfare services. This regulatory action will provide a comprehensive structure for the provision of those 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.

The new Permanency Services regulation will incorporate all aspects of permanency – foster care prevention, foster care, independent living, agency placement adoptions utilizing the Adoption Resource Exchange of Virginia (AREVA), agency placement adoptions with subsidies, and non-agency adoption placement – in one new comprehensive regulation which will position all permanency services regulations in one location in the Virginia Administrative Code.

The new regulation is essential to protect the health, safety and welfare of children in the Commonwealth because it will simplify, clarify and strengthen the regulatory infrastructure of programs providing for the permanency of children – a strong, stable environment in which to grow up - resulting in the strengthening of the institution of family and improving the health, safety and welfare of children. The new regulation will be integral to Virginia's compliance with federal regulations and in keeping with federal Child and Family Services Program goals.

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 joint action will repeal the eight existing regulations pertaining to Foster Care Prevention, Foster Care and Adoption Services. A comprehensive new Permanency Services regulation will be promulgated to take the place of and expand upon, these eight regulations. The regulations being repealed are:
 22 VAC 40-200 Foster Care- Guiding Principles;
 22 VAC 40-210 Foster Care- Assessing the Client's Service Needs;
 22 VAC 40-240 Nonagency Placement for Adoption – Consent;
 22 VAC 40-250 Agency Placement Adoptions – AREVA;
 22 VAC 40-260 Agency Placement Adoptions – Subsidy;
 22 VAC 40-280 Nonagency Placements for Adoption – Adoptive Home Study;
 22 VAC 40-800 Family Based Social Services; and,
 22 VAC 40-810 Fees for Court Services Provided by Local Departments of Social Services

The new Permanency Services regulation will incorporate comprehensive definitions pertaining to all permanency services for children. Definitions will be updated to ensure consistency between all service programs and to comply with federal and state requirements. The Foster Care prevention section will expand on and identify mandated and optional services to prevent children from needing to enter foster care.

The Foster Care section will regulate all foster care services and activities as specified in the Code of Virginia including, but not limited to: accepting children into placement; assessment and reassessments; independent living placements; permanency goals; case reviews of children in foster care and their parents; required training for foster care and adoption workers and supervisory staff; procedures for

conducting criminal background checks on children expected to return home; standardized foster care paper case file formats; timeframes for filing petitions for termination of parental rights; development of concurrent case plans for children; requirements for providing independent living services to older youth; requirements for conducting administrative panel reviews; and, frequency for scheduling visitation between a child in foster care and the child’s parents and/or siblings.

The Adoption section will incorporate and update current adoption regulations including agency placement adoptions – AREVA; agency placement adoptions – subsidy; and, non-agency adoption placement, into this new regulation. This regulation will also address training for foster and adoptive workers.

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.

Because all programs related to child permanency are interrelated, it is most effective to repeal and replace the current regulations with one new comprehensive Permanency Services regulation encompassing all child permanency programs. The alternative would be to update existing regulations and promulgate new regulations in different program areas to meet new federal or state requirements. Ensuring the consistency of definitions and information across multiple regulations would be more difficult and working with numerous regulations is more complicated for everyone involved in these programs.

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.

The new Permanency Services regulation will make working with these regulations dealing with permanency services for child easier for everyone who works with or is affected by the adoption and foster care systems. Incorporating all permanency services regulations into one comprehensive regulation will help both workers and families better understand their roles thus strengthening their ability to understand and work within the system and bring stability into the lives of children being fostered or adopted.