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Exempt Action Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-90
Regulation title(s)	Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers
Action title	Amend Background Checks to Conform with Code
Final agency action date	August 16, 2017
Date this document prepared	August 16, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*. § 63.2-1719

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulatory action is necessary to conform to changes made in Chapters 809 and 201 of the 2017 Acts of Assembly (SB 1008 and SB 1434 respectively). As a result of these legislative actions, §§ 19.2-392.02, 63.2-1719, 63.2-1720, and 63.2-1721 of the Code of Virginia were amended.

The listing of barrier crimes for assisted living facilities and adult day care centers was moved from § 63.2-1719 to § 19.2-392.02 and was expanded to include additional crimes. As a result of these changes, it is necessary to amend the definition of barrier crimes in 22VAC40-90-10 to include the additional crimes, as well as change the reference to the Code of Virginia.

Regarding allowing assisted living facilities and adult day care centers to hire a person convicted of one misdemeanor barrier crime not involving abuse or neglect, if five years has elapsed following the conviction, § 63.2-1720 added that a person may also continue to be employed at such facilities or centers. As a result of this addition, a change is necessary to the definition of barrier crimes in 22VAC40-90-10 to allow for continuous employment under such circumstances.

Section 63.2-1721 refers to the appropriate part of § 19.2-392.02, regarding the specification that an applicant for licensure as an assisted living facility required to have a background check who has been convicted of a barrier crime not be issued a license. This necessitates the removal of the reference to § 63.2-1719 in 22VAC40-90-70 and rewording of the reference to barrier crimes.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Board of Social Services approved the exempt action to amend the Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers, 22VAC40-90, on August 16, 2017.

Family impact

Please assess the impact of this 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 institution of the family and family stability will be enhanced because the increase in crimes that are a barrier to employment of staff will lead to greater protection of residents of assisted living facilities or participants in adult day care centers. The increase protection of residents or participants will mean that families will have greater confidence in the welfare of their relatives who reside in assisted living facilities or participate in adult day care centers.