



[townhall.virginia.gov](http://townhall.virginia.gov)

## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	22VAC40-141
<b>VAC Chapter title(s)</b>	Licensing Standards for Independent Foster Homes
<b>Date this document prepared</b>	February 16, 2022

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**.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

DSS Virginia Department of Social Services  
IFH Independent Foster Homes

## 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 or 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.*

Section 63.2-217 of the Code of Virginia directs the State Board of Social Services (Board) to “adopt such regulations...as may be necessary or desirable to carry out the purpose of this title.” Sections 63.2-1700 and 63.2-1701 mandate licensure of child welfare agencies, except those that meet the exemptions contained in §§ 63.2-1715 and 63.2-1718. “Child welfare agency” is defined in § 63.2-100 as “a child-placing agency, children’s residential facility, or independent foster home.” Section 63.2-1734 requires the Board to “adopt regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed under this subtitle....”

“Independent foster home” is defined in § 63.2-100 as “a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.”

**Alternatives to Regulation**

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

There are no alternatives to achieving the purpose of this regulation. There are no independent foster homes currently licensed to operate in Virginia.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

No public comment was received.

**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

The regulation meets the criteria set out in Executive Order 14 (2018), as amended. The regulation is necessary for the protection of public health, safety, and welfare of children receiving care, maintenance, protection, and guidance by an independent foster home.

**Decision**

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

---

The State Board of Social Services recommends that this regulation remain in effect without change, as there have been no changes to the law on which it is based. There are no licensed independent foster home providers in the state.

### **Small Business Impact**

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

---

(1) The regulation is necessary for the protection of public health, safety and welfare of the children placed in independent foster homes. (2) No public comments were received. (3) The regulation is concise and understandable. (4) The regulation does not overlap or duplicate any other federal or state law. (5) While this regulation has not been amended recently, there are no licensed providers that use this regulation and no changes are needed. (6) This regulation has no impact on existing or potential Virginia employers' ability to maintain and increase the number of jobs in the Commonwealth. The regulation has no impact on small businesses nor does it include limitations or requirements for small businesses. There is no cost to the general public.

---