



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

<b>Agency Name:</b>	Department of Social Services
<b>VAC Chapter Number:</b>	22 VAC 40-90
<b>Regulation Title:</b>	Regulation for Criminal Record Checks for Homes for Adults and Adult Day Care Centers
<b>Action Title:</b>	Periodic Review
<b>Date:</b>	June 20, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

### Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

This regulation establishes the criminal record check procedures to be followed by licensed assisted living facilities (formerly named homes for adults) and adult day care centers.

### Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

§§ 63.1-173.2, 63.1-189.1 and 63.1-194.13 of the Code of Virginia provide state authority. The authority is mandatory. The regulation does not exceed the minimum requirements of the state mandate.

### Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

One comment was received. The commentor suggested that the regulation be amended to allow assisted living facilities to have the option to perform the criminal record check through the Virginia State Police or another company that could obtain and provide the necessary background information. The Code of Virginia requires that the reports be obtained through the Department of State Police and an amendment of the law would be necessary for this change to be made.

An informal advisory group was not formed for purposes of assisting in the periodic review; however, an announcement of the public comment period was sent to all licensed facilities affected by the regulation.

### Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

The purpose of the regulation is to establish minimum standards to ensure that assisted living facilities, district homes, and adult day care centers do not hire for compensated employment persons who have been convicted of certain crimes. The standards are monitored and compliance documented through on-site inspections conducted at least once a year and more often for most facilities.

### Alternatives

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

There is no alternative to the regulation because the Code of Virginia mandates that criminal record reports be obtained and sworn disclosure statements submitted.

**Recommendation**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

The agency recommends that the regulation stay in effect without change.

**Family Impact Statement**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.*

The regulation should have a positive impact on the family because it ensures that facilities cannot hire for compensated employment persons who have been convicted of certain crimes.