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Exempt Action: Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22 VAC 40-705
VAC Chapter title(s)	Child Protective Services
Action title	Exempt Amendment to Child Protective Services
Final agency action date	August 21, 2024
Date this document prepared	August 21, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action is necessary to implement the requirements of legislation passed during the 2024 Session of the Virginia General Assembly.

Chapter 779 (SB 12) and Chapter 829 (HB 1128) of the 2024 Acts of Assembly establish that if, during a human trafficking assessment, it is determined that an interview of the child by a children's advocacy center is needed and an interview with a children's advocacy center within the jurisdiction cannot be completed within 14 days, the local department of social services (LDSS) may facilitate the interview with a children's advocacy center located in another jurisdiction. Additionally, the term "child advocacy center" is replaced with the term "children's advocacy center" in § 63.2-1505 of the Code of Virginia. As such, the regulation requires amendments to reflect these changes.

Chapter 662 (SB 39) and Chapter 629 (HB 27) of the 2024 Acts of Assembly establish the Parental Child Safety Placement Program that institutes timelines regarding the utilization of alternate living arrangements where children are residing in the care of relative/fictive kin caregivers to prevent entry into foster care. The regulation outlines the process for developing a Parental Child Safety Placement Agreement to be established voluntarily between parents, relative/fictive kin caregivers, and local departments of social services (LDSS) to provide services and supports to prevent a child’s entry into foster care when it has been determined that the child cannot remain safely in their current home. The regulation further outlines the process for the assessment of relative/fictive kin caregivers to determine whether the proposed caregiver is qualified to care for the child, willing to have a positive and continuous relationship with the child, and willing to protect the child from abuse and neglect. The regulation outlines the process for convening an internal out-of-home staffing and a facilitated meeting with the family at all critical decision-points to support the development of a family-driven plan for the child, family, and relative/fictive kin caregivers. The regulation outlines the process for criminal and child welfare history inquiries for each adult in the proposed caregiver’s household. The regulation also outlines the requirement that the LDSS visit the relative/fictive kin caregivers’ home within two weeks of the Parental Child Safety Placement Agreement being established and at least one time per month thereafter to ensure the home environment is safe for the child. The regulation requires amendments to reflect the addition of §§ 63.2-1531 through 63.2-1536 to the Code of Virginia.

The enacting legislation exempted the regulation from the Administrative Process Act, but required opportunity for public comment prior to adoption. A public comment period was held 9/11/2024-10/11/2024.

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, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “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.”

Section 63.2-217 of the Code of Virginia gives the State Board of Social Services the responsibility to make rules and regulations to administer social services in the Commonwealth under Chapter 15 (63.2-1500 et seq.) of Title 63.2 of the Code of Virginia.

Statement of Final Agency Action

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 for 22VAC40-705, Child Protective Services, on 10/16/2024.