



Periodic Review / Retain Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22VAC40-191
Regulation title	Background Checks for Child Welfare Agencies
Document preparation date	June 21, 2012

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Section 63.2-217 of the Code of Virginia gives the State Board of Social Services authority to adopt and enforce regulations to carry out the purposes of Title 63.2 of the Code concerning social services. Chapter 9 of Title 63.2 contains statutes for foster care including requirements for background checks for placements of children. Chapter 17 of Title 63.2 contains statutes in §§ 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, and 63.2-1723 for the licensure and registration of child welfare agencies including requirements for background checks in child welfare agencies and foster and adoptive parents.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

Section 63.2-1723 of the Code mandates that regulations be adopted to implement the provisions of the section. This section pertains to waivers of disqualification of individuals seeking to operate, volunteer, or work at a child welfare agency; or of adults residing in a family day home. There are no less burdensome alternatives for achieving the purpose of this section of the regulation. An alternative for achieving the purpose of the remainder of the regulation would be to use the Code for enforcement of the requirements

for background checks for child welfare agencies and foster and adoptive parents. However, the language of the statute would be difficult for child welfare agencies, foster and adoptive parents, and licensing inspectors to interpret. This regulation is the least burdensome alternative available for achieving the purpose of the regulation.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No comments were received during the April 9, 2012 – April 30, 2012 public comment period following the publication of the Notice of Periodic Review. No informal advisory group was formed for the purpose of assisting with the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation is essential to protect the health, safety, and welfare of children receiving care from child welfare agencies and from foster and adoptive parents. The regulation is clearly written and understandable by the individuals affected.

Result

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

The agency is recommending that the regulation stay in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

This regulation is necessary to comply with § 63.2-1723 of the Code that mandates the adoption of regulations to implement the provisions of the section. This section pertains to waivers of disqualification of individuals seeking to operate, volunteer, or work at a child welfare agency; or of adults residing in a family day home. The regulation also is necessary to provide guidance and clarification on implementation of the background check requirements of §§ 63.2-901.1, 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, and 63.2-1723 of the Code. No complaints or comments on the regulation have been received. The regulation was last reviewed in October 2008. There is no economic impact on small businesses caused by this regulation, so no amendments are necessary.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

Families should have increased confidence in the safety of their children as a result of this regulation that contains requirements for background checks for licensure of family day homes, family day systems, child-placing agencies, and independent foster homes; for approval of family day homes by family day systems and for approval of foster and adoptive homes by child-placing agencies; and for voluntary registration of family day homes.