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Exempt Action Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-191
Regulation title(s)	Background Checks for Child Welfare Agencies
Action title	Amend Background Checks for Child Welfare Agencies to Comply with Code
Final agency action date	August 17, 2016
Date this document prepared	August 17, 2016

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*.

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The Background Checks for Child Welfare Agencies regulation sets forth standards that are intended to protect the health, safety, and welfare of children receiving services by ensuring that persons required to have background checks have not been convicted of an offense which prohibits licensure, registration, approval, or employment. These regulatory changes will bring the Background Checks for Child Welfare Agencies regulation into compliance with amendments made to §§ 63.2-100 and 63.2-1719 of the Code of Virginia.

The definition of a "family day home" in 22VAC40-191-10 is changed to reflect amendments to § 63.2-100 of the Code, lowering the threshold required for licensure to five children at any one time, exclusive of the provider's own children and any children residing in the home. It also clarifies that providers who only

care for children related to them by blood or marriage are not required to be licensed. This change is effective July 1, 2016.

The definition of an “offense” in § 63.2-1719, was amended to include a conviction of any offense that results in the person’s requirement to register in the Sex Offender and Crimes Against Minors Registry. This was added to the list of crimes and prohibitions that constitute a barrier to licensure or registration as a child welfare agency, approval as a foster or adoptive parent by a child-placing agency, approval as a family day home by a family day system, or employment or serving as a volunteer at a child welfare agency. This amendment is effective July 1, 2016. Revisions are made in 22VAC40-191-10 to the definition of “offense,” and technical edits are made in 22VAC40-191-50 to reflect this change.

The definition of “sex offense felony for family day homes” in 22VAC40-191-10 is deleted as a result of changes to the definition of “offense.”

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 took final action on 22VAC40-191, Background Checks for Child Welfare Agencies, on August 17, 2016.

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 changes to the regulation will strengthen the protections to children in licensed and regulated programs. These changes will not have any impact on the institution of the family and family stability. The changes will neither strengthen or erode the authority or rights of parents, nor encourage or discourage self-sufficiency, self-pride or the assumption of responsibility for one’s self, or others. There should be no impact on marital commitment. There are no anticipated changes to disposable family income as a result of this regulatory action. The Department has no discretion in this action as it is the result of a Code change.