



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Forensic Sciencet
Virginia Administrative Code (VAC) citation	__6__ VAC __40_ - __60__
Regulation title	
Action title	Regulations for obtaining information from the Virginia DNA data bank and procedures for verifying the identity and authority of persons requesting information from the Virginia DNA data bank.
Date this document prepared	May 17, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The proposed regulation will establish the methods for obtaining information from the Virginia DNA data bank and procedures for verifying the identity and authority of persons requesting information from the Virginia DNA data bank pursuant to the requirements of Virginia Code § 19.1-310.5.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Pursuant to Virginia Code § 19.2-310.5, the Department of Forensic Science “shall adopt regulations governing (i) the methods of obtaining information from the data bank in accordance with this section and (ii) procedures for verification of the identity and authority of the requestor.” The regulations will be promulgated by the Department of Forensic Science and are necessary to fulfill the mandatory requirements of the Code.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The proposed regulation protects the health, safety or welfare of the citizens by establishing the methods for obtaining information from the Virginia DNA data bank and procedures for verifying the identity and authority of persons requesting information from the Virginia DNA data bank pursuant to the requirements of Virginia Code § 19.1-310.5. Furthermore, the proposed regulation will protect the privacy of citizens whose personally identifying information is contained within the data bank and assist the criminal justice system in both solving crimes and trying those accused of crimes.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The proposed regulation will establish the methods for obtaining information from the Virginia DNA data bank and procedures for verifying the identity and authority of persons requesting information from the Virginia DNA data bank pursuant to the requirements of Virginia Code § 19.1-310.5.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Because the proposed regulation is required by Virginia Code § 19.2-310.5, the Department of Forensic Science is unaware of any viable alternatives to regulatory action.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The Department of Forensic Science is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in Virginia Code § 2.2-4007.1. Information may include 1) projected

reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Townhall website , www.townhall.virginia.gov, or by mail, email or fax to Stephanie Merritt, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, Virginia 23219, telephone: 804-786-2281, facsimile: 804-786-6857, email: Stephanie.Merritt@dfs.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will not be held.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Forensic Science Board will be involved in the development of the proposed regulation.

Family impact

Assess the potential impact of the proposed 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 Department of Forensic Science is unaware of any potential family impact.