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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) citation(s)	6 VAC20-50
Regulation title(s)	Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers
Action title	Comprehensive Review of Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers
Date this document prepared	March 13, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers (6VAC20-50) establishes the minimum mandatory entry level training requirements for jailors, custodial officers, courthouse and courtroom security officers and process service officers. The proposed revisions to the regulation are intended to remove dated terminology, clarify confusing language, correct inaccurate Code references, and standardize requirements for testing and documentation.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Virginia Department of Criminal Justice Services and Criminal Justice Services Board

§ 9.1-102. Powers and duties of the Board and the Department

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof; ...

...7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25.3;...

Purpose

Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.

This regulation is required by § 9.1-102 of the Code of Virginia and establishes the minimum mandatory entry level training requirements for jailors, custodial officers, courthouse and courtroom security officers and process service officers. Ensuring these individuals have adequate training is necessary for the protection of public's safety and welfare. Minimum training requirements are necessary as they address officer safety, jail and courtroom security, and the custody, control and care of inmates.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The purpose for this intended regulatory action is to revise and update the regulations governing the compulsory minimum training standards for jailors, custodial officers, courthouse and courtroom security officers and process service officers. The proposed revisions to the regulation are intended to remove dated terminology, clarify confusing language, correct inaccurate Code references, and standardize requirements for testing and documentation. The new substantive provisions include:

- Adding, revising, deleting definitions for the following terms: approved training academy, approved training, certified training academy, curriculum review committee, full time attendance, and school director.
- Adding language that would provide DCJS with the option to suspend or revoke a previously approved training. Currently DCJS' only regulatory authority is to suspend or revoke the certification of the academy.
- Requires the academy director maintain current lesson plans and supporting material.
- Changes the requirements to request a hearing or appeal of suspension or revocation from 15 calendar days to 15 business days.
- Clarify the locality's/academy's responsibility when establishing a regional or independently operated academy.
- Adding language requiring a minimum score of 70% on all tests. Certified training academies are permitted to require officers to attain a score greater than 70%.
- Adding language which references the in-service requirements for officer training and in-service for firearms identified in 6VAC20-30 Rules Relating to Compulsory in-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Operations.
- Identifies the forms and timeline for submission of the forms that document an officer's completion of entry-level training.
- Removes dated references to timelines for compliance with training standards.
- Removes reference to Form W-2 (revised 8/05). This form is no longer in use.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no viable alternatives to this regulatory action. The *Code of Virginia* requires DCJS to establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security; deputy sheriffs designated to serve process; and persons employed as deputy sheriffs and jail officers by local criminal justice agencies. The proposed revisions to this regulation do not impact small businesses.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including 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. Please include one of the following choices: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to **Barbara Peterson-Wilson, 1100 Bank Street, Richmond, VA 23219, Barbara.Peterson-Wilson@dcjs.virginia.gov; or fax: (804) 225-4503.** Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held and a panel will not be used.

Periodic review and small business impact review report of findings

If this NOIRA is the result of a periodic review/small business impact review, use this NOIRA to report the agency’s findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include 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.

Commenter	Comment	Agency response
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No public comments were received following the publication of the Notice of Periodic Review and no complaints or comments have been received from the public concerning this regulation.

This regulation is required by § 9.1-102 of the Code of Virginia and establishes the minimum mandatory entry level training requirements for jailors, custodial officers, courthouse and courtroom security officers and process service officers. Ensuring these individuals have adequate training is necessary for the protection of public's safety and welfare. Minimum training requirements are necessary as they address officer safety, jail and courtroom security, and the custody, control and care of inmates. In general the regulation is clearly written and easily understandable but there are some sections that require updating and clarification. The regulatory action will address these issues.

This regulation is not complex. There is some duplication and overlap with state law regarding the establishment of certified training academies. This regulation does not conflict with federal or state law or regulation. The last amendments to sections of this regulation occurred in 2012.