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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) Chapter citation(s)	6 VAC20-30
VAC Chapter title(s)	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
Action title	Amendments to In-Service Training Standards
Date this document prepared	05/21/2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Department of Criminal Justice Services (DCJS) intends to amend 6VAC20-30 to modify and update language to better align with the compulsory minimum training standards for new law enforcement officer recruits in the Commonwealth. The 2020 Special Session of the General Assembly created quite a few mandates for DCJS. The updated language from this regulatory change will not only revise in-service requirements to create cohesiveness among all criminal justice professions, but will also align with recently passed legislation. Additionally,

this action will also serve as a periodic review of the regulation, as one has not been completed in some time.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

DCJS: Department of Criminal Justice Services
 CJSB: Criminal Justice Services Board, DCJS' policy board
 Department: Department of Criminal Justice Services
 Board: Criminal Justice Services Board
 LE CRC: Law Enforcement Curriculum Review Committee
 SME: Subject Matter Expert

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "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."

The current in-service training standards and requirements were last updated in 2016. Although no current mandate exists from legislation or otherwise to amend this regulation, this regulatory change is necessary to align with the compulsory minimum training standards for new law enforcement officer recruits and to update language to be consistent with recently passed legislation. DCJS sought and obtained formal Board approval from the CJSB to begin the regulatory process on May 20, 2021.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Pursuant to § 9.1-102, and effective March 1, 2021, 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;
2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions and (ii) temporary or probationary status and establish the time required for completion of such training. Such compulsory minimum training standards shall include crisis intervention training in accordance with clause (i) of § [9.1-188](#);
 3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;
 4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;
 5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § [46.2-882](#) and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;
 6. [Repealed];
 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 and correctional officers employed by the Department of Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of Corrections, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates;
 10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-

enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

- 11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § [15.2-1731](#); etc.

The CJSB is the policy board for the Department of Criminal Justice Services, and in the May 20, 2021 meeting, DCJS obtained formal approval to move forward with this regulatory change.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

In order to have cohesiveness between the compulsory minimum training standards and requirements for new recruits and veteran law enforcement officers, DCJS has determined that the compulsory in-service training standards must be updated. It is essential that experienced officers be held to the same standards and requirements as those of new recruits beginning their law enforcement careers at the academy-level. Specifically, and just one example, DCJS, along with the LE CRC and SMEs empaneled for this project, have determined it is necessary to raise the firearms qualification score from 70% to 75%. If we expect recruits in basic academy classes across the Commonwealth to attain this, it is necessary to reflect this score change for in-service requirements of current officers. The purpose of this regulatory change is to also ensure that language is statutorily correct, up-to-date with recently passed legislation, and to also utilize this time to conduct a comprehensive periodic review of the regulation in its entirety. It is for all of these reasons that DCJS has determined that the update of the regulation is essential to protect the safety and welfare of citizens in Virginia.

Substance

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

Substantive changes that are being considered are raising the in-service firearms qualification score to better align with the revised compulsory minimum training standards for new law enforcement officer recruits at the academy-level. Additionally, language needs to be updated and revised to reflect recently passed legislation.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

DCJS does not have any viable alternatives to the regulatory changes being proposed. Updating language and aligning training standards for law enforcement officers across the Commonwealth will be neither burdensome nor intrusive, and will not add any financial burden to small businesses, as defined in § 2.2-4007.

**Periodic Review and
Small Business Impact Review Announcement**

In addition, pursuant to Executive Order 14 (as amended, July 16, 2018) and § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Department of Criminal Justice Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or fax to Kristi Shalton, Division of Law Enforcement; 1100 Bank Street, Richmond, Virginia 23219, or at (804) 786-0410 or via email to kristi.shalton@dcjs.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.