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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)	6VAC20-230 Regulations Relating to Special Conservators of the Peace
VAC Chapter title(s)	6VC20-230-30 Initial Registration Application 6VAC20-230-70 Renewal Registration Application 6VAC20-230-160 Entry-level training 6VAC 20-230-170 In-Service Training 6VAC20-230-180 General firearms training requirements 6VAC 20-230-190 Entry-level handgun training 6VAC 20-230-200 Entry-level shotgun training 6VAC 20-230-210 Firearms (Handgun/Shotgun) Retraining
Action title	Amendments to Compulsory Minimum Training Standards for Special Conservators of the Peace
Date this document prepared	10/02/2021

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).

This regulatory action, in summary, will be a comprehensive review and update of 6VAC20-230, and serve as a periodic review, as one has not been conducted in some time. This action will amend and revise the compulsory minimum training standards in 6 VAC20-230, Regulations Relating Special Conservators of the Peace, make technical amendments, and increase the number of training hours required. DCJS' training requirements are established in § 9.1-150.2 of the Code of Virginia, and this action's goal is to simplify the regulation of SCOPs itself, by repealing the individual chapter/sections, and

instead, replace them with a document incorporated by reference that houses the various categories of training that must be met by all SCOPs in the Commonwealth of Virginia. 6VAC20-230-160 will ultimately be amended and language revised, and will incorporate 6VAC20-230-180, 190, 200, and 210, as a separate DIBR. This revision will also include the addition of a CPR and first-aid component/training requirement into 6VAC20-230-30. 6VAC20-230-170 will also be amended as part of this regulatory action, to also amend language and incorporate a separate document for the in-service training standards, for consistency. All amendments will reflect newly-revised compulsory minimum training standards for law enforcement officers, so that the two professions have consistency across all regulations. The fees associated with SCOPs, under 6VAC20-230-20, are also being amended, but are already incorporated into a separate regulatory package, not related to this one.

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
- SCOP: Special Conservator of the Peace
- SCOP CRC: Special Conservator of the Peace Curriculum Review Committee
- DLRS: Division of Licensure and Regulatory Services, a division within DCJS
- PSSAB: Private Security Services Advisory Board
- DIBR: Document Incorporated By Reference
- Department: Department of Criminal Justice Services
- Board: Criminal Justice Services Board
- Division: Division of Licensure and Regulatory Services

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 Special Conservator of the Peace Curriculum Review Committee (CRC), established by the Chairman of the Criminal Justice Services Board, was tasked with identifying and recommending entry-level, in-service and advanced training standards for unarmed and armed SCOPs. The membership of the SCOP CRC consisted of Special Conservators of the Peace, law enforcement (police departments and sheriff's offices), attorneys, and training academies from across the Commonwealth. Though Board approval was sought and obtained to amend the compulsory minimum training standards for Special Conservators of the Peace in 2018, this regulatory action was never formally initiated due to staff turnover within DCJS. There is currently no mandate for this regulatory change, but as it has not been amended or revised in several years, a comprehensive review is appropriate at this time.

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 § 9.1-150.2. Powers of Criminal Justice Services Board relating to special conservators of the peace, the Board shall adopt regulations establishing compulsory minimum, entry-level, in-service, and advanced training standards for special conservators of the peace. The regulations may include provisions delegating to the Board’s staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and its regulations. In establishing compulsory training standards for special conservators of the peace, the Board shall require training to be obtained at a criminal justice training academy established pursuant to § [15.2-1747](#), or at a private security training school certified by the Department, and shall ensure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section. The regulations may provide for exemption from training of persons having previous employment as law-enforcement officers for a state or the federal government. However, no such exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a law-enforcement officer was terminated because of his misconduct or incompetence or who has been decertified as a law-enforcement officer. The regulations may include provisions for exemption from such training for persons having previous training that meets or exceeds the minimum training standards and has been approved by the Department. The Board may also adopt regulations that (i) establish the qualifications of applicants for registration; (ii) cause to be examined the qualifications of each applicant for registration; (iii) provide for collection of fees for registration and renewal that are sufficient to cover all expenses for administration and operation of a program of registration; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) effectively administer the regulatory system promulgated by the Board; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations, and appropriate disciplinary action if warranted; and (viii) allow the Board to revoke, suspend or refuse to renew a registration, certification, or license for just cause as enumerated in regulations of the Board. The Board shall adopt compulsory, entry-level training standards that shall not exceed, but shall be a minimum of 98 hours for unarmed special conservators of the peace and that shall not exceed, but shall be a minimum of 130 hours for armed special conservators of the peace. In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § [9.1-143](#).

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.

The proposed regulatory action is essential to protect the health, safety, and welfare of the citizens of the Commonwealth. A Special Conservator of the Peace has the power and authority of arrest and can perform other functions comparable to those of a certified law enforcement officer in Virginia. The current compulsory minimum training standards of an SCOP, however, do not adequately prepare these individuals to perform those functions. The proposed regulatory action will enhance the SCOP’s ability to properly perform their duties and responsibilities, thus better protecting the health, safety, and welfare of the citizens of the Commonwealth.

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.

In order to determine how the compulsory minimum training standards for special conservators of the peace should be amended to comply with the training hour mandate of § 9.1-150.2. of the Code of Virginia, the Chairman of the Criminal Justice Services Board established an SCOP CRC. This committee was tasked with identifying and recommending entry-level, in-service, and advanced training standards for SCOPs. DCJS facilitated meetings and the membership of the SCOP CRC consisted of registered SCOPs, certified law enforcement officers, attorneys, and training academy directors and staff. Through multiple meetings, the SCOP CRC was able to develop and enhance the compulsory minimum training standard recommendations which were subsequently approved by the CJSB.

The following substantive changes are proposed for amendment to the 6 VAC20-230, Regulations Relating to Special Conservators of the Peace:

In Section 6 VAC20-230-160, the entry-level training hours for an unarmed SCOP are increased from 24 hours to 98 hours and the entry-level training hours for an armed SCOP are increased from 40 hours to 130 hours. The proposed changes also outlines the entry-level curriculum for an unarmed SCOP and an armed SCOP. The proposed changes establishes that each applicant for registration as a SCOP must successfully complete CPR and First Aid training as a pre-qualification requirement. This section will also be amended to incorporate a document that details the specific performance outcomes, training objectives, and testing criteria for SCOPs.

In Section 6 VAC20-230-170, the in-service training hours for a special conservator of the peace are increased from 8 hours to 12 hours. The proposed changes establishes that the in-service training shall include 4 hours of legal updates & liability issues and 8 hours of career development. The proposed changes also lists subjects from which in-service training must be selected. This section will also be amended to incorporate a document that details the specific performance outcomes, training objectives, and testing criteria for In-Service training for SCOPs.

In Section 6 VAC20-230-180, the proposed change requires that a registered armed SCOP must successfully complete annual firearms recertification.

In Section 6 VAC20-230-190, the proposed changes require that the entry-level handgun training that an armed SCOP receives must comply with the performance outcomes and training objectives required of Virginia law enforcement officers. A DIBR will be incorporated into this section to ensure consistency between SCOP and law enforcement regulations/compulsory minimum training standards. Current standards can be found in DCJS' Law Enforcement Training Manual as well as on DCJS' website. They are also going to be housed within a DIBR within 6VAC20-20, once that respective regulatory action is complete (currently still within the NOIRA stage).

In Section 6 VAC20-230-200, the proposed changes would delete the section on entry-level shotgun training as the Special Conservators of the Peace curriculum review committee was silent on shotgun training for SCOPs.

In Section 6 VAC20-240-210, the proposed changes would delete all references to shotgun retraining.

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.

There are no viable alternatives to this regulatory action. § 9.1-150.2 of the Code of Virginia mandates the training hours specified in the proposed amendments, and authorizes the Criminal Justice Services Board to promulgate regulations effecting the training mandate.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

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 D 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, email or fax to Kristi Shalton, Division of Law Enforcement; 1100 Bank Street, Richmond, Virginia 23219, or at (804) 786-7801 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.