



Virginia  
Regulatory  
Town Hall

Notice of Intended Regulatory Action  
Agency Background Document

<b>Agency Name:</b>	Virginia Department of Social Services
<b>VAC Chapter Number:</b>	22 VAC 40-910
<b>Regulation Title:</b>	General Provisions for Maintaining and Disclosing Confidential Information of Public Assistance and Social Services Records
<b>Action Title:</b>	Establish New Regulation
<b>Date:</b>	February 20, 2002

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

Senate Bill 1096 enacted during the 2001 session of the Virginia General Assembly, directs promulgation of an emergency regulation to be effective within 280 days. This regulation establishes separate sections for the confidentiality of public assistance and social services programs administered by the Department of Social Services and local departments of social services. Except as provided by federal and state law and regulation, no records or information concerning applicants for and recipients of public assistance are accessible except for purposes directly connected with the administration of the public assistance program. Social services records and information are confidential except they are accessible to persons having a legitimate interest in accordance with federal and state law and regulation.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

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Pursuant to § 63.1-25 of the Code of Virginia, (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.1-25>), the State Board of Social Services has authority to promulgate rules and regulations necessary for the operation of public assistance and social services programs.

### Substance

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

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Implementation of this regulation ensures that public assistance and social services confidential information will be protected and released only according to federal and state laws or regulations. The existing structure of confidentiality provisions does not effectively control information about individuals. There are a myriad of state laws and regulations pertaining to confidentiality of public assistance and social services information dispersed throughout the social services sections of the Code of Virginia and Virginia Administrative Code. Such a structure can result in the oversight of confidentiality requirements and the release of inappropriate identifiable personal information. This regulation establishes separate comprehensive sections for public assistance and social services confidentiality statutory and regulatory provisions. Separate comprehensive sections are necessary to ensure compliance of confidentiality requirements thereby affording greater protection of privacy to all Virginians.

### Alternatives

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

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Promulgation of this regulation establishes a section of general provisions that apply to the confidentiality of both public assistance and social services information. A new regulation is the least burdensome method to effect the new requirement. An alternative approach is to create two regulations. The first regulation would address the confidentiality of public assistance, and the second regulation would address the

confidentiality social services programs. Two regulations would be burdensome and confusing. Two separate and identifiable regulations would require repetition of the general provision section and may lead to confusion.

### Family Impact Statement

*Please provide a preliminary analysis of 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.*

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The planned regulation has a positive impact on the family. The regulation ensures that confidential information is protected and only released according to federal and state laws or regulations. The regulation supports Virginians expectation of privacy by affording greater protections of confidential information through compiling state and regulatory public assistance and social services confidentiality provisions into one comprehensive regulation.