



Virginia  
Regulatory  
Town Hall

## Exempt Action Final Regulation Agency Background Document

<b>Agency Name:</b>	Virginia Department of Social Services
<b>VAC Chapter Number:</b>	22 VAC 40-90-10 et seq.
<b>Regulation Title:</b>	Regulation for Criminal Record Checks for Assisted Living Facilities and Adult Day Care Centers
<b>Action Title:</b>	Amendment Due to SB 303 (Recodification)
<b>Date:</b>	August 14, 2002

Where a regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 et seq. of the Code of Virginia) and file the final regulation with the Registrar in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

**Note agency actions exempt pursuant to § 9-6.14:4.1(B)** do not require filing with the Registrar a Notice of Intended Regulatory Action, or at the proposed stage. When the regulation is promulgated and submitted to the Registrar, the agency need only provide a statement citing the specific Virginia Code section referencing the exemption and an authority certification letter from the Attorney General's Office. No specific format is required.

This form should be used for actions **exempt from the Administrative Process Act pursuant to § 9-6.14:4.1(C)** at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar a Notice of Intended Regulatory Action, and at the proposed stage.

### Summary

*Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation, instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This regulation specifies crimes that are barriers to employment in assisted living facilities and in adult day care centers, and the processes for obtaining and maintaining criminal record reports and sworn disclosure statements. The regulation is being amended to include additional barrier crimes, revise the requirement for volunteers, delete the reference to district home for adults, and

revise Code of Virginia references. These revisions are needed due to changes in the Code of Virginia resulting from Senate Bill 303 (recodification) enacted by the 2002 General Assembly. The provisions of Senate Bill 303 will take effect on October 1, 2002. Additional changes to the regulation are being made to assure consistency with the Code of Virginia including: 1) change in name from home for adults to assisted living facility; 2) deletion of reference to barrier crimes on sworn disclosure statement; 3) addition of requirement regarding dissemination of information; and, 4) addition of or changes to a few words for clarification or correction.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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The State Board of Social Services approved on August 14, 2002, the final regulation entitled *Regulation for Criminal Record Checks for Assisted Living Facilities and Adult Day Care Centers*.

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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 increase in the crimes that are a barrier to employment in assisted living facilities and adult day care centers will lead to great protection for elderly and disabled residents of assisted living facilities and participants in adult day care center. However, it is doubtful that the additional barrier crimes will affect decisions made by family members regarding the type of care selected for elderly or disabled residents. Moreover, since the additional barrier crimes are in the Code of Virginia, facilities would have to follow the law, whether or not it is noted in the regulation.