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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	22VAC40-705
<b>Regulation title(s)</b>	Child Protective Services
<b>Action title</b>	Amend CPS Regulation to Implement 2017 Legislation
<b>Date this document prepared</b>	August 16, 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 goal of this regulatory action is to amend 22VAC40-705, Child Protective Services (CPS), to ensure it complies with 2017 legislative changes and applicable federal law. The action will address changes in the Code of Virginia, comments from any workgroup convened to review the regulation and comments received during the public comment period for this NOIRA.

The agency plans to amend provisions regarding substance exposed infants, in accordance with Chapters 176 and 428 of the 2017 Acts of Assembly (House Bill 1786 and Senate Bill 1086). Provisions related to active duty members of the United State Armed Forces will be amended in accordance with Chapters 88 and 142 of the 2017 Acts of Assembly (House Bill 2279 and Senate Bill 2279). A new provision will be proposed for a 24-hour CPS response to reports alleging abuse or neglect of a child under the age of two, based on Chapter 604 of the 2017 Acts of Assembly (Senate Bill 868). In addition, changes may be considered in response to recommendations made by a workgroup examining barriers to treatment for substance-exposed infants, which was established in Chapter 197 of the 2017 Acts of Assembly (House Bill 2162).

## 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.*

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The Code of Virginia, § 63.2-217, gives the State Board of Social Services the responsibility to make rules and regulations to carry out the purposes of social services. The Code of Virginia, § 63.2-1501 et seq. provides the authority for the CPS program.

## 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.*

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The agency has determined the regulatory action is essential to protect the health, safety, or welfare of citizens because the action addresses the regulation which governs reports of child abuse and neglect and CPS response. The agency must incorporate recent legislative changes to the Code of Virginia.

## 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.*

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The agency plans to amend provisions regarding substance exposed infants, in accordance with Chapters 176 and 428 of the 2017 Acts of Assembly (House Bill 1786 and Senate Bill 1086). Provisions related to active duty members of the United State Armed Forces will be amended in accordance with Chapters 88 and 142 of the 2017 Acts of Assembly (House Bill 2279 and Senate Bill 2279). A new provision will be proposed for a 24-hour CPS response to reports alleging abuse or neglect of a child under the age of two, based on Chapter 604 of the 2017 Acts of Assembly (Senate Bill 868). In addition, changes may be considered in response to recommendations made by a workgroup examining barriers to treatment for substance-exposed infants, which was established in Chapter 197 of the 2017 Acts of Assembly (House Bill 2162).

## 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.*

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No alternatives to the proposal are being considered because the sections needing revision already exist in 22VAC40-705 or the agency is required to promulgate the regulation due to legislative changes. There are no less intrusive or less costly alternatives for small businesses as this regulation does 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.*

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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.

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 **Mary Walter, 801 E Main St. Richmond, VA 23219, (804) 726-7568, Fax- (804) 726-7499, [mary.walter@dss.virginia.gov](mailto:mary.walter@dss.virginia.gov)**. 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 following the publication of the proposed stage of this regulatory action. Public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.