



[townhall.virginia.gov](http://townhall.virginia.gov)

## Final Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	22VAC40-705
<b>VAC Chapter title(s)</b>	Child Protective Services
<b>Action title</b>	Remove Notary Requirement for Consent to Central Registry System Check
<b>Date this document prepared</b>	January 15, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The Department of Social Services (DSS) Office of Background Investigations (OBI) Central Virginia Child Abuse and Neglect Central Registry Unit (CRU) performs searches at the request of individuals who seek to provide services or care to children to determine if those individuals have a founded case of child abuse or neglect. The current regulation requires, in part, that an individual's consent for a search of the Central Registry System (CRS) be notarized. This regulatory action will remove the notary requirement in order to expedite the search process and make it less burdensome for individuals who wish to provide services or care to children through employment, foster care, adoption, or volunteer opportunities.

### Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

---

Board: State Board of Social Services  
CRS: Central Registry System  
CRU: Central Registry Unit  
DSS: Department of Social Services  
OBI: Office of Background Investigations

### Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

---

The State Board of Social Services took final action on Child Protective Services, 22VAC40-705, February 21, 2024.

### Mandate and Impetus

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

---

There have been no changes to previously reported information.

### 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.*

---

The promulgating agency is the State Board of Social Services. The Board has legal authority pursuant to Virginia Code § 63.2-217 to adopt regulations as necessary or desirable to carry out the purpose of Title 63.2. Under Virginia Code § 63.2-203, the Commissioner of DSS is charged with enforcing regulations adopted by the Board. Section 63.2-1501, et seq. provides the authority for the Child Protective Services program within Title 63.2. Virginia Code § 63.2-1515 provides that the Board prescribes regulations regarding the Central Registry.

## Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

---

The regulatory change is essential to the health, safety and welfare of citizens, as it will 1) expedite the application and hiring processes so that child care workers can provide services and care as quickly as possible, and 2) allow working parents to ensure their families' financial stability and well-being. In addition, children's residential facilities and foster care placements provide for the care and well-being of our most vulnerable children, and delays in CRS processing result in delays in staffing and placements for these children. This is particularly important now, since Virginia is experiencing a critical shortage of foster homes and other placements for children.

The CRU is housed within OBI. The CRU processes requests for all children's programs licensed in Virginia as well as out of state and international requests for applicants who may have previously lived in Virginia. Virginia Code § 63.2-1515 mandates that searches be completed within ten business days of receiving the request.

The CRS within the RU contains names of individuals identified as abusers or neglectors in founded child abuse and neglect investigations conducted in Virginia. Findings are made by Child Protective Services staff in local departments of social services and are maintained by DSS. The request volume of search requests varies from 750 per day to 1,600 per day during peak season, which runs late April through September.

Virginia is one of just 13 states that requires notarization of an applicant's consent to a Central Registry search. Child care providers mail the applicant's notarized authorization for the Central Registry request, along with payment, to the CRU to conduct the search. The notary requirement slows down this process and places a burden on applicants, who must print the application form, locate and travel to a notary, and then give the notarized form to the child care provider.

The high volume of daily requests, manual processing, and staffing requirements can cause delays that affect the ability of the CRU to meet the mandatory timeframe of ten days to process requests. In an effort to resolve these issues and expedite this process, DSS is currently implementing the new Virginia Enterprise Licensing Application (VELA) public-facing portal, which will eliminate the need for the manual submission of documents, manual data entry, and mailing of forms and payments. The requirement that an applicant's consent to a Central Registry search be notarized remains a regulatory requirement that will be an impediment to facilitating and expediting this process in order to better serve the citizens of the Commonwealth and meet the mandatory timeframe of ten days to process requests.

Making the application process less onerous will allow qualified individuals to be approved more quickly so that they can begin working or volunteering with children sooner, allow child care providers to hire staff more quickly, and allow volunteer organizations to bring on volunteers more quickly. This is particularly important in light of current shortages of affordable, accessible child care as well as staffing shortages in the Commonwealth. Ensuring that families have access to child care and that facilities are well-staffed is essential to families' financial well-being and the health, safety, and welfare of children in care. In addition, Virginia is currently experiencing a critical shortage of foster homes. Making the CRS process faster and easier will alleviate delays in staffing and placements for children's residential facilities and foster care placements.

## Substance

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

---

The proposed regulatory action will amend the existing Child Protective Services regulation provisions regarding a notarized consent to search. The substantive changes include:

- In 22VAC40-705-160(A)(3), changing "the individual's notarized consent" to "the individual's signed consent."
- In 22VAC40-705-170(A), changing "notarized signature" to "signature."

## Issues

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

---

The primary advantage of this regulatory action would be the ability to facilitate and expedite the hiring of staff who provide services or care to children. During the COVID-19 pandemic, many child care facilities closed and others struggled to maintain the required staffing levels to provide adequate care. As facilities have started to re-open and more people are back at work, hiring staff has continued to be challenging as the demand for child care has increased. Eliminating the notary requirement in this regulation would remove an inconvenient, burdensome, and time-consuming element of the application process for individuals who wish to provide care or services to children and would allow providers to get staff into place more quickly. Others who wish to provide services or care to children, such as volunteers, foster parents, and those who work in child placing agencies, would benefit similarly from not having to meet this requirement. Advantages to the agency include the improvement of customer service to child care providers and staff and others who provide services and care to children by offering them an easier and less cumbersome process. This process would also be more efficient for agency staff who process applications. There are no disadvantages to the public or the Commonwealth.

## Requirements More Restrictive than Federal

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

---

There have been no changes previously reported information.

**Agencies, Localities, and Other Entities Particularly Affected**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

Other State Agencies Particularly Affected

There have been no changes previously reported information.

Localities Particularly Affected

There have been no changes to previously reported information.

Other Entities Particularly Affected

There have been no changes to previously reported information.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the previous stage and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.*

Commenter	Comment	Agency response

No comments were received.

**Detail of Changes Made Since the Previous Stage**

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements

No changes were made since the previous stage.

**Detail of All Changes Proposed in this Regulatory Action**

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
160	N/A	Subsection (A)3) requires an individual's notarized consent for a search of the Central Registry.	<p>This section is being changed to remove the requirement that the consent be notarized and, instead, require that the consent be signed.*</p> <p>The intent is to expedite the search process make it less burdensome for people to provide services and care to children.</p>
170	N/A	Subsection (A) requires a notarized signature authorizing release of information pursuant to a Central Registry search.	<p>As with the change in section 160, the section is being changed to remove the requirement that the consent by notarized and, instead, require that the consent be signed.*</p> <p>The intent is to expedite the search process and make it less burdensome for people to provide services and care to children.</p>