



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) citation	6 VAC 20-171
Regulation title	Regulations Relating to Private Security Services
Action title	Comprehensive Revision – Regulations Relating to Private Security Services
Date this document prepared	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of this regulatory action is a comprehensive review and amendment of existing regulations. This review and recommended amendments is based on legislative actions that require development of regulations for locksmiths as well as further development of regulations relating to detective canine handlers. In addition to recent legislative actions, a comprehensive review to amend and revise the rules mandating and prescribing standards, requirements and procedures that serve to protect the citizens of the Commonwealth from unqualified, unscrupulous and incompetent persons engaging in the activities of private security services.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The legal authority to review, amend or revise regulations relating to private security services is found in 9.1-141 of the Code of Virginia. Additionally, this review is in accordance with Executive Order 36 (2006)

Need

Please detail 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, delineate any potential issues that may need to be addressed as the regulation is developed.

A formal comprehensive review of the regulations has not occurred since 2003. Since that period legislation enacted by the Virginia General Assembly has added additional categories of private security services with the addition of detector canine handlers, teams and examiners and locksmiths. The regulations must be amended to bring them into conformance with the enacted legislation. The intent of these regulations is to protect the public from unscrupulous, incompetent or unqualified persons engaging in the activities of private security services and by setting standards and procedures that enhance professionalism and the quality of services by the private security profession. The Department also wishes to do a comprehensive review to collect input from the public and the regulated industry on the complexity of the regulation as well as to establish less intrusive regulatory requirements and alternatives while continuing to ensure public safety.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

While all areas of the regulations will be subject to this comprehensive review, the substance of this review will be to include a permanent regulatory scheme for locksmiths and detector canine handlers, examiners and teams operating within the Commonwealth. This review will focus on reevaluating the existing licensure, registration, certification and training requirements, procedures, fees, administrative requirements and standards of conduct.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Emergency regulations in regard to the inclusion of locksmiths into the regulatory program went into effect July 1, 2008. Meetings were held prior to the emergency regulation to establish training standards and meetings have been held to establish the base requirements for the detector canine credentials and procedures. In addition, the agency participated in initial reviews with the industry to establish the issues

within the regulations requiring review. Any alternatives identified during this comprehensive review that are less burdensome and intrusive that will achieve the essential regulatory purpose will be considered.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include 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 on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal; 2) the costs and benefits of the alternatives stated in this background document or other alternatives; 3) potential impacts of the regulation; 4) the complexity of the regulation; and 5) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Lisa McGee, Section Chief at Department of Criminal Justice Services, Private Security Services Section, P.O. Box 1300, Richmond, VA 23218; fax, 804-786-6344 or email lisa.mcgee@dcjs.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will be held during the proposed stage of the regulatory process and notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

Pursuant to §9.1-143, the members of the Private Security Services Advisory Board are appointed by the Criminal Justice Services Board. This purpose of this advisory board is to provide advice and comment to the Criminal Justice Services Board as well as serve as a formal liaison between the Department of Criminal Justice Services and the public to ensure that the Department understands public concerns and that the activities of the Department are communicated to the public.

The Private Security Services Advisory Board has established a regulatory sub-committee with the purpose of gathering information and input from the industry; assisting the full board more efficiently to perform duties of liaison between the Board and Department by focusing on specific areas in a smaller setting; provide opportunity for industry members to participate in the regulatory process in diverse geographical areas and provide committee reports to the full Board and Department staff at each quarterly meeting.

The Department will also consider re-establishing ad-hoc committees in regard to issues involving training requirements as well as other issues that require a participatory approach in the development of the proposed regulations.

Family impact

Assess 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.

The regulations will directly impact any family who uses private security services in terms of the assurance of competent registrants as well as having a venue to register complaints about any private security registrant, training school or business operating in the Commonwealth of Virginia. The regulations indirectly impact the family by providing a regulatory program that protects the public from unscrupulous, incompetent or unqualified persons engaging in the activities of private security services and by setting standards and procedures that enhance professionalism and the quality of services by the private security profession.