



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Department of Criminal Justice Services
VAC Chapter Number:	6 VAC 20-230
Regulation Title:	Regulations Relating to the Special Conservator of the Peace
Action Title:	Special Conservator of the Peace
Date:	3-29-04

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed.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.

The proposed regulation establishes compulsory minimum entry-level training, in-service training, and a registration process to include a fingerprint based background check, registration fees, and administration of the regulatory system. It authorizes the department to receive complaints concerning the conduct of any person whose activities are monitored by the Board; conduct investigations; issue disciplinary action; revoke, suspend, and refuse to renew a registration.

These regulations are established to protect the citizens of the Commonwealth from unqualified, unscrupulous, and incompetent persons engaging in the activities of a Special Conservator of the Peace.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

The legal authority to regulate the Special Conservator of the Peace is found in Section §9.1-150.2 of the Virginia Code, effective July 1, 2003, authorizes the Criminal Justice Board of the Department to adopt regulations for the Special Conservator of the Peace appointed pursuant to § 19.2-13. The Office of Attorney General has certified that the agency has the statutory authority to promulgate the regulations.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

These regulations establish a registration process that includes a fingerprint based background check, registration fees, compulsory minimum entry-level training standards, and administration of the regulatory system. The regulation also authorizes the department to receive complaints concerning the conduct of any person whose activities are monitored by the Board; conduct investigations; issue disciplinary action; revoke, suspend; and refuse to renew a registration. These procedures are established to protect the citizens of the Commonwealth from unqualified, unscrupulous, and incompetent persons engaging in the activities of a Special Conservator of the Peace.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The regulation establishes a registration process, registration fees, compulsory minimum entry-level training standards including firearms training and qualifications, standards of conduct, and administration of the regulatory system. It outlines procedures for receiving complaints

concerning the conduct of any person whose activities are monitored by the Board; procedures for conducting investigations; issuing disciplinary action; and revoking, suspending, refusing to renew a registration, and provides an appeal process pursuant to the administrative process act.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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, please include a sentence to that effect.

The advantages that these regulations provide to the general public are that they:

- (i) Set forth standards, procedures, and requirements that serve to protect the safety and welfare of the general public against incompetent, unscrupulous, and unqualified persons by establishing methods of registration that serve to enhance the competency of persons performing or engaged in the activities of a Special Conservator of the Peace.
- (ii) The regulation also establishes a method for the public to make a complaint regarding the conduct of a Special Conservator of the Peace and have it reviewed by an independent Board. Disciplinary action may be taken by the Board after an investigation and include the possibility of revoking, suspending, or refusing to renew a registration.

A possible disadvantage of these regulations is that the program it prescribes receives no moneys from the General Fund; therefore, the cost to administer the program must be absorbed by the affected individuals.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

The Code of Virginia requires the costs of the Special Conservator of the Peace Program to be self-sufficient; therefore the fees must adequately cover the cost of the program.

Application/Fee Types	Proposed Fee
Initial Registration	\$60.00

Registration Renewal	\$60.00
Training Exemption/Waiver Application	\$25.00
Fingerprint Application	\$50.00
Duplicate/Replacement ID Form	\$20.00

The proposed regulations places registration renewal every year.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

This is a new regulation.

Alternatives

Please describe the specific 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.

There are no alternatives to the proposed regulatory action.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

A summary of the comments follows in matrix form.

PART 1	DEFINITIONS		
<i>Regulation Cite</i>	<i>Comments/Issues/Recommendations</i>	<i>Respondent(s)</i>	<i>Agency Response</i>
6 VAC 20-230-60	<p>Under Orientation adding, Definitions, Training Requirements, Violations and Sanctions.</p> <p>Under Procedures, Due Process, Civil Law, Criminal Law and Constitutional Law adding, Knowledge of State and Federal Courts, Legal terminology and definitions, U.S. Constitution-Bill of Rights, Limitations and Liability, Felony vs. Misdemeanor, Probable cause, arrests, magistrates, trials, grand jury, Civil law, service of process, criminal court system, legal authority and related issues, purpose and function of law, United States constitution, Virginia Constitution, consensual encounters, investigative detention/terry stop, exigent circumstances, laws of arrests and arrest procedures.</p> <p>Under Laws Regarding Use of Force Liability Issues adding Justifiable deadly force.</p>	DCJS	This fully beaks down the training outline to clearly include the required topics. This language should be added.
6 VAC 20-230-30	Add a minimum education level requirement to have completed high school.	James H. Dillingham III CSI Academy	This would require a legislative change.
6 VAC 20-230-38	Removed C.	DCJS	Do not need to advise a court that a registration is null and void because the court will not have a valid court order on file regarding the appointment of the individual as a special

			Conservator of the Peace.
6 VAC 20-230-52	In G remove the word “photo.”	DCJS	Need the flexibility to change the look of the registration card.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Through the examination of the regulations and relevant public comments, the agency has determined that the regulation is clearly written and easily understandable by the individuals affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Department of Criminal Justice Services Public Participation Guidelines states that the agency shall at least once every three years review it’s existing regulations and as appropriate adopt new standards or modify, or delete existing ones. A periodic review will be initiated in the Spring of 2008.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential 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.

The regulations indirectly impact the family who may come into contact with a Special Conservator of the Peace by providing a regulatory requirement encompassing a background

check that protects the public from unscrupulous, incompetent or unqualified persons engaging in the activities of Special Conservator of the Peace.