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Exempt Action Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22 VAC40-705
Regulation title(s)	Child Protective Services
Action title	Exempt Amendment to Child Protective Services
Final agency action date	August 21, 2019
Date this document prepared	August 21, 2019

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please 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.

This regulatory action is necessary to implement the requirements of legislation passed during the 2019 session of the General Assembly.

Chapter 276 (HB1671) of the 2019 Acts of Assembly requires local departments of social services (LDSS) to obtain and consider statewide child abuse and neglect registry records of any individual who is the subject of a Child Protective Services (CPS) investigation or family assessment, determine if the subject of the investigation or family assessment has resided in another state within the last five years, and request a search of the child abuse or neglect registry in that state(s).

Chapter 12 (HB 1953) and Chapter 296 (SB 1416) of the 2019 Acts of Assembly (identical bills) allow LDSS to stay the administrative appeal process for up to 180 days when a criminal investigation has been commenced against the appellant for the same conduct involving the same victim as investigated by the LDSS, and expands LDSS' ability to stay administrative appeals for misdemeanor charges that are adjudicated in the district court.

Chapter 381 (HB 2597) and Chapter 687 (SB 1661) of the 2019 Acts of Assembly (identical bills) require LDSS to conduct a human trafficking assessment for all complaints involving the sex or labor trafficking of a child, expands the definition of caretaker in cases of child trafficking, and allows a CPS worker responding to a complaint involving the human trafficking of a child to take custody of the child for up to 72 hours without the prior approval of the parent or guardian, in order to protect the child.

Chapter 98 (SB 1436) of the 2019 Acts of Assembly clarifies that a health care provider's suspicion that a child is abused or neglected based on the mother's in utero substance exposure does not constitute a "finding per se" of child abuse or neglect and codifies the hospital's responsibility for the development of a written discharge plan and referral to the local community services board.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, board decision, etc.). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Section 63.2-217 of the Code of Virginia gives the State Board of Social Services the responsibility to make rules and regulations to administer social services in the Commonwealth under Chapter 15 (63.2-1500 et seq.) of Title 63.2 of the Code of Virginia.

Statement of Final Agency Action

Please 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 approved the exempt action for 22VAC40-705, Child Protective Services, on August 21, 2019.