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Exempt Action: Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22 VAC40-201
VAC Chapter title(s)	Permanency Services-Prevention, Foster Care, Adoption, and Independent Living
Action title	Add Fostering Futures to Permanency Regulation
Final agency action date	August 19, 2020
Date this document prepared	August 19, 2020

Although 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 (1VAC7-10), 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.

This regulatory action is necessary to implement the requirements of legislation passed during the 2020 session of the General Assembly and to conform the existing regulation to current state law.

Chapter 95 (HB 400) and Chapter 732 (SB 156) of the 2020 Acts of Assembly codify the Fostering Futures program, which was previously established to provide continuing services and support to youth 18 to 21 years of age who were in foster care upon turning age 18. These services and support are designed to assist the youth in transitioning to adulthood, becoming self-sufficient, and creating permanent, positive relationships. This program is voluntary and respects the autonomy of the youth as an adult. The regulatory changes include the addition of the voluntary continuing services and support agreement, court review requirements, participant termination, and identification of services and supports, as directed in the enactment clause of the respective bills.

Chapter 366 (HB 933) and Chapter 224 (SB 178) of the 2020 Acts of Assembly add fictive kin to the definition of kinship foster care.

Chapter 562 (SB 1025) of the 2020 Acts of Assembly requires local boards of social services to request a waiver of training requirements necessary for the approval of a kinship foster parent upon determining that training requirements are a barrier to placement with the kinship foster parent and that such placement is in the child's best interest.

Mandate and Impetus

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, or board decision). "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 9 (63.2-900 et seq.) of Title 63.2 of the Code of Virginia.

The 2020 Acts of Assembly Chapters 95, 562 and 732 direct that the Board of Social Services (the Board) shall promulgate regulations to implement the provisions of these acts and that the initial adoption of regulations necessary to implement the provisions of these acts shall be exempt from the Administrative Process Act (§ **2.2-4000** et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption.

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.

On August 19, 2020, the State Board of Social Services approved the exempt action to amend 22VAC40-201, Permanency Services-Prevention, Foster Care, Adoption, and Independent Living.