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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| Agency name | Department of Criminal Justice Services |
| Virginia Administrative Code (VAC) Chapter citation(s) | <u> 6 </u> VAC <u> 20 </u> - <u> 60 </u> |
| VAC Chapter title(s) | Rules Relating to Compulsory Minimum Training Standards for Dispatchers |
| Action title | Comprehensive Review and Update of the Compulsory Minimum Training Standards for Dispatchers |
| Date this document prepared | 10/16/2023 |

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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Department of Criminal Justice Services (DCJS) intends to amend 6 VAC 20-60 to modify and update the compulsory minimum training standards contained within 6 VAC 20-60-20, and replace the existing DIBR. This will better align with the revisions recently made to the regulations and compulsory minimum training standards for new law enforcement officer recruits, as well as Department of Corrections, jail, civil process, and courtroom/courthouse security officers. The intention of this regulatory revision is to not only revise and enhance the requirements for the minimum training standards for law enforcement dispatchers (which will also add the alternative name “public safety telecommunicator”), but to also create cohesiveness among all criminal justice professions that DCJS regulates. This action will also reflect revisions to language stemming from recently passed legislation, and will serve as a periodic review of the regulation itself, as one has not been completed in some time.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

DCJS: Department of Criminal Justice Services
CJSB: Criminal Justice Services Board, DCJS' policy board
Department: Department of Criminal Justice Services
Board: Criminal Justice Services Board
COT: Committee on Training
CRC: Dispatcher Curriculum Review Committee
SME: Subject matter expert

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "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."

The current compulsory minimum training standards and requirements for dispatchers were last updated and finalized in 2019, but DCJS' intent is to not only update language and information contained within the standards themselves, but to also make technical amendments and amend regulatory language to better align with the other criminal justice professions that the agency regulates. Although no current mandate exists from legislation or otherwise to amend this particular regulation, this regulatory change is necessary to update and enhance language to be consistent with recently passed legislation from the 2020 Special Session of the General Assembly. DCJS sought and obtained formal Board approval from the CJSB to begin the regulatory process on October 12, 2023.

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.

Pursuant to § 9.1-102, and effective March 1, 2021, The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions and (ii) temporary or probationary status and establish the time required for completion of such training. Such compulsory minimum training standards shall include crisis intervention training in accordance with clause (i) of § 9.1-188;
3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;
4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;
5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;
6. [Repealed];
7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;
8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;
9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and correctional officers employed by the Department of Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of Corrections, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates;
10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;
11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731; etc.

The CJSB is the policy board for the Department of Criminal Justice Services, and in the October 12, 2023 meeting, DCJS obtained formal approval to move forward with these regulatory changes/this Notice of Intended Regulatory Action.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

In order to have cohesiveness between the compulsory minimum training standards and requirements for new law enforcement recruits at the academy-level and those entering a career as a jailor, court security, or civil process service officer, DCJS has determined that the compulsory minimum training standards for dispatchers must be updated and revised, as currently listed in 6 VAC 20-60, which will now incorporate a new document by reference (containing the compulsory minimum training standards). The purpose of this regulatory change and review is to also ensure that language is statutorily correct, up-to-date with recently passed legislation, and to also utilize this time to conduct a comprehensive periodic review of the regulation in its entirety. It is for all of these reasons that DCJS has determined that the update of the regulation is essential to protect the safety and welfare of citizens in Virginia, as dispatchers (or public safety telecommunicators) are often the first line of contact with the criminal justice system for many Virginia citizens.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

Substantive changes that are being considered and likely be included are the renumbering and updating of language to ultimately align the compulsory minimum training standards for all criminal justice professions in the Commonwealth, as well as the inclusion of a new Field Training category. DCJS' goal is to ensure that the language and specific topics of training prescribed by recently passed legislation are reflected in the updated regulation, and will be continuing to work with SMEs from around the Commonwealth and the Dispatcher Curriculum Review Committee, to ensure that dispatchers are all properly and adequately trained.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

DCJS does not have any viable alternatives to the regulatory changes and updates being proposed. Updating language and aligning training standards with other criminal justice professionals across the Commonwealth will be neither burdensome nor intrusive, and will not add any financial burden to small businesses, as defined in § 2.2-4007. On the contrary, it will make training for dispatchers more cohesive and efficient.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

In addition, pursuant to the ORM procedures and § 2.2-4007.1 of the *Code of Virginia*, the agency is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.