



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: KARIN CLARK
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Senior Assistant Attorney General

DATE: August 7, 2012

SUBJECT: Proposed Fast Track Regulation 22 VAC 40-191-10 et seq.
Background Checks for Child Welfare Agencies

I have reviewed the above-referenced proposed fast track repeal to determine if the State Board of Social Services ("State Board") has the statutory authority to repeal the regulation and if this action by the State Board is exempt from the Administrative Process Act (APA).

It appears that the State Board has the authority to repeal the regulation, subject to compliance with the provisions of Article 2 of the APA, and has not exceeded that authority. The repeal is necessary to address the abolition of the Child Day-Care Council and the new authority granted to the State Board by the adoption of Chapters 803 and 835 of the 2012 Acts of Assembly. This action also incorporates changes to the background check requirements made by Chapters 383 and 568 of the 2012 Acts of Assembly. This action appears to be noncontroversial and may be promulgated as a fast-track regulation pursuant to Virginia Code § 2.2-4012.1.

It should be noted that if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the Department shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in the APA.

If you have any questions, please feel free to call me at 786-0095.