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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-211
Regulation title(s)	Foster and Adoptive Home Approval Standards
Action title	Amend Foster and Adoptive Home Approval Regulation 2017
Date this document prepared	August 16, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

This regulation addresses standards for foster and adoptive homes approved by local departments of social services (LDSS). Changes in the proposed regulatory action include clarifying that background checks conducted for youth over the age of 18 years old in the Fostering Futures program be used for the sole purpose of determining whether other children should be placed or remain in the same foster home as the Fostering Futures program participant (Chapter 194 of the 2017 Acts of Assembly). The background checks are not to be used as a basis for terminating or suspending the approval of the foster home.

Additionally, this regulatory action addresses standards for foster and adoptive home approval by requiring local agencies to use the Mutual Family Assessment (MFA) home study template and authorizes VDSS to amend the MFA template and any necessary addenda (Chapter 193 of the 2017 Acts of Assembly).

Lastly, this regulatory action updates training requirements for prospective foster and adoptive providers by requiring the Normalcy for Youth in Foster Care training as part of the pre-service training. Training

requirements for current providers has been updated to require they complete Normalcy for Youth in Foster Care training (Chapter 631 of the 2017 Acts of Assembly).

Additional amendments may be deemed necessary based on public comment received and further review.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The legal authority for this regulation can be found in § § 63.2-217, and 63.2-901.1. These sections provide general authority to the State Board of Social Services for developing regulations for foster and adoptive home approval standards.

Additionally, this regulatory action is necessary to comply with the 2017 Acts of Assembly, Chapter 194 (HB 1942) that requires children over the age of 18 years old in foster care to have background checks for the purpose of determining the placement of other children in the same home, the 2017 Acts of Assembly, Chapter 193 (HB 1795) that requires the use of the Mutual Family Assessment home study template when approving foster and adoptive homes, and the 2016 Acts of Assembly, Chapter 631 (HB 600) that requires the Board to adopt regulations that promote normalcy for children in foster care.

Purpose

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

The proposed regulatory action clarifies that the results of background checks conducted on Fostering Future participants will be used for the sole purpose of determining current and future placements in the foster home, which is essential in protecting the health, safety, and welfare of all children.

The regulatory action also requires LDSS to use the Mutual Family Assessment home study template when approving foster and adoptive homes. By requiring one uniform template, the agency will attain consistency amongst the numerous localities and ensure that all foster and adoptive homes are held to the same high standard, thereby protecting the health, safety and welfare of children in these homes.

Requiring foster and adoptive parents to complete the Normalcy for Youth in Foster Care training is essential to ensure that children placed in foster care will be provided the most normal life experience as possible.

All three of the foregoing changes are necessary as a result of Code changes during the 2017 General Assembly session.

Substance

Please 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 proposed changes to the regulation include: adding a new sub-section clarifying that results of background checks conducted for youth over the age of 18 years old in the Fostering Futures Program be used for the sole purpose of determining current and future placements of children in that particular foster home; amending standards for foster and adoptive home approval by requiring the application of the Mutual Family Assessment template when approving provider homes; and requiring Normalcy for Youth in Foster Care training for all prospective and current providers.

Alternatives

Please describe any viable 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. 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 regulation.

No alternative was considered as this regulatory action is necessary to address and enforce Code changes.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Keisha Williams, Virginia Department of Social Services, Division of Family Services, 801 E. Main St. Richmond, VA 23219, (p) 804- 726-7550, (f) 804-819-7173, K.Williams@dss.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

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

A panel will not be used.