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**Sent:** Friday, October 21, 2016 2:56 PM

**To:** DSS\_Licensing

**Subject:** Revisions to Background Checks for Child Welfare Agencies

The attached file is being sent to religiously exempt child day centers, child placing agencies and independent foster homes from the Virginia Department of Social Services Email Distribution Service.

**\*\*\*Please do not reply to this email.\*\*\***

The regulation *Background Checks for Child Welfare Agencies* has been revised, effective October 19, 2016. Please view the attached document for a description of the changes.

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# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF SOCIAL SERVICES

**DATE:** October 19, 2016

**TO:** Religiously Exempt Child Day Centers  
Licensed Child Placing Agencies  
Independent Foster Homes

**FROM:** Charlene Vincent, Director  
Division of Licensing Programs- Children's Programs

**SUBJECT:** Revisions to *Background Checks for Child Welfare Agencies*

As a result of legislative changes effective July 1, 2016, the regulation *Background Checks for Child Welfare Agencies* has been amended and is effective October 19, 2016. Please refer to the Legislative Implementation memo dated June 30, 2016 for additional information on the legislative changes. This action was exempt from the full Administrative Process Act because the purpose was strictly to conform to changes in state law and no agency discretion was involved.

The regulation is found at [http://www.dss.virginia.gov/facility/child\\_care/licensed/fdh/](http://www.dss.virginia.gov/facility/child_care/licensed/fdh/) under the Regulations tab and can be ordered at [http://www.dss.virginia.gov/files/division/licensing/fdh/intro\\_page/current\\_providers/forms/all\\_other/032-05-0512-10-eng.pdf](http://www.dss.virginia.gov/files/division/licensing/fdh/intro_page/current_providers/forms/all_other/032-05-0512-10-eng.pdf). Please replace your copy with the new regulation and discard prior versions.

Changes to the regulation are limited to two sections; 22VAC40-191-10 and 22VAC40-191-50, and are summarized below.

### **22VAC40-191-10 Defining words and phrases:**

- "Disqualifying background" was changed as a result of the change to the definition of "offense" in § 63.2-1719 of the Code of Virginia (Code). The word "regulation" was replaced with "chapter."
- "Family day home" was changed as a result of the legislative change in § 63.2-100 of the Code, reducing the family day home licensure threshold to five children and replacing the "grandparent" exception with "a family day home where the children in care are all related to the provider by blood or marriage is not required to be licensed."
- "Offense" was changed as a result of a legislative change to the definition of offense in § 63.2-1719 of the Code to include convictions that result in the requirement to register with the Sex Offender and Crimes Against Minors registry or any similar registry in any

other state. This change prohibits a sex offender from being employed by or operating a child welfare agency.

- The definition of "sex offense felony for family day homes" was deleted.
- Minor technical changes were made to the following definitions:
  - "Child welfare agency" the word "regulation" was replaced with "chapter."
  - "Registered family day home" deleted the phrase "pursuant to regulations adopted by the board".
- Other minor grammatical changes were made throughout the section.

### **22VAC40-191-50 Explaining requirements for satisfactory background checks.**

- 22VAC40-191-50 A.1 - The requirements for a satisfactory sworn statement changed to require the person "not have an offense."
- 22VAC40-191-50.A.2.a. – "Central Registry of Founded Child Abuse/Neglect Investigations" was changed to "central registry."
- 22VAC40-191-50. A. 3. a. (2) - The word "offenses" was added after barrier crimes.
- 22VAC40-191-50 A. 3. c. - No other knowledge that the person has a "barrier crime, or other felony conviction" was changed to "an offense."
- 22VAC40-191-50 B. 5 - Subsections a, b, and c were deleted and replaced with "an offense".
- 22VAC40-191-50 B. 6. b. - Reason to suspect that a person has a "barrier crime conviction, a felony conviction in the last five years, or a founded complaint of child abuse and neglect" was replaced with "reason to suspect that a person has an offense."
- Other minor grammatical changes were made throughout the section.

If you have any questions, please contact your licensing inspector or licensing office.