

# Driver Licensing And Identification Card Issuance ACTION/ISSUE STATEMENT

POL-8

DMVJ3D

## Short Description:

Minimum Period of Document Validity

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## Decision Issue:

Whether DMV should implement a policy imposing a minimum period of validity for temporary driver or identification documents issued with an expiration date tied to the expiration of the applicant's lawful presence in the U.S., whereby the agency will not issue such a document if the period of validity will not satisfy the "minimum period of validity" requirement.

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## Impact and Challenges:

It would be imperative to communicate a minimum period of validity requirement to the public. Due to the complexity of this issue, it is likely that customers who would be impacted by any minimum validity requirement would not appreciate the impact of the requirement until their application for a document had been denied.

If a minimum period of validity is not established, then it will be necessary to explain to the public and other entities the reason DMV may be issuing documents with very short expiration dates (eg. one day period of validity).

The new code provision, Va. Code 46.2-328.1(B), does not provide for a minimum period of validity, but simply states that a temporary document "shall only be valid during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year." If the agency designates a minimum period of authorized stay in order for an applicant to be eligible for a DMV document, such a designation may be deemed arbitrary and capricious and outside the authority of DMV. Further, it is not clear that DMV would have statutory authority to impose a minimum period of validity for any DMV issued document.

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## DMV Recommended Decision:

DMV recommends that the agency not implement a minimum period of validity but instead issue documents in accord with the strict interpretation of Va. Code § 46.2-328.1. The agency would issue a document with a period of validity that is directly tied to the period of time of the applicant's authorized stay in the U.S., even if the applicant's authorized stay is due to expire the next day.

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**DMV Commissioner's Signature**

**Date**

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**Panel Recommended Decision:**

The panel agreed with the above recommendation.

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**Panel's Signature**

**Date**

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**Secretary's Recommended Decision:**

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**Secretary's Signature**

**Date**

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**Governor's Recommended Decision:**

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**Governor's Signature**

**Date**