



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**22 VAC 40-201 – Permanency Services-Prevention, Foster Care, Adoption and Independent Living**  
**Department of Social Services**  
May 8, 2006

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### **Summary of the Proposed Regulation**

The State Board of Social Services (board) proposes to repeal seven regulations which now govern parts of the adoption process as well the disposition of children in foster care and children who are at risk of becoming part of the foster care system. One comprehensive regulation that mandates the shape and scope of permanency services in Virginia will replace those seven that are to be repealed.

In order to comply with Federal Title IV-E, the board proposes to require that:

1. Certain specific judicial findings must be in the initial court order for removal of a child from his or her home.
2. The Department of Social Services (DSS) must provide certain specified documentation to support a judicial finding that every reasonable effort has been made to achieve the goal of family preservation.

The proposed regulation will also bring Virginia into greater compliance with the Federal Adoption and Safe Families Act of 1997 (ASFA) by requiring that:

3. Absent a court order to the contrary, DSS encourage and facilitate visitation between foster children and their parents and siblings.
4. The case of each child in foster care be subject to judicial review at set intervals.

5. DSS include all affected parties in the service planning process and notify these parties of all judicial and administrative hearings so that they may participate if they wish.<sup>1</sup>
6. DSS have, in most situations, monthly face-to-face contact with children in intrastate foster care. The one exception to this monthly contact requirement for children placed within Virginia is that DSS need only have face-to-face contact with children in permanent foster care not less than every six months. Children placed out-of-state, either with relatives or in a foster home or residential facility, need only meet face to face with DSS workers, or their designees, annually. Face-to face meetings between a child in foster care and DSS must occur in the home or facility where the child resides and must be documented in the Commonwealth's approved case documentation system (OASIS).
7. DSS have face-to-face contact with the parents or prior guardians to whom children in the foster care system are expected to be returned. The proposed regulation, but not ASFA, requires that contact occur at not less than monthly intervals.
8. DSS have contact with all foster care providers, except those that provide permanent foster care, at least monthly. DSS need only have contact with providers of permanent foster care once every six months. The proposed regulation, but not ASFA, requires that contact, in most cases, occur at not less than monthly intervals.
9. DSS petition for termination of parental rights at the first permanency planning hearing except where federally defined compelling reasons exist that would preclude such a petition.
10. New social workers and supervisory staff participate in initial training and ongoing yearly training.

In addition to bringing Virginia into greater compliance with the requirements of Title IV-E and ASFA, the proposed regulation contains requirements that are already DSS policy (DSS Foster Care Policy Manual Volume VII, Section III, Chapter B), but which has not yet been put

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<sup>1</sup> Affected parties include parents or prior guardians, foster parents and, when appropriate, children who are the subject of the service plan.

into regulatory code. These portions of the proposed regulation do not represent a change in DSS practices.

## **Result of Analysis**

The costs likely exceed the benefits for one of these proposed regulatory changes. There is insufficient data to decide whether benefits exceed costs for all other proposed changes. Detailed analysis can be found in the next section.

## **Estimated Economic Impact**

Most of the provisions of 22 VAC 40-201 do not represent a substantive change in how the foster care system in Virginia operates. As noted above, much of the proposed regulation is a restatement of current DSS policy. There are however substantial costs, mostly labor costs, attached to the proposed regulation provisions that concern visitation between foster children and family members from whom they have been separated, between these children and their case social workers, and between social workers and parents. There will also be substantial costs associated with social worker and supervisor training.

Current regulation contains no specific language obligating DSS to maintain ties between foster care children and their siblings and parents or former guardians; at this point, various localities have different policies for, and place varying importance on, this type of visitation. In 2003, the US Department of Health and Human Services Children's Bureau (HHS) conducted a review of child and family services in Virginia. Visitation between foster children and their families is one of the areas in which Virginia's foster care system "did not achieve substantial conformity" with the ASFA mandates. In order to avoid threatened monetary penalties, DSS seeks to now bring regulation and practice into compliance with ASFA, which requires that states facilitate this visitation so that families can be more easily reunited at the end of the foster care process.

DSS estimates that implementation of this portion of the proposed regulation will require that local DSS offices (LDSS) hire the equivalent of 33.5 full time social workers (\$55,108 per worker per year<sup>2</sup>) in order to coordinate and supervise visitation between children in foster care

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<sup>2</sup> This figure includes salary, retirement benefits, FICA, insurance, travel expenses, supplies, telephone costs, equipment costs and the one time expenses associated with setting up an office. The same expenses are included in

and their siblings and parents. This change will likely yield benefits for children in foster care in that they will be able to maintain more stable ties with family members with whom they will eventually live.

Additionally, DSS estimates that 156 full time social workers will be needed to implement mandated monthly face-to-face visitation between social workers and children in most types of foster care placement. While there is no federal requirement that visitation occur at any particular interval, the proposed regulation is written to require monthly visitation in most cases because DSS anticipates that that will be a federal requirement in the future. DSS, and HHS, believes that many situations, like poor placement fit, that might prove harmful to foster children can be caught and fixed more quickly if social workers have face-to-face contact more frequently. This portion of the proposed regulation represents a large change in DSS policy as currently only quarterly visits are required.

In stark contrast with the proposed visitation requirements for foster children placed within Virginia, DSS, apparently with the blessing of HHS, proposes to reduce the frequency of face-to-face visits between social workers and children placed out-of-state, either with relatives or in foster homes or residential facilities, from quarterly to annually. Although this reduction in services will save the state some money, it will also very likely leave children placed out-of-state more vulnerable and may also leave DSS open to charges that they are neglecting a population of children whose safety is, ultimately, their responsibility.

DSS does not anticipate additional funding for localities to cover the increased visitation mandated by the proposed regulation and so would have to meet new regulatory requirements using their current staff. This provision, if promulgated without funding or resource redistribution, may have a negative effect on social worker retention rates which may, in turn, have a negative economic impact on the Commonwealth as additional funds will be needed for recruiting and hiring replacement workers.

DSS estimates that, in order to comply with ASFA and facilitate new worker and annual in-service training, LDSS will need to hire 40.2 full time social workers. Of that number, 19.9 social workers would cover hours taken up by new worker training and 20.3 full time social

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the per year cost for each new case aide and supervisor. Other accounting methods which recognize, for instance, that office space can be shared would likely yield lower per-worker costs.

workers would cover hours needed for continuing yearly training of all social worker and supervisory staff. The HSS Child and Family Services Review (CFSR) found that:

“Virginia did not achieve substantial conformity with the systemic factor of training. The CFSR determined that the State does not provide initial training for all agency personnel who deliver services under titles IV-B and IV-E statewide. Further, ongoing training for staff to address the skills and knowledge needed to carry out their duties is not provided in a consistent manner across the State.”

Again, DSS seeks to bring regulation and practice in this area into conformity with Federal standards in order to avoid possible monetary penalties. While the costs of this training are, in practical terms, unavoidable, they are mitigated by expected decreases in staff turnover. Social workers who are trained before they are assigned cases and who receive ongoing training are less likely to become frustrated because they are unprepared to handle the stress of their job. They may, as a consequence, stay in their position longer. If this is the case, DSS will avoid costs associated with searching for, and hiring, new employees. In addition, this portion of the proposed regulation will have non-monetary benefits in that well trained social workers are more likely to make good decisions for the children who they are evaluating or who are already in the care of DSS.

DSS estimates that, in order to facilitate the training and visitation mandated by the proposed regulation, LDSS will need to hire the equivalent of 38.5 full time supervisors (\$71,737 per supervisor per year) to maintain a supervisor to social worker ratio of 1 to 6. DSS estimates of the number of supervisors needed are based on estimates of the number of new social workers needed statewide rather than in any particular locality. Because any one of the 120 local departments is not likely to hire a large enough number of new social workers to justify the expense of an extra supervisor, DSS's estimates of the number of supervisors needed statewide likely overstates the supervisory needs of LDSS's. DSS also reports that local departments will need to hire 16.48 full time case aides (\$47,745 per aide per year) to maintain an aide to social worker ratio of 1 to 14. Again, because the scale of social worker hiring for any one LDSS will likely be smaller than the statewide number suggests, the estimate of required new case aides is likely higher than the number of case aides that LDSS's will actually need.

DSS estimates that the full labor cost for implementing the proposed regulation as it is now written is \$16,236,429 (based on FY 2006 data). Localities would be responsible for covering 20% (\$3,247,286) for service administration, so the Commonwealth's portion of labor costs if the proposed regulation were fully implemented would be \$12,989,144 for FY 2006.

Other explicit costs generated by implementation of the proposed regulation, cost for printing training materials and any cost attached to gathering specific documentation that must be presented in removal hearings are two examples, are estimated by DSS to be minimal and already covered by pre-existing budgetary allowances. These represent costs to opportunity in that funds used for these things cannot be used for something else, but DSS does not require an increase in their budget to cover them.

The unforeseen costs that may be attached to the proposed regulation are harder to judge. For instance, the provision that requires that social workers meet with the parents of children in foster care may be problematic since DSS can dictate practice for LDSS staff but cannot force unwilling parents to meet if that is not their inclination. The cost of this item in man hours could easily add up very quickly as LDSS staff may find that they are spending a good deal more time than anticipated trying to get parents to comply. In addition, this may serve as a source of frustration to social workers and may be a factor that increases DSS staff turnover.

The requirement that foster care parents have monthly contact with social workers could conceivably decrease the supply of foster care homes if that contact is viewed as an unnecessary intrusion. On the other hand, there is a strong argument to be made that increased contact between social workers and foster care parents may mean that the needs of the foster child are assessed more quickly, and services are delivered in a more timely fashion, so frustration on the part of foster care families is reduced. This might very well reduce the possibility of foster parents removing themselves from the system. There is insufficient data to know which effect will outweigh the other. If this requirement causes greater foster parent attrition, search costs to recruit new foster parents may rise and LDSS may find they cannot find enough foster parents to meet demand for foster care services. If this happens, they may be forced to rely more heavily on private placement services. This might increase the price private placement agencies can negotiate at contract renewal.

Many portions of the proposed regulation have minimal or no cost attached to their implementation but do have substantial cost attached if they are not promulgated and put into practice. It will cost little or nothing, for example, to get judges to word removal orders so that they meet Title IV-E requirements. If DSS does not mandate that the wording, however, Virginia may fail the next scheduled Title IV-E audit. If this happens DSS will have to return all Title IV-E funds that were dispersed in cases where Federal regulation was not adhered to and will have to pay additional penalties. The amount that Virginia could be forced to pay out if this happens could range between \$2,000,000 and \$12,000,000. DSS's best estimate of what Virginia would owe the Federal government is approximately \$8,000,000. Virginia is scheduled to be audited again in August 2006.

In addition, DSS was subject to an audit of their compliance with ASFA. Many of the requirements of the proposed regulation are aimed at fixing the deficiencies that HHS found with Virginia's child and family services. Although there has been no exact dollar amount yet attached to non-compliance, Virginia may be subject to monetary penalties if they do not improve performance in implementing ASFA mandates.

### **Businesses and Entities Affected**

The proposed regulation will affect 169 private placement agencies and child residential institutions, as well as the approximately 8,000 children in foster care in Virginia.

### **Localities Particularly Affected**

All 120 local Departments of Social Services will be affected by this new regulation.

### **Projected Impact on Employment**

DSS estimates that at least 230 new social workers will need to be hired to meet the visitation and training requirements of the proposed regulation. Additionally, -approximately 55 new support and supervisory positions may be created.

### **Effects on the Use and Value of Private Property**

The revenue of private placement agencies might increase if foster parent attrition rates increase and LDSS cannot recruit adequate numbers of replacement foster parents. The use and value of private property should not otherwise be affected by the proposed regulation.

## **Small Businesses: Costs and Other Effects**

Only public agencies and non-profit private placing agencies are likely to be affected by the proposed regulation.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

Only public agencies and non-profit private placing agencies are likely to be affected by the proposed regulation.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.