

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

6 VAC 35-160 – Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System

Virginia Department of Juvenile Justice

Town Hall Action/Stage: 4333/7596

August 30, 2016

Summary of the Proposed Amendments to Regulation

As the result of a comprehensive review, the Board of Juvenile Justice (Board) proposes to amend its regulation governing juvenile records. The Board proposes numerous clarifying changes and several substantive changes; the substantive changes to this regulation include requiring background checks for all individuals who are given access to the Virginia Juvenile Justice Information System (VJJIS) and adding references to Commonwealth of Virginia Information Technology Resource Management (COV ITRM) standards.¹

Result of Analysis

Benefits likely outweigh costs for this proposed change.

Estimated Economic Impact

This regulation governs access to the records of juveniles in the care of the Department of Juvenile Justice (DJJ). As the result of a comprehensive review the Board now proposes many changes to this regulation. Most of these amendments will not change any rights or obligations for regulated entities but are, instead, meant to bring the regulations up to date and clarify current requirements. For example, current language includes references to authorized employees who

¹ These are Virginia Information Technology Agency (VITA) information security standards.

are able to access juvenile records. Since private contractors are also authorized, in some instances,² to access records also, these references were not as inclusive as they could be. The Board now proposes to replace the word “employees” with “individuals”. No entity is likely to incur costs on account of this type of change. Affected entities will benefit from the additional clarity these changes bring.

In addition to these clarifying changes, the Board proposes two substantive changes to this regulation. Currently, the regulation allows for, but does not require, background checks for all individuals who will have access to juvenile records. The Board now proposes to require background checks for all such individuals. Board staff reports that, even though current regulatory language does not require these background checks, DJJ policy does. Because of this, no affected entities are likely to incur costs on account of this change. To the extent that requiring background checks may make authorized individuals less likely to misuse the information that they can access, juveniles in custody will likely benefit from this change.

Current regulation contains several specific protocols for accessing information. For instance, current regulation contains language referencing DJJ’s general requirements for remote access of records. As DJJ is subject to COV ITRM Standards,³ the Board now proposes to replace references to DJJ data policies with references to these statewide policies. No entity is likely to incur costs on account of this change; as this change will add clarity and eliminate the possibility that DJJ’s data requirements would become obsolete as statewide requirements change, interested parties will benefit from it.

Businesses and Entities Affected

Board staff reports that this regulation sets juvenile data access rules for participating agencies. Participating agencies include 34 state and locally operated court services units, two DJJ operated juvenile correctional facilities, 24 locally operated secure detention centers, any juvenile group homes in the Commonwealth that are funded (in whole or in part) by the Virginia Juvenile Community Crime Control Act and any other entities that provide services or treatment to juveniles either through contract with DJJ or under the auspices of the Virginia Juvenile

² For instance, mental health care providers who contract with DJJ would be authorized to access the records of their clients.

³ These standards and a relevant glossary can be accessed at: <http://vita.virginia.gov/library/default.aspx?id=537>

Community Crime Control Act. All of these entities and all juveniles whose information is in the VJJIS will be affected by these proposed regulatory changes.

Localities Particularly Affected

No locality will be particularly affected by these regulatory changes.

Projected Impact on Employment

These proposed regulatory changes are unlikely to have any impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

This proposed regulation is unlikely to have any impact on the use or value of private property.

Real Estate Development Costs

This proposed regulation is unlikely to affect real estate development costs.

Small Businesses:

Definition

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

No small business is likely to incur compliance costs on account of these proposed regulatory changes.

Alternative Method that Minimizes Adverse Impact

No small business is likely to incur compliance costs on account of these proposed regulatory changes.

Adverse Impacts:

Businesses:

No business is likely to incur compliance costs on account of these proposed regulatory changes.

Localities:

No locality is likely to be adversely affected by these proposed regulatory changes.

Other Entities:

No other entities are likely to suffer any adverse impact on account of this proposed regulation.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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