



Economic Impact Analysis Virginia Department of Planning and Budget

6 VAC 20-240 – Regulations Relating to School Security officers

Department of Criminal Justice Services

February 15, 2005

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

Chapter 836 of the 2002 Acts of Assembly amended §9.1-102 of the Code of Virginia such that the Department of Criminal Justice Services (DCJS) has the power and duty to establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment, including initial training, in-service training, and other requirements for certification as a school security officer (SSO).

The proposed regulation requires all SSOs to be certified and establishes minimum requirements for certification and re-certification. The proposed regulation also requires instructors providing SSO training to be approved by DCJS. It establishes minimum requirements for obtaining and renewing approval as an SSO training instructor.

An emergency regulation to this effect has been in place since August 2004.

Estimated Economic Impact

Description of Regulation:

School Security Officers: The proposed regulation requires all SSOs to be certified and establishes minimum requirements for certification and re-certification. In order to obtain initial certification, applicants are required to complete compulsory minimum training developed and approved by DCJS. SSOs are required to complete the required training within 60 days of being hired. Extension of the 60-day time limit may be granted under certain circumstances. The compulsory minimum training is to consist of a 32-hour training curriculum that includes training in the role and responsibility of SSOs, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Code of Virginia requires the SSO training curriculum to include these topics. The training curriculum was developed based on the legislative outline and the curriculum for school resource officers (SRO)¹. The curriculum was then reviewed and amended by the SSO working group². DCJS estimates that Module 1 (Roles and Responsibilities) will require a minimum of eight hours, Module 2 (Legal Issues) will require a minimum of 16 hours, and Module 3 (Today's Student) will require a minimum of eight hours. Applicants are expected to take a test for each module and pass with a minimum grade of 80%. Applicants are also required to meet attendance requirements specified in the regulation. Those who miss any part of the training are required to make it up either within 60 days or when the next session is offered, or risk not being certified.

In addition to the minimum training requirements and any applicable school board requirements, applicants are required to meet certain minimum employment requirements prior to being certified. They are required to undergo a background check, both to the Central Criminal Records Exchange (CCRE) and the Federal Bureau of Investigation (FBI), such that the results of the check are available within 30 days of employment. They are required to have a high school education, have passed the General Educational Development examination, or have passed the National External Diploma program. They are also required to be at least 21 years

¹ SROs are defined as certified law-enforcement officers hired by a local law enforcement agency to provide law enforcement and security services to Virginia public, elementary, and secondary schools.

² The SSO working group was made up of security directors from school divisions employing a large number of SSOs, such as Fairfax, Newport News, Norfolk City, Prince William, and Virginia Beach.

old, possess a valid driver's license (if SSO duties require operation of a motor vehicle), and have successfully completed basic first aid training. The employing localities are responsible for verifying and certifying to DCJS that the minimum employment requirements are met. They are also responsible for costs of the background check and the first aid training.

Certification is to remain valid for a period of 24 months. Applications for re-certification are to be submitted to DCJS at least 30 days before certification expires. Extension of the 30-day time limit may be granted under certain circumstances. However, individuals whose certification expires without a request for extension being filed are required to comply with initial certification requirements. Applicants for re-certification are required to complete at least 16 hours of DCJS-approved in-service training. They are required to submit the agenda and outline of any training for which they are seeking in-service credit to DCJS for approval.³ Following approval of the training, applicants are required to submit proof that they have completed the training within the required time frame. According to DCJS, applicants will be able to take any of the approximately 43 different training programs sponsored by the Virginia Center for School Safety for partial in-service credit. Applicants are allowed to continue operating in the capacity of an SSO pending notification by DCJS regarding a re-certification application.

DCJS is required to notify the applicant and the employing school division of its decision regarding initial certification once it receives a completed application and is notified of successful completion of training. Certified SSOs can be de-certified by DCJS for a number of reasons, including conviction of or pleading guilty or no contest to a felony or any offense that would be a felony in Virginia, failure to meet training requirements, termination of employment, violation of school board policy or standards of conduct established in the regulation, and refusal to submit to a drug screening or a positive result on a drug screening. The proposed regulation provides for an appeals process in the event an application is denied or an individual is de-certified. DCJS is required to maintain a current database of all certified SSOs and their training records.

SSO Training Instructor Approval: The proposed regulation also requires instructors providing SSO training to be approved by DCJS. It establishes minimum requirements for

³ This is similar to how in-service training credit is handled by law enforcement.

obtaining and renewing approval as an SSO training instructor. Applicants for initial approval are required to be certified as an SSO or be employed by DCJS. They are required to have a high school education, have passed the General Educational Development examination, or have passed the National External Diploma program. They are also required to either have minimum three years of management or supervisory experience or have five years of general experience as an SSO or with any federal, military police, state, county, or municipal law enforcement agency in a related field. In addition, they are required to have completed an SSO instructor course approved by DCJS or have minimum one year of experience as an instructor or teacher at an accredited educational institution or agency.

Approval is to remain valid for 24 months. Applications for renewal of approval are to be submitted at least 30 days before expiration. Applicants are required to have completed eight hours of DCJS-approved instructor in-service training in the 12 months immediately preceding the renewal application and be in good standing in the jurisdiction where approved as an instructor. Individuals whose approval expires are required to comply with initial approval requirements. In order to maintain approval, SSO training instructors are required to ensure that attendance and other administrative requirements specified in the regulation are met. Instructors are responsible for monitoring student attendance and reporting students that are not present for the required number of hours of training. Instructors are also required to notify DCJS of training sessions to be conducted, including any changes to the date, time, and location of the session, conduct training session in accordance with lesson plans developed by DCJS, allow DCJS to inspect and observe training sessions, provide instruction in no less than four-hour sessions, administer examinations at the end of each module of entry-level training, and submit a training completion roster (listing the student's score and attendance record) and all tests to DCJS. In addition, instructors are required to meet standards of conduct established in the regulation.

Estimated Economic Impact:

The proposed regulation is likely to impose *economic costs*. It will make it more expensive and more difficult to operate as an SSO or an SSO training instructor.

a. Training Requirements: The proposed regulation establishes minimum training requirements for certification as an SSO or approval as an SSO training instructor.

- Individuals seeking to operate as SSOs will be required to meet initial and in-service training requirements. According to DCJS, the cost of initial training is estimated to be \$112.50 per hour for DCJS-conducted training.⁴ The cost of initial training conducted by localities is estimated to be \$256.50 per hour for a class of 25 students.⁵ The cost of providing the initial training curriculum is estimated at \$25 per copy. DCJS anticipates that it will be required to provide 400 copies of the curriculum per year at a cost of \$10,000. In addition to initial training, SSOs are required to have 16 hours of DCJS-approved in-service training in order to be re-certified. The cost of the in-service training requirement is likely to vary depending on the nature and type of training. For example, an SSO can attend training programs currently being sponsored by the Virginia Center for School Safety at no cost or s/he can pay to attend other types of training programs approved by DCJS for in-service credit.
- Individuals seeking to operate as SSO training instructors are required to complete an SSO instructor course approved by DCJS or have minimum one year of experience as an instructor or teacher at an accredited educational institution or agency. According to DCJS, the cost of initial SSO instructor training is \$112.50 per hour or \$3,600 for 32 hours of initial training. However, not all SSO training instructor applicants will be required to participate in the training. Individuals with at least one year of experience as an instructor or teacher at an accredited educational institution or agency can seek approval as an SSO training instructor without completing the training. In addition to initial training requirements, SSOs are required to have eight hours of DCJS-approved in-service training in order to renew their approval. DCJS anticipates sponsoring at least one annual SSO instructor in-service training course each year to be provided free of charge. DCJS estimates that an eight hour course for a class of 100 students will cost the agency \$325 per hour or \$2,600 for the full eight hours.⁶
- In addition to the cost of the training itself, the proposed change is also likely to impose some additional economic costs. The time taken to meet the training requirements must be valued as time that would have otherwise been used for regular SSO- and SSO instructor-related activities. Thus, the proposed change will result in lost income for the SSO or a loss of productivity for the school division employing the SSO during the time they are in training.

⁴ or \$3,600 for 32 hours of initial training

⁵ or \$8,208 for 32 hours of initial training

⁶ \$2,000 for one night's lodging for 100 students + \$500 per day to the course instructor + \$100 for refreshments

The proposed change is also likely to impose some travel-related costs, including costs related to traveling to and from the training center and costs related to any overnight stays. DCJS is currently required to provide lodging for individuals attending DCJS-conducted training. The agency estimates that it costs approximately \$5,000 to lodge 25-30 people for four days. The lodging costs for locality-conducted training are likely to be minimal as the training is usually conducted in the locality where the SSO is employed.

b. **Employment Requirements:** The proposed regulation requires SSOs and SSO training instructors to meet minimum employment requirements specified in the regulation.

- All SSOs are required to undergo a background check to the CCRE and the FBI. According to DCJS, local ordinances currently require individuals working with children to undergo background checks to the CCRE. However, not all localities require a background check to the FBI. The total cost of conducting a background check to the CCRE and the FBI is estimated to be \$37 per applicant, \$13 for the CCRE check and \$24 for the FBI check. The cost of the background check is to be incurred by the locality employing the SSO.
- All SSOs are required to successfully complete basic first-aid training. The cost associated with this requirement is likely to vary as localities are allowed to choose the level and substance of the training. However, a combined CPR and first-aid class conducted by the Red Cross lasts about 6 hours and CPR and first-aid certification through the Red Cross costs \$60. The cost of the first-aid training is to be incurred by the locality employing the SSO.
- The remaining requirements for certification as an SSO or approval as an SSO training instructor serve to reduce the pool of potential applicants. For example, individuals who do not have a high school-level education or are less than 21 years old will not be eligible for certification as an SSO. Individuals without SSO certification and without the requisite amount of work experience will not be eligible to apply for approval as an SSO training instructor. By restricting the pool of applicants in this manner, the proposed regulation could result in fewer individuals being certified as SSOs or approved as SSO training instructors. This, in turn, could increase in the cost of these services in Virginia.

c. **Administrative Requirements:** DCJS is likely to incur additional costs in running the SSO program. The agency estimates that it will require \$90,000 per year to administer the program (\$65,000 per year for a full-time position and \$25,000 for a part-time position). In addition, the

agency expects to incur \$7,500 per year in travel-related expenses for DCJS staff to monitor training sessions conducted by localities⁷. DCJS also anticipates major revisions to the curriculum every 3-4 years at a cost of \$4,000 per revision. The cost to create the initial curriculum was \$25,000. As the agency does not intend to charge for certification, re-certification, approval, or renewal of approval, the entire costs of running the program will be borne by DCJS.

The proposed regulation is also likely to produce *economic benefits*. It is intended to improve school safety climate by ensuring that all SSOs have a minimum level of competency in the job. A survey of school divisions conducted by the Virginia State Crime Commission (VSCC) in 2002⁸ found that 19 of the 111 school divisions responding to the survey reported employing SSOs or school security specialists. However, due to a lack of state oversight, school divisions developed their own school security programs, with varying training, employment, and job requirements. Only eight of the 19 school divisions required any entry-level training for SSOs, with the remaining eleven requiring some form of training later in the employment tenure. For those that did require entry-level training, the amount of training ranged from twelve hours to 103 hours. Employment requirements also varied across school divisions. For example, out of 19 school divisions employing SSOs, three required drug screening at job entry, five required a physical examination, one required psychological testing, and nine required U.S. citizenship. SSO job responsibilities also varied across school divisions. While some areas of responsibility were similar across most school divisions⁹, law enforcement-related responsibilities varied widely across school divisions. One-third of school divisions reported having law enforcement-related activities as part of an SSO's job responsibility. Of the school divisions employing SSOs, six conducted on-site arrests for violations of the law, seven pursued school-based violations off school property, and six pursued violations off school property when they occurred during a school sponsored trip or event.

Individuals operating as SSOs have the potential to be a hazard to public safety, such as through the illegal search and seizure of students and property. According to DCJS, there have

⁷ \$150 per day x 5 days per month x 10 months per year

⁸ "Study of School Security Officers", House Document No. 31, Report of the Virginia State Crime Commission to the Governor and General Assembly of Virginia, 2002.

been two lawsuits against localities in the last decade relating to the activities of SSOs. By establishing minimum training and employment requirements, the proposed regulation is intended to reduce the potential for harm from search and seizure activities in response to violations of school board policies or the law. Establishment of minimum employment standards and of a process for training and certification of SSOs was one of the recommendations of the 2002 VSCC report.

In addition, by clarifying the job responsibilities of SSOs, the proposed regulation is likely to remove any confusion regarding the legal standard under which SSOs are to operate. According to the 2002 VSCC report, some school divisions were having their SSOs sworn in as Conservators of the Peace.¹⁰ Conservators of the Peace are considered law enforcement officers and are, thus, held to a different standard of action compared to school officials. For example, law enforcement officers are required to operate under a probable cause standard whereas school security officers acting in their capacity as a school official are required to operate on a reasonable suspicion standard. The problem arises when SSOs conduct searches based on reasonable suspicion in their capacity as a school official and used the information collected during the search to develop probable cause and carry out arrests in their capacity as a law enforcement officer¹¹. To prevent such instances, the Code of Virginia was amended to distinguish SROs from SSOs, with the former defined as law enforcement officers and required to act under a probable cause standard and the latter defined as a school official and required to act under a reasonable suspicion standard.

Establishment of statewide training and certification requirements for SSOs could also produce some additional economic benefits. Most of the school divisions and principals surveyed as part of the 2002 VSCC report supported the establishment of statewide requirements. Specifically, 84% of the school divisions and 77% of middle, high, and secondary school principals responding to the survey supported uniform training and certification of SSOs.

⁹ Uniform job responsibilities included building security, building safety audits/assessments, roving security patrols, participation in crisis response teams, monitoring of alarm/close-circuit television equipment, on-site patrols, and maintaining security at after-hours extra-curricular events.

¹⁰ According to the 2002 VSCC survey, seven divisions reported having their SSOs sworn in as Conservators of the Peace.

¹¹ According to DCJS, SSOs are not allowed to possess arrest authority under the Code of Virginia. However, they are allowed to detain students on school property for violations of school rules and policies or the law. They are also allowed to detain students for the purpose of identification or for the safety and security of the school or the student.

The three most cited reasons for uniform standards and certification requirements were consistency and continuity across the state, proper training of school employees, and mitigation of school division liability.

The *net economic impact* of the proposed regulation will depend on whether the additional costs imposed by the regulation are greater than or less than its benefits. On one hand, the proposed regulation makes it more difficult and more expensive for individuals to operate as SSOs and for school divisions to hire SSOs. It also imposes additional administrative and other costs on DCJS. On the other hand, the proposed regulation is likely to reduce the potential for harm to students studying in Virginia's public schools. Students are less likely to be subject to illegal search and seizure. Moreover, the additional training and certification requirements are likely to that SSOs across the state are able to carry out their responsibilities with a minimum level of competency. The net economic impact of the proposed change will depend on whether the requirements of the proposed regulation are commensurate with the safety risk to students studying in Virginia's public schools. If the requirements are the minimum necessary to protect students, the proposed regulation is likely to produce a net positive economic impact. The additional cost associated with the regulation can be viewed as part of the compliance cost incurred to ensure a safe school environment. If, on the other hand, the requirements are excessive given the risks, the proposed regulation, by imposing unnecessary requirements, is likely to lead to a waste of resources and have a net negative economic impact.

A precise estimate of all the costs and benefits, and hence of the net economic impact, is not possible at this time. Only some of the costs can be reasonably estimated. An estimate of the reduction in risk to students from the establishment of uniform certification requirements is also not possible at this time. However, the requirements of the proposed regulation appear to be reasonable and consistent with the safety risk to students. Thus, the costs and the benefits associated with the proposed regulation do not appear to be significantly different from each other.

Businesses and Entities Affected

The proposed regulation affects all individuals seeking to operate as SSOs or SSO training instructors in Virginia. All SSOs will now be required to be certified and meet minimum certification and re-certification requirements established in the regulation. All SSO

training instructors will now be required to be approved and meet minimum approval and approval renewal requirements established in the regulation.

According to DCJS, there are currently 948 SSOs employed by 35 localities operating in Virginia. In addition, there are approximately 10-20 SSOs employed by Governors schools and alternative schools operating in the state. Of these, 800 SSOs are expected to complete the required training by the end of this month. DCJS also estimates that there are currently 75 instructors trained and ready for approval.

Localities Particularly Affected

The proposed regulation applies to all localities in the Commonwealth. However, only 35 localities currently employ SSOs and these localities are likely to be the most affected. Localities not currently requiring SSOs to undergo a background check to the CCRE and the FBI will have to incur the cost of conducting a background check. Localities will also have to incur the cost of providing basic first-aid training to SSOs. Some or all of the cost associated with meeting the initial and in-service training requirement for SSO and SSO training instructors is likely to be incurred by localities. Finally, depending on labor market conditions and how restrictive the proposed employment requirements are, localities may have to pay more for SSO and SSO training instructor services.

Projected Impact on Employment

By making it more difficult and more expensive to operate as an SSO or an SSO training instructor, the proposed regulation could have a negative impact on the number of people employed in these capacities. Individuals seeking these appointments will now be required to be certified or approved by DCJS and meet all the requirements of the proposed regulation prior to operating as an SSO or an SSO training instructor.

Effects on the Use and Value of Private Property

As most of the costs associated with the proposed regulation are likely to be incurred by the state and localities employing SSOs, the proposed regulation is not likely to have a significant impact on the use and value of private property.