



Economic Impact Analysis Virginia Department of Planning and Budget

**22 VAC 40-191 – Background Checks for Child Welfare Agencies
Department of Social Services
September 29, 2012**

Summary of the Proposed Amendments to Regulation

The State Board of Social Services (Board) proposes to amend its regulations that govern criminal and abuse or neglect background checks to comport with recent legislative changes and to rearrange and change regulatory language so that requirements are easier to find and understand. In order to comply with legislative changes, the Board proposes to:

- § Add licensed child day centers to the entities that must comply with these regulations,
- § Add extortion by threat and felony violation of a protective order to the list of barrier crimes that would normally preclude entities from being approved as a foster or adoptive parent or from getting Board licensure,
- § Delete a requirement that prospective adoptive or foster parents and birth parents who have not retained legal custody of their child(ren) in foster care undergo a state criminal background check in addition to a federal criminal background check and add a requirement that these same entities undergo a search of child abuse and neglect registries maintained by any states in which they have resided for the prior five years,
- § Add a requirement that other adults living in a prospective foster or adoptive home sign a sworn statement or affirmation that they have not committed a crime that would preclude them living with the foster or adoptive child and that they undergo a search of child abuse registries in Virginia as well as any other states where they have lived in the prior five years,
- § Add letters from the Department of Social Services' Office of Background Investigations to the list of acceptable proof of satisfactory passing background checks,

- § Slightly relax criminal background prohibitions on approval of kinship care so that such care can be approved as long as at least 10 years has passed since felony conviction on drug possession charges or misdemeanor conviction for arson and
- § Slightly relax hiring standards for licensed child day centers so that someone with a misdemeanor assault conviction that is at least 10 years old may be hired.

Result of Analysis

Benefits likely outweigh costs all proposed changes.

Estimated Economic Impact

Many of the changes that the Board proposes for these regulations will not alter how Board staff conducts background checks. For instance, the State Department of Social Services has changed the name of the division that conducts background investigations and now proposes to change regulatory language to reflect that. Changes like these are likely to have no costs attached. To the extent that these changes clarify the requirements of these regulations, regulated entities will benefit from them.

In addition to these instructive changes, the Board proposes several substantive changes that are solely to make these regulations comport with the Code of Virginia (these changes are listed in the preceding section of this economic analysis). No entity is likely to incur additional costs on account of these changes being added to regulatory language because these entities are already required to adhere to requirements in the Code of Virginia (COV). To the extent that these changes in regulatory language harmonize these regulations with the COV, affected entities will benefit from not having two sources of authority giving them different information about what is required of them.

Businesses and Entities Affected

These proposed regulatory changes will affect 2,503 licensed child day centers, 1,558 licensed day homes, one licensed day home system and the 100 day homes that it has approved, one licensed independent foster home, 76 licensed child placing agencies and 1,121 voluntarily registered family day homes.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

This proposed regulatory action is unlikely to have any effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

No small business is likely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No small business is likely to incur any costs on account of this regulatory action.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). 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, Section 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.