



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

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**22 VAC 40-705 Child Protective Services**  
**Department of Social Services**  
**Town Hall Action/Stage: 5959 / 9933**  
June 7, 2023

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The Department of Planning and Budget (DPB) 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 19. The analysis presented below represents DPB's best estimate of these potential economic impacts as of the date of this analysis.<sup>1</sup>

## **Summary of the Proposed Amendments to Regulation**

The State Board of Social Services (Board) proposes to implement a permanent regulatory change to replace an emergency regulation<sup>2</sup> that removed the requirement that an individual's consent for a search of its Central Registry System (CRS) be notarized.

## **Background**

The Department of Social Services (DSS) searches the CRS at the request of individuals who seek to provide services or care to children through employment, foster care, adoption, or volunteer opportunities to determine if those individuals have a founded case of child abuse or neglect. These searches are performed when a childcare provider mails the applicant's notarized authorization for a search of the CRS, along with payment to DSS. However, DSS states that the notarization requirement delays the application process and places a burden on applicants, who must print the application form, locate and travel to a notary, and then give the notarized form to

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<sup>1</sup> Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

<sup>2</sup> <https://townhall.virginia.gov/l/ViewStage.cfm?stageid=9618>

the childcare provider. As a result, the Board removed the notarization requirement effective September 2, 2022, through an emergency regulation. This proposed change will amend the underlying regulation to make the emergency regulation permanent.

### **Estimated Benefits and Costs**

DSS performs approximately 180,000 searches of its CRS annually for background information on prospective employees and volunteers involved in children's services or care. Under the proposed changes, their consent to a CRS search would no longer have to be notarized. As a result, affected individuals would no longer need to be concerned with finding a notary public, with the time and travel costs involved in getting in front of a notary public, and with a potential fee<sup>3</sup> that a notary may require for his/her services. Given the volume of annual searches conducted, this change may provide substantial savings mainly in terms of an applicant's time and travel expenses. For example, an hour of time saved over 180,000 cases would translate to 87 full-time employment positions statewide in a given year.<sup>4</sup>

Additionally, even though the notarization can be secured relatively quickly, it would not be unusual to see delays in the application process and placement of children by a few days due to scheduling issues. Thus, parents, employees, volunteers, employers, and volunteer organizations may benefit from an expedited application process. DSS states that this benefit is particularly important now because Virginia is experiencing a critical shortage of foster homes and other placements for children.

On the other hand, removing the notarization requirement may make the applicant's consent more susceptible to tampering, though such an action would be illegal.

### **Businesses and Other Entities Affected**

According to DSS, 180,000 CRS search requests originate from more than 6,000 licensed childcare providers and an unknown number of organizations that have volunteers who work with children, including churches, schools, sporting organizations, scouting programs, and many others. None of the affected entities appear to be disproportionately affected.

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<sup>3</sup> DSS states that a notary official may charge an applicant up to \$5 per request.

<sup>4</sup>  $86.5 = 180,000 \text{ hours} / (40 \text{ hours a week} * 52 \text{ weeks})$

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>5</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, removing the notarization requirement is expected to produce savings for the applicants in terms of time, travel, and possible fee expenses; and expedite the application process. Although some notaries may be charging a small fee for their services, a notarization almost always can be secured at one's bank or financial institution for free. Thus, no adverse impact appears to be indicated.

### **Small Businesses<sup>6</sup> Affected:<sup>7</sup>**

The proposed amendments do not adversely affect small businesses.

### **Localities<sup>8</sup> Affected<sup>9</sup>**

The proposed amendments do not introduce costs for local governments.

### **Projected Impact on Employment**

The removal of the notary requirement is expected to free some time for the applicants, but whether such time savings would have any impact on employment is unknown.

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

The proposed changes are not expected to affect the use and value of private property or the real estate development costs.

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<sup>5</sup> Pursuant to Code § 2.2-4007.04(D): 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. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>6</sup> 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."

<sup>7</sup> 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.

<sup>8</sup> "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>9</sup> § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.