



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

22 VAC 40-880 Child Support Enforcement Program
Department of Social Services
Town Hall Action/Stage: 5858/10092
October 17, 2023

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 the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

As the result of a 2019 periodic review, the Board of Social Services (Board) seeks to make technical corrections and updates to the regulation governing the Child Support Enforcement Program.²

Background

The Department of Social Services’ (DSS) Child Support Enforcement Program promotes the efficient and accurate collection, accounting, and receipt of financial support for dependent children and their custodial parents. The regulation governing this program, 22 VAC 40-880, specifies the processes and requirements for DSS’ Division of Child Support Enforcement (DCSE) as well as for custodial and non-custodial parents. The Board seeks to update the regulation to enhance consistency with the Code of Virginia and applicable federal law and to reflect current practice. The most substantive changes are summarized below.

¹ 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.

² See <https://townhall.virginia.gov/l/ViewPReview.cfm?PRid=1753>.

- Section 240 Administrative deviation from the child support guideline: This section would be updated to reflect changes in federal law (45 C.F.R. 302.56(c)(1)), which now requires that if actual income information is not available, this information will be imputed based on several factors. The current language uses the federal minimum wage to establish the noncustodial parent’s wage. The proposed language would specify that,

“imputation shall take into consideration the specific circumstances of the noncustodial parent to the extent known, including such factors as the noncustodial parent’s assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.”³
- Section 250 Periodic reviews of the child support obligation: The regulation currently allows the child support obligation to be changed in order to require the natural or adoptive parents to share the costs of unreimbursed medical/dental expenses exceeding \$250 per child per year. The \$250 threshold was removed by the 2014 *Acts of Assembly*, which instead refers to “any reasonable and necessary unreimbursed medical or dental expenses.”⁴ Accordingly, the Board proposes to replace that limit with “any reasonable and necessary unreimbursed medical/dental expenses for the child.”
- Section 320 Initiated withholding of income: This section would be repealed in its entirety based on a recommendation by the Office of the Attorney General (OAG). The language currently in this section was considered redundant, since the Code of Virginia provides for income withholding by DCSE.⁵
- Section 430 Validity of the appeal: The proposed changes to this section also result from a recommendation by the OAG. All of the current text containing the deadlines and other requirements for an appeal to be considered valid was considered redundant, since these requirements are contained in state and federal code and also in forms received by DCSE’s customers.

³ See <https://www.law.cornell.edu/cfr/text/45/302.56>. The proposed changes are identical to the language in the federal regulation.

⁴ See <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=141&typ=bil&val=ch667>.

⁵ See https://townhall.virginia.gov/l/GetFile.cfm?File=73\5858\10059\AGmemo_DSS_10059_v1.pdf.

- Section 480 Cooperation with other state IV-D agencies: The proposed changes would clarify DSS' authority to pursue direct enforcement when a parent lives in another state, by removing language requiring coordination with the other state's Title IV-D agency in all such cases. DSS reports that direct enforcement is often faster in obtaining support for the custodial parent and child living in Virginia, and these orders are routine for employers.

All other changes to the proposed text, including in Sections 10, 90, and 350, appear to be merely clarifying in nature.

Estimated Benefits and Costs

Since the proposed changes all reflect current practice and would conform the regulation to state and federal law, the primary benefit would be to provide readers of the regulation with accurate and current information regarding the child support enforcement program. The proposed changes would not create new costs either to DSS or to custodial or noncustodial parents.

Businesses and Other Entities Affected

This regulation pertains to the processes used by DSS' DCSE to establish and enforce child support payments made to custodial parents of dependent children by noncustodial parents. Accordingly, the proposed changes would primarily affect DCSE and the families they serve. In addition, all of the proposed changes have already been implemented, and no entity would be newly affected by the proposed changes.

The following table provided by DSS indicates the rates at which income has been imputed since federal fiscal year 2020; these imputations occur when actual income information is not available, and are performed in obligation calculation worksheets.

FFY	Imputations	All OCWs	Rate
2020	243	18369	1.32%
2021	851	17477	4.87%
2022	208	16265	1.28%
2023	33	19056	0.17%

The proposed changes would indirectly affect certain employers in other states who would be contacted to collect child support payments. However, these changes have been implemented in practice because all states have adopted the 2008 Uniform Family Support Act, which allows direct income withholding.⁶ DSS also notes that direct income withholding has been found to be more cost-effective than requesting another state's assistance.⁷

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ 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. Because the proposed changes would conform the regulation to federal and state law and reflect current practice, an adverse impact is not indicated.

Small Businesses⁹ Affected:¹⁰

The proposed amendments would not create any new costs for small businesses.

Localities¹¹ Affected¹²

The proposed changes would not disproportionately affect any particularly localities and would not affect costs for local governments.

⁶ See <https://www.uniformlaws.org/committees/community-home?CommunityKey=71d40358-8ec0-49ed-a516-93fc025801fb>. Virginia's version appears in the Code of Virginia at § 20-88.32 et seq.

⁷ A detailed discussion of this topic appears at Office of Child Support Services, *Interstate Child Support Payment Processing* (2017) at https://www.acf.hhs.gov/sites/default/files/documents/ocse/at_17_07_a.pdf.

⁸ 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.

⁹ 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."

¹⁰ 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.

¹¹ "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.

¹² § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Projected Impact on Employment

The proposed amendments are not likely to have a substantive impact on total employment.

Effects on the Use and Value of Private Property

The proposed amendments would not affect the value of private property or real estate development costs.