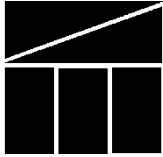


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

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

---

**22 VAC 40-705 Child Protective Services**  
**Department of Social Services**  
**Town Hall Action/Stage: 4888 / 8200**  
October 1, 2018

---

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

The State Board of Social Services (Board) proposes to update this regulation to reflect Chapters 88, 176, 428, and 604 of the 2017 Acts of Assembly and Chapters 5 and 209 of the 2018 Acts of Assembly.

### **Result of Analysis**

The benefits likely exceed the costs for the proposed regulation.

### **Estimated Economic Impact**

Chapters 176 and 428, 2017 Acts of Assembly<sup>1</sup> require local departments of social services (local departments) to collect information during a family assessment to determine whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth. The legislation also requires mandated reporters of suspected child abuse or neglect to report if (i) within six weeks following a child's birth, it becomes apparent that that child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) within four years following a child's birth that the child has an illness, disease, or condition that is attributable to

---

<sup>1</sup> See <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0176> and <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0428>.

maternal abuse of a controlled substance during pregnancy; or (iii) within four years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. The legislation further provides that if a local department receives a report or complaint of suspected child abuse or neglect on the basis of one or more of the aforementioned factors, the local department shall (a) conduct a family assessment, unless an investigation is required by law or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal law.

Chapters 176 and 428 became effective July 1, 2017. The Department of Social Services (DSS) estimated that approximately 605 new Child Protective Services (CPS) assessments/investigations would be needed annually, which would require the equivalent of 20 additional local department positions. DSS also estimated that 25 percent of the new reports would result in a child placed in foster care. The total estimated cost was \$3,492,752 funded through general funds (\$2,290,631), title IV-E federal funds (\$957,600) and local match (\$244,521). The Board now proposes to incorporate the new laws into this regulation.

Similarly, Chapters 88 and 142, 2017 Acts of Assembly<sup>2</sup> require local departments to transmit information regarding reports, complaints, family assessments, and investigations involving children of active duty members of the United States Armed Forces or members of their household to family advocacy representatives of the United States Armed Forces. Prior to this change, local departments were required to transmit information regarding only founded complaints or family assessments. The new laws expanded notifications sent to the United States Armed Forces from only founded reports to also include all reports, complaints, family assessments and investigations received by the local departments. Only a small increase in the number of notifications to the military was expected.

Chapter 604, 2017 Acts of Assembly<sup>3</sup> requires the board to promulgate regulations that require local departments to respond to valid reports and complaints alleging suspected abuse or neglect of a child under the age of two within 24 hours of receiving such reports or complaints. This legislative change would affect how local departments prioritize their workload and respond

---

<sup>2</sup> See <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0088> and <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0142>.

<sup>3</sup> See <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0604>.

to reports, but was not expected to affect the overall number of reports they must investigate or assess.

Chapters 5 and 209, 2018 Acts of Assembly<sup>4</sup> require local departments to notify the Superintendent of Public Instruction without delay (i) when an individual holding a license issued by the Board of Education is the subject of a founded complaint of child abuse or neglect and (ii) if the founded complaint of child abuse or neglect is dismissed on appeal. According to DSS, Chapters 5 and 209 were in response to a specific case and were unlikely to necessitate a large number of notifications.

Overall, the proposed legislative changes are expected to produce a beneficial impact on the ability of CPS to identify and respond to child abuse and neglect cases. These legislative changes were expected to identify more children and families in the Commonwealth who may benefit from programs and services designed to improve safety and well-being of children. However, the proposed amendments to the regulation are not expected to produce a significant economic impact since the legislative changes are already in effect. The proposed amendments are mainly beneficial in that they will align the regulatory language with the new legislation, and reduce the potential that readers of the regulation misunderstand current applicable law.

### **Businesses and Entities Affected**

The proposed regulation applies to all local departments' staff, mandated reporters of child abuse or neglect, particularly healthcare providers involved in the delivery and care of substance-exposed infants and Armed Forces Family Advocacy Programs. There are approximately 106 hospitals in Virginia where a substance-exposed infant could be born and identified as such. There are approximately 25 military installations in Virginia, all of which may not have a Family Advocacy Program.

### **Localities Particularly Affected**

The proposed amendments to the regulation do not disproportionately affect particular localities.

---

<sup>4</sup> See <http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+CHAP0005> and <http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+CHAP0209>

**Projected Impact on Employment**

The legislation was expected to lead to more reports/assessments/investigations of child abuse and neglect and was estimated to require 20 additional local department positions. The proposed regulation however is not expected to have any significant impact on employment.

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

The proposed amendments to the regulation do not affect the use and value of private property.

**Real Estate Development Costs**

The proposed amendments to the regulation do not 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**

The proposed amendments to the regulation do not affect costs for small businesses.

**Alternative Method that Minimizes Adverse Impact**

The proposed amendments to the regulation do not adversely affect small businesses.

**Adverse Impacts:****Businesses:**

The proposed amendments do not adversely affect businesses.

**Localities:**

Localities may see an increase in the number of CPS reports for substance-exposed infants due to changes in legislation, but the proposed amendments to the regulation do not significantly affect costs for localities.

### **Other Entities:**

The proposed amendments to the regulation do not adversely affect other entities.

### **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 14 (as amended, July 16, 2018). 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.