



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

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**22 VAC 40-880 Child Support Enforcement Program**  
**Department of Social Services**  
**Town Hall Action/Stage: 6187 / 9928**  
June 25, 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 the 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 amend the *Child Support Enforcement Program* regulation in order to help establish the regulatory authority for the provision of Family Engagement Services (FES).

## **Background**

According to the Department of Social Services (DSS), the impetus for this proposed regulatory change is a Board decision to ensure there is an authorizing regulation describing use of FES. Federal regulation 45 C.F.R. § 303.6 requires IV-D (child support) agencies to use appropriate and available enforcement methods to obtain compliance with child support obligations. As a component of reviewing for ability to pay, DSS states that there are case participants who may need more assistance than others in maintaining support order compliance. In an article for the National Child Support Enforcement Association, a former DSS official described the need for FES as follows:

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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.

Historically, child support collection efforts have focused on parents who have assets but, for a variety of reasons related to the complexity of their relationships with the other parent, refuse to pay child support as ordered. There is another category of parents who, until recently, have not received focused attention. These parents are often caught up in a revolving door within the child support system; they receive limited acknowledgment or assistance and have significant barriers that inhibit their ability to pay support. This population struggles with limited education, sketchy work histories, substance abuse problems, criminal records, and more. While some also have poor relationships with the other parent and don't want to pay, others would pay child support if they were able. For this latter group—those who would but can't pay—conventional enforcement remedies often result only in recurring penalization rather than changes to behavior, regular child support payments, and long-term compliance. Instead, these noncustodial parents are often chronically taken to court, found noncompliant, and jailed because there is no alternative solution.<sup>2</sup>

FES activities are therefore designed to help increase the noncustodial parent's ability to pay child support.

As indicated in the proposed regulation, following an administrative or judicial determination that such services may assist the person to pay child support owed, the DSS Division of Child Support Enforcement may provide FES activities such as:

referrals to (i) employment services, to include employment assessment, employment search, and employment training; (ii) family services, including parenting skills, co-parenting skills, and relationship-building activities for parents and children; (iii) educational services, including GED preparation and GED testing; (iv) housing services, including referrals to organizations that operate shelters and provide subsidies; (v) document assistance, including referrals to organizations and assistance in securing vital records, driver's licenses, commercial driver's licenses, or other documents; (vi) social services, health and mental health services, and substance abuse services; and (vii) any other services that would assist the person to pay support owed.

These activities may be offered in conjunction with, but not as a substitute for, state and federal enforcement remedies.

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<sup>2</sup> See [https://www.ncsea.org/documents/ICMP\\_FINAL1.pdf](https://www.ncsea.org/documents/ICMP_FINAL1.pdf)

In practice, DSS has provided FES since 2008. According to DSS, the Board is proposing this new language upon advice of the Office of the Attorney General. The proposed text would not change the existing FES activities.

### **Estimated Benefits and Costs**

As indicated, the proposed amendments reflect existing FES activities. The proposed text could be beneficial in that the public may become better informed concerning FES.

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

The proposed amendments pertain to the noncustodial parents who receive FES, the custodial parents who may receive greater child support payments due to improved employment situations for the noncustodial parents, the 15 FES case managers at DSS, and the organizations that provide the various FES services. In 2022, 3,364 noncustodial parents received FES.<sup>3</sup>

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>4</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 the proposed amendments reflect current practice, no adverse impact is indicated.

### **Small Businesses<sup>5</sup> Affected:<sup>6</sup>**

As the proposed amendments reflect current practice, small businesses are not affected.

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<sup>3</sup> Data source: DSS

<sup>4</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>5</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>6</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.

**Localities<sup>7</sup> Affected<sup>8</sup>**

No localities are disproportionately affected. As the proposed amendments reflect current practice, costs for local governments are not affected.

**Projected Impact on Employment**

As the proposed amendments reflect current practice, no impact on employment is anticipated.

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

As the proposed amendments reflect current practice, no effects on the use and value of private property are expected. Real estate development costs are not affected.

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<sup>7</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>8</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.