



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

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### **6 VAC 20-20 Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers**

**Department of Criminal Justice Services**

**Town Hall Action/Stage: 5665 / 9534**

March 24, 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 economic impacts.<sup>1</sup>

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

The Criminal Justice Services Board (Board) proposes to 1) add the basic training standards to the document incorporated by reference, 2) add a ninth category of basic training (Wellness), 3) make other amendments to the basic training standards, 4) increase the minimum number of hours of field training from 100 to 240, and 5) extend the timeframe within which newly hired law-enforcement (LE) officers must complete all certification requirements from 12 months to 18 months.

### **Background**

All newly hired LE officers must comply with the law-enforcement certification requirements within the prescribed time frame, which is currently 12 months from the date of hire or appointment as a law-enforcement officer.<sup>2</sup> LE officers “... become certified upon

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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> The timeframe is found in 6 VAC 20-20-40 (A):

<https://law.lis.virginia.gov/admincode/title6/agency20/chapter20/section40/>

meeting all compulsory minimum training standards and other requirements that include documented completion of all performance outcomes, the law enforcement certification exam, and field training.”<sup>3</sup>

There are two types of training under the regulation: basic training and field training. Basic training currently includes the following eight training categories: 1) Professionalism, 2) Legal, 3) Communication, 4) Patrol, 5) Investigations, 6) Defensive tactics and use of force, 7) Weapons, and 8) Driver training. Each of the eight basic training categories has certain performance outcomes, training objectives, testing criteria, and lesson plan guides that make-up the basic training standards. The categories are in the regulation, but the standards are not. Instead, they are listed on the Department of Criminal Justice Services’ (DCJS) website.<sup>4</sup> The regulation does specify that the basic training take place at a certified criminal justice training academy, which includes receiving a minimum of 480 hours of department approved training in the eight basic training categories.

In addition to the minimum of 480 hours of basic training, the current regulation also requires successful completion of a minimum of 100 hours of approved training in the category of field training by meeting or exceeding the field training performance outcomes identified in the *Virginia Department of Criminal Justice Services Field Training and On the Job Training Performance Outcomes*.<sup>5</sup> The Field Training and On the Job Training Performance Outcomes document is included in the regulation as a document incorporated by reference. The online version of the regulation includes a link to the document. The field training is conducted by the agencies that employ the LE officers.

### **Estimated Benefits and Costs**

Adding the basic training standards to the document incorporated by reference would be beneficial for readers of the regulation who are not aware of where they can find the standards elsewhere. There is no introduced cost from including the standards in the document incorporated by reference.

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<sup>3</sup> See 6 VAC 20-20-21 (C): <https://law.lis.virginia.gov/admincode/title6/agency20/chapter20/section21/>

<sup>4</sup> See <https://www.dcjs.virginia.gov/law-enforcement/certification-process-and-mandated-service-requirements-le-officer>

<sup>5</sup> See <https://ris.dls.virginia.gov/uploads/6VAC20/DIBR/dff6a005427~3g.pdf>

The proposed new basic training category Wellness includes physical fitness standards as well as information on officer mental health and well-being.<sup>6</sup> According to DCJS, most academies are already teaching the components of Wellness. To the extent that some are not, if done well adding instruction on physical fitness and especially mental health and well-being could be beneficial for LE officers, particularly since it is a high-stress occupation. DCJS does not believe that any of the academies would need to hire additional or different staff to teach the components of Wellness. Those academies that are not already teaching Wellness would still require additional staff time if they do not reduce time spent on other subjects.

In addition to the new basic training category Wellness, the Board also proposes to amend the basic training standards to include increased training in community policing, verbal de-escalation, implicit bias, duty to intervene, conflict resolution skills with a concentration on individuals with mental illness, and historical events that have influenced citizen and police relationships.<sup>7</sup> DCJS states that most of these topics are already being taught at all academies and that no topics are being eliminated. To the extent that some academies may not be teaching all the above topics, additional staff time would be required if they do not reduce time spent on other subjects.

The Board does not believe that 100 hours of field training is adequate for a new officer to become acclimated with the job. DCJS surveyed numerous agencies across the Commonwealth and found that most agencies are already providing well above 240 hours of field training currently. The proposal to increase the minimum number of hours of field training to 240 would clearly cause those agencies that are currently providing fewer hours of training to increase the amount of field training they provide. Going by the Board's judgement that at least 240 hours are needed for LE officers to be prepared to perform the job competently, this proposed amendment should be beneficial.

The current section 6 VAC 20-20-40 of the regulation states in part that:

Law-enforcement officers who do not satisfactorily complete compulsory minimum training standards, field training, and other requirements within 12 months of hire or appointment as a law-enforcement officer, or who do not

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<sup>6</sup> Source: DCJS. See

[https://townhall.virginia.gov/l/GetFile.cfm?File=51\5665\9534\AgencyStatement\\_DCJS\\_9534\\_v1.pdf](https://townhall.virginia.gov/l/GetFile.cfm?File=51\5665\9534\AgencyStatement_DCJS_9534_v1.pdf)

<sup>7</sup> Ibid

receive an extension of the time limit for completion of the requirements, shall be subject to the provisions of § 9.1-115 of the Code of Virginia.

Code of Virginia § 9.1-115 states in part that:

Every person required to comply with the training standards adopted by the Board, excluding private security services business personnel, who fails to comply with the standards within the time limits established by the regulations adopted by the Board shall forfeit his office, upon receipt of notice, .... Such forfeiture shall create a vacancy in the office and all pay and allowances shall cease.

Thus, under the current regulation, LE officers who fail to satisfactorily complete all certification requirements within 12 months of being hired, and do not receive an extension, lose their job. The most common reasons that extensions are granted are military deployments and medical issues. The regulation also states that the director shall not grant an extension for: 1) failing to pass compulsory minimum training standards and requirements within specified time limits or 2) failing the certification examination.

According to DCJS, the department receives many requests for extensions of the training deadline currently. Consequently, in addition to giving greater flexibility to employing agencies and their newly hired LE officers, the proposal to extend the timeframe within which newly hired LE officers must complete all certification requirements from 12 months to 18 months would also likely reduce the workload of DCJS field representatives who review such submissions. On the other hand, this proposal would allow individuals who are incapable of demonstrating the knowledge and skills that are presumably considered necessary for competent law enforcement to remain employed as a law enforcement officer for six additional months.

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

The proposed amendments affect the 39 certified criminal justice training academies, their staff, newly hired LE officers, and their employing agencies. According to DCJS, basic training was successfully completed at the training academies by 1,164 LE officers in 2020, 1,675 LE officers in 2021, and 1,892 LE officers in 2022.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>8</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, in addition to benefits, costs are introduced in the form of required additional training time for some certified criminal justice training academies and for some employing agencies, as well as allowing individuals who are incapable of demonstrating the knowledge and skills that are necessary for competent law enforcement to remain employed as a law enforcement officer for six additional months. Thus, an adverse impact is indicated.

### **Small Businesses<sup>9</sup> Affected:<sup>10</sup>**

The proposed amendments do not appear to adversely affect small businesses.

### **Localities<sup>11</sup> Affected<sup>12</sup>**

The localities that employ LE officers and provide fewer than 240 hours of field training would be particularly affected by encountering the cost of providing additional hours of training.

### **Projected Impact on Employment**

The proposed amendments do not appear to substantively affect total employment.

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

The proposed amendments are unlikely to substantively affect the use and value of private property. The proposed amendments do not affect real estate development costs.

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<sup>8</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>9</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>10</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>11</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>12</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.