



Economic Impact Analysis Virginia Department of Planning and Budget

12 VAC 5-550 – Board of Health Regulations Governing Vital Records
Department of Health
June 5, 2008

Summary of the Proposed Amendments to Regulation

On April 22, 2005, the Virginia Supreme Court in a case styled *Davenport v. Little-Bowser*, 269 Va. 546, held that the plain language of Virginia Code § 32.1-261 required the Virginia Department of Health's (VDH) Division of Vital Records to issue new birth certificates for Virginia-born children adopted by out-of-state same sex couples. Since the Supreme Court did not invalidate VDH's current regulations regarding issuance of birth certificates, the Attorney General's Office advised the agency to continue issuing birth certificates with one same-sex partner's name in the space reserved for "Mother" and the other partner's name in the space reserved for "Father" until such time as the current regulation may be amended. The Board of Health (Board) therefore now proposes to specify in these regulations that "a same-sex adoption new certificate of birth shall be on the form that show the parents designation as 'Name of Parent,' ..."

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Given the Virginia Supreme Court decision to require that VDH issue new birth certificates for Virginia-born children adopted by out-of-state same sex couples, the Board's proposal to have birth certificates that accurately describe the parents' status rather than force a parent to inaccurately describe himself or herself is beneficial. The cost for the agency is minimal. Thus, the benefits exceed the costs.

Businesses and Entities Affected

The proposed amendments affect children adopted by out-of-state same sex couples and their parents. About 75 children are adopted by out-of-state same sex couples per year.

Localities Particularly Affected

The proposed amendment does not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendment does not affect employment.

Effects on the Use and Value of Private Property

The proposed amendment does not affect the use and value of private property.

Small Businesses: Costs and Other Effects

The proposed amendment does not affect small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendment does not affect small businesses.

Real Estate Development Costs

The proposed amendment does not affect real estate development costs.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other

administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.