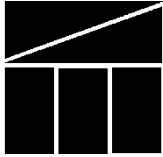


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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 40-880 Child Support Enforcement Program
Department of Social Services
Town Hall Action/Stage: 5067/8310
September 24, 2018

Summary of the Proposed Amendments to Regulation

The State Board of Social Services (Board) proposes to allow the Department of Social Services (DSS) to issue an administrative child support order based on agreement of the parents.

Result of Analysis

The benefits likely exceed the costs for the proposed regulation.

Estimated Economic Impact

Under Virginia law,¹ DSS is authorized to issue an administrative child support order. Any parent who does not have an existing court support order can apply for services at DSS and seek an administrative support order. Such an administrative order is an alternative to obtaining a judicial order from a court if chosen by a parent. Virginia law also contains presumptive child support guidelines judges and DSS must follow.² Guideline support amount is the starting point in determining the final amount, and is the same as the final amount in cases where there are no factors warranting a deviation. Judges can deviate from the presumptive amount by considering a wide spectrum of factors (14 factors).³ However, under the current regulation, DSS has much less flexibility. DSS can deviate from the presumptive child support guidelines only by imputing

¹ Virginia Code §§ 63.2-1903 and 63.2-1918

² Virginia Code § 20-108.2

³ Virginia Code § 20-108.1

income (i.e. using an income that the person should have been earning rather than what he or she actually earns) under certain circumstances. In addition to deviation by imputing income, the Board proposes to allow DSS to deviate from the presumptive guidelines when the parents have a written agreement as to the amount of support to be paid.

The main economic impact of the proposed change is in time savings to the parents, to DSS, and to the court system in general (e.g. fewer pleadings filed, less law enforcement time to serve papers, less judge time to hear cases, etc). The proposed change would also likely provide additional incentives to parents to be more agreeable to the amount of support in order to avoid court costs and delays. According to DSS, parents consenting to the amounts can, and most do, go to the Juvenile and Domestic Relations District Court without attorney representation. Courts also generally set a court date one month to possibly a year forward from the date of filing a petition, whereas DSS can enter an administrative order usually within a month or two of the application. Moreover, DSS sends a caseworker as well as an attorney to be present in the court hearings. Therefore, the proposed regulation would allow consenting parents to obtain an agreed upon order faster, save DSS administrative resources in terms of case worker as well as attorney time offset by increase in staff support needed to address additional administrative order cases, and relieve the court system from the additional workload these cases would represent.

Finally, child support program is partially funded from a percentage of the collections. Lower administrative support amounts would reduce DSS's collections, but that reduction would likely be offset by collections from a higher number of expected administrative support orders and a higher expected compliance rate with such orders (because of their consensual nature).

Businesses and Entities Affected

The proposed amendments affect DSS, Virginia courts, and persons seeking child support. According to DSS, there were 12,860 administrative orders issued by DSS and 74,880 judicial orders entered by the courts in DSS cases in fiscal year 2018. The total number of judicial orders (with or without DSS involvement) entered by the courts in the Commonwealth is not available. DSS cannot predict how many of the court orders may be shifted from the court system to the DSS administrative order process as a result of this proposed regulation.

Localities Particularly Affected

The proposed regulation does not disproportionately affect particular localities.

Projected Impact on Employment

The proposed regulation is expected to reduce parents' time missed from work, reduce DSS caseworker and attorney time devoted to judicial support orders offset by increase in staff support needed to address additional administrative support order cases, and reduce court caseloads. Reducing time off from work should increase the overall supply of labor; the impacts on DSS and the court system should reduce the demand for their staff time and to a lesser extent the demand for attorney services (because most consenting parents go the courts without legal representation).

Effects on the Use and Value of Private Property

No significant impact on the use and value of private property is expected.

Real Estate Development Costs

The proposed regulation does 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 regulation may reduce the demand for attorney services at solo or small business law practices by a small margin. Other than that, the proposed regulation does not have costs or other effects on small businesses.

Alternative Method that Minimizes Adverse Impact

There is no alternative method that minimizes the likely marginal impact on small law firms while accomplishing the same goal.

Adverse Impacts:**Businesses:**

The proposed regulation may adversely affect legal businesses by a small margin.

Localities:

The proposed regulation does not adversely affect localities.

Other Entities:

The proposed regulation does 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.