



Economic Impact Analysis Virginia Department of Planning and Budget

22 VAC 40-201 – Permanency Services-Prevention, Foster Care, Adoption and Independent Living Department of Social Services June 22, 2005

The Department of Planning and Budget (DPB) has analyzed the economic impact of this regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the proposed 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 proposed regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The State Board of Social Services (the board) proposes to repeal seven regulations which now govern parts of the adoption process as well the disposition of children in foster care and children who are at risk of becoming part of the foster care system. One comprehensive regulation that mandates the shape and scope of permanency services in Virginia will replace those seven that are to be repealed.

In order to comply with Federal Title IV-E, the board proposes to require that:

1. Certain specific judicial findings must be in the initial court order for removal of a child from his or her home.

2. The Department of Social Services (DSS) must provide certain specified documentation to support those judicial findings that every reasonable effort has been made to achieve a goal of family preservation.

The proposed regulation will also bring Virginia into greater compliance with the Federal Adoption and Safe Families Act of 1997 (ASFA) by requiring that:

3. Absent a court order to the contrary, visitation between foster children and their parents and siblings be encouraged and facilitated by DSS.
4. The case of each child in foster care be subject to judicial review at set intervals.
5. DSS include all affected parties in the service planning process and notify these parties of all subsequent hearings so that they may participate if they wish.¹
6. DSS have face-to-face contact with children in foster care, including children with residential placement, both in and out of state. Face-to face meetings between a child in foster care and DSS must occur in the home or facility where the child resides. Visits between DSS and children in foster care must be documented in the Commonwealth's approved case documentation system (OASIS). The proposed regulation, but not ASFA, requires that contact occur at not less than monthly intervals.
7. DSS have face-to-face contact with children in permanent foster care not less than every six months.
8. DSS have face-to-face contact with the parents or prior guardians to whom children in the foster care system are expected to be returned. The proposed regulation, but not ASFA, requires that contact occur at not less than monthly intervals
9. DSS have contact with all foster care providers except those that provide permanent foster care and DSS. The proposed regulation, but not ASFA, requires that contact occur at not less than monthly intervals.
10. Permanent foster care providers must have contact with DSS at least every six months.

¹ Affected parties include parents or prior guardians, foster parents and, when appropriate, children who are the subject of the service plan.

11. DSS petition for termination of parental rights at the first permanency planning hearing except where federally defined compelling reasons exist that would preclude such a petition.
12. New social workers and supervisory staff participate in initial training. In addition social workers and supervisory staff must receive ongoing yearly training.

In addition to bringing Virginia into greater compliance with the requirements of Title IV-E and ASFA, the proposed regulation contains requirements that are already DSS policy (DSS Foster Care Policy Manual Volume VII, Section III, Chapter B) but which has not yet been put into regulatory code. These portions of the proposed regulation do not represent a change in DSS practices.

Estimated Economic Impact

Most of the provisions of 22 VAC 40-201 do not represent a substantive change in how the foster care system in Virginia operates. As noted above, much of the proposed regulation is a restatement of current DSS policy. There are however substantial costs, mostly labor costs, attached to the proposed regulation provisions that concern visitation between foster children and family members from whom they have been separated, between these children and their case social workers, and between social workers and parents. There will also be fairly substantial costs associated with social worker and supervisor training.

DSS estimates that the equivalent of 33.5 full time social workers (\$55,108 per worker per year²) will need to be hired by local Departments of Social Services (LDSS) in order to coordinate and supervise visitation between children in foster care and their siblings and parents. In 2003, the US Department of Health and Human Services Children's Bureau (HHS) conducted a review of child and family services in Virginia. Visitation between foster children and their families is one of the areas in which Virginia's foster care system "did not achieve substantial conformity" with the ASFA mandates. DSS must bring regulation and practice into compliance with ASFA in order to avoid monetary penalties in the future. Implementation of this portion of

² This figure includes salary, retirement benefits, FICA, insurance, travel expenses, supplies, telephone costs, equipment costs and the one time expenses associated with setting up an office. The same expenses are included in the per year cost for each new case aide and supervisor.

the proposed regulation may also yield benefits for children in foster care in that they will be able to maintain close stable ties with family members with whom they will eventually live.

Additionally, 156 full time social workers are needed to implement mandated monthly face-to-face visitation between social workers and children in most types of foster care placement. While there is no federal requirement that visitation occur at any particular interval, the proposed regulation is written to require monthly visitation because DSS anticipates that that will be a federal requirement in the future. This portion of the proposed regulation represents a large change in DSS policy as currently only quarterly visits are required. DSS, however, does not have funding to cover the increased visitation mandated by the proposed regulation.

This provision, if promulgated without funding, may have a negative effect on social worker retention rates which will, in turn, have a negative economic impact on the Commonwealth as additional funds will be needed for recruiting and hiring replacement workers. DSS representatives expect this provision to be modified before the proposed regulation becomes effective.

In order to comply with ASFA and facilitate new worker and annual in-service training, LDSS will need to hire 40.2 full time social workers. Of that number, 19.9 social workers will be needed to cover hours taken up by new worker training and 20.3 full time social workers will be needed to cover hours needed for continuing yearly training of all social worker and supervisory staff. The HSS Child and Family Services Review (CFSR) found that:

“Virginia did not achieve substantial conformity with the systemic factor of training. The CFSR determined that the State does not provide initial training for all agency personnel who deliver services under titles IV-B and IV-E statewide. Further, ongoing training for staff to address the skills and knowledge needed to carry out their duties is not provided in a consistent manner across the State.”

Again, DSS must bring regulation and practice in this area into conformity with Federal standards in order to avoid substantial monetary penalties. While the costs of this training are, in practical terms, unavoidable, they are mitigated by expected decreases in staff turnover. Social workers who are trained before they are assigned cases and who receive ongoing training are less likely to become frustrated because they are unprepared to handle the stress of their job. They may, as a consequence, stay in their position longer. If this is the case, DSS will realize savings

in the search and hiring costs for new employees. In addition, this portion of the proposed regulation will have non-monetary benefits in that well trained social workers are more likely to make good decisions for the children who they are evaluating or who are already in the care of DSS.

In order to facilitate the training and visitation mandated by the proposed regulation, LDSS will need to hire the equivalent of 38.5 full time supervisors (\$71,737 per supervisor per year) to maintain a supervisor to social worker ratio of 1 to 6. In addition, LDSS will need to hire 16.48 full time case aides (\$47,745 per aide per year) to maintain an aide to social worker ratio of 1 to 14.

DSS estimates that the full labor cost for implementing the proposed regulation as it is now written is \$16,236,429 for FY 2006. Localities would be responsible for covering 20% (\$3,247,286) for service administration so the Commonwealth's portion of labor costs if the proposed regulation were fully implemented would be \$12,989,144 for FY 2006.

Other explicit costs generated by implementation of the proposed regulation, cost for printing training materials and any cost attached to gathering specific documentation that must be presented in removal hearings are two examples, are estimated by DSS to be minimal and already covered by pre-existing budgetary allowances. These represent costs to opportunity in that funds used for these things cannot be used for something else but DSS does not require an increase in their budget to cover them.

The unforeseen costs that may be attached to the proposed regulation are harder to judge. For instance, the provision that requires that social workers meet with the parents of children in foster care may be problematic since DSS can dictate practice for LDSS staff but cannot force unwilling parents to meet if that is not their inclination. The cost of this item in man hours could easily add up very quickly as LDSS staff may find that they are spending a good deal more time than anticipated trying to get parents to comply. In addition this may serve as a source of frustration to social workers and may be a factor that increases DSS staff turnover.

The requirement that foster care parents have monthly contact with social workers could conceivably decrease the supply of foster care homes if that contact is viewed as an unnecessary intrusion. On the other hand, there is a strong argument to be made that increased contact between social workers and foster care parents may mean that the needs of the foster child are

assessed more quickly, and services are delivered in a more timely fashion, so frustration on the part of foster care families is reduced. This might very well reduce the possibility of foster parents removing themselves from the system. There is insufficient data to know which effect will outweigh the other. If this requirement causes greater foster parent attrition, search costs to recruit new foster parents may rise and LDSS may find they cannot find enough foster parents to meet demand for foster care services. If this happens they may be forced to rely more heavily on private placement services. This might increase the price private placement agencies can negotiate at contract renewal.

Many portions of the proposed regulation have minimal or no cost attached to their implementation but do have substantial cost attached if they are not promulgated and put into practice. It will cost little or nothing, for example, to get judges to word removal orders so that they meet Title IV-E requirements. If DSS does not mandate that the wording, however, Virginia may fail the next scheduled Title IV-E audit. If this happens DSS will have to return all Title IV-E funds that were dispersed in cases where Federal regulation was not adhered to and will have to pay additional penalties. The amount that Virginia could be forced to pay out if this happens could range between \$2,000,000 and \$12,000,000. DSS's best estimate of what Virginia would owe the Federal government is approximately \$8,000,000. Virginia is scheduled to be audited again in August 2006.

In addition, DSS was subject to an audit of their compliance with ASFA. Many of the requirements of the proposed regulation are aimed at fixing the deficiencies that HHS found with Virginia's child and family services. Although there has been no exact dollar amount yet attached to non-compliance, Virginia will be subject to monetary penalties if they do not improve performance in implementing ASFA mandates.

Businesses and Entities Affected

The proposed regulation will affect 169 private placement agencies and child residential institutions, as well as the approximately 8,000 children in foster care in Virginia.

Localities Particularly Affected

All 120 local Departments of Social Services will be affected by this new regulation.

Projected Impact on Employment

At least 230 new social workers will need to be hired to meet the visitation and training requirements of the proposed regulation. Additionally, approximately 55 new support and supervisory positions will be created.

Effects on the Use and Value of Private Property

The revenue of private placement agencies might increase if foster parent attrition rates increase and LDSS cannot recruit adequate numbers of replacement foster parents. The use and value of private property should not otherwise be affected by the proposed regulation.