



Economic Impact Analysis Virginia Department of Planning and Budget

6 VAC 35-20 – Regulations Governing the Certification Process Department (Board) of Juvenile Justice May 15, 2001

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Board of Juvenile Justice (the board) proposes to modify audit procedures for juvenile residential and non-residential programs. The proposed changes include (i) removing strictly specified audit procedures, (ii) introducing a numerical standard to measure substantial compliance, (iii) and specifying what is required to secure a certain type of certification.

Estimated Economic Impact

The Department of Juvenile Justice (DJJ) audits residential and non-residential programs to determine the programs' compliance with standards and procedures. An audit may involve a review of a program's policies, procedures, practices, records, and interviews with staff and resident juveniles.

The board proposes to remove strictly specified pre audit, on site audit, and appeal procedures from the regulations and replace them with more general language. The same procedures without a significant change will be specifically addressed in agency guidance

documents. This is expected to give more flexibility to DJJ in determining the steps of the audit procedures. The public will be able to comment on these general terms rather than specific procedures during the standard public comment period involved in promulgation of a regulation.

The proposed regulations introduce 90% compliance level as a threshold for the substantial compliance designation. This type of numerical measurement does not exist in the current regulations. Inspectors measure compliance qualitatively. The purpose of using a numerical threshold level is to improve and standardize the measurement of compliance. Compliance measurement is difficult to standardize and depends on each inspector's subjective evaluation. One inspector may rank a facility 90% in compliance and yet another may rank the same facility 85% in compliance. Establishing a numerical threshold is essentially subjective. According to DJJ, requiring the audit team to use clear guidelines, consistency in audit team training, the centralization of the certification program, and working in teams are likely to help achieve objectivity. Although numerical compliance standards are not entirely objective, it seems that the proposed method is less subjective than the current qualitative compliance measurement practice. The proposed method is also consistent with the American Correctional Association's practices. The economic impact of the proposed method depends on how stringent the required compliance will be relative to current compliance levels. The level of current compliance in terms of the proposed numerical standard is not known. Thus, there is insufficient information to quantify the economic impact of this proposed change.

The proposed regulations introduce certain benchmarks to be used in the certification process. Under the current system, programs with similar audit histories may be treated differently due to the lack of benchmarks. The benchmarks will clarify what attributes are necessary for each level of certification. If these attributes are deemed to be met through the certification audit, a certain resulting certification is specified. The certification designations include conditional certification up to six months, one-year certification, three-year certification, probation up to six months, and decertification or denial of certification. For example, a new program must meet 100% of all mandatory standards, achieve at least 90% compliance with all non-mandatory standards, and have no life, health, or safety violations to be eligible for a conditional certification up to six months. These benchmarks are expected to provide consistent resulting actions for the same audit findings to the degree that compliance is measured objectively. The operators of residential programs will benefit from this more consistent

procedure in the sense that they will know what needs to be done for a certain certification outcome. The consistent procedures are expected to produce more predictable outcomes and reduce the costs associated managing these facilities. In addition, this informational aspect of the proposed regulation will give incentives to the operators to meet and maintain minimum acceptable benchmarks.

Businesses and Entities Affected

Residential and non-residential programs in the juvenile justice system are subject to the proposed changes. The types of programs include juvenile correctional centers, juvenile detention homes, group homes, boot camps, non-residential programs, and alternative placements for committed juveniles. There are approximately 150 residential and 300 non-residential programs currently.¹ The DJJ indicated that the residential facilities annually contain about 18,000 juveniles as residents, for varying lengths of time. Approximately, 1,400 juveniles are currently residing in the residential facilities. According to the data provided by DJJ, there were 20,839 placements into the non-residential programs during the six-month period in fiscal year 1999. Thus, DJJ estimates that the number of placements in a given year may vary from 35,000 to 50,000 per year. The actual number of juveniles in these programs is lower than the number of placements as one person can be placed in more than one program.

Localities Particularly Affected

The proposed changes apply throughout the Commonwealth.

Projected Impact on Employment

No significant impact on employment is expected.

Effects on the Use and Value of Private Property

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

¹ Source: DJJ