



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

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### **22 VAC 40-771 – State Board of Social Services Local Department Approved Provider Standards December 22, 2003**

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.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 proposed regulations will modify the format of the regulations for clarity, incorporate recent statutory changes, and add new language to clarify the current policy followed in practice on a number of issues. The two main changes are establishing a background check requirement for adult service providers, even though not required by the Code of Virginia, and establishing health and safety orientation and training requirements for child care providers.

### **Estimated Economic Impact**

These regulations contain standards by which local departments of social services approve adult care, child care, foster care, and adoptive home providers. These providers are relatively small compared to similar providers approved by the division of licensing programs of the Department of Social Services (DSS). There are approximately 63 adult foster care providers, 2,231 home based adult care providers, 600 children's family day homes, and 5,000 foster homes approved by the local departments of social services.

The majority of the proposed changes are not expected to create any significant economic effect. Many of the changes are related to re-formatting of the regulation into three sections: one for adult services, one for child care, and one for adoptive and foster providers. According to DSS, generic provisions in the current regulation that apply to all providers are no longer easily understood because of the uniqueness of each type of provider. DSS proposes to create three sections, each of which is applicable to a specific provider type.

In addition, a number of other proposed changes will incorporate the statutory requirements that have been in effect since these regulations were last revised. The most substantive of these are requiring background checks and child protective central registry checks for child care and adoptive and foster providers, and expanding the list of barrier crimes to conform to the changes in the code of Virginia.<sup>1</sup>

The remaining changes are clarifications of the current requirements or the policy followed in practice. For example, the language is proposed (i) to clarify that admission of adults requiring skilled nursing facility level of care into adult foster care is prohibited, (ii) to explain the rights of recipients in adult care, (iii) to clarify that child care providers must provide access to local department of social services staff and parents when requested, and (iv) to clarify that a risk assessment for tuberculosis is sufficient instead of actual tests, etc.

Since the changes discussed above are either clarifications of the requirements that have been already enforced in practice, or clarifications of regulatory language applicable to each provider type, no significant economic effect is expected upon promulgation.

One of the important proposed changes appears to be establishing a background check requirement for adult service providers, assistants, spouses, and other household members who come in contact with adults in care even though the statute does not require it. This requirement will apply to 63 adult foster care homes and 2,231 home based providers. The local departments will collect the fees from the provider and conduct the background checks through the State Police at an estimated cost of \$20 per case. No repeat background check will be performed as long as the individual remains in continuous service with the same provider.

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<sup>1</sup> Relevant sections of the Code of Virginia are: §63.2-1725, 1724, 901.1, and 1719.

The main purpose of the background check requirement for these providers is to reduce potential risk of harm to adults. The rationale is that persons with certain criminal convictions are more likely to harm or exploit adult residents than other persons without such backgrounds, and background checks would probably increase protection of these adults. Although the objective of background checks is clear, there is no available study assessing potential risks. Thus, the significance and types of risks that may be present, as well as the success of background checks in reducing potential risks, are not well known.

It is estimated that the criminal background check requirement may affect about 2,300 adult care providers. Since background check costs \$20, compliance costs for providers are likely to increase. The approvals of an unknown number of providers may be terminated and consequently they may incur significant economic losses if they are found to have a disqualifying record. Finally, there will probably be additional administrative costs to local departments for conducting these checks.

Another significant change is establishing minimum 12 hours of health/safety orientation and training requirements in addition to first aid and CPR certification for approximately 600 child care providers. According to DSS, a first aid certification (valid for three years) and a CPR certification (valid for one year) together can be obtained at \$60. Also, DSS charges \$20 for a six-hour training. While the proposed training will most likely increase providers' compliance costs, a reduction in health and safety risks to children is expected.

Similar to the suggestion made for the proposed changes to 22 VAC 40-111, the proposed 12-hour annual training requirement for adult day care providers could be redesigned to maintain the level of expected benefits at lower costs. The training needs of the providers do not seem to be uniform. It is logical to assume that the training needs of a veteran provider who has been in this business over ten years is probably much less than the training needs of another provider who is obtaining a license for the first time. This is because the veteran provider has more experience and has already attended many hours of annual training. Also, the expected benefit from an hour of additional training is lower than the one before. For example, a veteran provider may have already taken training in all the subject matter and may be repeating the courses already taken. Thus, about the same level of benefits could be maintained by requiring

newly licensed providers to attend 12 hours of training and decreasing the hours of training to a fixed minimum as a provider gains more experience and training in this business.

### **Businesses and Entities Affected**

The proposed regulations apply to approximately 63 adult foster care providers, 2,231 home based adult care providers, 600 children's family day homes, and 5,000 foster homes approved by the local departments of social services.

### **Localities Particularly Affected**

The proposed regulations apply throughout the Commonwealth.

### **Projected Impact on Employment**

Unless the proposed background requirements result in termination of the approvals of a significant number of providers, no significant effect on employment is expected.

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

Similarly, the value of a provider's business may significantly decrease if the provider's approval is terminated because of a disqualifying criminal record. Otherwise, the proposed changes are not expected to have significant effect on the use and value of private property.