



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

6 VAC 35-180 Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles

Department of Juvenile Justice

Town Hall Action/Stage: 5468/10075

June 4, 2025

The Department of Planning and Budget (DPB) 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 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

As a result of a 2019 periodic review,² the Board of Juvenile Justice (Board) proposes discretionary amendments to ensure that requirements are (i) feasible for staff providing post-release services, (ii) within the scope of statute, and (iii) aimed at successfully transitioning incarcerated youth who have recognized therapeutic treatment needs to the community.

Background

Code of Virginia § 16.1-293.1 requires the Board, in consultation with the Department of Behavioral Health and Developmental Services, to promulgate a regulation that addresses the process for planning and providing post-release services for individuals identified as having a mental health, substance abuse, or other therapeutic treatment need who are either (i) committed to the Department of Juvenile Justice (DJJ) pursuant to § 16.1- 278.8(A)(14), or (ii) placed in a

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1699>.

postdispositional program pursuant to subsection B of § 16.1-284.1. This regulation establishes such a process.

DJJ serves approximately 4,000 incarcerated youth annually. An additional 1,600 parolees or probationers are served by court service units (CSUs), which are regulated by the Board and certified by DJJ.³ The process established in this regulation potentially applies to all incarcerated youth and juvenile parolees or probationers since they would all need to be assessed to establish their eligibility for a mental health services transition plan (MHSTP).

The most substantive changes are as follows:

- Section 50 (Interagency Memorandum of Understanding) currently requires each CSU and juvenile detention center (JDC) that operates a postdispositional program to enter into a Memorandum of Understanding with the public agencies that are required to participate in the “community policy management team” for each jurisdiction covered by the CSU or detention home. The Board proposes to waive this requirement if the program certifies that they are using a family assessment and planning team (FAPT) on a department approved form. The proposed amendments would require that the certification describe the extent to which the FAPT team is responsible for the development and implementation of the MHSTP and what, if any, restrictions are imposed. DJJ reports that this change is intended to ease the regulatory burden on those CSUs and JDCs that have chosen to use FAPTs and was adopted based on feedback from some CSUs that it was sometimes difficult to reach the local attorney for each jurisdiction to review the Memorandum of Understanding in a timely manner, which caused significant delay in the process.
- Section 65 (Determination of eligibility for MHSTP) would be newly created to specify that if a juvenile is indeterminately committed, committed to the department as a serious offender or placed in a post-D program, facility staff are required to determine MHSTP eligibility *before* the facility case review meeting rather than at the same time as the facility case review meeting. DJJ reports that Section 70 (Timing and purpose of the facility case review) currently appears to require that the determination and case review

³ See <https://www.djj.virginia.gov/pages/community/court-service-units.htm>.

happen concurrently, which has led to some confusion since the case review timing is contingent on the MHSTP eligibility determination. Section 70 would also be significantly revised for greater clarity. The amendments in these sections would not affect the criteria for eligibility for an MHSTP, which is covered in Section 30 of this regulation and would not be substantively changed by this action.

- Section 180 (Self-assessment requirement for MHSTPs) would be newly added to require each JDC operating a postdispositional program, and each CSU subject to this regulation, to conduct and document an annual self-assessment to evaluate compliance with the regulation. DJJ does not expect this addition to create new costs because Section 61 of the *Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities* (6 VAC 35-20) already requires an annual self-audit for “[a]ll programs and facilities subject to certification audits,” which includes residential settings for juveniles and nonresidential services (Chapters 41, 71, 101, and 150). Thus, the self-assessment that is proposed for this regulation could be done as part of the self-assessment that is already required.

Estimated Benefits and Costs

The proposed amendments would benefit staff at DJJ, CSUs, and JDCs who are responsible for assessing eligibility and/or administering an MHSTP by ensuring that the requirements are clear, updated to reflect current practice, and within the scope of Virginia statute. These changes would also indirectly benefit the “juveniles” (as defined in the regulation) who are either incarcerated or under parole or probation and their families, as well as the mental health treatment providers who are involved in providing services to these individuals. The proposed changes are not expected to create any new costs.

Businesses and Other Entities Affected

DJJ reports that there are 32 CSUs (one per juvenile and domestic relations court district) and that 30 of them are operated at the state level by DJJ whereas Arlington and Fairfax counties operate their own CSUs. There are 24 JDCs that are all operated either by individual localities, or by commissions formed by groups of localities; no JDCs are privately operated.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ Since the proposed changes do not create any new costs, an adverse impact is not indicated.

Small Businesses⁶ Affected:⁷

This regulation does not directly affect any small business.

Localities⁸ Affected⁹

As mentioned previously, the 24 JDCs are either operated by individual localities or by commissions that cover multiple localities. For example, Loudoun County operates its own JDC, but Shenandoah Valley is operated by a commission and serves the counties of Rockingham, Augusta, Rockbridge, Highland, Bath, and Allegheny, including the cities of Harrisonburg, Staunton, Waynesboro, Buena Vista, Lexington, and Covington. The proposed amendments do not disproportionately affect particular localities or affect costs for local governments.

Projected Impact on Employment

The proposed amendments do not affect total employment.

⁴ Pursuant to Code § 2.2-4007.04(D): 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.

⁵ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁶ 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.”

⁷ 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.

⁸ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁹ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Effects on the Use and Value of Private Property

The proposed amendments affect neither the use and value of private property nor real estate development costs.