



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

6 VAC 35-210 Compulsory Minimum Training Standards for Direct Care Employees
Department of Juvenile Justice
Town Hall Action/Stage: 5735 / 9278
November 29, 2021

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 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

The Board of Juvenile Justice (Board) proposes to promulgate a new regulation, 6 VAC 35-210 *Compulsory Minimum Training Standards for Direct Care Employees* (regulation).

Background

The Board's existing 6 VAC 35-71 *Regulation Governing Juvenile Correctional Centers* contains requirements for initial and annual training for direct care and security employees in juvenile correctional centers (JCCs).²

Chapter 526 of the 2020 Acts of Assembly added that for juvenile correctional officers who may have contact with pregnant inmates, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and

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 "Juvenile correctional center" is a public or private facility operated by or under contract with the department where care is provided to residents under the direct care of the Department of Juvenile Justice 24 hours a day, seven days a week.

the impact of body cavity searches on pregnant inmates. Consequently, the proposed regulation includes such training.

The Board proposes to further specify the training required at JCCs by promulgating 6 VAC 35-210 *Compulsory Minimum Training Standards for Direct Care Employees*. The proposed regulation works in concert with 6 VAC 35-71 *Regulation Governing Juvenile Correctional Centers* and includes requirements pertaining to Chapter 526.

The proposed regulation consists of the following sections:

- Section 10 Definitions
- Section 20 Applicability:
 - Limits the proposed regulation’s scope to apply exclusively to direct care employees³ and security employees⁴ working full-time or part-time in state-operated and certain privately operated JCCs.
- Section 30 Training providers:
 - States that all training required by the regulation be provided by Department of Juvenile Justice (DJJ) approved general instructors unless otherwise specified.
- Section 40 Compulsory minimum training standards:
 - States that individuals hired as direct care employees or security employees shall successfully complete:
 - a minimum of 120 hours of DJJ-approved initial training in accordance with 6 VAC 35-71-160 *Regulation Governing Juvenile Correctional Centers*;
 - facility orientation in accordance with 6 VAC 35-71-150 *Regulation Governing Juvenile Correctional Centers*;
 - a minimum of 24 hours of juvenile correctional center staff observation; and

³ “Direct care employee” is an employee whose primary job responsibilities are (i) maintaining the safety, care, and well-being of residents; (ii) implementing the structured program of care and the behavior management program; and (iii) maintaining the security of juvenile correction center facility. For purposes of this regulation, the term "direct care employee" shall include a security employee assigned, either on a primary or as-needed basis, to perform the duties of clauses (i) through (iii) of this definition and who is required to receive initial and annual training in these areas in order to carry out the responsibilities in clauses (i) through (iii) of this definition.

⁴ “Security employee” means an employee who is responsible for maintaining the safety, care, and well-being of residents and the safety and security of the facility.

- at least 36 hours of training on a juvenile correctional center housing unit.
- States that direct care employees and security employees shall receive training by medical staff on the topics specified in Chapter 526.
- States that existing direct care employees and security employees shall complete a minimum of 40 hours of DJJ-approved annual training in accordance with *6VAC35-71-170 Regulation Governing Juvenile Correctional Centers*.
- States that advanced or specialized training shall be required only for direct care and security employees authorized to use mechanical restraints, the mechanical restraint chair, and protective devices.
- Section 50 Time requirements for completion of training:
 - States that a direct care or security employee may not work directly with a resident until the employee has completed all training and orientation required in Section 40 or unless at least one other employee who has completed all applicable facility-based orientation and training is present and supervising the resident.
 - States that required advanced or specialized training shall be completed before direct care or security employees may apply mechanical restraints, the mechanical restraint chair, or protective devices.
- Section 60 Testing and attendance requirements:
 - States that direct care employees and security employees shall be deemed to have successfully completed training upon satisfying the following testing requirements:
 - successful passage of all administered written and practical tests, and
 - demonstrated mastery in all physical restraint techniques.
 - States that direct care employees and security employees shall be deemed noncompliant with these minimum standards and subject to the sanctions set out in Section 70 if they are absent from training for a cumulative period of 32 hours or more during the first five weeks of initial training, regardless of the topic addressed.
- Section 70 Failure to comply with minimum standards:
 - States that a direct care or security employee who fails to comply with the minimum attendance requirements or to successfully complete the compulsory

initial training shall be removed from service with the department and required to repeat the application and training process in order to qualify for a direct care or security employee position in the future.

- Section 80 Development and approval of performance outcomes:
 - Directs DJJ to develop and the Board to approve performance outcomes that identify the competencies and knowledge that should result from training.
- Section 90 Training documentation:
 - Directs DJJ to maintain documentation for a three-year period demonstrating each applicable employee's compliance with these requirements.

Estimated Benefits and Costs

Currently there is only one JCC, a state-operated facility in Chesterfield County (Bon Air Juvenile Correctional Center). There are no current plans to open or use additional JCCs.⁵

According to DJJ, with the exception of training for pregnant residents, all of the requirements in the proposed regulation are consistent with current practice at the JCC. All training is conducted by DJJ employees (Section 30). Pursuant to the existing 6 VAC 35-71-160 *Regulation Governing Juvenile Correctional Centers*, there are already 120 hours of initial classroom/academic training provided (Section 40). There is facility orientation in accordance with 6 VAC 35-71-150 *Regulation Governing Juvenile Correctional Centers* (Section 40). Existing employees annually complete a minimum of 40 hours of training in accordance with 6 VAC 35-71-170 *Regulation Governing Juvenile Correctional Centers* (Section 40). The requirements concerning advanced or specialized training for employees authorized to use mechanical restraints, the mechanical restraint chair, and protective devices is consistent with 6 VAC 35-71-1180 *Regulation Governing Juvenile Correctional Centers* (Section 40). Time requirements for completion of training (Section 50) is consistent with 6 VAC 35-71-160 and 6 VAC 35-71-170 *Regulation Governing Juvenile Correctional Centers*. The proposed requirement that DJJ maintain documentation for a minimum period of three years demonstrating that each direct care employee and security employee has complied with the requirements (Section 90) is consistent with 6 VAC 35-71-30 *Regulation Governing Juvenile Correctional Centers*.

⁵ Source: DJJ

Requirements for a minimum of 24 hours of JCC staff observation (watching, not hands-on) and at least 36 hours of training on a JCC housing unit (hands-on) are not currently specified in regulation or statute, but are consistently done in practice according to DJJ (Section 40). The testing and attendance requirements of proposed Section 60 are consistent with what DJJ applies in practice, but the specific requirements are not currently in regulation or statute. The proposed Section 70 formalizes DJJ's current process for addressing JCC direct care and security staff who fail to meet the initial training requirements and thus is not expected to have a substantive impact on facility operations. DJJ has already produced, and the Board has already approved, a document with performance outcomes that identify the competencies and knowledge that should result from training (Section 80).

DJJ states that it does not currently include the training concerning pregnant residents in its curriculum since the JCC does not currently have any female residents (Section 40). The agency states that if in the future there were to be female residents, the medical staff would then provide the training.

None of the proposed requirements would likely substantively produce additional or reduced expenditures, as with the exception of the training concerning pregnant residents, all of the proposed requirements reflect current practice. The agency believes the training regarding pregnant residents can be provided by their medical staff, and the additional time and effort required would be minimal.

Businesses and Other Entities Affected

The proposed regulation would affect the one existing state-operated JCC. There current are no privately-operated JCCs.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁶ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. No adverse impact is indicated for this proposal.

⁶ 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. 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.

Small Businesses⁷ Affected:

The proposal is unlikely to affect costs for small businesses.

Localities⁸ Affected⁹

The proposed regulation would affect the one state-operated JCC, which is located in Chesterfield County. The proposal does not require additional expenditures for this or any other localities.

Projected Impact on Employment

The proposed regulation is unlikely to substantively affect total employment.

Effects on the Use and Value of Private Property

The proposed regulation is unlikely to substantively affect the use and value of private property or real estate development costs.

⁷ 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.”

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.