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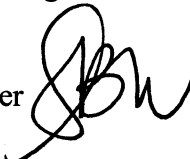
Commission on Local Government

July 28, 2010



MEMORANDUM

TO: The Honorable Bruce F. Jamerson, Clerk, House of Delegates
The Honorable Susan Clarke Schaar, Clerk, Senate

FROM: Susan B. Williams, Local Government Policy Manager 

SUBJECT: Completed Assessments of Local Mandates

REFERENCE: 2009 Catalog of State and Federal Mandates on Local Governments

Pursuant to Sections 2.2-613 and 15.2-2903 of the Code of Virginia and Paragraph B(1)(g) of Executive Order 58 (2007), I am hereby submitting separately to your offices the following completed assessments of local government mandates administered by State executive agencies. These assessments have been approved by the appropriate cabinet secretaries:

<u>Agency</u>	<u>Mandate Short Title</u>	<u>Catalog Number</u>
DSS	Criminal History and Central Registry Check for Placements of Children	SHHR.DSS072
VDEM	Disaster Pet Planning/Animal Protection	SPS.VDEM013
VDOT	Load and Resistance Factor Bridge Design	STO.VDOT031

Section 15.2-2903(6) directs the Commission on Local Government to bring to your attention those assessments that carry recommendations from the administering agency for altering or eliminating the mandate in question. However, these assessments carry no such recommendations.

cc: Virginia Association of Counties
Virginia Municipal League

Partners for Better Communities



www.dhcd.virginia.gov

Mandate Number:

SHHR.DSS072

**ASSESSMENT OF STATE AND FEDERAL MANDATES
ON VIRGINIA LOCAL GOVERNMENTS
(PURSUANT TO SEC. 2.2-613, CODE OF VA.)**

Virginia Department of Social Services
(Administering Agency)

(Date of Submission)

A. Short Title of Mandate:

Criminal History and Central Registry Check for Placements of Children -
SHHR.DSS072

B. Specific Provisions of Mandate

Local social service agencies shall obtain, in accordance with state regulations, criminal history record information and the results of a search of the child abuse and neglect central registry for any individual with whom the agency is considering placing a child on an emergency, temporary, or permanent basis. Agencies may also obtain such background checks on all adult household members residing in the home of the individual. The agency must pay for fingerprinting the individual, if a fee is charged, or may require the individual to pay the cost. The Virginia Department of Social Services pays the fees to conduct the actual national fingerprint criminal history record check investigations or may require the individual to pay the cost. There is no fee for agencies for central registry searches. Agencies shall not approve individuals with a founded complaint of child abuse as foster or adoptive parents. Agencies shall not approve a foster or adoptive home if any individual has a conviction of certain barrier crimes defined in §63.2-1719 or a founded complaint of abuse or neglect as maintained in state and federal registries.

C. Source/Authority:

1. Specify Each Applicable (with citations):

- a) **Federal Statute:** Adam Walsh PL 109-249, CAPTA – PL 108-36
- b) **Federal Regulation:** 45CRF 1356.30
- c) **State Statute:** § 63.2-901.1
- d) **State Regulation:** 22 VAC 40-211

e) **Other:** Foster Care Guidance, Section 7, Chapter B

2. **Extension of Federal Mandates by State Authority:**

Virginia also requires parents and previous custodians to have background checks.

D. **Method by Which Agency Oversees Implementation of Mandate:**

Title IV-E auditors review locality children's records to determine if background checks have been completed. The Office of Background Investigations can create reports that list the criminal backgrounds requested by each locality from the background information system.

E. **Fiscal Impact of Mandate on Localities:**

1. **Localities Affected:**

All localities are affected.

2. **Funding of Mandate:**

a) **Funding Formula:**

Criminal background checks are considered an administrative cost and therefore, funding is reimbursed by the federal government under Title IV-E, administrative costs. Virginia expended \$308,728 in SFY 10 on all national criminal background checks for every foster and adoptive applicant and any other adult in the home. Forty percent of the cost is reimbursed by the federal government and 60% is paid by Virginia. The 60/40 ratio used to calculate the federal/state amounts is based on the ratio of Title IV-E eligible to non-Title IV-E eligible children in foster care in Virginia. Localities do not pay any portion of this cost.

b) **Estimated Range of Costs to Localities:**

Local police and sheriff's departments can charge for administering the fingerprints. This charge is between \$5 and \$10 per person. Localities may either pay the fee or have the applicant pay. Survey data (32 of 120 localities responded indicates that 3 local sheriff's departments do not charge a fee when it is a foster/adoptive parent applicant; 5 localities pay the fingerprint cost of \$10/person for their applicants; 24 localities have the applicants pay the cost. No locality had exact costs as they are part of an administrative pool of costs. No locality reported expending more than \$5,000 annually including the largest localities that responded to the survey (Fairfax, Norfolk, Tazewell and Richmond City). Other localities

responding include: Virginia Beach; Essex; Albemarle; Roanoke City; Danville; King Edward; Suffolk; Fredericksburg; Orange County; Greene; Shenandoah Valley; Harrisonburg-Rockingham; Brunswick; Wise County; Caroline County; Hanover; Henrico; Chesterfield; Amherst; Franklin; Montgomery; Giles; Spotsylvania; Prince William; and Clark.

c) **Explanation of Estimation Methodology:**

Estimation costs (for those localities that did pay fees for fingerprints) were based on average numbers of applicants who completed foster/adoptive parent training. Since criminal background checks are generally completed during the training process, this number is a good proxy for estimating over-all costs. (It is likely, however, that this number is something of an over-estimate since not all applicants get their criminal background checks completed during training).

F. **Effectiveness of Mandate in Accomplishing Purpose:**

1. **General Purpose of Mandate:**

The objective of requiring background checks on all foster and adoptive parents, parents, relatives, and adult household members in a foster or adoptive home is to provide protection to the vulnerable children placed in these homes. These background investigations are required by federal law. Without complying with these federal mandates Virginia's federal funding would be reduced.

2. **Description of Essentiality to the Public Safety:**

This mandate provides better protection to vulnerable children placed in foster and adoptive homes. Individuals convicted of certain crimes listed in § 63.2-1719 are prevented from becoming foster or adoptive parents.

G. **Alternative Approaches to Achieving Purpose of Mandate:**

1. **Identification of Alternative Approaches:**

There are no viable alternatives. Background investigations of foster and adoptive parents, adult household members, relatives and parents are required by federal and state statutes.

2. **Fiscal Impact of Alternative Approaches:**

a) **Estimated Change in Range of Costs to Localities of Alternative Approaches:**

Not Applicable

b) **Estimated Change in Range of Costs to State of Alternative Approaches:**

Not Applicable

c) **Explanation of Estimation Methodologies:**

Not Applicable

H. **Agency Recommendation:**

1. **Determination by Agency:**

Retain

2. **Rationale:**

Criminal background investigations provide additional protection to children being placed in foster and adoptive homes by ensuring that children will not be placed in homes where parents have been convicted of certain crimes. These background investigations are required by federal and state statutes.

I. **Agency Contact Regarding Assessment:**

1. **Name/Title:** Charlene Vincent, Associate Director, Sr., Virginia Department of Social Services, Division of Licensing Programs/Office of Background Investigations
2. **Address/Telephone:** Virginia Department of Social Services, 801 East Main Street, Richmond, VA 23219

Approval of Assessment:



(Signature of Agency Head)



(Signature of Cabinet Secretary)

**ASSESSMENT OF STATE AND FEDERAL MANDATES
ON VIRGINIA LOCAL GOVERNMENTS
(PURSUANT TO SEC. 2.2-613, CODE OF VA.)**

Department of Emergency Management
(Administering Agency)

April 12, 2010
(Date of Submission)

A. Short Title of Mandate:

Disaster Pet Planning/Animal Protection

B. Specific Provisions of Mandate

Develop an emergency response plan to address the needs of individuals with household pets and service animals in the event of a disaster and assist and coordinate with local agencies in developing an emergency response plan for household pets and service animals.

C. Source/Authority:

1. Specify Each Applicable (with citations):

- a) **Federal Statute:** NA
- b) **Federal Regulation:** NA
- c) **State Statute:** Code of Virginia § 44-146.18 (B.19)
- d) **State Regulation:** NA
- e) **Other:** NA

2. Extension of Federal Mandates by State Authority:

NA

D. Method by Which Agency Oversees Implementation of Mandate:

Regional Coordination meetings, Coordinator Updates and Training Sessions, individual work sessions with VDEM Regional Coordinators, annual reports, local plan reviews, and exercises.

E. Fiscal Impact of Mandate on Localities:**1. Localities Affected:**

Counties and cities within the Commonwealth of Virginia having an emergency management organization.

2. Funding of Mandate:**a) Funding Formula:**

None applied.

b) Estimated Range of Costs to Localities:

Costs to develop and maintain an emergency response plan to address the needs of individuals with household pets and service animals are inclusive of the cost to maintain and update the local emergency operations plan on an annual or otherwise prescribed planning update cycle.

c) Explanation of Estimation Methodology:

Polling of localities.

F. Effectiveness of Mandate in Accomplishing Purpose:**1. General Purpose of Mandate:**

To ensure plans are in place to assist the at-risk population who have pets to evacuate to safe areas and not leave their pets behind. History shows one of the main reasons people do not evacuate their residences during a tropical storm, hurricane, or other emergency is their reluctance to leave their pets behind. If the event is unsafe for people, it is unsafe for pets, and people who do not evacuate create safety issues for themselves, their pets, and the first responders who may risk lives to save them both. This has been seen in emergencies across the country for decades from Hurricane Andrew in Florida in 1992, to Floyd in North Carolina in 1999, to Katrina on the Gulf Coast in 2005.

Records show that impacted at-risk population may not evacuate to safe areas or lower risk facilities if individuals are unable to carry their pets or must leave them behind. Moreover, pets left behind untended introduce a humane liability issue and subject the evacuated community to various health-related and public safety hazards.

2. **Description of Essentiality to the Public Safety:**

This mandate is essential in order to help save lives and property in the event of a threatened or imminent emergency or disaster. Citizens or residents may not evacuate during a storm, hurricane or other emergency which may create a public safety issue if their residence is damaged or they or their pet becomes injured or lost during the event. In addition, first responders who are called to recover and/or rescue stranded individuals or victims and/or their pets will be diverted from other more serious life-threatening disaster response missions.

G. **Alternative Approaches to Achieving Purpose of Mandate:**

1. **Identification of Alternative Approaches:**

There are no other viable alternatives to achieve this objective.

2. **Fiscal Impact of Alternative Approaches:**

a) **Estimated Change in Range of Costs to Localities of Alternative Approaches:**

NA

b) **Estimated Change in Range of Costs to State of Alternative Approaches:**

NA

c) **Explanation of Estimation Methodologies:**

NA

H. **Agency Recommendation:**

1. **Determination by Agency:**

Retain

2. **Rationale:**

Essential as a life-saving means.

I. Agency Contact Regarding Assessment:


1. Name/Title:

Brett Burdick, Deputy State Coordinator


2. Address/Telephone:

Virginia Department of Emergency Management
10501 Trade Court
Richmond, Virginia 23236-3713
Telephone: 804-897-6500

Approval of Assessment:



(Signature of Agency Head)



(Signature of Cabinet Secretary)

Mandate Number:

STO.VDOT031

**ASSESSMENT OF STATE AND FEDERAL MANDATES
ON VIRGINIA LOCAL GOVERNMENTS
(PURSUANT TO SEC. 2.2-613, CODE OF VA.)**

Virginia Department of Transportation

December 31, 2009

A. Short Title of Mandate:

Load and Resistance Factor Bridge Design

B. Specific Provisions of Mandate

If federal funds will be used to construct a bridge, local governments must use the American Association of State Highway and Transportation Officials (AASHTO) Load and Resistance Factor Design (LRFD) Specification for any bridge designs started after October 1, 2007.

C. Source/Authority:

1. Specify Each Applicable (with citations):

- a) **Federal Statute:**
- b) **Federal Regulation:**
- c) **State Statute:**
- d) **State Regulation:**
- e) **Other:**

Federal Highway Administration (FHWA) letter from David H. Densmore to David H. Pope, P.E. dated June 28, 2000 and FHWA memorandum dated January 22, 2007 from M. Myint Lwin, P.E.

2. Extension of Federal Mandates by State Authority:

D. Method by Which Agency Oversees Implementation of Mandate:

Bridge design is subject to VDOT's Locally Administered Projects Policies and Manuals. In accordance with Virginia Department of Transportation's Federal Highway Administration-Virginia Division 2005 SAFETEA-LU Program Efficiencies Agreement, VDOT is responsible for ensuring local public agency compliance with federal requirements.

E. Fiscal Impact of Mandate on Localities:

1. Localities Affected:

All Counties, Cities or Towns choosing to administer transportation projects that include bridges.

2. Funding of Mandate:

a) Funding Formula:

Design costs are included in VDOT's construction funding for projects to be administered by localities. The cost to transition to the AASHTO LRFD Bridge Design Specifications methodology is incorporated into the design costs.

b) Estimated Range of Costs to Localities:

No increased net cost for compliance to LRFD design mandate.

c) Explanation of Estimation Methodology:

For localities that choose to administer their own transportation projects, design compliance with LRFD is expected to have no net effect on cost of design or construction of projects. VDOT has developed and will continue to develop office practices, design aids, standard drawings and specifications that support LRFD design. Localities have access to all of these documents.

F. Effectiveness of Mandate in Accomplishing Purpose:

1. General Purpose of Mandate:

LRFD improves the approach to provide a more realistic and uniform level of reliability for structural designs. It improves structural performance over the expected life of the structure.

2. **Description of Essentiality to the Public Safety:**

The LRFD design methodology improves structure performance over the expected life of the structure through a more realistic analysis approach.

G. **Alternative Approaches to Achieving Purpose of Mandate:**

1. **Identification of Alternative Approaches:**

LRFD is the only bridge design specification that is currently being updated and maintained in the US.

2. **Fiscal Impact of Alternative Approaches:**

a) **Estimated Change in Range of Costs to Localities of Alternative Approaches:**

n/a

b) **Estimated Change in Range of Costs to State of Alternative Approaches:**

n/a

c) **Explanation of Estimation Methodologies:**

n/a

H. **Agency Recommendation:**

1. **Determination by Agency:**

Retain

2. **Rationale:**

Federal requirement, no net cost increase to localities.

I. Agency Contact Regarding Assessment:

1. Name/Title:

Kendal R. Walus, P.E./ State Structure and Bridge Engineer

2. Address/Telephone:

1401 E. Broad St.
Richmond, VA, 23219/

804-786-4575

Approval of Assessment:



(Signature of Agency Head)



(Signature of Cabinet Secretary)