

Department of Planning and Budget 2001 Fiscal Impact Statement

1. Bill Number HB2260

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron Watts**3. Committee** Health, Welfare & Institutions**4. Title** TANF child support supplement.**5. Summary/Purpose:**

The bill would require the state share of child support collections for TANF recipients to be sent directly to the TANF recipient and not be retained for reimbursement of public assistance paid previously by the federal government and the Commonwealth. The child support payment would not be counted in determining eligibility for medical assistance.

6. Fiscal Impact Estimates are preliminary: (See Item 8, below.)**6a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2001-02	4,770,597	6.25	General
2002-02	(2,418,097)	0.00	Federal
2002-03	4,770,597	6.25	General
2002-03	(2,418,097)	0.00	Federal

6b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2001-02	(2,418,097)	N/A	Federal
2002-03	(2,418,097)	N/A	Federal

Note: These estimates do not include factors that cannot be estimated, including the increased costs of Food Stamp error penalties and Medicaid coverage of non-TANF recipients of child support noted, as in Item 8 below. Federal savings are achieved through loss of TANF benefits by clients. In addition, there may be approximately \$260,000 annually in additional local costs; these costs would not be reflected in the state budget.

7. **Budget amendment necessary:** Yes. Item 386, Child Support Enforcement Services (463001 and 46302); Item 379 (subprogram 47902); and other items. If it is intended that TANF funds be used, instead of child support collections, the appropriate placement is Item 381 (subprogram 45201).

8. **Fiscal implications:**

See Table 1 for the major impacts of HB 2260. See Table 2 for the major cost elements.

Background

In an average month, the Division of Child Support Enforcement (DCSE) of the Department of Social Services (DSS) collects child support for 12,000 family cases¹ that are current recipients of Temporary Assistance for Needy Families (TANF) cash assistance. There is considerable variation as to the amount collected from month to month.

Under the normal federal and state legal structure, non-TANF recipients receive the full amount of all collections made on their behalf. In contrast, collections made on behalf of current recipients of TANF are used first to reimburse the federal and state governments for TANF cash assistance payments already made. For these families, only the money remaining after satisfaction of that obligation would pass to the custodial parent; that occurs very rarely.

The collections that are retained for reimbursement of cash assistance benefits are split between the state and federal governments in proportion to the normal federal Medicaid match ratio. In Virginia the state's share of those retained collections is not placed in the general fund but instead is used to fund the operations of the entire child support enforcement program. Each \$1 of retained collections draws almost \$2 of federal funds to comprise the bulk of funding for program operations.

Item 6 costs are based on the assumption that this bill does not intend to pass child support collections on to former TANF recipients. Collections on their behalf are also part of the retained collections that support program operations.

The Bill's Intent

HB 2260 is subject to differing interpretations about two elements necessary to accurately determine impact:

- Which portion of the collection is intended to go to these clients, whether only the collection attributed to the current month's obligation or also the arrearage amount

Item 6 assumes that both are included.

- Source of the revenue, whether directly from the child support collection or from TANF

¹ A child support case is defined as a mother, a father and one or more children in common.

Two factors suggest that the intended revenue source could be TANF. First, the bill uses the term “TANF supplement.” Second, the bill amends the TANF/welfare reform portion of the *Code of Virginia*, rather than the child support portion of the *Code*.

On the other hand, the phrase “from child support payments collected on their behalf” (line 14) suggests that child support collections are the intended source. Item 6 of this fiscal impact statement assumes that the funding is from the collections normally retained, and that general fund money will therefore be needed to replace those collections in order to continue the operations of the Division of Child Support Enforcement (DCSE).

A Pass-through for Child Support Collections Would Negatively Affect Continued Program Operations Unless Replaced with General Fund Money

The child support enforcement program cannot absorb the loss of these funds and the associated administrative costs without seriously diminishing service capacity. The total loss of funds would be over \$15 million and the indirect impact could be up to another \$21 million (loss of incentive payment and its match). Thus, within two years, half the program’s support and an even larger proportion of its staffing would be lost.

Impact on the Client

Child Support Collections as the Source of Funding. Current state law provides that child support paid to custodial families is counted as income for the purposes of calculating both TANF and Food Stamp eligibility and benefits. Under HB 2260, clients would receive no net increase in disposable income and a decrease in Food Stamp benefits. (See attached Table 1 for details.)

Savings in Food Stamp benefits would not be reflected in the state budget, because the federal government pays for those benefits directly.

TANF as the Source of Funding. Where the federal TANF grant is the source of funds, the client would not lose TANF cash assistance, but would still lose some Food Stamp benefits.

Availability of TANF as the Revenue Source

All TANF funding, including the remaining Reserve, is budgeted in proposed amendments. Therefore, if TANF funds are used in amounts equivalent to the state’s share of child support collections, then other programs funded with TANF would have to be reduced.

It is assumed in Item 6a, above, that TANF is unavailable and that general fund money will be needed to pay for what TANF could otherwise pay for. It would require approximately \$5.0 million a year from TANF.

Other Fiscal Implications

Increase in Local Eligibility Workload. If the child support collections were steady every month, only a single redetermination of eligibility for Food Stamps and TANF would be required when HB 2260 is first implemented. However, for several reasons, collections are highly variable from month to month.²

Redetermination for Food Stamp, and possibly TANF, benefits would be required every time the child support amount changed, regardless of the income source of the new benefit. It is expected that 78,000 such redeterminations would be required in a year. This would require significant new staffing at the local level.

See Table 2 and its attached budget narrative for details.

Significant Increase in Error Rates in TANF and Food Stamp Programs. While TANF and Food Stamp benefits could be readjusted in subsequent months to compensate for changes in the child support payments, under federal law the payments made are considered errors and future corrections do not mitigate the error determination. Adjustments in benefits could not be made immediately because of due process requirements for advance notice and allowance for time to appeal.

Due to fluctuations in child support payments that raise incomes above the eligibility maximums, it is anticipated that some families will become ineligible for these benefits. Recoupment of benefits paid in error would be largely impossible, as well as costly.

Federal rules regarding the relationship between child support passed through to Food Stamp recipients are undergoing changes and the details are not yet known. However, resulting Food Stamp errors could cause substantial federal penalties.

Penalties would depend on the size of variance between the state's error rate and the national error rate, but could reach more than \$10 million per year, judging from past history. No estimate has been included in Item 6 because the amounts are unpredictable and the timing is delayed. Connecticut and Wisconsin, both of which pass through child support benefits, report having experienced significant errors as a result of the child support pass-through.

Customer Service Costs. A significant increase in customer service calls is anticipated because of the large volume of adjustments to TANF and/or Food Stamp benefits. Item 6 costs include funding to support a new customer services operation to handle an estimated 60,000 costs per year relating to changing benefit amounts. (See Table 2 and its attached budget narrative for details.)

² For example, noncustodial parents frequently change jobs and relocate; they experience variability in hours worked; and if their wages are withheld on a weekly basis, the total monthly withholding varies because some months have a different number of Fridays

Undetermined Amount of Increase in Medicaid Costs

The final sentence of the HB 2260 provides: "For purposes of determining eligibility for medical assistance services, the TANF child support supplement shall be disregarded." Under federal Medicaid "comparability" rules, Virginia cannot exempt the child support income of current TANF recipients from consideration in eligibility determination without applying the same standard to all others receiving child support. This could increase the number of families on Medicaid and thereby increase Medicaid costs. No estimate can be made, however, because there is no data on the number of persons currently ineligible due to child support who would be made eligible under the required HB 2260 comparability provision in the state plan.

Impact of Congressional Action

Congress is considering legislation to either mandate or facilitate state pass-through of child support enforcement collections to TANF-related custodial families. The bill (H.R. 4678 in the 106th Congress) has at various times had provisions that affect state fiscal responsibility in different ways. If the 107th Congress acts in this regard, the fiscal implications of HB 2260 could change.

10. Specific agency or political subdivisions affected: Department of Social Services and 122 local departments of social services

11. Technical amendment necessary: Yes.

- a) The effective date would have to be delayed to give DSS time to modify its major mainframe software programs to handle complex changes in eligibility and to interface. If the effective date is left at July 1, 2001, DSS will be unable to meet the deadline. Because the new child support pass-through appears to be an entitlement, legal challenges to failure to comply can be expected.
- b) The current ambiguity in the phrase "TANF child support supplement(s)" should be defined or the proposed § 63.1-110.2 should be reworded so that it is clear whether the source of funds is intended to be TANF or the state's share of child support collections. The use of the term "TANF supplement" suggests that TANF could be the intended source of funds, yet it could have been intended to mean a supplement to the TANF grant, paid from child support enforcement collections.
- c) That same section should be revised to clarify whether only that portion of child support collections considered to be in satisfaction of the "current month's child support obligation" is to be passed through, or whether arrearages also are to be passed through.
- d) The affected population should be clarified to specify whether the phrase "recipients of TANF cash assistance" means only those receiving a current month's payment, those under sanction, and those who are no longer receiving current cash assistance but whose current collections are being used to reimburse earlier cash assistance payments.
- e) If the General Assembly wishes the funding for the client cash benefit to come directly from child support collections without reducing the TANF benefit, then changes are required in §§ 63.1-251 and 63.1-110.

- f) If child support enforcement collections are the intended source of the funds, then the new Code language should probably be place in the child support enforcement portion of the Code, not in Chapter 73.1.

12. Other comments:

The child support enforcement program is required by federal and state law and by a consent decree from the Richmond federal Circuit Court to issue child support payments received within certain specified time frames, the shortest of which is 48 hours. Whether the payments required under HB 2260 can be excluded from these requirements requires review by the Department's legal counsel.

HB 2260 is the same as HB 2571.

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cc: Secretary of Health and Human Resources

Major Effects of HB 2260		
Type of Effect	Fund Source for Payments to Custodial Families (FY 2002 \$)	
	Child Support Collections	TANF
Effect on Clients	1. Lose \$1 in TANF for every \$1 in pass-through	1. No effect on TANF grant
	2. Lose \$0.33 in Food Stamp (FS) benefits for every \$1 in pass-through	2. Lose \$0.33 in Food Stamp (FS) benefits for every \$1 in pass-through
	3. Possible confusion regarding irregular TANF and FS benefits	3. Possible confusion regarding irregular FS benefits
	4. For some clients, earlier loss of eligibility for TANF and FS because child support income takes them off welfare sooner. More frequent loss of TANF eligibility due to income changes; then when TANF eligibility lost, child support would again not be passed through.	4. No effect on continuing TANF eligibility; possible earlier loss of Food Stamp eligibility
	5. No loss of Medicaid eligibility	5. No loss of Medicaid eligibility
Fiscal Effects on State Budget	1. \$4.9 M direct cost of pass-through, budgeted as Special Funds, covered by current appropriation	1. \$4.9 M direct cost of pass-through, budgeted as Special Funds, covered by current appropriation
	2. \$4.9 M GF to replace pass-through collections now retained to support child support operations	2. Need to reduce other funding from TANF by \$4.9 M, as all TANF is currently budgeted
	3. If GF replacement is not done, loss of \$9.8 M in federal funds drawn by the retained collections; decline in performance; possible loss of or reduction in projected \$7 M in incentive payments, which themselves draw \$14 M in federal funds	3. No loss of funds for child support program administration
	4. High and consistent Food Stamp penalties up to \$33.5 M per year (total amount of federal reimbursement for program), depending on variance between Virginia performance and nationwide average	4. High and consistent Food Stamp penalties up to \$33.5 M per year (total amount of federal reimbursement for program), depending on variance between Virginia performance and nationwide average
	5. Savings to TANF of \$4.9 M	5. N/A
	6. \$1.0 M in information technology costs to re-program ADAPT and APECS mainframe systems	6. < \$1.0 M in information technology costs to re-program ADAPT and APECS mainframe systems
	7. \$312,500 Customer Services costs relating to shifting benefit amounts	7. \$312,500 Customer Services costs relating to shifting benefit amounts
	8. Additional costs, as yet undetermined, to Medicaid to assure eligibility for non-TANF persons receiving child support payments	8. Additional costs, as yet undetermined, to Medicaid to assure eligibility for non-TANF persons receiving child support payments
Fiscal Effects on Localities	1. Undetermined increase in customer services workload	1. Undetermined increase in customer services workload

	2. Increase in local redetermination activities in response to changes in countable income	2. Increase in local redetermination activities in response to changes in countable income
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Major Types of Expenses, by Fund Source, for HB 2260

Type of Expense	Expenditure Effect of Child Support Pass-through from Child Support Collections				
	Total	General	Special	Federal	Local (off budget)
Replace pass-through collections now retained to support child support operations	\$3,398,097	\$3,398,097			
Savings to TANF due to counting child support receipts as earned income under current law	(3,398,097)			(3,398,097)	
\$1.0 M in information technology costs to re-program ADAPT and APECS mainframe systems	1,000,000	670,000		330,000	
Central Office 800-number Customer Services costs relating to shifting benefit amounts	312,500	312,500			
State Activities	1,312,500	4,380,597		(3,068,097)	
Local Eligibility Activities	1,300,000	390,000		650,000	\$ 260,000
Total Costs	\$2,612,500	\$4,770,597		(\$2,418,097)	\$ 260,000

BUDGET NARRATIVE IN SUPPORT OF TABLE 2

1. Cost of local redeterminations

Assuming that not all 12,000 case collections will represent a change from the prior month, DSS estimates there would be 78,000 reviews required yearly at a duration of twenty minutes each (1/3 hour). An estimated 21 new local FTEs are needed to handle this workload at an average annual pay of \$29,826. (For sake of comparison, local departments of social services have about 8000 staff, about 3200 of whom work in eligibility.) Adding in costs of supervision, fringe benefits and the standard non-personal services, the estimated cost of new local eligibility FTEs to handle such functions is \$1.3 million per year (\$0.65 million federal; \$390,000 state general fund; \$260,000 local match).

2. Central office customer service capacity

Assuming 78,000 adjustments per year and 60,000 customer service calls about these adjustments, approximately 6.25 new positions would be needed to handle the volume, if located centrally:

$$\begin{aligned} &60,000 \text{ calls annually, divided by } 250 \text{ work days, divided by } 40 \text{ calls per worker per day} \\ &= 6.25 \text{ FTE} \end{aligned}$$

At \$50,000 per FTE worker for salary, fringe benefits, supplies, equipment, and 800-line charges, total costs are estimated at \$312,500 (\$156,250 federal, \$93,750 state, and \$62,500 local). In addition, the workload on existing customer services operations in child support enforcement and at the local departments of social services would probably increase. Such costs have not been estimated for three reasons: Volume, especially for child support, is less predictable; local customer service inquiries would be spread among a larger number of entities; and state DSS would attempt to take the workload off localities by establishing an 800-line phone service.

In addition, there would be substantial new costs for mailing due process notices about changes in benefits. These have not been estimated.

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