

## Department of Planning and Budget 2004 Fiscal Impact Statement

**1. Bill Number** House Bill 326

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

**2. Patron**        H. Morgan Griffith

**3. Committee**    Courts of Justice

**4. Title**           Retroactive application of support orders

**5. Summary/Purpose:** This bill provides that upon proof that either party has committed fraud upon the court, including but not limited to giving false testimony regarding assets and income, the court may issue a new support order, nunc pro tunc to the original date of the hearing at which the fraud was committed, which shall be applied retroactively to increase or decrease the amount of support paid up to the date of the new order.

**6. Fiscal impact is preliminary**

**Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2003-04	-	-	-
2005-06	(\$1,580,000)	-	Nongeneral Fund
2006-07	(\$1,580,000)	-	Nongeneral Fund
2007-08	(\$1,580,000)	-	Nongeneral Fund
2008-09	(\$1,580,000)	-	Nongeneral Fund
2009-10	(\$1,580,000)	-	Nongeneral Fund

**7. Budget amendment necessary:** No.

**8. Fiscal implications:** The Department of Social Services maintains that the provisions of House Bill 326 will cause Virginia to be out of compliance with its State Plan, which is based on federal statutes and regulations (45CFR301.13 (d)). Allowing retroactive adjustment to child support orders would violate the Bradley amendment contained in 42 USC 666(a)(9). This provision mandates that state laws contain “procedures ordered through the State judicial system or through the expedited processes required by paragraph (2), is (on and after the date it is due)...(C) not subject to retroactive modification by such State or by any other State; except that such procedures may permit modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.”

The department maintains that the probability that sanctions would be imposed on the state is small, however the possibility does exist. The federal penalty for non-compliance with the State plan is a one percent reduction in our Temporary Assistance for Needy Families (TANF) grant award, or a decrease of \$1,580,000, for each year we are not compliant.

**9. Specific agency or political subdivisions affected:**

Department of Social Services

Local departments of social services

**10. Technical amendment necessary:** No

**11. Other comments:** None

**Date:** 01/30/04 / kwm

**Document:** G:\2004 Fiscal Year\Efis\Hb326.Doc

cc: Secretary of Health and Human Resources