

# Department of Planning and Budget

## 2006 Fiscal Impact Statement

**1. Bill Number** HB 401

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron**            Marsden, Dave W.

**3. Committee**      Courts of Justice

**4. Title**              Child support; court give notice to incarcerated person for obligation adjustment

**5. Summary/Purpose:** Requires the court, upon sentencing any person to a minimum 12 months incarceration to give notice to that person of the right to have the amount of his child support obligation recalculated upon request. In addition, the bill will no longer allow a person to be found voluntarily unemployed based solely on his incarceration. Preferential treatment would also be given to those prisoners in work programs who, in addition to meeting the qualifications for the program, have child support obligations. The legislation prohibits charging interest on any child support arrearage during the period of incarceration and prohibits assessing attorneys' fees and genetic testing fees to a prisoner or a minor obligor. In addition, this bill states that consideration shall be given to reducing the amount of debt owed the state for child support arrearages by (1) a minor obligor after the period of his minority and (2) imprisoned obligors after the period of incarceration, if support obligations have been paid in a timely manner.

**6. Fiscal impact is preliminary**

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2006-07	\$712,701	1.4	General Fund*
2006-07	\$1,383,478	2.6	Nongeneral Funds
2007-08	\$712,701	1.4	General Fund*
2007-08	\$1,383,478	2.6	Nongeneral Funds
2008-09	\$712,701	1.4	General Fund*
2008-09	\$1,383,478	2.6	Nongeneral Funds
2009-10	\$712,701	1.4	General Fund*
2009-10	\$1,383,478	2.6	Nongeneral Funds
2010-11	\$712,701	1.4	General Fund*
2010-11	\$1,383,478	2.6	Nongeneral Funds
2011-12	\$712,701	1.4	General Fund*
2011-12	\$1,383,478	2.6	Nongeneral Funds

\*Reflects increased operating costs and the replacement of lost special fund revenue.

**Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2006-07	(\$574,843)	-	Special Funds
2006-07	(\$1,115,872)	-	Federal Funds
2007-08	(\$574,843)	-	Special Funds
2007-08	(\$1,115,872)	-	Federal Funds
2008-09	(\$574,843)	-	Special Funds
2008-09	(\$1,115,872)	-	Federal Funds
2009-10	(\$574,843)	-	Special Funds
2009-10	(\$1,115,872)	-	Federal Funds
2010-11	(\$574,843)	-	Special Funds
2010-11	(\$1,115,872)	-	Federal Funds
2011-12	(\$574,843)	-	Special Funds
2011-12	(\$1,115,872)	-	Federal Funds

**7. Budget amendment necessary:** Yes, Item 336.

**8. Fiscal implications:** This bill has two main fiscal components:

- The reduction of the support order obligation and arrearages that potentially would be collected and sent to the custodial parent.
- The percent of reductions that are Temporary Assistance for Needy Families (TANF) debts to the state and the associated loss of revenue to the Commonwealth's child support enforcement program.

Reduction of Collections

Based on 2005 figures, there are approximately 9,117 cases with child support obligations for incarcerated non-custodial parents (NCPs). Of this total, 5,410 cases have a current support obligation. We estimate at least 50 percent or 2,705 incarcerated NCPs, when advised by the court, will ask to have their orders reviewed and, in all likelihood, lowered. Based on current data, the average child support order for incarcerated NCPs is \$148 per month. For an incarcerated NCP with no income, the order will likely be lowered to the minimum amount, which is \$65 per month. The estimated average loss of child support entitlement to these families would amount to \$83 per month per case (\$148 - \$65). The total projected loss of child support entitlements would be \$2,694,180 per year (2,705 NCPs x \$83 x 12 months). Based on the current collection rate of 25 percent, the potential lost collections subsequent to release would be \$673,545 per year (\$2,694,180 x 25%).

This bill also calls for eliminating the accrual of any interest on child support arrearages owed while the NCP is incarcerated. The average arrearages owed by an obligated incarcerated NCP is \$9,400. The total arrearages owed by incarcerated NCPs amounted to \$85 million in 2005. Current law allows 6 percent interest to be charged on arrearages. Over a 12-month period, the accumulated interest lost on the debt would be \$5.1 million (\$85 million x 6%). Based on the current two percent collection rate of accrued interest, potential lost collections would total \$102,000 (\$5.1 million x 2%).

The lost collection effect on the arrears forgiveness section of this bill is difficult to determine because of the unknown percentage of NCPs that would take advantage of this after their incarceration period. It is assumed that 10 percent would participate in such a

program. Using 2005 figures, the total amount of arrearages owed by incarcerated NCPs is \$85 million. A 10 percent participation rate would equal \$8.5 million (\$85 million owed x 10% participation rate). The chart below gives an estimate of the percent of arrears that potentially will be forgiven:

Months of timely payments	Percent Reduction	Arrearage Owed	\$ Amount Reduced	\$ Owed After Reduction	Cumulative \$ Reduction	Percent
6 months	5%	\$9,400	\$470	\$8,930.00	\$470.00	5.00%
12 months	10%	\$8,930	\$893	\$8,037.00	\$1,363.00	14.50%
18 months	15%	\$8,037	\$1,206	\$6,831.45	\$2,568.55	27.33%
24 months	25%	\$6,831	\$1,708	\$5,123.59	\$4,276.41	45.49%
				<b>Average percent forgiven</b>		<b>23.08%</b>

If these NCPs stay employed and make payments on time, the estimated total amount of arrearage debt forgiven would be \$1,961,800 (\$8.5 million x 23.08%) per year.

The total estimated amount of potential collections lost would be:

\$673,575 – Reduction in support orders

\$102,000 – Accrued interest

\$1,961,800 – Arrears forgiven

\$2,737,375 – Total Collections Lost

#### Reduction of Revenue for Program Operations

Federal Law allows states to retain 50 percent of child support payments that are due to custodial parents who receive Temporary Assistance to Needy Families (TANF). The state of Virginia disregards the first \$50.00 of those payments which are sent to the custodial parent. DCSE uses these collections to administer the program, pay staff, and other associated costs. These funds are considered the state's share which amount to 34 percent of expenditures. The Federal Child Support Enforcement Agency matches 66 percent of expenditures. Any loss of TANF collections (minus the disregard) must be considered a loss in operating revenue, plus the additional 66 percent federal match that is lost. TANF debts amount to approximately 42 percent of total debts owed by incarcerated NCPs, which is considerably higher than the normal average of TANF debts. The chart below calculates each of the three areas this bill will affect and represents estimated revenue that will be lost each year:

	Total Amount	Percentage TANF	Total TANF Dollars	Retained 50%	Total Federal Dollars 66%	Total Lost Revenue
Reduction in Support Orders	\$673,545	42%	282,889	141,445	274,570	416,015
Accrued Interest	\$102,000	42%	42,840	21,420	41,580	63,000
Arrears Forgiven	\$1,961,800	42%	823,956	411,978	799,722	1,211,700
<b>Totals</b>	<b>\$2,737,345</b>		<b>1,149,685</b>	<b>574,843</b>	<b>1,115,872</b>	<b>1,690,715</b>

The loss of revenue is estimated at \$1,690,715 per year (\$574,843 special funds and \$1,115,872 federal funds). The amount of special funds lost will have to be replaced by general funds.

#### Other Costs

The implementation of this bill would result in an increased number of requests for review and adjustment of child support orders. Normal time to review and process a request is two hours. Based on the 2,705 cases that will be reviewed, the department will need 4 additional DCSE specialists. Using a mid-range salary of \$40,000 in pay band 4 for Program Administration Specialists I, total salaries and benefits would be \$220,160 per year. Funds to cover the routine operating costs of postage, office, travel, supplies, telephone, and rent are estimated at \$30,280. One-time costs totaling \$26,000 are included in the first year for office furniture and equipment. Personnel, equipment, and support costs for the additional staff totals \$276,440 in FY 2006 and \$250,440 per year thereafter.

The information systems will require modifications if this bill is implemented to:

- Develop and automate an application form for arrears forgiveness
- Add data fields in APECS to track application
- Develop automated monitoring of payments on these cases with work lists and events
- Develop an automated calculation module of arrearage reduction upon successful completion of payments
- Develop automated adjustments to arrearages

To accomplish the above, it will require one programmer (\$55,296), one functional analyst (\$36,864), and one policy analyst (\$36,864) to spend a total of 960 hours over 24 weeks to modify the system. Thus, there would be a one time total programming cost of \$129,024.

#### **Summary of Cost**

	<b>2006-07</b>	<b>2007-08</b>
<b>Salaries and Benefits</b>	220,160	220,160
<b>Operating Costs</b>	30,280	30,280
<b>One-time Equipment</b>	26,000	-
<b>Programming Costs</b>	129,024	-
<b>Lost Revenue</b>	1,690,715	1,690,715
<b>Total Cost</b>	2,096,179	1,941,155

<b>Federal (66%)</b>	1,383,478	1,281,162
<b>General Funds (34%)</b>	712,701	659,993

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

Department of Social Services  
 Juvenile and Domestic Relations Courts  
 Department of Corrections

**10. Technical amendment necessary:** No

**11. Other comments:** Potential fiscal impact on the Department of Corrections is still being assessed.

**Date:** 01/24/06

**Document:** G:\2006 Fiscal Year\2006 Ga Session\Efis 2006\Hb401.Doc

cc: Secretary of Health and Human Resources  
Secretary of Public Safety