

Department of Planning and Budget

2016 Fiscal Impact Statement

1. Bill Number: HB556

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

2. Patron: LaRock

3. Committee: Courts of Justice

4. Title: Abuse and neglect of children; fetuses.

5. Summary: Provides that for purposes of the crime of abuse and neglect of a child, a child includes a viable fetus.

6. Budget Amendment Necessary: Yes.

7. Fiscal Impact Estimates: Preliminary. See Item 8.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2016			
2017	\$5,049,724		general
2018	\$4,934,124		general
2019	\$4,934,124		general
2020	\$4,934,124		general
2021	\$4,934,124		general
2022	\$4,934,124		general

*This table does not include a \$905,076 impact on localities.

8. Fiscal Implications: The proposed bill changes the definition of a “child” in §18.2-371.1 of the Code of Virginia to include a “viable fetus.” This code section states that any person responsible for the care of a child’s health, who causes or permits serious injury to the life or health of such child, is guilty of a Class 4 felony. In addition, it states that serious injury includes but is not limited to disfigurement, a fracture, a severe burn or laceration, mutilation, maiming, forced ingestion of dangerous substances, and life-threatening internal injuries.

Section 63.2-1506 C. of the Code of Virginia requires Local Departments of Social Services (LDSS) child protective services (CPS) to investigate valid reports of any person accused of abuse or neglect of a child resulting in serious injury as defined in §18.2-371.1. Currently, CPS responds to reports or complaints of abuse and neglect of a child after a child is born. The provisions of this bill would require an investigation while the child is in utero; thereby requiring significant changes to the current program as CPS workers would have to take a much different approach with regard to this population. The primary costs associated with this legislation are: (1) additional case management for new CPS cases; (2) training and

education materials, and (3) information systems modifications. Additionally, a Woodrum impact is added to this bill because it reclassifies felonies.

Case Management

The Department has no way of knowing how many new reports or complaints it might receive annually regarding serious injury to this new population. While reports or complaints of serious injury could include a multitude of detrimental activities, this analysis will focus on substance abuse, which is likely the most probable cause of a report or complaint. Statistics from the Department of Health indicate that there were 101,863 live births in Virginia in 2013. According to data from the National Survey on Drug Use and Health (NSDUH), 5.4 percent of pregnant mothers used illegal drugs in 2013. Therefore, it is assumed that there would be a maximum increase of 5,501 ($101,863 \times .054$) CPS complaints regarding this population. Currently, CPS receives about 1,000 reports annually from health care providers of newborn children that are believed to have been subject to abuse by the substance abuse of their mothers. It is assumed that the majority of these cases would now be reported before the child is born and that the cost to manage these cases is funded by the current appropriation. For the purpose of this analysis, the department estimates that 50 percent of the maximum number of cases less those cases already reported by health care providers or 2,250 ($5,501 - 1000$) $\times .50$) will be reported as a result of this bill. It should be noted that the caseload assumptions made in this statement are conservative as they do not factor in the impact of this population now being subject to mandated reporting laws nor does it attempt to factor in false reports that the departments would still be required to investigate. The final fiscal impact could ultimately be higher than those estimated should the caseload be larger than assumed.

The average estimated time it takes to complete an investigation varies greatly depending on what the case requires. Since there is no data to support unborn investigations, a very broad estimate for a CPS case is used. Considering interview time with the alleged perpetrators, collaterals, family of the unborn, coordination with law enforcement, hearings and court time if needed, documentation time, and other factors that impact the case, the department estimates it would take an average of fifty hours per case. This does not include the provision of any services that might be required. Based on this, the department estimates that 112,500 ($2,250 \text{ cases} \times 50 \text{ hours per case}$) additional hours will be required to investigate these cases.

The average annual cost of employing (salary, benefits, nonpersonal services, etc.) a local CPS worker is \$77,856. Local governments are required to cover 15.5 percent of these expenses, so the state share of the estimated CPS worker cost would be \$65,788. Assuming 1,500 annual productive hours per full-time employee, the state reimburses localities \$51.90 per hour for CPS workers. Therefore, the cost of requiring 112,500 additional hours of work would be \$5,839,200 each year. The state share of this amount is \$4,934,124 with the local share being \$905,076.

Local departments are reimbursed by the state based on the actual cost of delivering required services. These costs are then allocated to the appropriate source of funding (i.e. general, federal, etc.). There is no way to determine how the increased costs associated with this bill

will be distributed across local departments of social services. However, it is necessary to acknowledge the impact of any additional responsibilities being placed on local departments and workers. While a specific local impact of a single bill may seem insignificant, this statement accounts for all added costs as the cumulative effect of many requirements on local departments cannot be overlooked. Therefore, this statement uses the above assumptions, as to the added time required to meet the bill's provisions, and historical workload data to estimate the fiscal implications at the state level. This statewide estimate of increased costs would be allocated to localities based on actual annual experience.

Training and Educational Materials

The bill requires the department to establish minimum training requirements for CPS workers and supervisors regarding abuse and neglect of a viable fetus. A training curriculum for CPS workers and supervisors on the new regulations, and policy and procedures that would be established on how to investigate and respond to reports and complainants would be needed.

It is estimated that it would take a part-time curriculum developer 640 hours, to create a one day training curriculum for the training. The average wage per hour for a part-time curriculum developer is \$32.81 per hour. The cost to develop the training would be \$21,000 ($640 \times \32.81). Presentation of the training sessions in each of the five regions would cost \$1,320 per one-day session, for a total cost of \$6,600 ($\$1,320 \times 5$). The total cost to develop and present the training sessions is estimated to be \$27,600 ($\$21,000 + \$6,600$).

In addition, the Department would implement an eLearning curriculum for abuse and neglect of a viable fetus on the Knowledge Center, an on-line system that exists for state employees to take certain courses. The estimated cost to develop, test, and publish the eLearning curriculum is estimated to take four to six months. Using the low range of four months, or 640 hours and a wage employee paid \$46.88 per hour, the Department estimates a total cost of \$30,000 for an eLearning curriculum. This would be a one-time cost as current staff would be able to provide minor updates and changes to the curriculum as needed.

The Department would also be required to create brochures to include abuse and neglect of a viable fetus. This would also require the development, printing and distribution of new informing brochures which would be made available in English and Spanish and available on line in Vietnamese and Chinese. These brochures will reside mainly at each of the 120 LDSSs for their use when doing an investigation, but also for informational purposes. The one-time cost for designing and printing these brochures is estimated to be \$8,000. The total cost for training and education materials is estimated to be \$65,600.

Information System Modifications

All CPS case data is contained within OASIS (Online Automated Services Information System) which supports the delivery of child welfare services by LDSSs. The Department believes that the additional changes to OASIS are minimal and can be absorbed by current appropriation.

Impact on the Courts and Department of Corrections

The proposed legislation expands the scope of a Class 1 felony and a Class 4 felony. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 5 years in prison. For a Class 4 felony, the sentencing range is 2 to 10 years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state.

The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail and \$12.00 a day for each state responsible inmate. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2015), the estimated total state support for local jails averaged \$32.24 per inmate, per day in FY 2014.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 665 of the 2015 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

Summary

	<u>Year 1</u>	<u>Year 2</u>
Case Management	\$ 4,934,124	\$ 4,934,124
Training/Educational Materials	\$ 65,600	\$ -
Woodrum impact	\$50,000	
Total	\$ 5,049,724	\$ 4,934,124
Local Costs	\$ 905,076	\$ 905,076

9. Specific Agency or Political Subdivisions Affected: Department of Social Services, local Departments of Social Services, Department of Corrections, local and regional jails

10. Technical Amendment Necessary: No

11. Other Comments: