Department of Planning and Budget
2017 Fiscal Impact Statement

1. **Bill Number:** SB1086-ER

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

2. **Patron:** Wexton

3. **Committee:** Passed Both Houses

4. **Title:** In utero exposure to a controlled substance.

5. **Summary:** Requires local departments of social services to collect information during a family assessment to determine whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth. The bill requires mandated reporters of suspected child abuse or neglect to make a report if a finding is made by a health care provider (i) within six weeks following a child's birth that the child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) within four years following a child's birth that the child has an illness, disease, or condition that is attributable to maternal abuse of a controlled substance during pregnancy; or (iii) within four years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. The bill provides that if a local department of social services receives a report or complaint of suspected child abuse or neglect on the basis of one or more of the aforementioned factors, the local department shall (a) conduct a family assessment, unless an investigation is required by law or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal law. The bill directs the State Board of Social Services to promulgate regulations to implement the provisions of the bill.

6. **Budget Amendment Necessary**: No. The introduced Governor's Budget Bill provides the necessary appropriation to implement the provisions of this bill.

7. **Fiscal Impact Estimates:** Final.

7a. Expenditure Impact:

Fiscal Year	*Dollars**	*Positions*	*Fund*
2017	-	-	-
2018	$2,290,631 $957,600	-	General Nongeneral
2019	$2,769,431 $1,436,400	-	General Nongeneral
2020	$3,012,023 $1,678,992	-	General Nongeneral
2021	$3,126,935 $1,793,904	-	General Nongeneral
2022	$3,190,775 $1,857,744	-	General Nongeneral
2023	$3,219,503 $1,886,775	-	General Nongeneral

* There is an annual local match increase of $244,521 associated with this bill.

8. **Fiscal Implications:** This legislation will increase the number of family assessments and investigations performed by local department of social services (LDSS) child protective service (CPS) staff due to the elimination of the reporting exception for pregnant women who seek treatment or counseling prior to the birth of their child as well as the increased mandated reporting requirements of substance abuse exposed infants.

   Currently, if a local department of social services receives a report that a mother has abused a controlled substance, the report is not completed and transmitted to the Department if the mother has sought substance abuse counseling prior to the child's birth. The Department estimates approximately 605 new CPS assessments/investigations will be needed annually, which would require the equivalent of 20 additional local department positions. The Department also estimates 25 percent of the new reports will result in a child placed in foster care. The total estimated cost for FY 2018 is $3,492,752 funded through general fund ($2,290,631), title IV-E federal funds ($957,600) and local match ($244,521). Funding for this bill has been included in the introduced Governor's Budget Bill.

   Between 2012 and 2013, the average number of women in Virginia who had babies and self-reported illegal drug use to the Virginia Department of Health was 1,447. Assuming this number is under reported by 10 percent, it is estimated that, under the provisions of this legislation, approximately 1,592 (1,447 x 1.1%) women will self-report the use of illegal substances while pregnant and seek substance abuse counseling or treatment. CPS currently responds to an average of 1,042 reports annually from health care providers of newborn children who have been impacted by the substance abuse by their mothers. Based on this, it is estimated that approximately 550 (1,592-1,042) new assessments/investigations will be required due to the elimination of the exception which invalidates a CPS report when a child was exposed in utero and the mother sought substance abuse counseling or treatment.

   In addition, the changes in §63.2-1509 require mandated reporting of substance abuse exposed infants within four years following the child's birth when the controlled substance was prescribed by a physician and any infant affected by illegal drugs was exposed in utero or is experiencing withdrawal symptoms. Many of the children in this population will overlap with the children identified above; however, there may be a small increase in assessments or investigations. The Department has no way of knowing how many of these cases will overlap. Assuming an additional 10 percent or 55 reports, the total number of new cases for assessment or investigation is estimated to be 605 (550 + 55).

   Furthermore, under this legislation, if a report or complaint is based upon a factor specified in subsection B of §63.2-1509, the local department is required to (a) conduct a family assessment, unless an investigation is required, and (b) develop a plan of safe care in accordance with federal law, regardless of whether a finding of abuse or neglect is made. Considering interview time with the alleged perpetrators, collaterals and extended family, plus coordination with law enforcement, hearings and court time if needed, documentation time, and other factors that impact the case, such as developing a plan of safe care in accordance with federal law as required by this legislation, the Department estimates that

each CPS report requires an average of 50 hours to respond to and/or investigate it. This does not include the provision of any services that might be required. Based on this, approximately 30,250 (605 cases x 50 hours per case) additional local staff hours will be required to validate these reports. Given an average of 1,500 productive hours per local staff annually, the equivalent of 20 (30,250/1,500) additional local department staff are required for a total estimated cost of $1,577,552 (the average annual costs, including salary, benefits, and nonpersonal services of employing a local CPS worker used for this analysis is $78,878) split between general fund ($1,333,031) and local matching funds ($244,521).

The Department estimates 25 percent of the new reports will result in an approximately 150 (605 cases x 25%) additional children placed in foster care. At $1,064 per month for foster care expenses, an increase of 150 children in the foster care program costs approximately $1,915,200 in FY 2018 (150 x $1,064 x 12 months) funded through general fund ($957,600) and federal title IV-E funds ($957,600). Although it is assumed that some of these children will leave the foster care system, either through reunification with parents or through adoption, it is assumed that a portion of these children will remain in the foster care system longer. Therefore, the number of children remaining in the foster care system will grow as more infants enter foster care each year as a result of founded child abuse cases.

9. **Specific Agency or Political Subdivisions Affected:** Department of Social Services, Local Department of Social Services.

10. **Technical Amendment Necessary:** No.

11. **Other Comments:**