

Department of Planning and Budget 2020 Fiscal Impact Statement

1. **Bill Number:** HB1301-H1

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. **Patron:** Hurst

3. **Committee:** Appropriations

4. **Title:** Office of the Children's Ombudsman established.

5. **Summary:** Establishes the Office of the Children's Ombudsman as a means of effecting changes in policy, procedure, and legislation; educating the public; investigating and reviewing actions of the State Department of Social Services, local departments of social services, child-placing agencies, or child-caring institutions; and monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, treatment, and improvement of delivery of care to children in foster care and adoptive homes. The Office of the Children's Ombudsman is headed by the Children's Ombudsman, who is appointed for a term of four years by the Governor and subject to confirmation by the General Assembly.

Additionally, the substitute creates the Children's Advocacy Fund for the purpose of supporting the operations of the Office of the Children's Ombudsman. The Fund would be funded in part by fines collected from criminal offences involving a child.

6. **Budget Amendment Necessary:** Yes. This legislation would require the creation of a new agency and Item in the Appropriation Act.

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

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020	-	-	-
2021	\$426,000 50,000	4.0	Special General
2022	\$806,000 50,000	8.0	Special General
2023	\$961,000 50,000	10.0	Special General
2024	\$961,000 50,000	10.0	Special General
2025	\$961,000 50,000	10.0	Special General

2026	\$961,000 50,000	10.0	Special General
------	---------------------	------	--------------------

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2020	-	-
2021	\$994,000	Special
2022	\$994,000	Special
2023	\$994,000	Special
2024	\$994,000	Special
2025	\$994,000	Special
2026	\$994,000	Special

- 8. Fiscal Implications:** It is assumed that the number of complaints made to the Ombudsman will phase-in over the next three years. The Office of the Children’s Ombudsman will accept and investigate complaints related to any child-caring agency, child-placing agency, child-serving agency, or any program, service or facility licensed, funded or operated by a child-caring agency, child-placing agency, or child-serving agency. The fiscal impact and staffing reflect the assumption that the number of complaints received by the office will phase-in over three years.

In FY 2021, the first year after enactment, the office will require the services of four full-time positions, including a director, office assistant, as well as two human services analysts. This staffing level should ensure that the office is able to be established, provide preliminary outreach, and respond to any initial investigations. It is likely that additional staff will be needed in FY 2022 as the office begins to respond to additional complaints. The fiscal estimate assumes that three additional human services analysts and another office assistant would be added. The office's caseload is assumed to continue to grow in FY 2023. It is estimated that it would require the services of two additional human services analysts. The following table summarizes the staffing services associated with this proposal.

Positions	Annual Salary (Including Benefits)		
	FY 2021*	FY 2022	FY 2023
Director	\$105,000	\$140,000	\$140,000
Office Services Specialist(s)	\$30,000	\$81,000	\$81,000
Human Services Analyst(s)	\$126,000	\$420,000	\$590,000
Total	\$261,000	\$641,000	\$811,000

*Assumes 18 pay periods of compensation since it is unlikely that any positions would be hired and in place by July 1, 2020.

It is also assumed that the Office of the Children’s Ombudsman would incur costs associated with operating as a separate agency. Based on the Department of General Services’ yearly cost per square foot and the recommended amount of square footage per employee, it is assumed that the office would require an estimated \$70,000 for rent costs each year. In addition, the initial cost of furniture and equipment for each new employee is estimated at \$7,500 the first year. The agency can also expect to experience annual operating and

information technology costs estimated at \$55,000. The office is also responsible for disseminating reports and information. An additional \$10,000 each year would be needed to cover these costs.

Nonpersonal Services	FY 2021	FY 2022	FY 2023
Office Space	\$70,000	\$70,000	\$70,000
Furniture/Equipment	\$30,000	\$30,000	\$15,000
Operating costs (including IT)	\$55,000	\$55,000	\$55,000
Publishing/Information distribution	\$10,000	\$10,000	\$10,000
Total	\$165,000	\$165,000	\$150,000

The fiscal implications of this legislation will need to be revisited before FY 2022, after the office has begun to receive complaints and has started investigations. The staffing estimates are preliminary and will rely heavily on the number and complexity of complaints received by the office.

This Office will investigate complaints from, or about, six state agencies and local departments of social services, which all provide a variety of services to children and families; however, the Department of Social Services (DSS) was defined as "the Department" in the legislation. There would be marginal administrative costs associated with the Children's Ombudsman gaining access to DSS systems that can be absorbed by the agency. All state agencies addressed in this bill would have to establish procedures for working with the Ombudsman Office in regards to their scope of practice.

The funding for this office will be derived from the Children's Advocacy Fund, as prescribed by the bill. The Fund is comprised of a \$250 fine paid into it by persons convicted of certain crimes involving a child. According to data from the courts systems, there are approximately 3,976 convictions for applicable crimes annually in circuit courts and in general district and domestic relations district courts. Based on this information, approximately 3,976 people would each pay \$250 into the Children's Advocacy Fund annually, for a total revenue of \$994,000.

Additionally, this legislation creates a new misdemeanor crime and a new felony. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail. It also funds a large 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to 12 months in jail, or one to five 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 the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently 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 prisoner. 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

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 854, 2019 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected: Department of Social Services, local departments of social services, Office of Children's Services, Department of Behavioral Health and Developmental Services, Department of Education, Department of Health, Department of Juvenile Justice

10. Technical Amendment Necessary: No.

11. Other Comments: None.