

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: SB1314

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

2. Patron: Dunnavant

3. Committee: Judiciary

4. Title: Judgment or child support order for pregnancy and delivery expenses.

5. Summary: Authorizes a court, in a judgment or order establishing parentage or in a child support order, to direct the legal father to pay at least 50 percent of the mother's unpaid pregnancy and delivery expenses, as defined in the bill, and (i) in the case of a live birth, at least 50 percent of the mother's equivalent paid maternity leave, as defined in the bill, or (ii) in the case of a nonviable pregnancy or stillbirth, at least 50 percent of the mother's equivalent bereavement leave, as defined in the bill. The bill provides that the court is authorized to deviate from these amounts for good cause shown or by agreement of the parties, and to provide for child support to be paid from conception.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: Virginia law currently provides a mechanism for courts to order parents to share the reasonable and necessary medical costs of pregnancy and delivery expenses, with the division of costs being proportionate to the incomes of each parent. This bill would require the legal father to pay at least 50 percent of these unpaid pregnancy and delivery costs. Additionally, the bill adds to the definition of pregnancy and delivery expenses the cost of insurance premiums from conception date through the birth date of the child, when not otherwise covered by an employer or government program.

Furthermore, the legislation includes definitions for bereavement leave and maternity leave and allows a mother to petition a court to order the legal father to share the cost of this leave, as well as seek a child support obligation from conception, when not otherwise covered by a government or employer program. The bill also authorizes the court to deviate from these amounts for good cause shown or by agreement of the parties.

Expanding the types of expense categories eligible for inclusion in the calculation of child support obligations has the potential to increase child support obligations and payments. Birth expenses are allowable under the federal law and state law as long as the child support

guidelines are used to determine the allocation of such expenses between the parties. The process of determining if birth expenses would be included in the child support order is performed and completed before the Division of Child Support Enforcement (DCSE) at the Department of Social Services (DSS) becomes involved in enforcing the order. However, it is unclear if bereavement and maternity leave and the inclusion of costs from the time of conception until birth are allowable costs under the federal Social Security Act Title IV, Part D (Title IV-D) in determining the child support obligations. DSS has sought guidance from the federal Office of Child Support Enforcement (OCSE) and is awaiting response.

Any potential increase associated with these activities may not translate to increased child support retained collections for the agency. For instance, medical expenses paid by the Medicaid program, or another government program may be payable to the Commonwealth. Payment for maternity or bereavement leave would go to the mother. Since Temporary Assistance for Needy Families (TANF) benefits are based on a child residing in the household, not on the pregnancy of the mother, the collections during pregnancy would not be applicable to count towards child support retained collections.

If it is determined that these activities prescribed by the bill are allowable under federal Title IV-D, existing DCSE staff can absorb the workload. According to the Department of Medical Assistance Services (DMAS), this bill has no impact on its operations. According to the Supreme Court, this bill has no impact on the operations of Juvenile and Domestic Relations Courts.

9. Specific Agency or Political Subdivisions Affected: Department of Social Services, Department of Medical Assistance Services, Juvenile and Domestic Relations Courts

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is a companion of HB 2290.