

## **Department of Planning and Budget 2009 Fiscal Impact Statement**

**1. Bill Number:** HB2620

House of Origin      X      Introduced                  Substitute                  Engrossed  
Second House                 In Committee              Substitute                  Enrolled

**2. Patron:**        Pollard

**3. Committee:** House Committee for Courts of Justice

**4. Title:**        **Divorce; appointment of counsel**

**5. Summary:** Provides that a court shall appoint counsel for a party in a divorce action if it is shown that (i) the party is a victim of domestic violence, and (ii) the party cannot reasonably access resources necessary to retain an attorney. The bill has a delayed effective date of July 1, 2011.

**6. Fiscal Impact Estimates:** Preliminary (see Item 8)

**7. Budget Amendment Necessary:** No, as the fiscal impact would begin in fiscal year 2012.

**8. Fiscal Implications:** This bill provides for the appointment of court-appointed counsel for a party in divorce cases when that party has been the victim of domestic violence and is unable to otherwise access resources to retain counsel. It does not specify the source of payment nor does it indicate either a rate of payment or a fixed amount.

This fiscal impact statement is premised on the assumption that court-appointed counsel would have to be compensated out of the Criminal Fund, as are guardians ad litem in domestic relations matters in juvenile and domestic relations district court, since the court system has no other source at its disposal for such payments. In addition, this analysis is premised on judges awarding compensation to court-appointed counsel within their discretion, since no amount is specified. In addition, the analysis utilizes an estimate of an average award from the Criminal Fund of \$500 per representation for attorney's fees.

During 2007, there were 33,384 divorce cases instituted in Virginia. It cannot be determined how many parties in divorce actions would seek and be eligible for court-appointed counsel. However, for each 1 percent of the parties in divorce actions successfully requesting court-appointed counsel, assuming an average award of attorneys fees averaged \$500, the annual fiscal impact to the court system would be \$167,000. If the percentage requesting counsel grows, then the fiscal impact would grow accordingly, so that if counsel were appointed in 2 percent of the cases, the fiscal impact would be \$334,000.

**9. Specific Agency or Political Subdivisions Affected:** Courts

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None

**Date:** 1/28/2009

**Document:** G:\2009 FIS - COMPLETED\HB2620.Doc Reginald Thompson

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