

## Department of Planning and Budget 2013 Fiscal Impact Statement

**1. Bill Number:** HB 1529

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

**2. Patron:** Marshall, Robert G.

**3. Committee:** Appropriations

**4. Title:** Justice for Victims of Sterilization Act; established, Fund created

**5. Summary:** The proposed legislation establishes the Justice for Victims of Sterilization Act to provide compensation to persons involuntarily sterilized between 1924 and 1979. The bill creates the Justice for Victims of Sterilization Compensation Fund to be administered by the Department of Social Services. Under the bill, claims payments are limited to \$50,000 per claim. The provisions of the bill expire on July 1, 2018.

**6. Budget Amendment Necessary:** Yes

**7. Fiscal Impact Estimates:** Preliminary

**7a. Agency Expenditure Impact:** The table below estimates agency costs associated with carrying out the provisions of the proposed legislation. These costs would be incurred regardless of the funding ultimately deposited into the Victims Fund. Therefore, a budget amendment is necessary to support these anticipated costs at a minimum.

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2013	-	-
2014	\$750,000	General
2015	\$550,000	General
2016	\$550,000	General
2017	\$550,000	General
2018	\$550,000	General
2019	\$550,000	General

**7b. Compensation Expenditure Impact:** The table below represents the estimated cost of providing the required compensation to eligible applicants. These expenses will come from the funding that has been deposited to the Victims Fund as established by the bill. If there is not sufficient funding in the Victims Fund, then expenditures would be suspended until such time as additional funding is deposited in the fund.

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2013	-	-
2014	\$11,000,000	Special
2015	\$15,562,500	Special
2016	\$15,562,500	Special

2017	\$15,562,500	Special
2018	\$15,562,500	Special
2019	\$15,562,500	Special

**7c. Revenue Impact:** While a specific impact cannot be determined; the bill will decrease available general fund revenue and balances each year through July 1, 2018. The bill requires that 10 percent of general fund revenue collections above official estimates as well as 10 percent of any unrestricted and uncommitted general fund balance be deposited in the Victims Fund to support approved compensation.

**8. Fiscal Implications:** The Virginia Eugenical Sterilization Act was signed into law on March 20, 1924. The Act provided that individuals confined to state institutions due to mental illness, mental retardation, or epilepsy could be sterilized. In 1979, Virginia repealed this sterilization law. While it is not known how many individuals were actually sterilized in Virginia based on this law from 1924 through 1979, a research project conducted by the University of Vermont estimated the number of individuals sterilized in Virginia at 7,325.

There is no clear method of knowing how many of the 7,325 sterilized individuals estimated in the Vermont study were alive on November 15, 2012, and would seek compensation by December 30, 2016. However, North Carolina has done extensive research regarding the compensation of eugenics victims and, based on its similarity to Virginia, will be used as the basis for assumptions in this fiscal statement.

In March of 2011, North Carolina created a task force, pursuant to an Executive Order, to determine methods and recommendations for the compensation of individuals forcibly sterilized under the state's eugenics program. The task force provided its final report on January 27, 2012. North Carolina's eugenics program ran from 1929 thru 1974 and sterilized 7,528 individuals. Moreover, North Carolina has specific data related to the distribution of its victims by date of sterilization, age and life expectancy. While not identical to Virginia, North Carolina's eugenics experience was sufficiently similar to Virginia that it may serve as a reasonable source for making assumptions as to the potential fiscal impact of this legislation.

#### Compensation Estimate

The North Carolina report cited an October 2010 estimate from its State Center for Health Statistics that 2,944 victims could still be alive. However, based on additional analysis conducted in July 2011, the final task force report determined that a more realistic number would be between 1,500 and 2,000, or 20 to 27 percent respectively of the total number of victims.

Based on the North Carolina data, this analysis assumes that 20 percent of total number of individuals forcibly sterilized in Virginia, or 1,465 victims ( $7,325 \times .20$ ), may qualify for and seek compensation by the bill's deadline. The 20 percent number reflects the low end of the North Carolina estimate to account for the fact that Virginia's pattern of sterilization was higher in the 1930s and 1940s than that of North Carolina. In addition, it must be assumed that some portion of the overall eligible population would not apply for compensation. If

1,465 victims received the full \$50,000, as outlined in the legislation, total compensation expenditures for the Justice for Victims of Sterilization Act are estimated at \$73,250,000. Assuming compensation payments are incurred evenly, compensation expenditures would average \$14,650,000 annually over the five year life of the bill. This equates to 293 payments processed annually. However, due to the need to enact procedures, and conduct research in the first year, it is assumed that only 75 percent or \$11,000,000 (220 payments X \$50,000) of compensation payments would be made in the first year with the remaining payments (estimated at \$15,562,500 annually) incurred evenly over the next four years.

#### Program Administration

The bill stipulates that the Department of Health, the Department of Behavioral Health and Developmental Services (DBHDS), and any other department must provide the Department of Social Services (DSS) with all records related to individuals who it may be a qualified recipient. The availability, number, and location of such records is currently unknown. It is assumed that DBHDS would have to dedicate staff to research all appropriate records in state facilities and state archive. Since DBHDS does not have adequate staffing to perform such a search, it is estimated that the agency would require funding to support positions in the first year at a cost of \$150,000. This would allow the agency to provide DSS with records and information in a timely manner as provided in the bill. In addition, it is assumed that DBHDS would require \$75,000 to retain an on-going position (through July 1, 2018) to provide assistance to DSS and any individuals seeking to qualify for compensation. Should victim data not be available, the costs and assumptions in the statement may need to be revised.

In addition to processing compensation claims for the Justice for Victims of Sterilization of Act, this legislation requires the Department of Social Services to:

- Establish the program and promulgate regulations;
- Provide assistance to claimants and their representatives;
- Conduct outreach to disseminate information;
- Work with other agencies to collect personal records for those potentially impacted by the bill;
- Maintain the personal records;
- Review the claim and supporting documentation;
- Pay eligible individuals and provide reasons in writing to those denied.

This would be an entirely new function within DSS and there are not existing staff to take on these responsibilities. It is assumed that this program would be handled through the DSS central office. While there is no clear method of estimating the actual workload associated with performing the above duties; some assumptions can be based on analysis of similar administrative costs that was conducted by the North Carolina Fiscal Research Division. The division estimated the first year administrative cost of administering that state's sterilization compensation bill at \$992,604. This amount supported seven positions (\$573,604), an outreach program (\$300,000) and information technology requirements (\$155,000). Based on the North Carolina estimate, it is assumed that DSS would initially require funding for five positions, an outreach campaign, and secure database. Assuming an average cost of

\$75,000 per position, staffing costs would be approximately \$375,000. Outreach costs are highly scalable; therefore, it is assumed that DSS could provide a sufficient multi-media campaign for \$100,000. The department estimates the cost of creating a secure database, in which to maintain the applications and records provided by the claimants as well as records received from other state agencies in reference to the claimants is assumed, at approximately \$125,000 in the first year.

It is assumed that the bill would require agencies to submit state plan amendments to the United States Department of Health and Human Services to have funding received under the provisions of this act disregarded from eligibility calculations. This effort should not require any additional resources.

	<b>Compensation of Victims</b>	<b>Social Services (Administrative Costs)</b>	<b>Behavioral Health and Developmental Services (Research Costs)</b>	<b>Total Cost (By Fiscal Year)</b>
<b>FY 2014</b>	\$11,000,000	\$600,000	\$150,000	\$11,750,000
<b>FY 2015</b>	\$15,562,500	\$475,000	\$75,000	\$16,112,500
<b>FY 2016</b>	\$15,562,500	\$475,000	\$75,000	\$16,112,500
<b>FY 2017</b>	\$15,562,500	\$475,000	\$75,000	\$16,112,500
<b>FY 2018</b>	\$15,562,500	\$475,000	\$75,000	\$16,112,500
<b>Total</b>	\$73,250,000	\$2,500,000	\$450,000	\$76,200,000

#### Revenue Impact

The proposed bill creates a special nonreverting fund, the Justice for Victims of Sterilization Compensation Fund, for providing compensation to eligible recipients. The Victims Fund would be comprised of the following:

- Sums appropriated to it by the General Assembly;
- 10 percent of the annual general fund revenue collections that are in excess of the official estimates in the Appropriation Act;
- 10 percent of any unrestricted and uncommitted general fund balance at the close of each fiscal year whose reappropriation is not required in the Appropriation Act;
- Sums from any other source, public or private; and
- Interest earned on moneys in the Fund.

While a specific impact cannot be determined; the bill will decrease available general fund revenue and balances each year through July 1, 2018.

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

Department of Social Services

Department of Behavioral Health and Developmental Services

Department of Medical Assistance Services

Department of Accounts

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None

**Date:** 1/23/13

**Document:** G:\2013 Fiscal Year\2013 GA Session\EFIS\HB1529.docx