

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: SB941E

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

2. Patron: Stuart

3. Committee: Senate Committee on Courts of Justice

4. Title: Protective orders; compensation for required representation of respondents.

5. Summary: Provides for the compensation of counsel or a guardian ad litem for the required representation of a respondent in a proceeding for the issuance of a protective order under Chapter 9.1 of Title 19.2. This bill is a recommendation of the Committee on District Courts.

6. Budget Amendment Necessary: Yes, Items 39 and 40

7. Fiscal Impact Estimates: Preliminary (see Item #8)

8. Fiscal Implications: This bill would allow expenditures from the Criminal Fund for compensation to guardian *ad litem* and counsel for respondents in Title 19.2 protective order cases originating in general district and circuit courts.

According to the Office of the Executive Secretary of the Supreme Court (OES), there are several instances where the law requires that a respondent in a Title 19.2 protective order proceeding be appointed a guardian *ad litem* or counsel: (1) when the respondent is covered under the provisions of the Servicemembers Civil Relief Act (court-appointed counsel would be appointed) and (2) if the respondent is a “person under a disability”, as defined by § 8.01-2 (guardian *ad litem* would be appointed). Unlike in juvenile and domestic relations district court, there is no statutory authority for compensation for such representation from the Criminal Fund in protective order cases in general district or circuit court

In FY14, there were 5,405 petitions for a protective order filed in general district court and 219 in circuit court for a total of 5,624 protective order cases. Of the number of protective order petitions filed, it cannot be determined how many of those cases required the appointment of a guardian *ad litem* or counsel for the respondent, but given the very specific circumstances under which those appointments are required, it is estimated that the number of protective order cases requiring such appointment is low.

The Supreme Court of Virginia’s established rate for guardian *ad litem*s is up to \$55/hour for out-of-court time and \$75/hour for in-court time. Assuming a guardian *ad litem* would have an average of two hours of out-of-court time and one hour of in-court time, a total of \$185 per case would be the estimated cost to the Criminal Fund. For those cases requiring

appointed counsel, the fee is \$120 per case which would also be an expense of the Criminal Fund.

Although the precise impact of this legislation cannot be determined, it is reasonable to conclude that an increase in Criminal Fund expenditures would likely occur and additional appropriation may be needed.

The bill contains language that the provisions of bill shall not become effective unless an appropriation effectuating the purposes of the bill is included in a general appropriation act passed in 2015 by the General Assembly.

9. Specific Agency or Political Subdivisions Affected: Courts

10. Technical Amendment Necessary: No

11. Other Comments: None

RMT/020615