

Fiscal Impact Review 2023 General Assembly Session

Bill number: HB 1553 (Introduced), Nonrefundable tax credit for nonfamily adoptions

Review requested by: Chair Robinson; House Finance

Date: January 31, 2023

JLARC staff fiscal estimates

JLARC staff do not concur with the Department of Taxation's fiscal impact statement that HB 1553 would result in a negative general fund revenue impact of \$10 million per year. JLARC staff estimate the bill would result in a negative general fund revenue impact of \$7 million per year.

HB 1553 would create a \$4,000, nonrefundable tax credit beginning in taxable year 2023 for an individual or married persons who, during the taxable year, finalize a legal nonfamily adoption. For purposes of this tax credit, a legal nonfamily adoption excludes adoptions by the child's father, mother, or stepparent.

Adoptions by stepparents are estimated to make up nearly 31 percent of Virginia adoptions in 2019. The JLARC staff estimate reduces the estimate of adoptions eligible for the tax credit in Virginia each year by 31 percent to account for the exclusion of stepparents, whereas the Department of Taxation's estimate does not.

An explanation of the JLARC staff review is included on the pages that follow.

Bill summary

HB 1553 would create a nonrefundable income tax credit for taxable years 2023 through 2027 for an individual or married persons who, during the taxable year, finalize a legal nonfamily adoption. The bill would define a nonfamily adoption for purposes of the credit as an adoption where the taxpayer is not the child's father, mother, or stepparent. The amount of the credit would be \$4,000 per child adopted, and the credit would be nonrefundable, meaning taxpayers would not be able to claim credits in excess of their tax liability in a given year. The credit would have a three-year carryover, so any unused credit amount could be carried over and applied against the taxpayer's income taxes in the next three taxable years or until the total amount of the tax credit has been taken, whichever is sooner. The credit would be effective for taxable years 2023 through 2027.

Fiscal implications

The estimate in the Department of Taxation's fiscal impact statement is higher than JLARC's estimate because it does not reduce the total number of adoptions per year by the number of stepparent adoptions, which would be ineligible for the tax credit.

Department of Taxation estimate

The Department of Taxation's estimate relies on adoption data from the Children's Bureau, an office of the Administration for Children & Families in the U.S. Department of Health & Human Services. This data indicates that 2,452 children were adopted in Virginia in 2019, including adoptions by stepparents. This source does not include information to estimate the number of stepparent adoptions. The number of children adopted in subsequent years was projected based on population growth estimates from the Congressional Budget Office (CBO). The estimated number of adoptions each year was then multiplied by \$4,000, the amount of the credit, resulting in an estimated negative general fund revenue impact of about \$10 million per year. This estimate also assumes that all eligible taxpayers will claim the credit and will have sufficient income tax liability to claim the full credit amount of \$4,000.

JLARC staff estimate

The JLARC staff estimate uses the average total number of adoptions from the National Council for Adoption (NCFA) and the Children's Bureau. The NCFA reports that approximately 2,674 domestic adoptions occurred in Virginia in 2019, slightly higher than the 2,452 adoptions estimated by the Children's Bureau. JLARC staff uses the average of these numbers and projects total adoptions in subsequent years using CBO

population growth rates. These estimates are then reduced by 31 percent, based on NCFA’s estimate of the proportion of adoptions that are by stepparents. Finally, the estimated number of eligible adoptions each year is multiplied by \$4,000, the full credit amount, to produce the estimated general fund revenue impact (Table 1).

TABLE 1
JLARC estimates that HB 1553 would negatively impact general fund revenue by approximately \$7M per year

| | FY24 | FY25 | FY26 |
|---|-----------------|-----------------|-----------------|
| Estimated total Virginia adoptions, NCFA | 2,740 | 2,750 | 2,761 |
| Estimated total Virginia adoptions, Children’s Bureau | 2,512 | 2,522 | 2,532 |
| <i>Average estimated Virginia nonfamily adoptions</i> | <i>1,812</i> | <i>1,819</i> | <i>1,826</i> |
| Revenue impact (general fund) | (\$7.2M) | (\$7.3M) | (\$7.3M) |

SOURCES: National Council for Adoption (2022). Adoption by the Numbers; Child Welfare Information Gateway. (2022). Trends in U.S. adoptions: 2010–2019. U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau. CBO population projections provided by Virginia Department of Taxation.

NOTE: Estimated Virginia nonfamily adoptions omits stepparent adoptions. NCFA estimates of total and stepchildren adoptions for 2020 were not used in the analysis; they were substantially lower than the 2019 estimates because of the pandemic. Estimates of stepparent adoptions were not included in prior NCFA reports. The 2019 NCFA estimate is similar to a 2002 estimate from the National Survey of America’s Families.

The actual revenue cost may be somewhat lower than JLARC estimates. As with other tax credits, not everyone who is eligible may be aware of the credit or choose to claim it. For example, the IRS and Census Bureau estimate that about 80 percent of workers eligible for the federal earned income tax credit claim it. Also, because the adoption tax credit would be nonrefundable, some taxpayers may not have enough tax liability in the taxable year for which the adoption occurred (or in the subsequent three years) to claim the full credit amount.

Budget amendment necessary? Yes

Agencies affected: Department of Taxation

Patron: Delegate Brewer

Prepared by: Ellen Miler

Date: January 31, 2023