

## Department of Planning and Budget 2024 Session Fiscal Impact Statement

**1. Bill Number:** SB40

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

**2. Patron:** Favola

**3. Committee:** Finance and Appropriations

**4. Title:** State Board of Social Services; regulations; application for and use of foster care benefits.

**5. Summary:** Directs the State Board of Social Services to amend its regulations by January 1, 2025, to (i) require local departments of social services to apply for federal benefits on behalf of children in foster care that they may be eligible for, (ii) prohibit the use of federal benefits to pay for the care and support of children in foster care that the Commonwealth is otherwise obligated to pay for, and (iii) require local departments of social services that are representative payees for children in foster care to conserve such federal benefits in an appropriate trust instrument or protected account that is exempt from federal asset and resource limits.

**6. Budget Amendment Necessary:** Yes. Items 326 and 329 at DSS and Item 268 at OCS

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

**7a. Expenditure Impact:**

**Department of Social Services**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	-	-	-
2025	\$358,181 (\$270,816)	-	General fund Nongeneral funds
2026	\$706,387 (\$540,384)	-	General fund Nongeneral funds
2027	\$706,387 (\$540,384)	-	General fund Nongeneral funds
2028	\$706,387 (\$540,384)	-	General fund Nongeneral funds
2029	\$706,387 (\$540,384)	-	General fund Nongeneral funds
2030	\$706,387 (\$540,384)	-	General fund Nongeneral funds

\*\*\*Additionally, there is a 15.5 percent local match on the local effort costs each year.\*\*\*

**Office of Children's Services**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	-	-	-
2025	\$900,000 (\$900,000)	-	General fund Nongeneral funds
2026	\$1,800,000 (\$1,800,000)	-	General fund Nongeneral funds
2027	\$1,800,000 (\$1,800,000)	-	General fund Nongeneral funds
2028	\$1,800,000 (\$1,800,000)	-	General fund Nongeneral funds
2029	\$1,800,000 (\$1,800,000)	-	General fund Nongeneral funds
2030	\$1,800,000 (\$1,800,000)	-	General fund Nongeneral funds

### **7b. Revenue Impact:**

#### **Department of Social Services**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2024	-	-
2025	(\$270,816)	Nongeneral funds
2026	(\$540,384)	Nongeneral funds
2027	(\$540,384)	Nongeneral funds
2028	(\$540,384)	Nongeneral funds
2029	(\$540,384)	Nongeneral funds
2030	(\$540,384)	Nongeneral funds

#### **Office of Children's Services**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2024	-	-
2025	(\$900,000)	Nongeneral funds
2026	(\$1,800,000)	Nongeneral funds
2027	(\$1,800,000)	Nongeneral funds
2028	(\$1,800,000)	Nongeneral funds
2029	(\$1,800,000)	Nongeneral funds
2030	(\$1,800,000)	Nongeneral funds

- 8. Fiscal Implications:** Currently, section 22VAC40-201-201 of the Administrative Code of Virginia requires local departments of social services (LDSS) to establish a foster child's eligibility for federal, state, or other funding sources and make required payments from such sources. Under this requirement, local departments are required to seek state funds for a foster child's maintenance and service needs when other funding sources are not available. This legislation requires local departments of social services to apply for federal benefits on behalf of foster care children and "conserve such benefits in an appropriate trust instrument or protected account...such as an Achieving a Better Life Experience account". There are many types of federal benefits and the cost of applying for all benefits is indeterminate. For

purposes of calculating a fiscal impact, this fiscal impact statement assumes that the legislation requires local departments to apply for social security benefits and set up Achieving Better Life (ABLE) accounts on behalf of foster care children.

Federal rules require that the payment received by Title IV-E foster care children be reduced by the amount of their social security income. Title IV-E foster children receive a mix of federal and state funds for maintenance and care. Children in state foster care only receive state dollars for their maintenance and care. Currently, for Title IV-E eligible children and children in state foster care who receive social security benefits, the benefits are used to offset the children's current needs such as housing, food, medical care and personal items. This bill would require LDSS to set aside the child's social security benefit in an eligible protected account instead. The social security benefits for foster children will no longer be used to support the child which will require the difference to be funded with state funds. Funding for state supported foster children resides at the Office of Children's Services (OCS).

It is estimated that the termination of the use of federal benefits for maintenance and care for state-funded foster children will reduce federal revenues used to fund state foster care at OCS by \$1.8 million a year. To continue foster care payments at the current rate for these children, OCS will need an estimated \$1.8 million in general fund dollars annually. Note that the total costs will only be for half a year in FY 2025, as the bill requires regulations to begin by January 1, 2025.

Additionally, any children receiving Title IV-E foster care funding and found to be eligible for federal benefits under this bill would see their monthly maintenance payments reduced by the amount of the federal benefits. This reduction will then cause a reduction in federal IV-E funding and the corresponding general fund match for that child. While the corresponding general fund match can be used instead to offset the federal funding loss, additional general fund in the amount of the lost Title IV-E funding will be needed to keep those children's maintenance payments at the same rate.

In fiscal year (FY) 2023, there were 2,370 IV-E foster care children receiving an average IV-E monthly maintenance payment of \$1,234. According to the Virginia Child Welfare Outcome Reports (VCWOR), 4.4 percent of children in foster care received Social Security benefits at some point during FY 2023. As a result of this bill, an estimated 104 children ( $2,370 \times 4.4$  percent) will receive social security income at an average social security payment of \$850 per month. For every IV-E foster child receiving social security income, their monthly IV-E maintenance payment would be reduced by \$850 per month. IV-E funding would be reduced by \$434 ( $\$850 \times 51.5$  percent) per month in FY 2025 and \$433 ( $\$850 \times 50.99$  percent) per month in FY 2026 and thereafter, or \$5,208 per child annually in FY 2025 and \$5,196 per child annually in FY 2026 and thereafter. Additionally, as a result of the federal benefit reduction, the general fund costs would be reduced by \$416 per month in FY 2025 and \$417 per month in FY 2026 and thereafter, or \$4,992 per child annually in FY 2025 and \$5,004 per child annually in FY 2026 and thereafter. The total estimated reduction in IV-E federal funding is \$270,816 in FY 2025 and \$540,384 in FY 2026 and thereafter and \$259,584 in FY 2025 and \$520,416 in FY 2026 and thereafter in general fund match. To

continue funding affected foster care children at the current maintenance payment rate, \$530,400 in FY 2025 and \$1,060,800 in FY 2026 and thereafter in general fund dollars is needed. Note that the total costs are only for half a year in FY 2025, as the bill requires regulations to begin by January 1, 2025.

Additionally, this bill will have a fiscal impact on local departments, as it requires local departments to set up and manage trust instruments or protected accounts for children foster care who receive social security benefits. For the purposes of this fiscal impact statement, it is assumed that the type of protected account will be an Achieving a Better Life Experience (ABLE) account and it is further assumed that Virginia will partner with another state already operating an ABLE program, in order to offer ABLE accounts in Virginia without having to create an independent ABLE program within the Commonwealth. It is assumed that it will take a Family Services Specialist (FSS) approximately one hour to complete a federal benefits application and open an ABLE account and approximately one hour per month for account management. Assuming an implementation date of January 1, 2025, additional funding of \$103,390 (\$87,365 general fund and \$16,025 local match) will be needed in FY 2025 and \$196,453 (\$166,003 general fund and \$30,450 local match) will be needed in FY 2026 and thereafter for local staff to handle the increase in workload.

**9. Specific Agency or Political Subdivisions Affected:** Department of Social Services, local departments of social services, Office of Children's Services

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** Identical to HB75.