

## Department of Planning and Budget

### 2022 Fiscal Impact Statement

**1. Bill Number:** HB572

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

**2. Patron:** Scott, D.L.

**3. Committee:** Committee Referral Pending

**4. Title:** Child support obligations; party's incarceration not deemed voluntary unemployment/underemployment.

**5. Summary:** Provides that a party's incarceration for 180 or more consecutive days shall not be deemed voluntary unemployment or underemployment for the purposes of calculating child support and imputing income for such calculation. The bill further provides that a party's incarceration for 180 or more consecutive days shall be a material change of circumstances upon which a modification of a child support order may be based.

**6. Budget Amendment Necessary:** No.

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

**8. Fiscal Implications:** This legislation will not create a fiscal impact for the Department of Social Services, if passed. While some custodial parents may see a reduction in support payments, the Department of Social Services is rarely able to collect support from incarcerated parents, so any fiscal impact before the federal compliance date (fall 2022) would be minimal. Additionally, most of the support collected is transferred to the custodial parent.

However, if the legislation is not passed, the state could lose federal funds. The federal final rule provides that state guidelines under 45 CFR 302.56(c)(3) may not treat incarceration as voluntary unemployment in establishing or modifying child support orders. The rule prohibits states from legally barring modification of support obligations during incarceration. The agency estimates a loss of \$76 million in federal child support funding annually.

Additionally, the state could lose between \$3.1 million and \$157 million in TANF funding annually. The agency believes it could lose \$3.1 million in TANF funding, which equates to the annual amount of TANF funding used for child support disregards. However, the federal child support office indicates that the state could lose its entire \$157 million annual TANF grant. Further, Virginia would lose access to many child support collections tools provided by the federal government, including but not limited to: federal tax refund intercepts, passport denials, and new employee hire information.

The original legislation would have brought Virginia into compliance with the federal regulations (HB 2055 2021 Special Session I); however, the final legislation had an enactment clause that would keep Virginia out of compliance with federal regulations. The second enactment clause on HB 2055, 2021 Special Session I requires that the provisions of the act only apply to petitions commenced on or after July 1, 2021 and that the provisions of the act do not create a material change in circumstances for the purpose of modifying any existing child support order. The third enactment clause on HB 2055, 2021 Special Session I requires the act to be reenacted by the 2022 session of the General Assembly.

**9. Specific Agency or Political Subdivisions Affected:** Department of Social Services, local departments of social services, Juvenile and Domestic Relations Courts

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

**11. Other Comments:** None.