

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: SB1133

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Suetterlein

3. Committee: Education and Health

4. Title: Community policy and management teams; use of funds.

5. Summary: Expands eligibility for use of the state pool of funds under the Children's Services Act to services that are provided in a public school setting and requires that private day schools be approved and licensed by the Department of Education or an equivalent out-of-state licensing agency to be eligible for the state pool of funds. The bill requires the Department of Education and relevant local school boards to develop and implement a pilot program for up to four years in two to eight local school divisions in the Commonwealth. In developing the pilot, the Department is required to partner with the appropriate school board employees in each such local school division to (i) identify the resources, services, and supports required by each student who resides in each such local school division and who is educated in a private school setting pursuant to his Individualized Education Program; (ii) study the feasibility of transitioning each such student from his private school setting to an appropriate public school setting in the local school division and providing the identified resources, services, and supports in such public school setting; and (iii) recommend a process for redirecting federal, state, and local funds, including funds provided pursuant to the Children's Services Act, provided for the education of each such student to the local school division for the purpose of providing the identified resources, services, and supports in the appropriate public school setting. The bill requires the Department of Education to make a report to the Governor, the Senate Committees on Education and Health and Finance and Appropriations, and the House Committees on Education and Appropriations on the findings of each pilot program after two and four years.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: Indeterminate.

8. Fiscal Implications: This bill would allow Children's Services Act state pool funds to be used for services provided in public school settings. Currently, CSA funds cannot be accessed for services provided in a public school setting, although \$2.2 million per year is set aside in budget language for "wrap around services" in non-school settings for children served by the public schools.

It is unclear what services the bill intends to make eligible for CSA funding. If the language is interpreted to allow any student with educational disabilities to be served in a public school

setting with CSA funds, there is a potential impact on the CSA program. This bill could permit CSA funds to be used to supplement state and local funds currently provided to local school divisions. Using CSA funds to supplement what are currently the obligations of local school divisions could have an indeterminate fiscal impact on the CSA program. It should be noted that in 2010, the Virginia Superintendent of Public Instruction released a memo clarifying that federal law requires that services in public schools provided through an Individualized Education Program (IEP) are the responsibility of school division and cannot be paid for using CSA funds.

If the bill is intended to limit the service expansion to “wrap around” services provided in public school settings, there likely is still an impact to this legislation. Previously, CSA funds were allowed to be used in public school settings for certain wrap around services. In FY 2010, the last year this was allowable under CSA policy, expenditures for that category peaked at \$19,579,866 (state and local funds). The state general fund match for those services averaged 65 percent, with localities responsible for the remainder.

If the bill is intended to allow the currently earmarked \$2.2 million per year set-aside for wrap around services in non-school settings to be used for services provided in the physical location of the public school, the impact of the legislation is minimal, as localities currently use approximately \$1.5 million of this funding. Allowing the funds provided in this earmark to be used in a public school likely would encourage more localities to use these funds, and the entirety of the earmark would be expended on those services. Because the \$2.2 million per year is included in the appropriation, while it may increase the total expenditures associated with wrap-around services up to the cap, there is no need to appropriate additional funds. In previous years, because the funds have not been fully expended on the earmarked services, the remaining funds were used to pay general state pool obligations.

It is possible that allowing CSA funds to be used in public school settings would result in a reduction in costs in special education private day programs. The Department of Education (DOE) indicates that the cost of services provided in regional public special education programs in FY 2020 was \$33,715 with an average state share of 57.5 percent, which is less costly than a private day placement, at \$45,496 with an average state share of 63 percent. However, the legislation does not limit the use of CSA funds to only those children who would be moved from a private to public placement, and any offset cannot be quantified.

In addition, the bill requires the Department of Education and relevant local school boards to develop and implement a pilot program for up to four years in two to eight local school divisions in the Commonwealth. In developing the pilot, DOE is required to partner with the appropriate school board employees in each such local school division to (i) identify the resources, services, and supports required by each student who resides in each such local school division and who is educated in a private school setting pursuant to his Individualized Education Program; (ii) study the feasibility of transitioning each such student from his private school setting to an appropriate public school setting in the local school division and providing the identified resources, services, and supports in such public school setting; and (iii) recommend a process for redirecting federal, state, and local funds, including funds provided pursuant to the Children's Services Act, provided for the education of each such

student to the local school division for the purpose of providing the identified resources, services, and supports in the appropriate public school setting. The bill requires the Department of Education to make a report to the Governor, the Senate Committees on Education and Health and Finance and Appropriations, and the House Committees on Education and Appropriations on the findings of each pilot program after two and four years.

VDOE uses regional technical assistance centers to support students with intensive needs. These regional infrastructures are three-pronged: (a) keep students with intensive support needs in their home, schools, and communities; (b) establish additional continuum options locally or regionally to support students remaining in comprehensive public schools; and, (c) to transition students back from private placement into supportive continuum options available in the local school division or region.

The purpose of the regional technical assistance is to increase the capacity of any professional responsible for supporting individuals with autism and other high-support needs. VDOE believes that these technical assistance centers can serve as the platform for the pilot program. An extension of the regional model could help to reverse the trajectory of students exiting public schools without returning.

The amount of state support needed for the pilot program will depend upon the amount of staff that would need to be deployed. Areas with a high volume of students with intensive needs may require two technical assistance associates, while lower volume regions may only need one. Assuming \$80,000 in contractual support per associate, VDOE estimates that it would need \$320,000 (four technical assistance associates) per year in state funding to provide direct support to school divisions during the pilot program. VDOE would also require an additional \$30,000 per year in contract support at the Central Office to study how the funding streams could be redirected and to develop a plan to support the identified resources. The total estimated cost to DOE is \$350,000 per year of the pilot program.

9. Specific Agency or Political Subdivisions Affected: Children's Services Act, Department of Education, local school divisions.

10. Technical Amendment Necessary: No.

11. Other Comments: No.