

**Department of Planning and Budget  
2026 General Assembly Session  
State Fiscal Impact Statement**

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## ORIGINAL

**Bill Number:** SB398

**Patron:** Perry

**Bill Title:** Virginia Birth-Related Neurological Injury Compensation Program and Fund; board of directors; plan of operation; filing of claims; awards and coverage for expenses or services.

**Bill Summary:** Makes numerous changes to the Virginia Birth-Related Neurological Injury Compensation Program (the program) and Fund. The bill alters the composition of the Program's board of directors to include three relatives of current or former beneficiaries, allows for the electronic submission of claims, and expands discovery of parties to a claim. The bill further requires the Program's board of directors to establish a blanket surety bonding program for all employees with access to the Fund and requires the board to meet at least once monthly. Finally, the bill increases from \$100,000 to \$500,000 the amount that may be awarded to families whose infant has sustained a birth-related neurological injury.

**Budget Amendment Necessary:** Yes

**Items Impacted:** Item 488

**Explanation:** The Virginia Workers' Compensation Commission (VWC) estimates a general fund impact of \$1.4 to \$1.6 million to establish an in-house system to electronically file claims under the Virginia Birth-Related Neurological Injury Compensation Program.

**Fiscal Summary:** To establish electronic filing of petitions for Virginia Birth-Related Neurological Injury Compensation cases, VWC would have to develop and implement a system in-house, which would cost \$1.4 to \$1.6 million.

## General Fund Expenditure Impact:

<u>Agency</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>
VWC		\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
<b><u>TOTAL</u></b>		<b>\$1,500,000</b>	<b>\$1,500,000</b>	<b>\$1,500,000</b>	<b>\$1,500,000</b>	<b>\$1,500,000</b>

**Fiscal Analysis:** The Virginia Workers' Compensation Commission (VWC)'s role with the Birth Injury Fund is to adjudicate dispute claims under the Fund, but has no oversight, responsibility, or authority over the administration and operation of the Fund. Therefore, VWC would have to develop and implement a system quickly if the legislation passes. The VWC anticipates a cost of \$1.4 to \$1.6 million to develop and implement an e-filing system. VWC indicates there are no appropriate nongeneral fund revenue sources to cover the information technology costs and that they need general fund appropriation to adhere to the provisions of this bill.

Over the last five years, VWC adjudicates an average of 10 Neurological Birth Injury claims per year and they receive a nominal fee (only \$15 filing per case). Therefore, if this legislation is enacted, VWC will require a

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separate funding source (general fund) provided for development of an electronic filing system. As it stands, VWC's revenue cannot support this expenditure increase.

**Other:** Other bills establishing electronic filing of petitions under the Virginia Birth-Related Neurological Injury Compensation Program are HB1007, SB235, and SB434.