

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 371 (Delegate Tavlör. *et al.*)

Judiciary

Child Protection Act of 1998

This bill declares a legislative finding that the purpose of State adoption and guardianship law is to provide children with stable homes that protect their safety and health. It further provides that, in proceedings relating to adoption and guardianship, a court must give paramount consideration to the safety and health of the child and give secondary consideration to all other factors in determining whether it is in the best interest of the child to terminate a natural parent's rights. The bill provides that there is a rebuttable presumption that the future safety of the child will be at risk if the natural parent has been convicted of committing a crime of violence against the child or member of the child's household. It alters the time period within which a permanent placement should be effectuated from 24 to 15 months from the date of initial placement of a child in foster care.

Fiscal Summary

State Effect: Potential indeterminate general and federal fund expenditure decrease due to shorter placements in foster care. Potential indeterminate federal fund revenue increase.

Local Effect: None.

Small Business Effect: None.

Fiscal Analysis

Background: The federal Adoption and Safe Families Act of 1997, which provides that the health and safety of the child are paramount in determining whether reasonable efforts to preserve families have been undertaken, makes it easier to remove children from abusive families, and speeds up the adoption process.

Specific changes include: (1) requiring that states set up permanency placement plans for a child after one year of foster care rather than the 18 months required under prior federal law (Maryland already has a stricter standard); (2) requiring that states file for termination of parental rights (TPR) if a child has been in a foster home for 15 of the previous 25 months; (3) awarding states that increase their adoptions with \$4,000 for each child adopted above the previous year's number and an additional \$2,000 for each adoption of a special needs child.

To continue to qualify for federal Title IV-E (foster care/adoption) funding, states must come into compliance with the new federal requirements. The proposed fiscal 1999 budget includes \$93 million in federal IV-E funds for foster care/subsidized adoption maintenance payments, child welfare services, and administrative services.

State Revenues: The bill brings Maryland into partial compliance with federal law, thereby helping to ensure the continued flow of federal IV-E funds into the State. The bill's provisions expedite termination of parental rights (TPR). As a result, Maryland could become eligible for an estimated \$600,000 in federal adoption incentive payments.

State Expenditures:

Foster Care/Subsidized Adoption Savings

The bill's provisions could result in more court decisions to terminate parental rights and earlier terminations, thereby allowing children to spend less time in foster care and be adopted more rapidly. It is not possible to reliably estimate the number of additional terminations resulting from the bill or the number of months of foster care avoided. The Department of Human Resources (DHR) would realize general fund savings for each month of avoided foster care since foster care will cost an estimated \$1,478 per month per child in fiscal 1999, of which 67% is general funds and 33% is federal funds. Children spend an average of 46 months in foster care before they are adopted. Adoptions are subsidized for children six or older, minorities under six, or those with special needs. The State will pay an estimated \$589 per month per child for subsidized adoptions in fiscal 1999, of which 72% is general funds and 28% is federal funds. To the extent that the bill reduces time in foster care, the number of subsidized adoptions could also be reduced since a child's prospects for adoption diminish with age and fewer children would languish in foster care until they reach the age of six.

Additional Comments: Fiscal 1998 budget bill committee narrative expressed the concern of the budget committees regarding the extent of delay in the adoption process of children in foster care and the degree to which the process of terminating parental rights is responsible. The committees requested that the Administrative Office of the Courts (AOC) develop a plan for prioritizing TPR cases. In response, the AOC submitted a comprehensive

report entitled, *Improving Court Performance for Abused and Neglected Children*. The Judiciary has stated that it believes that implementation of these recommendations will result in a higher priority being accorded both CINA and TPR cases.

Significant recommendations of the report include: (1) drafting legislation establishing a new CINA statute to establish uniformity of terminology and procedure among local jurisdictions; (2) restructuring the Judiciary's statistical and information gathering capabilities to overcome a lack of uniformity among jurisdictions and allow the courts to monitor CINA and TPR cases for compliance with State and federal laws and regulations (3) enhancing judicial training in the handling of TPR and CINA cases; (4) amending existing statutes to provide for legal representation of indigent parents in all critical stages of CINA cases; and (5) adopting uniform standards for legal representation of children.

Information Source(s): Department of Human Resources; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Health and Mental Hygiene (Community and Public Health Administration, General Services Administration); Department of Legislative Services

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