

Department of Legislative Services
 Maryland General Assembly
 1999 Session

FISCAL NOTE

House Bill 562 (Chairman, Judiciary Committee)
 (Maryland Judicial Conference - Foster Care Court Improvement
 Implementation Committee)

Judiciary

Juvenile Causes

This bill establishes a new Child in Need of Assistance (CINA) statute and separates provisions of law concerning CINA cases from provisions related to juvenile delinquency cases. It establishes measures to unify procedure and terminology in CINA cases throughout the State and clarifies ambiguous language in the current CINA statute.

Fiscal Summary

State Effect: FY 2000 general fund expenditures increase by up to \$533,300 for the Office of the Public Defender. Future year expenditures increase with annualization and inflation, exclusive of a potential expenditure by the Administrative Office of the Courts of up to \$440,000 annually. Revenues would not be affected.

(in dollars)	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
GF Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditures	533,300	680,700	703,000	726,000	750,000
Net Effect	(\$533,300)	(\$680,700)	(\$703,000)	(\$726,000)	(\$750,000)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential decrease in local expenditures beginning in FY 2001. Revenues would not be affected.

Small Business Effect: None.

Fiscal Analysis

Bill Summary: The bill expands the role of the Office of the Public Defender (OPD) to ensure that every indigent parent has counsel at State expense.

The requirement that local jurisdictions must provide a 50% local match for the State Court-Appointed Special Advocate (CASA) program is repealed. The bill provides that the Administrative Office of the Courts (AOC) is authorized to adopt rules governing the program's funding. It further provides that the repeal of the requirement for local funding of CASA programs take effect at the beginning of the fiscal year in which funding to offset the county funding is enacted as part of the Judiciary's budget.

The bill divests the Department of Juvenile Justice of authority to file a CINA petition and to review decisions not to file petitions.

Background: Congress authorized funds in 1993 for use by states to improve the handling of foster care cases by the courts. In Maryland, the Foster Care Court Improvement Advisory Committee issued a report, *Improving Court Performance for Abused and Neglected Children*, in September 1997. The committee recommended that legislation should be introduced to create a new CINA statute. The committee's research indicated that there are significantly different interpretations of the law in CINA cases among the various jurisdictions, leading to disparate treatment of litigants, procedural difficulties when cases are transferred between counties, and general confusion for attorneys, child welfare agencies, and the courts. Further, the current statute predominantly addresses delinquency provisions at the exclusion of CINA issues.

State Expenditures:

Administrative Office of the Courts

Repeal of the local match requirement for the CASA program could increase State expenditures to the extent that the State provides additional funds to offset the local match. The bill authorizes AOC to adopt rules governing funds for the CASA program. It is assumed that local match funds would decrease, depending on how AOC formulates the local match rules. AOC advises that the bill's provisions could result in either (1) a decrease in total CASA program funds due to decreased local match funds; or (2) an increase in State expenditures to offset any local match reduction. AOC further advises that the bill's intent is that State expenditures would not increase under this provision.

However, the Department of Legislative Services (DLS) advises that the bill further provides

that the repeal of the local match requirement takes effect beginning in the fiscal year in which funding to offset the county funding is included in the AOC budget. This provision would indicate an increase in State expenditures. The proposed fiscal 2000 budget includes \$440,000 in general funds for the CASA program; no additional funds were included to offset a decrease in local match funds. Therefore, general fund expenditures could increase by up to \$440,000 in fiscal 2001 and subsequent years; no increase would occur in fiscal 2000 unless supplementary funds are provided in AOC's fiscal 2000 budget to offset the local match.

The bill's provision that a shelter hearing must be held the next day that a circuit court sits could have a minimal effect on certain jurisdictions. Current law requires that a shelter hearing be held the next day that a juvenile court sits. Most jurisdictions already have a judge or master available to hear these emergency cases every day that the circuit court sits. A few of the smaller jurisdictions have a judge or master available to hear these cases every day that a juvenile court sits, which could be two or three times a week. CINA caseloads are not that large in these counties, however, so the effect should be minimal.

The bill requires that certain reports be given to all parties in a case a certain number of days before a hearing. Currently, reports must be submitted the day of the hearing, which gives the parties a basis for asking for a continuance. Prevention of these postponements would result in a decrease in the court's docket and represents potential savings.

Office of the Public Defender

General fund expenditures in OPD could increase by up to \$533,341 in fiscal 2000, which accounts for the bill's October 1, 1999 effective date. This estimate reflects the cost of 13 positions (four senior attorneys, three attorneys, six legal assistants) to handle the increased client base and workload resulting from the bill's provisions. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- three senior attorneys, three attorneys, and six legal assistants are required to provide statewide coverage in OPD's three regional office locations;
- one senior attorney is needed to handle appealed cases; and
- panel attorneys are needed to represent a non-custodial parent to avoid conflict of interest when OPD represents the custodial parent.

Salaries and Fringe Benefits

\$432,341

Contract for Panel Attorneys	75,000
Other Operating Expenses	<u>26,000</u>
Total FY 2000 OPD Expenditures	\$533,341

Future year expenditures reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The OPD expenditure increase is primarily driven by an increased client base resulting from the bill's provision that loosens current statutory restrictions on parents who are entitled to the assistance of counsel at State expense. Current law provides that a *parent, guardian, or custodian* is not entitled to the assistance of counsel at State expense unless (1) the party is the custodial parent or guardian of the CINA; (2) the party is indigent; and (3) the proceeding is a shelter care hearing, an adjudicatory hearing, a disposition hearing, or a review hearing in which the State has moved to remove the child from the custody of the party or the party has moved to regain custody; and (4) the assistance of counsel is needed due to complex factual or legal issues. However, the bill provides that a *party* is not entitled to assistance of counsel at State expense unless (1) the party is indigent; or (2) otherwise not represented and under 18 years old or incompetent by reason of mental disability. A party includes a non-custodial parent. Therefore the bill expands the number of parents who would be eligible for assistance at the State's expense by allowing non-custodial parents who meet the income requirements to be included.

OPD's workload could be increased by the bill's provision that a party has a continuing duty to advise the juvenile court or any other court of any custody, support, visitation, or paternity proceedings regarding a child. To the extent that OPD is representing a party who is affected by this provision, OPD could be responsible for new reporting and tracking duties.

It is difficult to determine the precise effect of this bill on the OPD because there have been several statutory changes in CINA procedures in recent years that result in additional and more complicated CINA hearings. These include Chapter 539 of 1998 and Chapter 595 of 1996. OPD has not had sufficient experience with the effects of these prior year legislative changes to accurately assess the impacts of this bill.

Department of Juvenile Justice

The Department of Juvenile Justice (DJJ) advises that the bill's provision divesting it of authority to file a CINA petition and review decisions not to file petitions could result in moderate savings; any such savings would be offset by the fact that separation of CINA and delinquent cases into separate procedures would entail additional workload for DJJ.

Department of Human Resources

The Department of Human Resources (DHR) advises that general fund expenditures could increase by an estimated \$2.3 million in fiscal 2000, which accounts for the bill's October 1, 1999 effective date. This estimate reflects the cost of 19.5 positions (16 human service workers, 3 social workers, and 0.5 office clerk) based on DHR's interpretation that the bill requires the court to continue holding permanency plan hearings even after an individual has been appointed guardian of a child. Currently, DHR closes a case after guardianship has been granted. The estimate includes salaries and fringe benefits (\$0.6 million), grants (\$1.7 million), one-time start-up costs, and ongoing operating expenses.

The Department of Legislative Services advises, however, that the bill states that a court need not hold a review hearing every six months after it grants guardianship of a child to a relative or other person. Therefore, expenditures would not increase.

Local Expenditures: Repeal of the 50% local match requirement for the CASA program could result in decreased local expenditures. The extent of decrease would depend on the manner in which AOC adopts rules governing funds for the CASA program. Because the bill provides that the repeal of the local match requirement takes effect beginning in the fiscal year in which funding to offset the county funding is included in the AOC budget, and no additional CASA funds have been included in the fiscal 2000 budget, any decreased local expenditures would not occur until fiscal 2001. The proposed fiscal 2000 budget includes \$440,000 in general funds for the CASA program. Therefore, general fund expenditures could increase by up to \$440,000 in fiscal 2001 and subsequent years, unless supplementary funds are provided in AOC's fiscal 2000 budget to offset the local match.

Apart from the CASA provision of the bill, local jurisdictions advise that the bill would not substantively change local finances or operations. Therefore, any impact would be minimal and could be handled with existing budgeted resources.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of Public Defender; Department of Human Resources; Department of Juvenile Justice; Circuit Court

of Baltimore City; Prince George's, Carroll, Queen Anne's, and Harford counties; Foster Care Court Improvement Advisory Committee, *Improving Court Performance for Abused and Neglected Children*, September 1997

Fiscal Note History: First Reader - February 28, 1999

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