

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1398 (Delegate Montague. *et al.*)

Judiciary

Best Interests for Children Act of 2000

This bill sets forth principles governing the allocation of residential and decision making responsibility for a minor child when the parents do not live together.

The bill may not be applied to any proceeding involving the care, custody, decision making responsibility, education, or support of a minor child filed before the bill's January 1, 2002 effective date.

Fiscal Summary

State Effect: Potentially significant increase in expenditures.

Local Effect: Potentially significant increase in revenues, expenditures, and workloads for circuit courts. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The circuit court in each county must designate an organization or agency to establish and operate education programs for parents who have filed an action for divorce, paternity, support, separate maintenance, or other custody proceeding and who have minor children. The circuit court may require each person attending a parent education class to pay a maximum fee of \$25 to defray costs. The bill creates a State special fund, called the Parent Education Fund, into which such fees must be deposited.

The bill also provides that parents may agree to a parenting plan, which must be accepted by the court. A court may reject a parenting plan for specified reasons. The court must require

the parents to attend parent education classes. If parents are unable to resolve issues and agree to a parenting plan, the court must require mediation unless special circumstances are present. The bill creates a State special fund known as the Mediation Program Fund, to be made up of grants or gifts to the State for the fund. State revenues may not be used to defray the costs for the services of a mediator, but the Court of Appeals may use a portion of its budget to pay administrative costs associated with establishing and operating mediation programs.

The bill also contains numerous procedures and criteria relating to:

- implementation of temporary parenting plans and permanent parenting plans;
- allocation of residential responsibility;
- allocation of responsibility for making significant life decisions on behalf of the child, including the child's education and health care;
- court-ordered investigations;
- appointment of a guardian ad litem and/or attorney to represent the child's best interests;
- interviewing of a child in order to obtain information relating to the issues of the case;
- modification of parenting plans;
- parental access to a child's records; and
- enforcement of parenting plans.

A parent who violates a parenting plan is subject to, among other things, a maximum civil penalty of \$100 for a first offense, \$500 for a second offense, and \$1,000 for a third or subsequent offense. Fine revenue must be transmitted to the Parent Education Fund.

The Administrative Office of the Courts (AOC) must prepare a report to be given to the General Assembly by January 1, 2004 summarizing the effectiveness of any program of parent education established with resources from the Parent Education Fund established under the bill.

Current Law: None applicable.

State/Local Expenditures: In fiscal 1999, 32,853 divorce cases were filed statewide. For purposes of illustration only, if 85% of those cases involved child custody, and both parties in each case were required to attend a parent education class, special fund revenues for the Parent Education Fund would increase by approximately \$1.4 million.

The bill would increase the workloads of the circuit courts to a potentially significant extent. The numerous procedures that must be followed and factors that must be considered would result in more court time for each case.

Some of the bill's provisions could require expenditures by the State and/or local governments. For example, the bill requires the exchange of children in some situations to be done through an intermediary or in a protected setting. This provision could require the use of visitation centers, which not all jurisdictions have. The AOC advises that a visitation center that is open 15 hours per week costs approximately \$55,000 to \$60,000 per year to operate with appropriate professional staff.

In addition, the bill permits a court to order custody and possibly mental health evaluations, but states that these services can be ordered only if there is no cost to the individual or if the cost is reasonable in light of the available financial resources. The AOC advises that custody investigations currently cost \$200 - \$350 per party, and costs for psychological evaluations range from \$700 - \$2,500. To the extent that individuals are unable to pay the fees for these tests when ordered, the State and/or local governments could be required to pay instead. Similarly, the State and/or local governments could be required to pay full or partial costs for court-appointed counsel for children and for parenting education classes.

Local governments could be required to expend funds in connection with the bill's provisions regarding mediation, because the bill limits the use of State funds for mediation and requires fees to correspond to parties' financial resources.

Parent education programs currently exist in 21 jurisdictions. The bill would require that parenting education programs be established in the remaining three jurisdictions.

Due to the large number of variables involved, the precise fiscal impact of the bill on the State and local governments cannot be reliably estimated at this time.

It is expected that the AOC could prepare the required report using existing budgeted resources.

Small Business Effect: Small businesses providing court-related services could benefit from the bill (e.g., attorneys, investigators, psychologists, visitation centers, and mediators).

Additional Information

Prior Introductions: Similar bills were introduced during the 1999 and 1997 sessions. HB 888 of 1999 received an unfavorable report from the House Judiciary Committee, and HB 1388 of 1997 was not acted upon by the General Assembly.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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