

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE

House Bill 754 (Chairman, Judiciary Committee)
 (Maryland Judicial Conference – Foster Care Court Improvement
 Implementation Committee)

Judiciary

Judicial Proceedings

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 2002 general fund expenditures increase by up to \$431,200 for the Office of the Public Defender (OPD). Future year expenditures increase with annualization and inflation. Potential increase in general fund expenditures to compensate for reductions in local funding of \$655,000 beginning in FY 2002. Revenues would not be affected.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	431,200	588,800	615,900	644,800	675,500
Net Effect	(\$431,200)	(\$588,800)	(\$615,900)	(\$644,800)	(\$675,500)

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

Local Effect: Potential decrease in local expenditures beginning in FY 2002. Revenues would not be affected.

Small Business Effect: None.

Analysis

Current Law: CINA provisions are incorporated with the delinquency provisions in one statute. Representation of parents by the OPD is limited to custodial parents.

Bill Summary: The bill expands the role of the 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local jurisdictions must provide a 50% local match for the State Court-Appointed Special Advocate (CASA) program is repealed.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 the 50% local funding share of CASA programs only take effect at the beginning of the fiscal year in which funding to offset the county funding is enacted by the State as part of the Judiciary's budget. The bill divests the Department of Juvenile Justice (DJJ) 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.

The recommendation that a separate statute be written to correct these problems resulted in the introduction of HB 562 in the 1999 session. The bill received an unfavorable report by the House Judiciary Committee and was referred for summer study to the Foster Care Court Improvement Advisory Committee. The subsequent revisions to HB 562 of 1999 were incorporated into HB 849 of 2000 and addressed many issues including altering jurisdiction for juvenile court in certain areas, advisement of all parties of the reasons for the transfer of a case to another court, and the need for judges specifically designated for abuse and neglect cases in every jurisdiction. HB 849 was not reported out of the House Judiciary Committee.

State Fiscal Effect:

Administrative Office of the Courts

Many jurisdictions currently have CASA programs. The purpose of these programs is to provide volunteers whose primary purpose is to ensure that children who are the subject of a CINA proceeding are provided with appropriate service and case planning that is in their best interest. State funding for these programs is allocated to the jurisdictions on a 50% cost-sharing basis. This bill repeals the requirement for local matching funds. This repeal, however, does not take effect until State funding is budgeted to offset the reduction in county funding.

Repeal of the local match requirement for the CASA program could increase State expenditures to the extent that the State must provide funds, in the same fiscal year, to offset the 50% local match reduction. The AOC advises that rules would be adopted and applied on a county-by-county basis to uphold the 50% match requirement for those counties with an established CASA program currently providing the 50% matching funds. Depending on how the AOC formulates the local match rules, the bill's provisions could result in either: (1) an increase in State expenditures to offset any local match reduction; or (2) an increase in State expenditures to match new funds allocated by those counties establishing new CASA programs.

The AOC further advises that the bill's intent is that State expenditures would not increase under this provision because jurisdictions with existing programs are expected to maintain them with a 50% match. The AOC assumes the rules would provide for the continuation of established CASA programs and would allow those jurisdictions previously unable to meet the 50% match to set a lower match level and establish a new CASA program. The effect of the AOC rules and the potential increase in State expenditures from the possible local match reduction cannot be reliably estimated at this time. However, if there were no matching funds made available from local governments, no rules mandating matching funds for the continuation of established CASA programs, and the State provided funds in the budget for the Judiciary to cover all the costs currently borne by the counties, general fund expenditures could increase by \$655,000 in fiscal 2002.

The bill's requirement that a shelter hearing 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 to 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.

The bill's provision that the court conduct a review hearing every 12 months when guardianship is granted to a relative or other person, or the child is in a permanent foster care situation, will require the courts to hold review hearings for cases that were previously exempt, thus placing additional demands on current resources.

Office of the Public Defender

General fund expenditures in the OPD could increase by up to \$431,171 in fiscal 2002, which accounts for the bill's October 1, 2001, effective date. This estimate reflects the cost of nine positions (two senior attorneys, three attorneys, four legal assistants) to handle the increased client base and workload resulting from the bill's provisions. OPD's staff will represent custodial parents and legal guardians in shelter care proceedings, adjudication hearings, and disposition hearings under the expanded provisions of this bill. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate also includes funding for panel attorneys who will be needed in order to represent a noncustodial parent to avoid conflict of interest when the OPD represents the custodial parent. The information and assumptions used in calculating the estimate are stated below:

- two senior attorneys, three attorneys, and four legal assistants are required to provide statewide coverage in OPD's three regional office locations; and
- panel attorneys are needed to represent a noncustodial parent to avoid conflict of interest when OPD represents the custodial parent.

Salaries and Fringe Benefits	\$326,079
Contract for Panel Attorneys	61,706
Other Operating Expenses	<u>43,386</u>
Total FY 2002 OPD Expenditures	\$431,171

Future year expenditures reflect: (1) full salaries with a 6.5% annual increase in 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

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.

Local Fiscal Effect: 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 State funding to offset the county funding is included in the AOC budget, and no additional CASA funds have been included in the fiscal 2002 budget, any decreased local expenditures is unlikely to occur until fiscal 2003. An actual repeal of the 50% match requirement and any subsequent decrease in local government expenditures directly depends on the level of funding provided by the State in the AOC budget. The proposed fiscal 2002 State budget includes \$655,000 in general funds for the State portion of the CASA program. Therefore, although it is unlikely, local fund expenditures could decrease by \$655,000 in fiscal 2002, for the fund match in those jurisdictions with CASA programs in place. Local expenditures could increase in fiscal 2002 and beyond in counties allocating funds to be matched by the State for the establishment of a new CASA program.

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.

Additional Information

Prior Introductions: Similar legislation was introduced during the 1999 and 2000 sessions as HB 562 and HB 849, respectively. HB 562 received an unfavorable report from the House Judiciary Committee, and HB 849 was not reported from the House Judiciary Committee

Cross File: SB 660 (Chairman, Judicial Proceedings Committee) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of Public Defender; Department of Human Resources; Department of Juvenile Justice; Prince George's, Garrett, Kent, Washington, and Montgomery counties; Foster Care Court Improvement Advisory Committee, Department of Legislative Services

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jm/jr

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