

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

House Bill 534 (Delegates Zirkin and Morhaim)
 Health and Government Operations

Children with Disabilities - Individual Treatment Plans

This bill provides that if a court finds that a child is in need of assistance solely because of the child’s developmental disability or mental disorder and the parents, guardian, or custodian cannot provide the care or treatment necessary, the court: (1) must make a finding as to whether reasonable efforts were made to meet the child’s health and safety needs and, where possible, preserve the family; (2) must join the Department of Health and Mental Hygiene (DHMH) as a party; (3) may not change the child’s custody status; and (4) may order the local department of social services and DHMH to develop an individual treatment plan for the child with the family’s input that must be submitted to the court within 30 days and to provide the child with services in the least restrictive environment based on the treatment plan. The least restrictive environment is defined as the child’s family home or the most homelike setting, preferably a residence in the same community as the child’s home, when the child’s needs cannot be met in the family home.

Fiscal Summary

State Effect: DHMH general fund expenditures could increase by up to \$17.7 million and federal fund expenditures could increase by \$2.0 million in FY 2004 for treatment plans and services for an estimated 200 children. Out-years reflect annualization and inflation. No effect on revenues.

(\$ in millions)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	17.7	23.8	24.0	24.3	24.5
FF Expenditure	2.0	2.7	2.7	2.8	2.8
Net Effect	(\$19.7)	(\$26.5)	(\$26.8)	(\$27.0)	(\$27.3)

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

Local Effect: Juvenile court workloads would increase to the extent that the bill generates additional court cases.

Small Business Effect: Potentially significant increase in business for nonprofit residential and day service providers that are considered small businesses.

Analysis

Current Law:

Definitions

A child in need of assistance (CINA) is a child who requires court intervention because the child was abused or neglected, has a developmental disability, or has a mental disorder. In addition, the child's parents, guardian, or custodian are unable or unwilling to give the child proper care and attention.

A developmental disability is a severe, chronic disability of an individual that: (1) is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or a combination of mental and physical impairments; (2) is likely to continue indefinitely; (3) results in an inability to live independently without outside support or continuing and regular assistance; and (4) reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services individually planned and coordinated for the individual.

A mental disorder is a behavioral or emotional illness resulting from a psychiatric or neurological disorder. It includes a mental illness that substantially impairs an individual's mental or emotional functioning as to make care or treatment necessary or advisable for the individual's welfare or for the safety of the person or property of another. Mental disorder does not include mental retardation.

CINA Disposition Hearings

A court must hold a separate CINA disposition hearing after an adjudicatory hearing to determine whether the child is a CINA, unless the CINA petition is dismissed. The CINA disposition hearing must be held on the same day as the adjudicatory hearing unless the court finds there is a good reason to delay the hearing. A CINA disposition hearing can be delayed for no more than 30 days after the adjudicatory hearing unless good cause is shown.

In making a disposition on a CINA petition, the court must: (1) find that the child is not in need of assistance and dismiss the case; or (2) find that the child needs assistance and either not change the child's custody status or commit the child to the custody of a parent, relative, or other individual or to a local department of social services, DHMH, or both.

After a CINA disposition, when the circuit court orders a specific placement for the child, a local department of social services may remove the child from the placement before a hearing only if: removal is required to protect the child from serious immediate danger; the child's continued court-ordered placement is contrary to the child's welfare; or the person or agency with whom the child is placed requests the child's immediate removal.

Out-of-home Placement

The Department of Human Resources' (DHR) Social Services Administration must establish an out-of-home placement program for minor children: placed in the custody of a local department of social services by a parent or legal guardian for not more than six months under a voluntary written agreement; or who are abused, abandoned, neglected, or dependent if a juvenile court has determined that continued residence in the child's home is contrary to the child's welfare, and has committed the child to the custody or guardianship of a local department.

The local department of social services must provide 24 hour a day care and supportive services for a child who is committed to its custody or guardianship in a short-term out-of-home placement. A child may not be committed to the custody of a local department and placed in out-of-home placement solely because the child's parent or guardian lacks shelter. The local department must refer a homeless family with a child to emergency shelter and other services.

Voluntary Placements

A child may be placed in the custody of a local department of social services, under a voluntary, written agreement, for a period of not more than six months. DHR regulations mandate that, except for children for whom a parent has signed a voluntary consent to adoption, a child may only remain in an out-of-home placement for more than six months if a juvenile court has committed the child to the local department's custody.

Federal Payments for Foster Care

Under United States Code (Social Security) Title IV-E for grants to states for aid and services to the needy, no federal payment may be made for a child who is removed from

home pursuant to a voluntary placement agreement and who remains in voluntary placement for more than 180 days unless there has been a judicial determination by a court of competent jurisdiction, within the first 180 days of such placement, to the effect that such placement is in the best interests of the child.

Background: Governor Robert L. Ehrlich, Jr. issued an executive order January 17, 2003 establishing a 17-member Council on Parental Relinquishment of Custody to Obtain Health Care Services. The council will: review child custody relinquishment procedures and practices at the State and local levels; identify and analyze long-term alternatives to forced child custody relinquishment; and identify and provide a summary of costs and benefits of federal resources available to Maryland. The Governor's Office for Children, Youth, and Families will staff the council. The council must report its findings and recommendations to the Governor by September 1, 2003, when the council terminates.

State Fiscal Effect: General fund expenditures could increase by an estimated \$17,671,500 and federal fund expenditures could increase by an estimated \$2,008,500 in fiscal 2004, which accounts for the bill's October 1, 2003 effective date. This estimate reflects courts ordering local departments of social services and DHMH to develop individual treatment plans for an estimated 200 children with physical, emotional, or developmental disabilities whose parents are unable to provide for the child's care or treatment and who will seek a court to order DHMH to provide services without the parent relinquishing legal custody of the child. It is assumed that 80 of the 200 children would be eligible for Medicaid and cost \$1,000 each per year for health services. Federal funds would cover half of these costs. It is assumed that these parents would be unwilling to relinquish custody of their children in order for their children to receive services paid for by the State. The children may now be eligible for DHMH services but because of waiting lists for treatment it is uncertain when the child would begin receiving these services. It also is assumed that the parents of these children do not have health insurance or the services required are not covered by the parents' health insurance. In addition, it is assumed that these children would not qualify for the Maryland Children's Health Program.

Residential and Day Service Providers	\$19,500,000
Contract for Treatment Plan Development	120,000
Medicaid Coverage	<u>60,000</u>
Total FY 2004 State Expenditures	\$19,680,000

Future year expenditures reflect: (1) 200 children total, each year, being served (@ \$130,000 each); (2) \$160,000 (annualized) for a contractor to develop individual treatment plans; (3) \$80,000 (annualized) for Medicaid expenses; (4) 6% annual increase for Medicaid expenses; and (5) 1% annual increases in ongoing operating expenses.

If a court orders the State to provide services to fewer than 200 children or services that cost less than the maximum DHMH assumes, general fund and federal fund expenditures could increase at a lower rate. Likewise, costs could be greater if State-funded services are sought for more than 200 children.

Both DHR and DHMH assumed they would be responsible for implementing this bill. However, the Department of Legislative Services (DLS) believes that DHMH would be responsible. While the bill requires local departments of social services to work with DHMH to create voluntary placement agreements, DHR would not gain legal custody of these children. DHMH already contracts with residential and day services providers to serve children with similar needs. In addition, DLS assumes that local departments of social services will be able to collaborate with DHMH to develop the individual treatment plans for the children targeted by this bill within existing resources.

Local Fiscal Effect: Juvenile court workloads would increase to the extent that this bill results in additional court cases.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mdf/jr

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