

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 1142
 Judiciary

(Delegate Zirkin, *et al.*)

Judicial Proceedings

Child Welfare Services - Children in Out-of-Home Placement

This bill requires that before issuing a child care home or child care institution license, the Department of Human Resources (DHR) must consider the home or institution's location to avoid over-saturation in local jurisdictions. It requires that when a child is placed outside of the home, consideration must be given to where the child and the child's parents or guardian live. Additionally, it requires an out-of-home placement study and plan to meet the bill's goals.

Fiscal Summary

State Effect: General fund expenditures could increase by \$52,800 in FY 2005 for the Office for Children, Youth, and Families (OCYF) to hire one full-time and one part-time contractual employee to complete the study and plan. Future years reflect inflation and the plan's January 1, 2006 deadline. No effect on revenues.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	52,800	30,200	0	0	0
Net Effect	(\$52,800)	(\$30,200)	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: To the extent consistent with a child's best interests, when developing a permanency plan for an out-of-home placement, the local department of social services must consider the following in the descending order of priority:

- placing the child in the local jurisdiction where the child's parent or guardian resides; or
- if the local department finds that placing the child in the parent's or guardian's local jurisdiction is not in the child's best interests, placing the child in another jurisdiction in the State after considering: (1) the number of other children in out-of-home placements in proximity to the current or proposed out-of-home placement; (2) the effect on the local school system; (3) the availability of resources to provide necessary services to the child; and (4) the accessibility to family treatment, if appropriate.

DHR's Social Services Administration (SSA) must adopt regulations specifying the compelling reasons for placing a child in a local jurisdiction other than the local jurisdiction where the child's parent or guardian resides.

Local Out-of-home Placement Review Boards

The bill allows the local board to make additional recommendations in its written report to the juvenile court and the local department of social services on each minor child whose case is reviewed by the board. The local board may recommend that the child continue to be placed outside of the home, but in the local jurisdiction of origin when appropriate. A local board also may recommend that it is in the child's best interests to continue being placed in another local jurisdiction in the State after considering: (1) the number of other children in out-of-home placements in proximity to the proposed out-of-home placement; (2) the effect on the local school system; (3) the availability of resources to provide necessary services to the child; and (4) accessibility to family treatment, if appropriate.

The Special Secretary for the Office for Children, Youth, and Families, in consultation with DHR, the Department of Health and Mental Hygiene, and the Department of Juvenile Services, must conduct a study of out-of-home placements and develop a plan for SSA to meet the bill's goals. The Special Secretary must report on the study and plan by January 1, 2006 to the Governor and the General Assembly.

Current Law: SSA must establish an out-of-home placement for minor children who are: (1) placed in a local department of social services' custody for not more than 180 days by a parent or legal guardian under a voluntary placement agreement; (2) abused, abandoned, neglected, or dependent, if a juvenile court determines continued residence in

the child's home is contrary to the child's welfare and commits the child to the local department's custody or guardianship; or (3) placed in an out-of-home placement by a local department under a voluntary placement agreement.

A local department of social services may not seek legal custody of a child under a voluntary placement agreement if the child has a developmental disability or a mental illness and the placement's purpose is to obtain treatment or care related to the child's disability the parent cannot provide. This child may remain in an out-of-home placement under a voluntary agreement for more than 180 days if the disability necessitates care or treatment and a juvenile court makes a finding that placement continuation is in the child's best interests.

In developing a permanency plan for a child in an out-of-home placement, the local department of social services must give primary consideration to the child's best interests. The local department must consider: (1) the child's safety and health in the parent's home; (2) the child's attachment and emotional ties to natural parents and siblings; (3) the child's emotional attachment to the current caregiver and caregiver's family; (4) the length of time the child lived with the current caregiver; and (5) the potential harm if the child remains in State custody for an excessive period of time.

To the extent consistent with the child's best interests, the local department must consider the following permanency plans, in the descending order of priority:

- returning the child to the parent or guardian, unless DHR is the guardian;
- placing the child with relatives to whom adoption, guardianship, or care and custody are planned to be granted;
- adoption in the following descending order of priority: (1) by a current foster parent with whom the child has resided with for at least 12 months prior to the development of the permanency plan or for enough time to establish positive relationships and family ties; or (2) by another approved family;
- placing the child in a court-approved permanent foster home with a specific caregiver;
- an independent living arrangement; or
- long-term foster care.

In each local citizen board of review's written report to the juvenile court and local department on each minor child whose case the board reviews, the board may recommend: (1) returning the child to the parent or legal guardian; (2) continuing the out-of-home placement and that the placement is appropriate for the child's needs; (3) continuing the out-of-home placement, but that the placement is inappropriate for the child's needs; or (4) that proceedings be initiated to terminate parental rights so the child may be eligible for adoption.

Background: DHR advises that it currently has 246 children in out-of-home placements in homes licensed by other State departments costing \$19.2 million annually. All but two of those children are placed in Department of Health and Mental Hygiene (DHMH) licensed slots. The remaining two are placed in Department of Juvenile Services licensed slots.

State Expenditures: General fund expenditures could increase by an estimated \$52,816 in fiscal 2005, which accounts for the bill's October 1, 2004 effective date. This estimate reflects the cost of OCYF hiring one full-time and one part-time contractual administrative officer to conduct the study and develop the plan required under the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$39,901
Operating Expenses	<u>12,915</u>
Total FY 2005 State Expenditures	\$52,816

Future year expenditures reflect: (1) half-year salaries with 4.6% annual increases and 6.8% employee turnover; (2) 1% annual increases in ongoing operating expenses; and (3) the January 1, 2006 deadline for completing and presenting the study and plan.

Additional Information

Prior Introductions: None.

Cross File: SB 711 (Senators Jacobs and Giannetti) – Judicial Proceedings.

Information Source(s): Department of Health and Mental Hygiene, Maryland State Department of Education, Department of Legislative Services

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