

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1353

(Delegate Cardin, *et al.*)

Judiciary

Family Law - Foster Care - Secondhand Smoke Exposure

This bill requires the Department of Human Resources' (DHR) Social Services Administration (SSA) to adopt regulations by October 1, 2007 that authorize SSA to require local departments of social services (LDSS) to consider secondhand smoke exposure in determining the permanency plan for a child in foster care. The regulations also must authorize SSA to require a foster care parent to protect a foster child from exposure to secondhand smoke in enclosed places.

Fiscal Summary

State Effect: The change could reduce foster care and adoption resources and may affect DHR's mandate for family reunification and kinship care, potentially impacting expenditures. Any such impact cannot be reliably estimated.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: SSA must adopt rules and regulations to carry out child welfare services and foster care programs. The regulations must authorize SSA to: (1) conduct a background check of child support arrearages on an applicant for foster home approval who is also a biological or adoptive parent; and (2) consider any child support arrearage in determining whether to approve or disapprove the application.

SSA must establish an out-of-home placement program for minor children:

- who are placed in an LDSS' custody for not more than 180 days by a parent or legal guardian under a voluntary placement agreement;
- 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 an LDSS; or
- who, with SSA approval, are placed in an out-of-home placement by an LDSS under a voluntary placement agreement.

In developing a permanency plan for a child in an out-of-home placement, the LDSS must give primary consideration to the child's best interests. The LDSS must consider the following factors when determining the plan: ● the child's ability to be safe and healthy in the child's parent's home; ● the child's attachment and emotional ties to the child's natural parents and siblings; ● the child's emotional attachment to the child's current caregiver and the caregiver's family; ● the length of time the child has lived with the current caregiver; ● the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and ● the potential harm to the child by remaining in State custody for an excessive period of time.

To the extent consistent with the child's best interests in an out-of-home placement, an LDSS must consider the following permanency plans in descending order of priority:

- returning the child to the child's parent or guardian, unless the LDSS is the guardian;
- placing the child with relatives to whom adoption, custody and guardianship, or care and custody, in descending order of priority, are planned to be granted;
- adoption in the following descending order of priority: (1) by a current foster parent with whom the child has lived for at least the 12 months prior to developing the permanency plan or for a sufficient length of time to have established positive relationships and family ties; or (2) by another approved adoptive family; or
- another planned permanent living arrangement that addresses the individualized needs of the child and includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life.

Background: According to the Centers for Disease Control and Prevention (CDC), secondhand smoke has been shown to cause cancer in people. Secondhand smoke is a mixture of more than 4,000 chemicals, 42 of which are carcinogens. People who are exposed to secondhand smoke were found to have cotinine, which is created when the body processes nicotine, in their blood, saliva, and urine.

CDC also reports that, each year, about 3,000 nonsmoking adults (people who never smoked and people who used to smoke) in the United States die of lung cancer as a result of exposure to secondhand smoke. Secondhand smoke also is responsible for about 35,000 deaths from coronary heart disease in adult nonsmokers each year.

State Fiscal Effect: Although the fiscal effect of requiring LDSSs to consider whether anyone in a home where a child would be placed (whether in a foster home, with their birth parents, with other family members, or with an adoptive family) smokes cannot be determined at this time, the bill would significantly affect SSA's operations. DHR advises that the bill may affect SSA's mandate for family reunification and kinship care in developing a permanency plan for children in foster care if any family members with which SSA would place a child smoke. Further, DHR advises that the bill will affect its ability to recruit and approve foster care and adoptive parents, decreasing volunteer foster care and adoption resources and permanency options for children.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Centers for Disease Control and Prevention, Department of Legislative Services

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