

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6123**

**BILL NUMBER: HB 1284**

**DATE PREPARED:** Apr 30, 1999

**BILL AMENDED:** Apr 29, 1999

**SUBJECT:** Adoption funding and background checks; termination of parent-child relationship

**FISCAL ANALYST:** Ron Sobecki

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**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (CCR Amended) **Adoption Funding and Background Checks:** This bill requires a petitioner for adoption to indicate as part of the adoption petition whether the petitioner has been convicted of a felony or a misdemeanor relating to the health and safety of children. A licensed child placing agency or county Office of Family and Children is required to conduct a criminal history background check on each petitioner for adoption. It provides that if the petitioner for adoption is charged with a felony or a misdemeanor relating to the health and safety of children during the pendency of the adoption, the petitioner must notify the court. A conviction of a felony or a misdemeanor related to the health and safety of a child may be grounds for the court to deny the petition for adoption. The court is prohibited from granting an adoption if the petitioner for adoption has been convicted of certain specified felonies.

The bill specifies that money appropriated to the program for Adoption of Hard to Place Children does not revert to the state General Fund at the end of the state fiscal year.

**Adoption Deception and Adoption Expenses:** This bill prohibits payments of more than \$3,000 for certain adoption related expenses of a birth mother unless a greater amount is ordered by the court. The bill requires adoption related payments to be disclosed to the court supervising the adoption. It limits payments for certain living expenses of a birth mother to expenses that are incurred during the second or third trimester of a birth mother's pregnancy and six weeks after childbirth.

This bill provides that a birth mother, or a woman who holds herself out to be a birth mother, who benefits from adoption related expenses incurred under certain false pretenses commits adoption deception, a Class A misdemeanor. The bill allows a court to order a person who commits adoption deception to make restitution to a prospective adoptive parent, attorney, or licensed child placing agency that incurs an expense as a result of the offense. An attorney or licensed child placing agency is required to inform a birth mother of the penalties for committing adoption deception before the attorney or agency transfers a payment for adoption related expenses in relation to the birth mother.

**Adoption and Termination of Parental Rights:** This bill adds an attorney representing a birth mother to the list of persons allowed to serve actual notice of a potential adoption upon a putative father before the birth of a child. The bill provides that a putative father's implied consent to an adoption is also an implied consent to the termination of the parent-child relationship. A putative father whose consent to an adoption has been implied is not barred from establishing paternity under certain conditions. This bill provides that consent to the termination of the parent-child relationship is not required in certain circumstances.

**Paternity and Adoption Procedures:** The bill provides for the following requirements in paternity actions in which an adoption is pending: (1) Requires the court to conduct an initial hearing not more than 30 days after the filing of the paternity petition or the birth of the child, whichever occurs later. (2) Requires the court to order blood or genetic testing at the initial hearing and requires the court to order the State Department of Health to pay for the testing under certain circumstances. (3) Requires the court to conduct a final hearing to determine paternity not later than 90 days after the initial hearing. (4) Requires the court to issue its ruling in the paternity action not more than 14 days after the final hearing.

This bill provides that a licensed child placing agency or an attorney in an adoption shall submit to the court an affidavit setting forth the circumstances surrounding service of prebirth actual notice to a putative father, regardless of who served the notice. The bill requires a court to enter a default judgment against and terminate the parental rights of a parent who fails to appear at the termination hearing after being located and served with notice of the hearing. It repeals certain provisions governing unreasonable delay in paternity actions when an adoption is pending. It makes conforming amendments.

**Termination of Parent-Child Relationship:** This bill provides that a petition to terminate the parent-child relationship must indicate whether certain factors apply that would require a party to file a motion to dismiss the termination petition. The bill removes the provision in the law that requires a party in a termination proceeding to file a motion to dismiss the petition to terminate the parent-child relationship if the child is being cared for by a custodian who is a parent, stepparent, grandparent, or by certain other responsible adults or relatives who are caring for the child as a guardian. The bill requires a person or entity who files a motion to dismiss a petition to terminate the parent-child relationship to send notice to certain persons.

This bill also repeals certain provisions governing unreasonable delay in paternity actions when an adoption is pending and makes conforming amendments.

**Effective Date:** July 1, 1999.

**Explanation of State Expenditures:** (Revised) **Adoption Funding and Background Checks:** This bill states that money appropriated to the Adoption of Hard to Place Children program does not revert to the state General Fund at the end of the fiscal year. There were no funds reverted in FY 98, but \$96,800 was reverted in FY 97. It is assumed that the \$10 criminal history fee charged by the State Police will cover the cost of the additional criminal history checks required in this bill.

**Paternity and Adoption Procedures:** This bill requires the State Department of Health (SDOH) to pay for a blood or genetic test ordered by a court if an individual cannot pay for the test. It is estimated that the cost for a blood test is \$18. The bill allows the SDOH to pay for the test using funds in the Putative Father Registry. The bill also gives the SDOH the authority to recover the cost of the test from an individual found to be the biological father. There was \$122,240 collected in the past fiscal year in the Putative Father Registry. The Putative Father Registry is used to locate the name and address of an individual who may have conceived a child for whom a petition for adoption has been filed.

**Explanation of State Revenues:** (Revised) **Adoption Deception and Adoption Expenses:** This bill creates a Class A misdemeanor if a birth mother or, a woman who holds herself to be a birth mother, benefits from adoption related expenses incurred under certain false pretenses. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** (Revised) **Adoption Funding and Background Checks:** There may be some additional expense to the county Office of Family and Children to conduct a criminal history check on a petitioner for adoption as required in this bill. The fiscal impact will be different in each county and be dependant on the number of adoption petitions.

**Paternity and Adoption Procedures:** This bill changes the time frame in which an initial hearing to establish a child's paternity when an adoption petition is pending, from a "reasonable" period to not more than 30 days after the paternity petition is filed or the child is born, whichever occurs later. In order to meet this requirement, courts will have to rearrange their court dockets, and process cases faster. Depending upon the number of petitions, passage of this bill could increase the number of hearings that the courts would have to schedule within a short period of time. The greatest impact on caseload scheduling will be on courts in jurisdictions that have a large number of adoption petitions pending due to paternity actions.

**Adoption Deception and Adoption Expenses:** A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** (Revised) **Adoption Deception and Adoption Expenses:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Family and Social Services Agency; State Police, State Department of Health.

**Local Agencies Affected:** County office of family and children, trial courts, local law enforcement agencies.

**Information Sources:** Karen Kinder, FSSA, 232-5659.