

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

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6905
BILL NUMBER: SB 383

DATE PREPARED: Dec 30, 1999
BILL AMENDED:

SUBJECT: Various family law issues.

FISCAL ANALYST: John Parkey
PHONE NUMBER: 232-9854

FUNDS AFFECTED: **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill has the following provisions:

- (1) Establishes a rebuttable presumption of joint legal and physical custody in dissolution of marriage and paternity cases;
- (2) Changes the factors used in determining custody. Provides for certain minimum visitation if joint physical custody is not ordered;
- (3) Establishes visitation guidelines;
- (4) Requires seven days of confinement in the county jail for a custodial parent who intentionally violates certain visitation orders;
- (5) Requires mediation or counseling in a contested dissolution;
- (6) Allows child support to be deposited in escrow during a visitation enforcement proceeding;
- (7) Requires parties to a legal separation or dissolution to participate in counseling;
- (8) Requires a court to modify custody if a parent moves outside Indiana or at least 100 miles from the parent's county of residence;
- (9) Requires the payment of delinquent support at certain regular intervals;
- (10) Provides that a judge who fails to comply with certain statutory provisions commits official misconduct and: (1) is not entitled to judicial immunity; and (2) may not be represented at the state's expense in an action for official misconduct.
- (11) Requires a judge of a court with jurisdiction over dissolution or paternity matters to participate in training in shared parenting.
- (12) Repeals certain provisions concerning joint legal custody.

Effective Date: July 1, 2000.

Explanation of State Expenditures: Provision (3): It is estimated that 50% of all counties (including Lake, Allen, Marion, Clark, Floyd, Harrison, Vanderburgh, and St. Joseph) have implemented visitation guidelines, however the guidelines are not standardized across counties.

Provision (11) If the training is provided by the Indiana Judicial Conference, the cost will be incurred by the state. It is estimated that it would cost the state a total of approximately \$150,000 to present one 40-hour training on shared parenting every two years to all 230 judges and 35 magistrates that have jurisdiction over dissolutions of marriage. This figure includes lodging, meals, reimbursement of mileage, materials, space, and the cost of a speaker.

Explanation of State Revenues: Provision (10) 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: Provision (1) will increase the number of court hearings. A joint physical custody arrangement usually requires more judicial time, and often the parties cannot agree on the terms of the joint physical custody arrangement, or have difficulty complying with the terms of the arrangement once it is implemented. All of these factors increase the likelihood that more court hearings will be required.

Provision (4) Local expenditures for jail operations may increase if the court finds parents in intentional violation of a visitation order and requires them to be detained in jail for seven days. At approximately \$44 per day, the estimated cost to detain an individual in a jail for seven days is \$308.

Provisions (5) and (7) could increase the need for counseling services in counties where large numbers of dissolutions of marriage petitions are filed. County costs could increase if respondents cannot pay for the court-mandated mediation or counseling. In counties with a large number of filings, courts may need to hold hearings to enforce attendance at the mandated mediation and counseling sessions and may need to hold additional contempt hearings if people refuse to attend. Organizations like the Marion County Domestic Relations Bureau provide mediation services for child custody and visitation issues. Their services are provided on a sliding scale basis, with the cost ranging from \$1 to \$85 per hour depending on each party's income. Visiting Nurse Service, Inc. conducts the "Children Cope with Divorce" program. Courts in at least 13 counties require that divorcing parents attend the program, with the goal of training parents how to help their children cope with divorce. The program is currently provided in Indianapolis (5-6 times a month, with 50-60 people at each one), Bloomington (once a month, with an average of 70 people in attendance), in Noblesville, Batesville, and Shelbyville, the seminars are conducted once a month in each county with an average of 50 people at each one. The cost is \$35 per person, but for those who are unable to pay the full \$35, a sliding scale is used based on income.

Provision (8) will have a minimal impact because it is already grounds for a custody modification when one party moves a significant distance away.

Provision (10) Official misconduct is a Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate someone in a county jail is approximately \$44.

Provision (11) If the training is provided by a private entity like the Indiana Continuing Legal Education Forum, the cost to send the judges to the mandatory training will most likely be paid by the county, from the court's budget. It is estimated that a private provider would charge approximately \$850 per judge for a 40-hour training on shared parenting.

Explanation of Local Revenues: Provision (10) 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: Indiana Judicial Conference.

Local Agencies Affected: Trial courts, local law enforcement agencies; all courts with domestic relations jurisdictions.

Information Sources: Judge Donahue, Clark County Circuit Court, (812) 285-6309; Jeff Bercovitz, Indiana Judicial Center, 232-1313; Visiting Nurse Service, Inc., 722-8201; Jeff Lawson, Indiana Continuing Legal Education Forum, 637-9102; Janice Davidson, Marion County Domestic Relations Counseling Bureau, 327-3858.