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FISCAL IMPACT STATEMENT

LS 6466 | **NOTE PREPARED:** Mar 3, 2006
BILL NUMBER: SB 139 | **BILL AMENDED:** Mar 2, 2006

SUBJECT: Department of Child Services Matters.

FIRST AUTHOR: Sen. Lawson C | **BILL STATUS:** As Passed House
FIRST SPONSOR: Rep. Bell

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
X FEDERAL

Summary of Legislation: (Amended) (A) *Caseworker:* This bill provides that the term "caseworker" for purposes of juvenile law, including emergency placement of a child, means an employee of the Department of Child Services who is classified as a family case manager.

(B) *Emergency Placement of Children*: The bill expands the definition of "emergency placement" for purposes of the law concerning criminal history record checks to include any out-of-home placement for temporary care and custody of a child at or after the time of initial removal or transfer of custody of the child from the child's parent, guardian, or custodian. It specifies that "emergency placement" does not include any proposed or actual change in location of the child's placement for continuing care and custody after the court has entered an order at the time of or following a detention hearing, unless a court or an agency responsible for the child's care and supervision determines that an immediate change in placement is necessary to protect the child's health or safety. It also specifies that the Department is to submit fingerprints to the Federal Bureau of Investigation 15 calendar days after the national name-based criminal history check is conducted.

(C) *Foster Care Probationary Licensing Status*: The bill replaces the issuance of probationary licenses with probationary status periods for: (1) child caring institutions; (2) foster homes; (3) group homes; and (4) child placing agencies. It removes provisions that invalidated a license for these entities when a probationary license was issued.

(D) *Paternity Affidavits*: The bill requires the person attending a child's birth, when explaining to the birth mother and putative father immediately before or after the birth the legal consequences of executing a paternity affidavit, to specify (and the written information from the Department to specify) that: (1) upon execution of

a paternity affidavit, the mother and the state may obtain a child support order that requires the provision of health insurance coverage; (2) the rights and responsibilities of the putative father include reasonable parenting time; and (3) the Department may file the paternity affidavit with a court.

(E) *Genetic Testing and Paternity Affidavits*: The bill provides that: (1) a paternity affidavit may not be rescinded more than 60 days after the affidavit is executed unless a court has ordered a genetic test at the request of the man who executed the affidavit; and (2) a court may not set aside an affidavit unless a genetic test excludes the man who executed the affidavit as the child's father.

(F) *Hearings in Juvenile Matters*: The bill requires a court to complete: (1) a factfinding hearing not more than 60 days after a petition is filed alleging that a child is a child in need of services (CHINS); (2) a dispositional hearing not more than 30 days after the date the court finds that a child is a CHINS; and (3) a hearing on a petition to terminate a parent-child relationship not more than 180 days after the petition is filed. It allows a court to extend the timeframe to complete a factfinding on a CHINS petition for an additional 60 days. It also provides that the Department may request that judgment on a petition alleging a child is a CHINS be entered not later than 30 days after the request.

(G) *Adoption Petitions*: The bill deletes a requirement that a court clerk forward a copy of an adoption petition to the Division of Family and Children.

(H) *Child Abuse or Neglect Substantiated Reports*: The bill revises the definition of "substantiated" when used in reference to a child abuse or neglect report.

(I) *Automated Child Protection System*: The bill provides that child welfare caseworkers, supervisors, and managers must have access to certain information under the automated child protection system regardless of the security requirements for confidentiality. It provides that: (1) child welfare caseworkers must be allowed access to other cases or investigations that involve a family member of a child or the child whose case is assigned to the caseworker; and (2) child welfare supervisors may have access to other cases or investigations that involve a family member of a child or the child whose case is assigned to a caseworker who reports to the supervisor or whose case is assigned to the supervisor.

(J) *Child in Need of Services and Delinquency Dispositional Decrees:* The bill provides that a juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree for a CHINS hearing or a delinquency hearing.

It also provides that a juvenile court shall require the Department to file a progress report on a CHINS petition every 3 months after entering a dispositional decree.

(K) *Foster Family Case Review Reports*: The bill requires a report prepared by the state in a dispositional decree to be made available to the child's foster parents under certain circumstances.

(L) *Department of Child Services License Suspensions*: The bill removes powers to suspend certain licenses and repeals references to suspension powers.

(M) *Licensing Provision:* The bill provides that: (1) an application for a license to operate a child care center may be denied; (2) a license to operate a child care center may be revoked; (3) an application for a license to operate a child care home may be denied; and (4) a license to operate a child care home may be revoked; if the

Department determines that certain individuals have committed child abuse or neglect.

(N) *Child Abuse or Neglect Investigations in Child Care Centers and Homes*: The bill requires the Department to investigate claims of abuse or neglect in child care centers and child care homes. It provides that a report of an investigation of child abuse or neglect shall be made available to the Division of Family Resources if the report is classified as substantiated and concerns an applicant, licensee, employee, or volunteer of a child care center or child care home.

(O) *Wardship*: The bill defines "wardship" for purposes of the juvenile law, and makes conforming amendments.

(P) The bill allows a juvenile court at a detention hearing to: (1) impose on a child alleged to be a CHINS, or on the child's parent, guardian, or custodian, conditions to ensure the safety of the child; and (2) impose on a child alleged to be a delinquent child, or on the child's parent, guardian, or custodian, conditions to ensure any combination of the safety of the child or the public's physical safety. The bill also requires a court to set a hearing within 4 business days to determine whether emergency placement is appropriate for a child whose custodial parent or guardian has died or become unable to care for the child, if a person other than a parent files a petition to determine or modify custody of the child. It provides that a court is not required to set a hearing within 48 hours if: (1) it appears from the pleadings that placement of the child with a person other than the noncustodial parent is not in the best interests of the child; it appears from the pleadings that the petitioner does not have a reasonable likelihood of success on the merits; or (3) manifest injustice would result.

(The introduced version of this bill was prepared by the Select Committee on Reorganization of Child Services.)

Effective Date: Upon passage; July 1, 2006.

Explanation of State Expenditures: This bill makes multiple changes affecting the Department of Child Services (DCS); clerks of the court; courts; local Offices of Family and Children; county-owned hospitals; and local health departments. Changes impact expenditures and revenues at both the state and local levels. The following fiscal note summarizes changes affecting: emergency placement of children; paternity affidavits; genetic testing and paternity affidavits; hearings in juvenile matters; child abuse or neglect substantiated reports; the automated child protection system; DCS license suspensions; adoption petitions; child in need of services and delinquency dispositional decrees; and foster family case review reports.

(B) *Emergency Placement of Children*: Under current law, the DCS may place a child in an "emergency placement" as a result of exigent circumstances. This bill, by expanding the definition of "emergency placement," allows greater use of national name-based criminal history checks (a faster method than national fingerprint-based criminal history checks), which may result in lower shelter care costs for counties.

Background Information: The DCS may currently place a child in an "emergency placement" as a result of exigent circumstances. This occurs because the DCS has identified the child as unsafe in their current location.

The DCS reports that children are often removed under exigent circumstances and are subsequently placed in shelter care placements due to the inability to immediately identify an alternative placement (for example, with a relative caregiver). This may happen for a variety of reasons including the child's being removed on the

weekend or late at night.

Counties have interpreted statutory language pertaining to the aforementioned situation differently.

(1) Some counties remove the child under exigent circumstances and place them in a shelter care facility. These counties make the assumption that the child is now safe because they have been removed, leaving the child in the shelter care placement until placement requirements have been completed (e.g., a national fingerprint-based criminal history check).

(2) Other counties remove the child under exigent circumstances and place them in a shelter care facility. Following this, the county moves the child from the shelter care facility to their emergency placement. In this case, the county is considering the shelter care placement as temporary. The idea that the child is unsafe carries forth until the initial non-shelter care placement is actually made. Counties falling under this procedure are not responsible for obtaining a national fingerprint-based criminal history check prior to the child's placement in the non-shelter care location.

Different statutory rules apply pertaining to criminal history background checks when placing a child. Counties are required to complete a national fingerprint-based criminal history check before placing a CHINS in an out-of-home placement. However, under exigent circumstances or when placing the child in an emergency placement, only a national name-based criminal history check is required at the time of placement (a national fingerprint-based criminal history check is completed following the child's placement). The Indiana State Police (ISP) reports that return of information for a national fingerprint-based criminal history check can take from 4 to 7 days, with the majority of checks taking 7 days. Information for a national name-based criminal history check is immediately returned.

The DCS reports that counties falling under procedure (1), above, pay higher costs for care of children than those falling under procedure (2). The cost to maintain a child is higher in a shelter care facility than in a non-shelter care facility. County reimbursement for non-shelter care placements varies by county and ranges from $13.50 to $32 per day, with some relative caregivers receiving $0 for reimbursement. The cost to maintain a child in a shelter care facility varies by facility and is between $45 and $50 per day.

Under this bill, counties currently waiting for return of national fingerprint-based criminal history check information would experience savings. Actual savings for a county would be dependent on the total number of children in the county maintained in shelter care facilities as opposed to non-shelter care facilities, the county reimbursement rate for the non-shelter care placement, and the county reimbursement rate for the shelter care facility.

(C) *Foster Care Probationary Licensing Status*: Under current law, a probationary license may be issued when a child caring institution, foster home, group home, or child placing agency is already licensed, but does not comply with a rule. The existing license is invalidated when the probationary license is issued. At the end of the probationary license the original license can be reinstated, a new one issued, or the license revoked. The DCS reports that reinstating or revoking a license that is already invalidated is not possible. The DCS reports that this bill would not increase workload, but would only change the terminology used. The bill would have no fiscal impact as a result.

(D) *Paternity Affidavits*: Creation of New Form: The bill requires the Indiana State Department of Health (ISDH) to modify its current form which is attached to a paternity affidavit to include additional explanation

of the parental rights and responsibilities (e.g., potential provision of health insurance coverage and reasonable parenting time rights) and a statement that a paternity affidavit may be filed with the court. The ISDH should be able to implement this provision of the bill within its existing level of resources.

Provision of Information: Under current law, a person in attendance at the birth is required to verbally explain to the child's mother and a man who reasonablely appears to be the child's biological father the legal effects of an executed paternity affidavit. This bill would require the person in attendance at the birth to inform the aforementioned persons that establishment of a paternity affidavit may require provision of health insurance coverage, reasonable parenting time rights, and that the affidavit may be filed with a court.

Statute defines a "person in attendance at birth" as: a licensed attending physician; an attending midwife or nurse midwife; another individual who: (a) holds a license of the type designated by the governing board of a hospital, after consultation with the hospital's medical staff, to attend births at the hospital; and (b) is in attendance at the birth.

(E) *Genetic Testing and Paternity Affidavits*: Under current law, (1) a mother or expectant mother, (2) a man alleging that he is a child's biological father or he is the expectant father of an unborn child; (3) the mother and a man alleging that he is a child's biological father, filing jointly; (4) the expectant mother and a man alleging that he is the biological father of her unborn child, filing jointly; (5) a child; (6) the DCS or a county Office of Family and Children; (7) a prosecuting attorney (IC 31-14-4-1); or (8) a man who is a party to a paternity affidavit; may file an action in a court to request an order for a genetic test.

This bill would amend current statute and disallow all persons except the man who is a party to a paternity affidavit from filing an action to request a genetic test. This provision of the bill would likely reduce the number of genetic tests requested, and, as a result, reduce expenditures for the state. The number of persons other than the man who is a party to a paternity affidavit requesting a genetic test is unknown. Actual reduction in expenditures is dependent on the number of genetic tests currently ordered which would no longer be ordered under the provisions of this bill.

Background Information: In FY 2005, the state spent $849,619 on genetic tests. The DCS reports the average cost per test (which includes three individuals: the mother, child, and putative father) is approximately $185. Given these figures, the state conducted approximately 4,593 genetic tests during FY 2005.

Note: The state is reimbursed for 90% of the cost of the genetic test in IV-D cases. Thus, the state is responsible for $18.50 of the cost for a genetic test. Under current law, if the state pays the initial costs of a genetic test in a paternity action, the state may recover those costs from an individual found to be the biological parent of the child in the action. The percentage of time in which the state is able to recover costs is unknown.

(F) *Hearings in Juvenile Matters*: Any new costs to the state and to counties will depend on the number of CHINS cases filed in a given year and the current workload of the courts in the counties in question. It is estimated that at least 14 counties could be impacted enough that they may need to increase hearing officers to meet the requirements of this bill. All counties would experience an increase in overall court workloads.

Of the 14 counties, 12 have populations exceeding 50,000. In counties with populations greater than 50,000, the judge of a juvenile court may appoint one or more full-time juvenile magistrates and one or more part-time juvenile court referees. The salaries of full-time juvenile magistrates are paid by both the state ($47,007) and county ($41,393) governments, while the salaries of juvenile referees are paid solely by the county in which

the referee is appointed.

Individual Provisions Regarding Hearings in Juvenile Matters:

(1) Factfinding Hearing: This bill requires the court to complete a factfinding hearing not more than 60 days after a petition alleging that the child is a CHINS is filed.

The Indiana Supreme Court conducted a Court Improvement Program Reassessment (Report) in 2005. "As part of the reassessment, data was collected through surveys issued to: juvenile court judges (magistrates, referees, and commissioners, hearing CHINS cases, OFC Case Mangers and County Directors, OFC Attorneys and Foster Parents). Additional data was collected through court observations and case file reviews (Indiana Supreme Court: Court Improvement Program Reassessment, 2005, p. 3)." Data from the report is presented in this fiscal note.

The Report found that approximately half of courts complete factfinding hearings within two months (see Table A). This provision of the bill would result in an increase in workload for courts. Between 42% and58% of counties report completing the factfinding hearing within 60 days. The bill allows a court to extend the time to complete a factfinding hearing, for an additional 60 days if all parties in the action consent to the additional time. The number of factfinding hearings in which the time to complete would be extended is not known. Between 76% and 99% of courts report completing the factfinding hearing within four months.

Table A. Percentage Total Counties Completing Factfinding Hearing within X days or months.				
	10-30 days	**1-2 months**	**3-4 months**	**5-6 months**
Judges	16%	43%	84%	96%
County OFC Director and Case Manager	26%	58%	99%	100%
OFC Attorneys	11%	42%	76%	97%

(2) Dispositional Hearing: The bill requires the courts to complete a dispositional hearing not more than 30 days after the date the court finds that a child is a CHINS. The Report found that between 45% and 59% of counties completed the dispositional hearing within 30 days (see Table B). This provision of the bill would result in a significant increase in workload for courts. It could require courts hearing a number of CHINS cases, to reprioritize cases, add additional hearing officers, or both.

Table B. Percentage Counties Completing Dispositional Hearing within X days or months.				
	10-30 days	**1-2 months**	**3-4 months**	**5-6 months**
Judges	50%	86%	90%	92%
County OFC Director and Case Manager	45%	82%	89%	92%
OFC Attorneys	59%	89%	89%	95%

(3) Termination of Parental Rights: The bill requires a court to complete a hearing on the termination of

parental rights (TPR) petition not more than 180 days after a petition for TPR is filed. The Report collected information on two types of TPR cases: contested and uncontested. The data indicated that between 86% and 100% of counties complete uncontested TPR hearings (see Table C), and between 61% and 75% of courts completed contested TPR hearings (see Table D), within 180 days. This provision of the bill would likely increase the workload for the courts. In FY 2004, there were 2,097 TPR cases filed. The percentage of TPR cases which are contested or uncontested are unknown.

Table C. Total Counties Percentage of Time to TPR (uncontested).

	10-30 days	1-2 months	3-4 months	5-6 months	7-9 months	10-12 months	Over 12 months
Judges	25%	74%	94%	100%	100%	100%	100%
County OFC Director and Case Manager	8%	46%	73%	83%	85%	88%	100%
OFC Attorneys	24%	62%	76%	87%	90%	95%	100%

Table D. Total Counties Percentage of Time to TPR (contested).

	10-30 days	1-2 months	3-4 months	5-6 months	7-9 months	10-12 months	Over 12 months
Judges	2%	8%	48%	75%	90%	98%	100%
County OFC Director and Case Manager	0%	13%	40%	61%	83%	83%	100%
OFC Attorneys	3%	16%	58%	69%	77%	90%	100%

Background Information: Juvenile court magistrates receive a salary of $88,400 (IC 33-23-5-10) with $47,007 paid by the state and $41,393 paid by the county (IC 33-38-5-7). As of October 2005, 11 judicial circuits in Indiana employ 20 juvenile magistrates.

Any new costs will depend on the number of CHINS cases filed in a given year and the current workload of the courts in the counties in question. It is estimated that at least 14 counties could be impacted enough that they may need to increase hearing officers to meet the requirements from this bill, 30 would have a moderate impact, and 40 would have a minimal impact on court operations.

There are 14 counties most likely to be impacted by this provision: Marion, Allen, Saint Joseph, Hamilton, Elkhart, Vanderburgh, Tippecanoe, Madison, Monroe, Vigo, Clark, DeKalb, Jefferson, and Howard. Of these 14 counties, 12 have populations exceeding 50,000. In counties with populations greater than 50,000, the judge of a juvenile court may appoint one or more full-time juvenile magistrates and one or more part-time juvenile court referees. The salaries of full time juvenile magistrates are paid by both the state and county governments while the salaries of juvenile referees are paid solely by the county in which the referee is appointed.

To estimate the number of counties that could be affected by this bill, the average number of CHINS cases filed between 2002 and 2004 for each county was compared with the average utilization rate by county between 2002 and 2004.

		CHINS Cases					
		Lowest	Lower	Average	Higher	Highest	Total
Utilization Rates	Highest			**1**			1
	Higher	4	4	7	**12**		27
	Average	3	8	8	4	**1**	24
	Lower	3	5	4	5		17
	Lowest	13	6	3	1		23
	Total	23	23	23	22	1	92

During FY 2005, there was an average of 11,887 CHINS each month. The following table shows the number of CHINS petitions filed for years 2000 through 2004.

Year	Number of CHINS cases Filed
2000	8,080
2001	7,888
2002	8,215
2003	8,655
2004	9,574

(H) *Child Abuse or Neglect Substantiated Reports*: This bill redefines the term substantiated pertaining to child abuse or neglect reports. Previously, a report was required to provide credible evidence. As proposed, the report would be required to provide a preponderance of evidence.

The DCS reports that courts currently require a preponderance of evidence when making judgements in child abuse or neglect cases. In addition, all DCS caseworkers are currently trained (or are in the process of being trained) to provide a preponderance of evidence when creating child abuse and neglect reports. Thus, no fiscal impact is anticipated.

(I) *Automated Child Protection System*: This bill would allow child welfare caseworkers, investigators, supervisors, and managers access to certain information in the Indiana Child Welfare System (ICWIS). The DCS reports that it would experience a minimal increase in workload as a result of the provisions of the bill. The DCS would be responsible for changing the profile for each of Indiana's 92 counties. The DCS estimates that the workload could be completed within a several-day time span.

(L) *Department of Child Services License Suspensions*: The bill removes statutory references to suspension powers and the DCS ability to suspend licenses. The DCS reports that the agency has not used this procedure since the grounds for suspension, as distinguished from probation or revocation, are not stated in statute. This provision of the bill should have no fiscal impact.

Explanation of State Revenues: (E) *Genetic Testing and Paternity Affidavits*: The bill could potentially reduce revenues from civil procedures to the state through: (1) eliminating certain persons currently able to petition the court and request a genetic test, or (2) disallowing further proceedings to establish a child's paternity unless the man who executed a paternity affidavit requests a genetic test.

Court Fee Revenue*:* If civil actions occur and court fees are collected, the state General Fund receives

court fee revenue. A civil filing fee of $100 is assessed when a civil case is filed, 70% of which is deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

(N) *Child Abuse or Neglect Investigations in Child Care Centers and Homes*: The DCS reports that child protective services case managers currently investigate allegations of abuse and neglect in licensed child care centers and homes. The Division of Family and Children was previously responsible for investigations. However, because of the creation of the DCS , there was no clear responsibility to investigate allegations of concerns in child care centers in the statute. This provision of the bill clarifies the responsibility and thus would have no fiscal impact.

Explanation of Local Expenditures: (D) *Paternity Affidavits*: See *Explanation of State Expenditures*.

(F) *Hearings in Juvenile Matters*: See *Explanation of State Expenditures*.

(G) *Adoption Petitions*: The DCS, formerly part of the Division of Family and Children, reports that very few counties currently forward adoption petitions to the state. During the past six months, the DCS has received fewer than 10 petitions, while at the same time approximately 500 adoptions have been completed through the DCS. Counties would experience a reduction in expenditures if they are no longer required to forward the petitions through the mail. The current cost to mail a letter is $0.37. Reductions in expenditures for counties are expected to be minimal and would be dependent on the number of petitions no longer required to be forwarded.

(J) *Child in Need of Services and Delinquency Dispositional Decrees:* This bill would allow a juvenile court to use written findings or conclusions from a predispositional report as a written finding or conclusion in a dispositional decree or delinquency hearing.

Under the current law pertaining to dispositional and delinquency hearings, the juvenile courts are required to accompany the court's dispositional decree with written findings and conclusions concerning: (1) the needs of the child for care, treatment, rehabilitation, or placement (disp. & del.); (2) the need for participation by the parent, guardian, or custodian (disp. & del.); (3) efforts made to prevent the child's removal from, or reunite the child with, the child's parent, guardian, or custodian (disp.); (4) family services that were offered and provided (disp.); and (5) the court's reasons for the disposition (disp. & del.).

The DCS reports that the provisions of this bill would expedite and simplify the procedure for compliance with the aforementioned requirements. The bill would reduce workloads for juvenile courts. Actual reductions in workloads are unknown.

Three Month Progress Review: The bill requires a court to order the DCS to file a report on the progress made in implementing the dispositional decree every three months after the dispositional decree is entered. Under current law, a case must be reviewed once every six months at which time a progress report is required to be filed. However, the court may order the case be reviewed more frequently. This provision of the bill would likely represent a workload increase for child welfare caseworkers.

(K) *Foster Family Case Review Reports*: This bill requires the juvenile court to provide a child's foster parents with a copy of a report on the implementation of a dispositional decree. The bill would create additional administrative costs for the court. However, any increase is likely minimal. Actual costs are dependent on the

number and size of the reports created.

Explanation of Local Revenues: (E) *Genetic Testing and Paternity Affidavits*: Court Fee Revenue*:* If civil actions occur, local governments receive revenue from the following sources. The county general fund receives 27% of the $100 filing 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.

State Agencies Affected: Department of Child Services.

Local Agencies Affected: Clerks of the court; Courts; Local Offices of Family and Children; County-owned hospitals; local health departments; Indiana State Department of Health.

Information Sources: John Ryan, Department of Child Services, 234-1388; M.B. Lippold, Department of Child Services, 234-3925; Beverly Gatling, Department of Child Services, 232-3476; John Wood, Department of Child Services; Robert Johnson, Department of Child Services; Thelzeda Moore, Department of Child Services; Wendy Yerkes, Department of Child Services; Tony Sommer, Indiana State Police;Indiana Supreme Court, *2005 Indiana Court Improvement Program: Reassessment Final Report*; Stephanie Beasley, Department of Child Services.

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