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**FISCAL IMPACT STATEMENT**

**LS 6723**

**BILL NUMBER:** SB 149

**NOTE PREPARED:** Feb 23, 2010

**BILL AMENDED:** Feb 22, 2010

**SUBJECT:** Department of Child Services.

**FIRST AUTHOR:** Sen. Lawson C

**FIRST SPONSOR:** Rep. Avery

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

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

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

- (1) Removes the Department of Child Services (DCS) from the entities to which a clerk of the court must forward a petition for adoption.
- (2) Removes language regarding a child protection team being required to provide diagnostic and prognostic services for DCS or a juvenile court.
- (3) Specifies how a child's death or near fatality may be determined to have been the result of abuse, abandonment, or neglect for purposes of certain records.
- (4) Removes certain duties of the Office of the Secretary of Family and Social Services regarding child welfare.
- (5) Adds additional information required in certain petitions.
- (6) Requires DCS to be notified of certain guardianship petitions and to be allowed to participate in a hearing on certain guardianship petitions.
- (7) Permits a court to add conditions for a parent to terminate or modify a guardianship.
- (8) Requires a court to notify DCS if certain petitions to terminate or modify a guardianship are filed.
- (9) Removes the requirement that certain guardianship petitions be sent to the prosecuting attorney.
- (10) Allows a juvenile court to request a probate court that retains jurisdiction over a guardianship to conduct additional proceedings.
- (11) Provides that DCS may petition a court if a parent, guardian, or custodian refuses to allow a child to be interviewed.
- (12) Prohibits the Indiana State Police Department (ISP) from charging a fee for: (a) fingerprinting expenses related to criminal history checks conducted by ISP; and (b) certain limited criminal history background checks conducted by ISP.

(13) Requires juvenile courts or ISP to pay the Federal Bureau of Investigation for costs of certain fingerprinting.

(14) Provides that if a juvenile court: (a) issues an order establishing or modifying a guardianship; (b) issues an order modifying child custody, child support, or visitation; (c) issues an order creating or modifying the establishment of paternity; or (d) closes certain child in need of services cases; the court in which the original action was filed, or an appropriate court, shall assume primary jurisdiction and shall conduct additional proceedings if necessary.

(15) Adds child caring institutions, group homes, private secure facilities and child placing agencies to the list of entities that may submit a report of suspected child abuse or neglect and then later receive a report from DCS regarding the investigation of the report.

(16) Reduces the time for when a prosecutor or DCS attorney must inform parties of the intent to have child testimony outside the courtroom.

(17) Removes a provision that states DCS is responsible for payment of any costs or expenses for housing or services provided to or for the benefit of a child placed by a juvenile court in a home or facility located outside Indiana only if the Director of DCS or the Director's designee recommends or approves the placement.

(18) Provides that DCS is responsible for these costs and expenses if a juvenile court places a child in a home or facility that is located outside Indiana and the: (a) juvenile court makes written findings based on clear and convincing evidence that the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana, the location of the home or facility is within a distance not greater than 50 miles from the county of residence of the child, or the placement is recommended or approved by the director of the department or the director's designee; and (b) the placement is less expensive than similar services that can be provided in Indiana.

(19) Provides procedural rights and duties for certain determinations made by DCS regarding rates for reimbursement of certain entities.

(20) Requires DCS to adopt rules regarding the determination of rates for reimbursement of certain entities.

(21) Makes a technical correction.

(22) Makes other changes.

**Effective Date:** Upon Passage; July 1, 2010.

**Summary of Net Fiscal Impact:** This bill is expected to decrease revenue to the State Police by \$179,000 per year (which would have been deposited into the state General Fund), but would be offset by a corresponding decrease in Department of Child Services (DCS) expenditures (which would come from state General Fund appropriations).

(Revised) The bill may increase DCS expenditures to the extent DCS would be responsible for the payment of out-of-state child placements. Additionally, if DCS is required to establish uniform reimbursement rates for provider services through a rule-making process, DCS expenditures may change to the extent these reimbursement rates are different than previously negotiated rates. The resulting change in DCS expenditures is indeterminable.

**Explanation of State Expenditures:** *Criminal History Background Checks:* The bill prohibits the Indiana State Police (ISP) from charging the DCS state fees associated with a national criminal history background check if the request is made as part of the background investigation for out-of-home placement provider applicants. DCS currently pays \$39 per criminal history background check performed by ISP. This fee is made up of a vendor fee, a portion forwarded to the federal government, and a portion that is deposited into the state General Fund (\$15). A national criminal history background check refers to the criminal history

record system maintained by the Federal Bureau of Investigation (FBI) based on fingerprint identification or any other method of positive identification.

A fee would still be required to process a national criminal history background check by the vendor and the FBI. It is assumed that in order to complete the criminal history background checks, DCS will continue to bear the federal and vendor costs of completing the background checks (\$24 per request). This bill will exempt DCS from the state fees (\$15) and will decrease DCS expenditures by approximately \$179,000 per year. DCS is funded through General Fund appropriations.

DCS currently does not pay the fees to process national criminal history background checks for pre-adoptive parents. DCS reports that during FY 2009, approximately 11,900 national criminal history background checks were requested. Of these requests, the number of background checks that were requested for only out-of-home placements is unknown.

The bill increases the number of entities that DCS would be required to report specified information regarding the outcome of a report of suspected child abuse that was made by the entity. This will increase the workload of DCS to the extent that the reports were not previously provided to child caring institutions, group homes, private secure facilities and child placing agencies that made a report of suspected child abuse. DCS reports that the required reports are an administrative function that would require no additional resources.

*Family and Social Services Administration:* Under the bill, records held by agencies in FSSA would no longer be accessible in determining if a child's death or near death were the result of abuse, neglect, or abandonment. This will decrease the workload of FSSA to the extent FSSA previously provided these records; however, decreases are expected to be minimal.

*(Revised) Reimbursement Rate Determinations:* The bill will require DCS to perform rule promulgation to determine reimbursement rates for licensed (1) child caring institutions, (2) group homes, (3) foster family homes, and (4) child placing agencies. DCS previously has not used rule promulgation to determine these reimbursement rates and doing so will increase the workload of DCS staff. Increases are expected to be absorbed by current staff.

DCS reports that by requiring the adoption of uniform reimbursement rates for the providers defined in the bill, DCS will no longer be able to contractually negotiate different reimbursement rates with different providers. It is unknown how setting uniform rates across service providers will impact DCS expenditures; however, DCS expenditures may change as a result. A uniform reimbursement rate may be more or less expensive than a previously negotiated reimbursement rate. Any change in DCS expenditures is indeterminable but would depend on the outcome of the rule promulgation process and the net overall difference in reimbursement rates provided by DCS before and after the new rates are established. DCS reports this provision may increase state expenditures.

*(Revised) Out-of-State Placement:* This bill changes the conditions under which DCS is responsible to pay for the costs of services or housing for CHINS and juvenile delinquents. Currently, DCS is not responsible for the costs of services or housing if the proposed placement is not recommended or approved by DCS. Under the bill, DCS would be responsible for the costs of services or housing if the placement is no more expensive than similar services provided within the state *or* meets one of the following conditions:

- (1) The proposed placement is recommended by DCS.

- (2) The juvenile court determines that out-of-state placement is in the best interest of the child because there are no comparable facilities within the state.
- (3) The location of the facility is within 50 miles of the child's county of residence.

This bill may increase state expenditures to the extent out-of-state placements increase. Increases in out-of-state placements and state expenditures are indeterminable.

(Revised) Background Information: As of October 1, 2009, there were approximately 80 children placed out of state. Since July 1, 2009, only two requests have been submitted to DCS for review for out-of-state placement.

These 80 children who are placed out of state are placed in the following states: Nevada, Arizona, Pennsylvania, Minnesota, Iowa, and Nebraska. DCS spent approximately \$4.2 M during CY 2009 for out-of-state placement, or approximately \$52,000 per child per year.

**Explanation of State Revenues:** *Criminal History Background Checks*: ISP currently charges DCS \$39 for a national criminal history background check, of which \$15 is deposited in the state General Fund. DCS requested a total of 11,900 national criminal history background checks in FY 2009 that, under the bill, an unidentifiable portion would be fee-exempt. Assuming this bill is to have no effect on the number of national criminal history background checks requested by DCS, revenue to the General Fund is estimated to decrease by a maximum of approximately \$179,000 per year.

*Court Fee Revenue*: The bill makes changes to family court provisions contained in statute. To the extent this bill changes the number of court cases heard in family court, state revenue from civil fees may change. Any change in the number of family court cases is indeterminable.

If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be 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. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:** (Revised) *Out-of-State Placement*: This bill may decrease local court expenditures to the extent DCS will be required to finance the out-of-state treatment services that otherwise would have been financed by the local court. Currently, if DCS does not pay the costs of out-of-state treatment, the local court finances the treatment costs. Per statute, the parent of a child receiving services can be held responsible for some, if not all, of the costs of treatment provided by the court.

(Revised) The following may increase court workload:

- (1) Requiring courts to notify DCS if a child in need of services (CHINS) case is filed or a program of informal adjustment is pending that involves a minor,
- (2) there are more court hearings for terminations and modifications of guardianship cases as a result of changes in guardianship conditions,
- (3) requiring courts to notify DCS of actions concerning guardianships, and

(4) DCS ability to petition the court if parents, guardians, or custodians refuse to allow the Department to interview a child.

The following may decrease court workload:

- (1) Removing provisions that require the court clerk to notify DCS if an adoption petition is found to be in proper form,
- (2) clarifying court jurisdiction for modifying (a) the establishment of paternity, (b) child custody, (c) child visitation, and (d) guardianship if there are fewer court filings in courts that do not have appropriate jurisdiction,
- (3) removing language that requires the probate court to send notifications to prosecuting attorneys under guardianship proceedings, and
- (4) removing language that requires a local juvenile court to determine if certain allegations, if proven, may have caused the death or near death of a child as the result of abuse, neglect, or abandonment.

The following provisions may also decrease the workload of:

- (1) The local community child protection team established in each county by removing language that requires the team to provide diagnostic services and prognostic services for DCS or the juvenile court, and
- (2) the prosecuting attorney by removing language that would allow the prosecuting attorney to file certain information alleging a child's death or near fatality to be the result of abuse, abandonment, or neglect.

**Explanation of Local Revenues:** *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs 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. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** ISP, DCS, FSSA.

**Local Agencies Affected:** Local courts, local community child protection teams, prosecuting attorney.

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