

Fiscal Note & Local Impact Statement

123rd General Assembly of Ohio

BILL: H.B. 448 DATE: January 5, 2000

STATUS: As Introduced SPONSOR: Rep. Metzger

LOCAL IMPACT STATEMENT REQUIRED: Yes

CONTENTS: To revise the law governing audits of public children services agencies, private child placing agencies, and private non-custodial agencies; to require the establishment in each county or region of a board for the purpose of reviewing deaths of children under age eighteen; to permit a public children services agency to employ legal counsel without the consent of the court of common pleas; to require that procedures for fiscal accountability of child welfare services be established and followed; and to revise the law governing how reports of child abuse or neglect are maintained

State Fiscal Highlights

STATE FUND	FY 2000	FY 2001	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of under \$45,000	Increase of under \$90,000	Increase of under \$90,000
Reparations Fund (a.k.a. Victims of Crime Fund)			
Revenues	Potential negligible loss	Potential negligible loss	Potential negligible loss
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- Requirements set forth in the bill concerning the publication of an annual statewide child fatality report by the Ohio Department of Health (DOH) and the Ohio Children's Trust Fund Board will increase General Revenue Fund (GRF) expenditures in the DOH budget by not more than \$90,000 each year.
- Negligible increases in GRF and Reparations Fund revenues may occur as a result of a very small number of new cases under provisions of the bill, which make unauthorized dissemination of child fatality review board information a second-degree misdemeanor.
- Department of Human Services (ODHS) may experience a minimal increase in expenditures associated with developing and implementing new uniform cost reporting rules for Title IV-E reimbursement in the first year.



Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2000	FY 2001	FUTURE YEARS
Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Indeterminate decrease	Potential net decrease of up to \$250,000	Potential net decrease of up to \$250,000

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Those counties without a current child fatality review board will experience a minimal increase in expenditures associated with the establishment of (multi-) county child fatality review boards (CFRBs) and the preparation of each CFRB's annual report to the Ohio Department of Health.
- Some counties and municipalities will experience a potential negligible increase in expenditures associated with the adjudication of a very small number of new cases under provisions of the bill that make unauthorized dissemination of child fatality review board information a second-degree misdemeanor
- Counties and municipalities could receive a small amount of court cost and fine revenue associated with the new cases of unauthorized dissemination of child fatality review board information, an act that the bill makes a second-degree misdemeanor.
- Some counties will experience an indeterminate decrease in expenditures, perhaps totaling as much as \$250,000 each year, as a result of provisions of the bill which shift responsibility for the cost of an audit of a private child placing agency or private non-custodial agency, performed by the Auditor of State, from public children services agencies to the private agency being audited.

Detailed Fiscal Analysis

The bill proposes several changes in the law governing foster care and the operations of public and private children services agencies.

Child Fatality Review Boards

Provisions of the bill. The bill requires the boards of county commissioners to establish a six-person Child Fatality Review Boards (CFRB). A CFRB may serve one county or a region, with the joint approval of boards of commissioners of both or all affected counties. The bill requires CFRBs to review the deaths of all children under age 18, maintain a comprehensive database of all child deaths occurring in a county or region, recommend plans for implementing local services to reduce the incidence of preventable child deaths, and advise the Department of Health regarding aggregate data and trends. Each CFRB must meet at least once a year to review child deaths and must prepare and submit an annual report on child fatalities in the county or region to the Department of Health (DOH) by April 1, which DOH and the Ohio Children’s Trust Fund Board are required to publish. All public children services agencies (PCSAs), private placement agencies, law enforcement agencies, or other public or private entities are required to cooperate with the CFRB, with the exception of law enforcement agencies and prosecutors during the period of an active investigation/prosecution. The bill grants immunity from civil liability to CFRB members and those reporting deaths to the Board and exempts the meetings and records of the CFRB from provisions of Ohio’s open records law and the definition of public records.

Existing Boards and Effects on Counties. Currently, child death review teams exist in several Ohio counties. LBO has confirmed that county-wide, multi-agency teams operate in eight counties: Cuyahoga, Delaware/Union (joint team), Franklin, Greene, Hamilton, Montgomery, and Summit. These teams vary in size and organization—some are convened by the county coroner, others coordinated by local Family and Children First Councils or the county health department—but all of these teams include representatives from multiple agencies and all review child deaths that occur in each team’s area of operation, which may or may not include all fatalities in a particular county or group of counties. For example, the Summit County Children Services Board is administrative host to a child fatality review board that investigates all child deaths that occur in Summit County including those deaths that occur in a regional hospital that serves a 14 county region. In perhaps a dozen other counties there are review teams that investigate selected child fatalities or exist within only one agency.

As far as LBO can determine, the administrative cost of such existing child death review boards is borne largely by the host agency (a county children services bureau or county department of human services), with board members’ service time included as part of their regular job duties. Since the bill does not address the subject of compensation for the members of CFRBs, LBO assumes that service on such boards also would be donated or considered a part of a person’s regular job duties. Additionally, the bill does not specify an administrative support agency for the CFRBs. Therefore, LBO estimates those counties without an existing child fatality review board will experience a minimal increase

in expenditures related to the administrative costs associated with CFRB meetings and the compilation and dissemination of the CFRBs reports to the Department of Health.

Department of Health. The bill requires the Ohio Department of Health (DOH) to adopt rules that establish procedures, guidelines, and reporting formats for CFRBs. It also requires DOH, with the assistance of the Ohio Children's Trust Fund Board, to prepare and publish an annual statewide child fatality report based on the annual reports of the individual CFRBs.

Currently, DOH prepares tabular reports concerning births, deaths, and marriages in Ohio pursuant to ORC 3705.02 each year. The Department compiles this information from birth, death, and marriage certificates issued by municipal and county officials. These reports, published as *The Vital Statistics Annual Report* and in many cases available on-line, generally indicate the quantitative extent of births, deaths, and marriages. The tabular information in *Vital Statistics* primarily relates to deaths of children age 0-3 and is presented without analysis or recommendation.

According to DOH, the preparation and dissemination of the annual statewide child fatality report based on the annual reports of CFRBs will require at a minimum the addition of one full-time position and additional staff time totaling \$65,000 including benefits, as well as additional costs for printing and postage, and for training local CFRB officials in preparing reports. The Department estimates the preparation of the annual report will entail additional expenditures of \$90,000-95,000 annually. LBO believes the actual fiscal effect may be muted somewhat as the Department already prepares and publishes statistical reports of a similar nature and the annual report required in the bill will be based largely on reports submitted by the individual county boards.

New criminal offense. The bill also creates a new offense of unauthorized dissemination of confidential CFRB information, a misdemeanor of the second degree. A second-degree misdemeanor is punishable by a fine of not more than \$750 and/or a jail term of not more than 90 days. LBO estimates that few, if any, new cases will result from this provision of the bill. Additional court cost and fine revenue may be generated for counties and municipalities, but as there most likely will be few additional criminal cases created by the bill, the amount of revenue to be generated should be extremely small. One of the general rules for the distribution of fines in Ohio directs fines for violations of state law for deposit into the treasury of the county in which the municipal or county court is located. Although LBO estimates that few if any new cases annually will result from this provision of the bill, it will represent a potential negligible increase in expenditures for some municipalities and counties for the costs of adjudication and prosecution of cases and the sanctioning of convicted offenders.

In addition, when an individual is convicted of or pleads guilty to a misdemeanor offense, the court generally is required to collect an additional \$11 in court costs and then pay it into the state's GRF. Although never referred to expressly in any of its enactments, the General Assembly intended that these moneys were to be used to assist public defender offices. Additionally, if an individual is convicted of or pleads guilty to a misdemeanor offense, the court generally is required to collect an additional \$9 in court costs and then pay it into the Reparations Fund, a.k.a., Victims of Crime fund. Assuming that there will be few additional criminal cases created as a result of the bill, the amount of additional revenue generated for the GRF and the Reparations Fund will be extremely small.

Out-of-county Child Fatality Notification. A related provision of the bill requires local registrars of vital statistics to determine the county of residence of a child who dies in the local registrar's county and to forward a copy of the death certificate to the local registrar of the deceased child's county of residence. Currently, in some counties this notification is done as a matter of courtesy, however the requirement in the bill will increase county expenditures negligibly.

Foster Care Financial Accountability

The bill proposes a number of changes to the law governing foster care, changes aimed at tightening financial controls and ensuring fiscal accountability.

Audits. The bill establishes requirements for certain audits conducted by the Auditor of State (AOS) and changes the responsibility for paying for the costs of such audits in certain cases. When the Auditor of State audits a public children service agency (PCSA), private child placing agency (PCPA), or private noncustodial agency (PNA), the bill requires that the audit team must include a representative of a national non-profit child welfare organization; that the audit must cover a 12-month period and include only transactions that were both billed and paid; that the audit must focus on fiscal accountability rather than clinical issues; that the AOS must communicate with the agency being audited regarding the parameters, procedures, and status of the audit; and that the Auditor must provide the agency being audited with a copy of the audit report and give the agency an opportunity to respond before releasing the report.

The bill changes the responsibility for the costs of an audit of a PCPA or PNA receiving public money. Currently, such audits are paid for by the public children services agency with which the private agency has a relationship. The bill requires that the costs of such audits be charged to the agency being audited in the same manner as an audit of a public office. The number of audits of PCPAs and PNAs performed by the AOS varies annually. According to the Auditor of State, the cost of such audits ranges between \$10,000 and \$45,000 depending upon the size of the agency being audited. If 10 agencies are audited annually, using an average cost of \$25,000 per audit, the bill will result in a decrease in county expenditures of about \$250,000 each year for private agency audit costs that are currently the responsibility of a PCSA. AOS does not anticipate the provisions of the bill will affect its budget as it anticipates contracting out any additional auditing work generated under the bill and recouping the cost from the PCPA or PNA being audited.

Uniform Cost Reporting. The bill requires the Department of Human Services (ODHS), as the single state agency authorized to administer federal payments for foster care and adoption assistance made under Title IV-E of the Social Security Act, to adopt internal management rules governing the financial and administrative requirements applicable to private child placing agencies (PCPAs) and private non-custodial agencies (PNAs), as well as public children services agencies (PCSA). For PNAs and PCPAs, these rules must establish a single form for such agencies to report costs reimbursable under Title IV-E and under Medicaid, and procedures to monitor such cost reports.

Counties negotiate the purchase of foster care services from providers and receive Title IV-E reimbursement through ODHS. Currently, foster care providers submit cost reports to ODHS, which determines the level of Title IV-E reimbursement due the counties. The Department has no Medicaid-based relationship with foster care providers, who separately may seek Medicaid reimbursement through other state departments such as the departments of Mental Health, Alcohol and Drug Addiction Services, Mental Retardation and Developmental Disabilities. The bill does not alter that arrangement. However, requiring Medicaid reimbursable costs to be reported on the same form with IV-E reimbursable costs will permit ODHS to more easily “back out” Medicaid costs from the calculation of foster care reimbursement and thus reduce the risks faced by the Department when audited for compliance with federal requirements for Title IV-E reimbursement. ODHS may experience an indeterminate, but likely minimal increase in costs associated with developing and implementing these rules in the first year.

The bill also establishes penalties, to be enforced by ODHS at its discretion, for the failure of a PCSA, PCPA, or PNA to comply with the procedures established by the Department to ensure fiscal accountability. For initial failure, the agency not in compliance must develop and implement a corrective action plan. Subsequent failure to comply with established procedures, or failure to achieve the goals of the corrective action plan, will result in the withholding of Title IV-E funds until compliance is achieved, if the agency is a PCSA; or, if the agency is a PNA or PCPA, the loss of Title IV-E reimbursement altogether for two years. To the extent that agencies will fail to comply with established cost reporting procedures, the supply of foster care providers may be interrupted, an effect likely to exert an upward pressure, the magnitude of which is unknown, on the foster care per diem rates each county negotiates with providers.

PCSA Legal Representation

The bill adds public children services agencies (PCSAs) to the exemption currently extended only to county boards of mental retardation and developmental disabilities, which permits these agencies to retain legal counsel without the specific authorization of a court of common pleas. According to the Public Children Services Association of Ohio, an organization representing the county children service agencies, most PCSAs likely to make use of this permissive provision of the bill have staff attorneys on whom they would call for such representation.

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