

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ♦ Phone: (614) 466-3615
♦ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Sub. H.B. 7 (LSC 127 0671-3)**

DATE: **January 16, 2008**

STATUS: **In House Health**

SPONSOR: **Rep. Brinkman**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost (In the introduced version)**

CONTENTS: **Modifies the law regarding adoption records, open adoptions, and permanent custody of abused, neglected, or dependent children**

State Fiscal Highlights

STATE FUND	FY 2008*	FY 2009	FUTURE YEARS
Various Funds in the Department of Health			
Revenues	Potential gain due to fees collected for a greater number of requests for adoption records	Potential gain due to fees collected for a greater number of requests for adoption records	Potential gain due to fees collected for a greater number of requests for adoption records
Expenditures	Increase associated with more requests for adoption records; Minimal increase to adopt rules	Increase associated with more requests for adoption records	Increase associated with more requests for adoption records
Various Funds in the Department of Job and Family Services			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of \$1,000 to establish and provide support for the Child-Centered Recruitment Task Force; Minimal increase to update adoption forms; Minimal increase associated with incorporating adoption as an option information	Increase of \$1,372 to establish and provide support for the Child-Centered Recruitment Task Force	- 0 -
Various Funds in the Department of Education			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Minimal increase associated with incorporating adoption as an option information	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

* It is possible that the fiscal impact of the provisions of this bill will take effect in FY 2008, however, depending on the date of enactment, some of the costs listed in FY 2008 may actually be experienced in FY 2009.



- **Access to adoption records.** An increase in demand from adoptees seeking access to the contents of their adoption file or identifying information about their birth families contained in the adoption file will likely increase costs for the Ohio Department of Health (ODH). The Department may experience a gain in fee revenue due to the collection of fees for a greater number of requests for adoption records.
- **Updating form and adoption of rules.** The Ohio Department of Job and Family Services (ODJFS) may incur minimal costs associated with updating forms that must be completed by a birth parent prior to consenting to a child's adoption. Likewise, ODH may incur minimal administrative costs associated with adopting rules regarding the new system of accessing adoption records.
- **Adoption as an option.** The Department of Education and ODJFS will incur minimal costs associated with updating the curriculums of various educational and training programs and providing additional information to program participants.
- **Child-Centered Recruitment Task Force.** Establishing the Child-Centered Recruitment Task Force will result in increased costs to ODJFS. ODJFS is required to provide meeting space and administrative support. ODJFS plans to utilize current office space for this purpose and the administrative support is expected to be absorbed into current office functions. Based on a meeting schedule of February 2008 through December 2008, ODJFS estimates mileage reimbursement for the committee members to be \$2,200 and the cost of distributing the Task Force's findings to all public children services agencies (PCSAs), private noncustodial agencies, and private child placing agencies in Ohio to be \$172.38.

Local Fiscal Highlights

LOCAL GOVERNMENT		FY 2008	FY 2009	FUTURE YEARS
County Courts				
Revenues	Loss due to fewer filing fees collected			
Expenditures	(1) Decrease due to no more petitions for release of adoption records; (2) Increase due to involvement in post-adoption contact agreements; (3) Minimal decrease due to being uninvolved in certain adoption petitions; (4) Minimal increase due to the limitation of temporary custody; (5) Minimal increase related to various considerations in placement of a child	(1) Decrease due to no more petitions for release of adoption records; (2) Increase due to involvement in post-adoption contact agreements; (3) Minimal decrease due to being uninvolved in certain adoption petitions; (4) Minimal increase due to the limitation of temporary custody; (5) Minimal increase related to various considerations in placement of a child	(1) Decrease due to no more petitions for release of adoption records; (2) Increase due to involvement in post-adoption contact agreements; (3) Minimal decrease due to being uninvolved in certain adoption petitions; (4) Minimal increase due to the limitation of temporary custody; (5) Minimal increase related to various considerations in placement of a child	(1) Decrease due to no more petitions for release of adoption records; (2) Increase due to involvement in post-adoption contact agreements; (3) Minimal decrease due to being uninvolved in certain adoption petitions; (4) Minimal increase due to the limitation of temporary custody; (5) Minimal increase related to various considerations in placement of a child

Public Children Services Agencies (PCSAs)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase due to the post-adoption contact agreement; Minimal decrease due to the limitation of temporary custody	Increase due to the post-adoption contact agreement; Minimal decrease due to the limitation of temporary custody	Increase due to the post-adoption contact agreement; Minimal decrease due to the limitation of temporary custody

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

- **Access to adoption records.** The bill eliminates the need for individuals to petition probate courts for the release of adoption records and/or identifying information about their birth families. As a result, probate courts will likely experience a decrease in administrative costs. However, there may also be a corresponding loss of filing fee revenue to the probate courts due to fewer petitions for the release of information.
- **Open adoptions.** There may be increased costs to PCSAs due to the extension of the post-adoption contact agreement to certain members of a birth family. Additionally, the required involvement of the probate court in such agreements will result in an increase in costs for the courts. The magnitude of the increase will depend on the volume of cases.
- **Juvenile court jurisdiction.** The juvenile divisions of the courts of common pleas may experience a minimal decrease in costs as a result of no longer being required to consent before a probate court grants certain adoption petitions.
- **Other child welfare provisions.** The two-year limitation on temporary custody may cause a minimal increase in costs to the courts to dispose of a case sooner than it may have otherwise. Additionally, if this limitation results in a case being closed sooner there may be a decrease in costs for the PCSA handling the case. The provisions related to placing a child in permanent custody or a planned permanent living arrangement may result in a minimal increase in administrative costs to the probate courts to ensure that the standards and considerations set forth in the bill are met.

Detailed Fiscal Analysis

Access to adoption records

Presently, there are three systems for adoptees to obtain a copy of the contents of their adoption file or identifying information about their birth families contained in the adoption file. The system that applies to an adoptee depends on particular dates relative to their adoption.

The bill eliminates the three systems and creates one system applicable to all adoptees born in this state who are at least 18 years of age. Under the one system, an adult adoptee, regardless of the date that the adoptee became available or potentially available for adoption or was adopted and regardless of whether the file was previously closed under the law or by action of a birth parent, may access the contents of the adoptee's adoption record held by the Ohio Department of Health (ODH) that includes identifying information about the adoptee's birth family. The bill authorizes the Director of Health to adopt new rules establishing a fee for providing a copy of adoption records.

The bill also specifies that components of the form that must be completed by a birth parent prior to consenting to an adoption and components of the social and medical history form completed by birth parents must reflect the single system access to adoption records.

Fiscal effect

As a result of the bill, the Department expects a significant increase in demand from adoptees seeking access to the contents of their adoption file or identifying information about their birth families contained in the adoption file. An increase in demand will likely increase costs for ODH to release adoption records. The Department may experience a gain in fee revenue as a result of an increase in requests.

In addition, these provisions eliminate the need for individuals to petition probate courts for the release of adoption records and/or identifying information about the birth family. As a result, probate courts will likely experience a decrease in administrative costs. However, there may also be a corresponding loss of filing fee revenue to the probate courts due to fewer petitions for the release of information.

The Ohio Department of Job and Family Services (ODJFS) may incur minimal costs associated with updating forms that must be completed by a birth parent prior to consenting to a child's adoption. Likewise, ODH may incur minimal administrative costs associated with adopting rules regarding fees under the new system.

Open adoptions

Currently, a birth parent and an adoptive parent can enter into a nonbinding open adoption. Generally, an open adoption allows the birth parent to retain some degree of contact with his or her child after the prospective adoptive parent adopts the child. This option is only available to those parents that have voluntarily placed their children for adoption. Existing Ohio law does not allow a parent who has had his or her parental rights involuntarily terminated by the court, including in an abuse, neglect, or dependency case, to enter into a nonbinding open adoption.

The bill provides for an open adoption to be arranged by a "post-adoption contact agreement" rather than an "open adoption." The major differences are that the post-adoption contact agreement is (1) extended to certain birth family members, (2) available to parents who have had their parental rights involuntarily terminated by a court, and (3) is enforceable.

The bill requires the agency to make a good faith attempt to locate an adoptive parent who is willing to enter into a post-adoption contact agreement with the birth family member in an involuntary adoption unless the child's foster caregiver is adopting the child.

In addition, the bill requires a probate court to approve the post-adoption contact agreement upon motion of the parties if the agreement is in the best interest of the child. The bill also requires a probate court to enforce, modify, or terminate a post-adoption contact agreement under certain circumstances.

Fiscal effect

There may be increased costs to public children services agencies (PCSAs) due to the extension of the post-adoption contact agreement to birth family members besides the birth parents and to birth parents who have had their parental rights involuntarily terminated. According to the Public Children Services Association of Ohio (PCSAO), they anticipate an increase in the number of individuals choosing to enter into a post-adoption contact agreement. Such an increase will result in additional casework for PCSAs to assess the birth family member's suitability for the agreement.

According to PCSAO, the provision regarding a good faith attempt in locating adoptive parents willing to enter into an agreement will likely result in only minimal, if any, cost increases for PCSAs. This is already standard procedure in the current recruitment of adoptive families.

The provisions requiring the probate courts' involvement in post-adoption contact agreements will likely result in an increase in costs for the probate court system. The magnitude of the increase will depend on the volume of cases.¹

Birth mother's living expenses

Under current law, an attorney, private noncustodial agency (PNA), private child placing agency (PCPA), petitioner (the prospective adoptive parent), or person acting on the petitioner's behalf

¹ Although data on the number of open adoptions is not available, according to the November 2006 "Adopt Ohio Kids Statewide Performance Report," the number of children adopted from foster care for the last few years were: 2,124 in 2004, 2,026 in 2005, and 1,857 in 2006.

may pay for specific expenses connected with a child's permanent surrender, placement, or adoption. Generally these expenses include physician or hospital expenses incurred by the birth mother or child around the time of the child's birth; attorney, agency, or court expenses related to permanent surrender, placement, or the adoption; the child's temporary routine maintenance and medical costs if the prospective adoptive parent refuses placement; guardian ad litem fees; and temporary foster care expenses. No other payments related to the permanent surrender, placement, or adoption, are permitted.

The bill adds the birth mother's living expenses to the list of approved payments connected with a child's permanent surrender, placement, or adoption. The living expenses must not exceed \$3,000 and must be incurred during pregnancy and up to two months after the child is born. Payments from the petitioner to the birth mother for living expenses must be made through the attorney or agency arranging the adoption.

Fiscal effect

These provisions will only affect adoptions handled by private agencies and therefore have no fiscal effect on state or local government.

Juvenile court jurisdiction

Under current law, a juvenile court must consent to an adoption before the probate court can grant certain adoption petitions. This occurs in situations where the child has a legal guardian or custodian who is not authorized by law or a court order to consent to the adoption. The bill removes the juvenile court's jurisdiction in such cases.

Fiscal effect

The juvenile divisions of the courts of common pleas may experience a decrease in costs as a result of no longer being required to consent before a probate court grants certain adoption petitions. However, according to the Ohio Judicial Conference, this type of case is rare and will likely only have a minimal impact.

Adoption as an option

The bill requires all of the following to emphasize adoption as an option for unintended pregnancies:

- Instruction in venereal disease education that must be included in the curriculum of schools under the control of a board of education, governing board of an educational service center, or cooperative education school district;
- Graduation, reality, and dual-role skills (GRADS) programs that are designed to provide intervention and instruction to pregnant and parenting students in eligible school districts or joint vocational school districts;

- The Learning, Earning, and Parenting (LEAP) Program designed to encourage pregnant or parenting teens participating in Ohio Works First to attend and complete high school or the equivalent.

The bill also requires PCSA caseworker training and PCSA caseworker supervisor training to include courses on educating pregnant or parenting persons on adoption as an option for unintended pregnancies.

Fiscal effect

The Department of Education (ODE) and ODJFS will incur minimal costs associated with updating the curriculums of various educational and training programs. According to ODE, no significant costs are expected as a result of making changes to the venereal disease education or GRADS programs. ODJFS expects some costs associated with modifying the LEAP program. Currently, there is no statewide curriculum for LEAP; participants continue to attend their own schools and each program is unique. The Department may meet this requirement by including this information in materials provided to LEAP program participants.

According to ODJFS, the Department will incur minimal costs to modify the curriculum of PCSA caseworker and PCSA caseworker supervisor training. State law specifies the number of hours of training required for these positions. The bill does not increase the total number of hours of required training. Therefore, inclusion of courses on adoption as an option will result in some other aspects of the current curriculum being abbreviated.

Child-Centered Recruitment Task Force

The bill requires ODJFS to establish a Child-Centered Recruitment Task Force. The Task Force is to consist of the ODJFS Director, adoption professionals, and at least one professional from a PCSA, PNA, and PCPA. One member of the Task Force is to represent an agency that has created, utilized, or is currently utilizing, child-centered recruitment.

The Task Force must compile all effective procedures, models, and other relevant information regarding child-centered recruitment that PCSAs, PNAs, and PCPAs currently using child-centered recruitment utilize when seeking adoptive families for children in permanent custody. After compiling the procedures, models, or other relevant information, the Task Force must create a uniform child-centered recruitment model based on the information compiled. Not later than December 1, 2008, the Task Force must disseminate the model to all PCSAs, PNAs, and PCPAs in Ohio. Upon dissemination of the uniform child-centered recruitment model, the Task Force is to cease to exist.

Fiscal effect

Establishing the Child-Centered Recruitment Task Force will result in an increase in costs to ODJFS. Although the members are to serve without compensation, ODJFS is required to provide meeting space and administrative support. ODJFS plans to utilize current office space for this purpose and the administrative support is expected to be absorbed into current office functions.

The bill does not specify whether or not travel expenses are to be reimbursed. It is possible that the members of the Task Force will be reimbursed for their travel expenses. ODJFS estimates mileage reimbursement for the committee members to total \$2,200. To arrive at this estimate, the Department assumed (1) there will be five committee members outside of ODJFS employment, (2) meetings will occur once a month, beginning in February 2008 and ending in December 2008, (3) average mileage for each member is 100 miles, and (4) mileage reimbursement is \$.40 per mile.

There will also be administrative costs related to distributing the Task Force's findings to all PCSAs, PNAs, and PCPAs in Ohio. ODJFS estimates the cost of this requirement to be \$172.38. To determine the cost estimate for this expense, ODJFS used the printing, binding, and mass mailing of the Ohio Children's Trust Fund "Prevent Child Abuse" calendars. The cost per calendar equaled \$.51. Thus, a \$.51 proxy for each report to be printed, bound, and mailed was used. The estimate assumes one report will be mailed out to each of the 88 county agencies and approximately 250 private agencies.

Other child welfare provisions

Current law allows a juvenile court to make one of several dispositions for a child who is adjudicated an abused, neglected, or dependent child.

A juvenile court may place a child in temporary custody. The temporary custody order expires one year after either the date that the complaint was filed or the date the child was first placed into shelter care, whichever is earlier. However, the order may be continued under certain circumstances. The bill prohibits a juvenile court from extending a temporary custody order beyond two years from the earlier of the date the complaint was filed or the child was placed in shelter care.

A juvenile court may also place a child in permanent custody. Whether a parent, under current Ohio law, has had parental rights involuntarily terminated with respect to a sibling of a child is among the factors that require a juvenile court to place a child in permanent custody. The bill provides that the involuntary termination does not have to have occurred only under current Ohio law but may also have occurred under an existing or former law in Ohio, any other state, or the United States that is substantially equivalent. The bill adds that the parent must have failed to provide clear and convincing evidence to prove that, notwithstanding the prior termination, the parent can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child.

Alternately, a juvenile court may place the child in a planned permanent living arrangement with a PCSA or PCPA. One of the circumstances in which a child may be placed in such an arrangement is if the child is unable to function in a family-like setting because of physical, mental, or psychological problems or needs and must remain in institutional care. The bill narrows this circumstance by specifying that such a placement is permitted if the child must remain in residential or institutional care "for a significant period of time beyond the date of the child's dispositional hearing."

Fiscal effect

According to PCSAO, it is the intent of the law that temporary custody last no more than two years. However, in some rare cases, temporary custody does extend beyond the two-year period and resolution in those cases is delayed. The two-year limitation on temporary custody may cause a minimal increase in costs to the courts to dispose of a case sooner than it may have otherwise. Additionally, if this limitation results in a case being closed sooner there may be a decrease in costs for the PCSA handling the case. However, as noted, these provisions are likely to affect only a small number of cases and, as a result, there will likely be minimal fiscal effects on PCSAs and the courts associated with this change. Additionally, resolving all cases within the timeframe may have the indirect effect of reducing the time spent in foster care for some children and moving them toward adoption or reunification sooner. A reduction in the time spent in foster care could mean cost savings to counties.

The provisions related to placing a child in permanent custody or a planned permanent living arrangement will likely result in a minimal increase in administrative costs to the probate courts to ensure that the standards and considerations set forth in the bill are met.

LSC fiscal staff: Stephanie Suer, Budget Analyst

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