# *Fiscal Note & Local Impact Statement*

*127 th General Assembly of Ohio*

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 7** DATE: **May 20, 2008**

STATUS: **As Reported by House Health** SPONSOR: **Rep. Brinkman**

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

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

## *State Fiscal Highlights*

| STATE FUND | FY 2009 | FY 2010 | FUTURE YEARS |
|---|---|---|---|
| **Various Funds in the Department of Job and Family Services** | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Increase of $972 to establish and provide support for the Child-Centered Recruitment Task Force | - 0 - | - 0 - |
| | Minimal one-time increase associated with incorporating adoption as an option information | - 0 - | - 0 - |
| | Potential minimal increase due to adopting rules and adjusting the procedures associated with foster care and adoption home studies | - 0 - | - 0 - |
| **Various Funds in the Department of Education** | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Minimal one-time 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 2009 is July 1, 2008 – June 30, 2009.

- ***Child-Centered Recruitment Task Force*.** Establishing the Child-Centered Recruitment Task Force will result in increased costs to the Ohio Department of Job and Family Services (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 an assumed meeting schedule of September 2008 through December 2008, the estimated mileage reimbursement for the committee members is $800 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 is $172.

- ***Adoption as an option.*** The departments of Education and Job and Family Services will incur a one-time minimal increase in costs associated with updating the curriculums of various educational and training programs and providing additional information to program participants.

- ***Aligning adoption and foster home studies.*** The bill requires that any rules adopted by the Director of Job and Family Services regarding home studies align the foster care and adoption home study content, time periods, and processes. These provisions may result in a minimal increase in costs for ODJFS when adopting rules to adjust the procedures associated with foster care and adoption home studies.

## *Local Fiscal Highlights*

| LOCAL GOVERNMENT | FY 2008 and FUTURE YEARS | | |
|---|---|---|---|
| **County Courts** | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Minimal increase due to disrupted adoptions | | |
| | Minimal decrease due to being uninvolved in certain adoption petitions | | |
| | Minimal increase due to various considerations in placement of a child and the limitation of temporary custody | | |
| **Public Children Services Agencies (PCSAs)** | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Minimal decrease due to the limitation of temporary custody and finalization of interlocutory order | | |

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

- ***Finalization of interlocutory order.*** When a probate court holds a final adoption petition hearing the court may issue an interlocutory order of adoption. The bill changes the start date of the time period of the interlocutory order to the date the person to be adopted is placed in the adoptive home. This provision may shorten the length of time a child is in the custody of a PCSA, resulting in a decrease in costs.

- ***Disrupted adoptions.*** When an adoptive parent enters into an agreement with a private child placing agency or PCSA to place his or her adopted child in the temporary custody of the agency, a juvenile court may issue an order that requires the adoptive parent to pay for the care, support, maintenance, and education of the child while in temporary custody. The bill requires that juvenile courts consider the ability of the parents to meet the needs of all other children in the home when deciding whether to issue such an order. These provisions may result in a minimal increase in costs to juvenile courts to ensure the considerations set forth in the bill are met.

- ***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.

- ***Dispositions for an abused, neglected, or dependent child.*** 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*

## ***Adoption***

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

### ***Aligning adoption and foster home studies***

Generally, current law requires both prospective foster parents and prospective adoptive parents to undergo home studies to ascertain their suitability to foster or adopt a child. The bill requires that any rules adopted by the Director of Job and Family Services regarding home studies align the foster care and adoption home study content, time periods, and processes. These provisions may result in a minimal increase in costs for the Ohio Department of Job and Family Services (ODJFS) when adopting rules to adjust the procedures associated with foster care and adoption home studies.

### ***Prospective adoptive home visits***

Current law requires the assessor providing placement or post-placement services in a prospective adoptive home to conduct a prospective adoptive visit in that home not later than seven days after the child to be adopted is placed and every 30 days thereafter until a probate court issues a final decree of adoption. The bill requires that the home visits be conducted monthly, rather than every 30 days. This provision will likely have no fiscal impact, since the number of home visits required is essentially the same as under current law.

***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.

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.

***When consent to adopt is not required of a parent***

Under current law, a parent's consent to the adoption of his or her child is not needed if a probate court finds that the parent has failed without justifiable cause to (1) communicate with his or her child or (2) provide for the maintenance and support of the child for at least one year prior to the filing of an adoption petition or placement of the child in the prospective adoptive home. The bill specifies that a parent's consent to the adoption of his or her child is not needed if a probate court finds that the parent has failed without justifiable cause to do either of the following for a period of at least one year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner (1) communicate *regularly* with his or her child or (2) provide *significantly* for the maintenance and support of the child. Since current law already requires the court to consider communication and the provision of support when deciding if a parent's consent is needed, the changes in the bill will likely have no significant fiscal impact on the court system.

***Finalization of interlocutory order***

When a probate court holds a final adoption petition hearing, and the adoption is generally in the best interest of the child and all other relevant requirements have been met, the court may issue a final decree of adoption or an interlocutory order of adoption. An interlocutory order allows the court time for observation, investigation, and a further report on the adoptive home. It must include a date on which the order automatically becomes final. Except in adoptions by foster parents or relatives, this date must be between six months and one year from the date the court issues the order (but can be sooner vacated for good cause). The bill changes the start date of the time period of the interlocutory order to the date the person to be adopted is placed in the adoptive home. This provision may shorten the length of time a child is in the custody of a public children services agency (PCSA), resulting in a decrease in costs.

***Disrupted adoptions***

When an adoptive parent enters into an agreement with a PCPA or PCSA to place his or her adopted child in the temporary custody of the agency, a juvenile court may issue an order that requires the adoptive parent to pay for the care, support, maintenance, and education of the child while in temporary custody. The court must consider a number of factors, including the ability of the parents to pay for the care, support, maintenance, and education of the child when deciding whether to issue such an order. The bill requires that the court also consider the ability of the parents to meet the needs of all other children in the home when deciding whether to issue

the order. These provisions may result in a minimal increase in costs to juvenile courts to ensure that the considerations set forth in the bill are met.

***Nonidentifying information***

The bill modifies a provision of current law under which a birth parent may request nonidentifying information about the birth parent's child by specifying that this may occur only after the child turns 18. This provision may result in a decrease in costs for the Department of Health due to fewer requests for information.

***Adoption as an option***

The bill requires all of the following to include information on 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.

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.

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. LSC estimates mileage reimbursement for the committee members to total $800. To arrive at this estimate, LSC used information provided by the Department and assumed (1) there will be five committee members outside of ODJFS employment, (2) meetings will occur once a month, beginning in September 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. 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.

***Dispositions for an abused, neglected, or dependent child***

***Temporary custody***

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.

According to the Public Children Services Association of Ohio (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.

***Permanent custody and planned permanent living arrangement***

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 "now and for the foreseeable future."

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.

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