



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 250 of the 130th G.A.

Date: February 24, 2014

Status: In Senate Civil Justice

Sponsor: Sens. Jones and LaRose

Local Impact Statement Procedure Required: Yes

Contents: Modifies adoption laws

State Fiscal Highlights

- The bill modifies the existing adoption credit, making the credit refundable and increases the value of the credit from \$1,500 per child to \$10,000 per child. This would reduce General Revenue Fund (GRF) revenues by an additional \$15.7 million per year beginning in FY 2015, but depending on the number of adoptions occurring in a given year, the actual GRF loss could vary by approximately \$1 million.

Local Fiscal Highlights

- Modifying the existing personal income tax credit for adoption of a minor child will reduce Local Government Fund (LGF) and Public Library Fund (PLF) revenues up to \$0.6 million per year beginning in calendar year (CY) 2015. Revenue losses in future years will vary in conjunction with the number of adoptions occurring in a given year. Both the LGF and PLF each receive 1.66% of GRF tax receipts; the personal income tax deposits revenues into the GRF.
- The bill permits an agency or attorney to charge a reasonable fee for services provided. This provision appears to permit a public children services agency (PCSA) to charge a fee. If a PCSA elects to charge a fee, the PCSA would experience a gain in revenue. The amount of revenue would depend on the fee's amount and the number of adoptions.
- The bill permits an adoption agency or an attorney representing either a person seeking to adopt a child or the child's mother, and with the mother's written consent, to provide actual notice to each of the child's putative fathers that the mother is considering putting the child up for adoption prior to the child's birth. Under the bill, an affidavit stating the time, date, and manner in which a notice was served must be submitted when filing a petition for adoption prior to the child's birth. There could be an increase in costs to public children services agencies (PCSAs) to serve additional notices and record when notice was served, if public adoption agencies elect to serve notice.

- The bill permits a government entity to advertise about its role in the placement of children for adoption or any other information that would be relevant to qualified adoptive parents. Thus, there would be an increase in costs if a government entity elects to advertise.
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Detailed Fiscal Analysis

Credit for adoption-related expenses

Ohio taxpayers can currently claim a credit against their personal income tax if the taxpayer adopted a minor child (under 18 years of age) during the taxable year. The amount of the credit is \$1,500 per child adopted, and this is a one-time credit per child. Any unused amounts can be carried forward for up to two years. The adoption must be final and recognizable under Ohio law in the year for which the taxpayer first claims the credit. The Revised Code stipulates that "legally adopt" does not include the adoption of a minor child by the child's stepparent.

For tax year (TY) 2011, there were 1,830 tax returns that claimed the adoption credit. The Tax Expenditure Report, which is published in conjunction with the Executive Budget, estimates that this tax credit reduces General Revenue Fund (GRF) revenues by \$2 million per year. Tax Department data suggest that taxpayers claiming this credit have a variety of characteristics. For example, taxpayers in some income groups had an average credit value in excess of the \$1,500 per child award. This suggests that some taxpayers adopted multiple children in a single year, or, adopted children in successive years. Other taxpayers in lower income brackets had a credit value, on average, less than \$1,000, which suggests the taxpayers will claim their \$1,500 adoption credit over multiple years.

If the amount of the credit is increased by \$8,500 to \$10,000 per child adopted and converted to a refundable credit in TY 2014, the GRF tax expenditure may increase by an amount up to \$15.7 million beginning in FY 2015, but depending on the number of adoptions occurring in a given year, the actual GRF loss could vary by approximately \$1 million. The total GRF tax expenditure would be up to \$17.7 million beginning in FY 2015, but the number could be much higher if the proposed tax incentive changes taxpayer behavior from trends observed in recent years.

The personal income tax is a GRF tax, and the Local Government Fund (LGF) and Public Library Fund (PLF) each receive 1.66% of GRF receipts. Modifying the existing personal income tax credit for adoption of a minor child will reduce the LGF and PLF up to a combined amount of \$0.6 million per year beginning in CY 2015 when TY 2014 tax returns are filed. Revenue losses in future years will vary in conjunction with the number of adoptions occurring in a given year.

Presently, the nonrefundable adoption credit may be carried forward for up to two years. If this carry-forward provision is replaced with a provision that makes it refundable, the policy will incur a one-time cost for amounts carried forward from the previous year (assuming the carry-forward credit balances are grandfathered into the new law). This would add another \$500,000 (approximate) to the GRF cost in the first year the newly refundable adoption tax credit is in effect.

Adoption notice and provisional consent

The bill permits an adoption agency or an attorney representing either a person seeking to adopt a child or the child's mother, and with the mother's written consent, to provide actual notice to each of the child's putative fathers that the mother is considering putting the child up for adoption prior to the child's birth. Under the bill, an affidavit stating the time, date, and manner in which a notice was served must be submitted when filing a petition for adoption prior to the child's birth. This notice is not required if the minor is conceived as the result of the commission of rape by the father or putative father and the father or putative father is convicted of or pleads guilty to the commission of that offense. The bill requires the notice be made by certified mail prior to the minor's birth.

After a putative father receives notice that the birth mother has decided during pregnancy to place the minor for adoption, a putative father has 30 days to provide provisional consent to the adoption of the minor. If the putative father wishes to provide provisional consent, the bill requires him to register with the putative father registry in order to do so.

Upon receipt of the consent and confirmation from the putative father or birth mother, the bill requires the attorney or other representative working on the birthmother's behalf to file the consent and confirmation with the court, provide the birth mother and putative father with a copy of the consent and confirmation, and retain a copy of both in the attorney or other representative's records. The bill also requires the court to keep a copy of the consent and confirmation. If the provisional consent is not revoked, the consent becomes effective 72 hours after the birth of the minor.

If the putative father elects to revoke his provisional consent, the bill requires the putative father to revoke his provisional consent not later than 72 hours after the birth of the minor subject to the consent. The putative father must then send the revocation to the birth mother. The bill requires an attorney or other representative representing the mother to retain a copy of the revocation and also provide a copy of the revocation to the court. The bill also requires the court to keep a copy of the revocation.

There could be an increase in costs to public children services agencies (PCSAs) to serve additional notices and record when notice was served, if public adoption agencies elect to serve notice. There would be a minimal increase in costs to PCSAs to provide additional documentation to the court. In addition, there could be a minimal

increase in costs to local courts to retain copies of provisional consent and revocation of provisional consent forms.

Fees for services provided

The bill permits an agency or attorney to charge a reasonable fee for services provided. This provision appears to permit a PCSA to charge a fee. If a PCSA elects to charge a fee, the PCSA would experience a gain in revenue. The amount of revenue would depend on the fee's amount and the number of adoptions.

Credit or refund for birth mother's living expenses

If a petitioner pays a birth mother's living expenses to an attorney or agency arranging a minor's adoption and the adoption does not occur, the bill requires the attorney or agency to provide to the petitioner a refund or credit towards a future adoption petition. This refund or credit is equal to the living expenses paid in advance minus the total amount of living expenses paid to, or for the benefit of, the birth mother of the minor. According to the Ohio Department of Job and Family Services, almost no infant adoptions are done through PCSAs. As a result, any fiscal impact to PCSAs is likely to be negligible.

Advertising adoption service

The bill permits a government entity to advertise about its role in the placement of children for adoption or any other information that would be relevant to qualified adoptive parents. Thus, there would be an increase in costs if a government entity elects to advertise.

Other provisions

The bill also contains other provisions that have no direct fiscal effect on the state or local subdivisions. These provisions include reducing the amount of time an adoption decree can be appealed from one year to 60 days with certain exceptions; and specifying that rental or mortgage payments, payments for utilities, and payments for products required for the birth mother or minor's sustenance or safety incurred by a birth mother are "living expenses" that may be paid to a birth mother on behalf of a petitioner by an attorney or private agency arranging the mother's adoption.