Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 250 of the 130th G.A. **Date**: December 9, 2014

Status: As Reported by 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 amount a taxpayer can claim as a nonrefundable credit against their tax if the taxpayer adopted a minor child during the taxable year from $1,500 per child adopted to one that is equal to the greater of $1,500 or the adoption expenses incurred by the taxpayer and the taxpayer's spouse, not to exceed $10,000 per child. The General Revenue Fund (GRF) revenue loss in fiscal year (FY) 2015 would be between $6 million and $9 million.
- The bill requires ODJFS to provide a written notice to a putative father when the Department provides the putative father's registration form to a requestor. There would be a minimal increase in administrative costs to ODJFS to provide these additional notices.

Local Fiscal Highlights

- The bill modifies the amount a taxpayer can claim as a nonrefundable credit against their tax if the taxpayer adopted a minor child during the taxable year to one that is equal to the greater of $1,500 or the adoption expenses incurred by the taxpayer and the taxpayer's spouse, not to exceed $10,000 per child. Increasing the nonrefundable tax credit will reduce the Local Government Fund (LGF) and Public Library Fund (PLF) by at least $100,000 in tax years 2014 and 2015 for a combined total of at least $200,000 in both years. The amounts would increase in future years as Ohio taxable income grows.
- The bill permits an adoption agency or an attorney representing either a person seeking to adopt a child or the child's mother 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. There could be an increase in costs to public adoption agencies to serve additional notices and record when notice was served if public adoption agencies elect to serve notice under this provision.

- For a father to preserve his right to consent to the placement for adoption of the child after being served actual notice, the bill requires a putative father to file an action to determine the existence or nonexistence of the father and child relationship. There would be an increase in filing actions received by local courts, resulting in an increase in administrative costs to the courts. According to the Ohio Judicial Conference, these administrative costs would be offset by fees charged to the putative father. Filing fees for this action are approximately $100 to $200.
- 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. There would be an increase in costs if a government entity elects to advertise.

Detailed Fiscal Analysis

Credit for adoption-related expenses

Currently, Ohio taxpayers can claim a nonrefundable credit against their 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.[1] The bill changes this credit to one that is equal to the greater of $1,500 or the adoption expenses incurred by the taxpayer and the taxpayer's spouse, not to exceed $10,000 per child.

The Tax Expenditure Report, prepared by the Ohio Department of Taxation and submitted as a supplement to the Governor's biennial budget, estimates that this tax credit reduces General Revenue Fund (GRF) revenues by $2 million per year. If the amount of the credit is increased by $8,500 to up to $10,000 per child adopted, the tax expenditure may increase by an amount up to $11.5 million for a given year, but the revenue loss for a given year would potentially be spread over six taxable years. The GRF revenue loss in FY 2015 would be between $6 million and $9 million.

In addition, 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. Increasing the nonrefundable tax credit will reduce the LGF and PLF by at least $100,000 in tax years 2014 and 2015 for a combined total of at least $200,000 in both years. The amounts would increase in future years as Ohio taxable income grows.

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[1] The Revised Code stipulates that "legally adopt" does not include the adoption of a minor child by the child's stepparent.

Presently, the nonrefundable credit may be carried forward for up to two years if the taxpayer cannot fully realize the credit on the tax return for the year the adoption occurs, but the bill extends the carryforward provision to five years, which makes it more likely that most taxpayers will exhaust the credit before it expires.

Putative father registry

The bill shortens, from 30 to 15 days, the time after the birth of a minor a putative father is able to register as a putative father to preserve the requirement for his consent to an adoption. According to the Ohio Department of Job and Family Services (ODJFS), this provision would have no fiscal effect regarding the putative father registry. However, according to the Ohio Judicial Conference, the provision could have the potential indirect effect of increased litigation filed on behalf of fathers, which could result in increased local court caseload and costs.

Current law requires ODJFS to provide a certified copy of the putative father's registration form when an attorney arranging a minor's adoption, a mother, a public children services agency, a private noncustodial agency, or a private child placing agency requests a search of the putative father registry. The bill requires ODJFS to provide a written notice to a putative father when the Department provides the putative father's registration form to the requestor. The notice must be provided to the putative father within ten business days after the date the certified copy of the registration form is provided to the requestor. There would be a minimal increase in administrative costs to ODJFS to provide these additional notices.

Adoption during pregnancy

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 adoption agencies to serve additional notices and record when notice was served if public adoption agencies elect to serve notice under this provision.

For a father to preserve his right to consent to the placement for adoption of the child, the bill requires a putative father to file an action to determine the existence or nonexistence of the father and child relationship. There would be an increase in filing actions received by local courts, resulting in an increase in administrative costs to the courts. According to the Ohio Judicial Conference, these administrative costs would be offset by fees charged to the putative father. Filing fees for this action are approximately $100 to $200. DNA testing can be required as part of the proceedings for filing this action.

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. 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 the following: specifies 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; reducing the amount of time an adoption decree can be appealed from one year to six months with certain exceptions; and requiring a birth mother who decides, during pregnancy, to place the minor up for adoption, or an attorney or representative working on her behalf, to give written notice of the decision to each putative father whom she identifies as the minor's putative father.

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