

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 99-2418/1

INTRODUCTION # AB 526

Admin. Rule #

Subject

Uniform Adoption Act

Fiscal Effect

State: No State Fiscal Effect **SEE TEXT OF FISCAL ESTIMATE**

Check columns below only if bill makes a direct appropriation
Or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb
 Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

SEE TEXT OF FISCAL ESTIMATE

- | | | |
|--|--|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
|--|--|--|

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.435 (3) (a) and (3) (n)

Assumptions Used in Arriving at Fiscal Estimate:

This bill eliminates current law relating to adoption and enacts instead the Uniform Adoption Act (1994) (UAA) as drafted by the National Conference of Commissioners on Uniform State Laws. Several of the Act's provisions would have a fiscal impact on the Department and counties.

Certifying Pre-Placement Evaluators

The UAA requires two types of evaluations in connection with a minor's adoptive placement and final adoption. In regards to these evaluations, it charges the Department with a new certification responsibility.

The first type of evaluation required by the UAA is a preplacement evaluation. Specifically, the UAA stipulates that only an individual for whom a current, favorable written preplacement evaluation has been prepared may accept physical custody of a minor for the purpose of adoption. The Act also states that a preplacement evaluation may be prepared only by an individual certified by DHFS to perform a preplacement evaluation. Under the UAA, adoptive placements requiring a preplacement evaluation would normally take place before a formal adoption petition has been filed.

The UAA requires prospective adoptive parents to undergo a second evaluation before an adoption may become final. This evaluation occurs subsequent to the filing of an adoption petition, but may be performed either before or after an adoptive placement. It analyzes whether the prospective adoptive parent and the prospective adoptive parent's home is suitable for the adoptee. The court relies on this final evaluation in determining whether to grant the adoption petition. The Act stipulates that only individuals certified by DHFS as preplacement evaluators may perform final adoption evaluations.

Current law does not require preplacement evaluations per se, but does stipulate that a minor child may only be placed for adoption with an individual who has been licensed as a foster parent or treatment foster parent. Counties generally contract with private child welfare agencies to license these individuals. These agencies must be licensed by the Department before they can perform foster-home licensing. The individual agency employees, however, are not required to have DHFS certification. Under the UAA, the Department would continue to license private agencies which conduct foster-parent licensing. The certification of preplacement evaluators would be a new responsibility.

(Continued)

Long-Range Fiscal Implications:

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John Kiesow, Exec. Asst., 266-0667

Date

01/05/00

Before the Department could begin certifying preplacement evaluators, it would need to develop an application process and create certification standards. This would likely include developing a certification examination. Overall, it is estimated that the workload required to develop necessary policies and procedures would total 1040 hours, requiring a six-month 1.0 FTE project position (Program and Policy Analyst 5).

Once policies and procedures have been established, the Department's workload will depend on the number of individuals applying for certification. This figure can be estimated based on the number of current adoption professionals. There are approximately 211 individuals throughout the state who provide adoption services and are recognized by the Department as adoption professionals. As required by current law, all of these individuals work for either the Department, a county or a DHFS-licensed child welfare agency. It is assumed that at least 2/3 of these individuals (158) would apply for certification as preplacement evaluators. Additional individuals would also apply for certification. These would include social workers who are not employed by an adoption agency but who, under the UAA, would choose to perform independent preplacement and final adoption evaluations. Although it is difficult to determine how many independent child welfare social workers would apply for certification, it is assumed that the number would be at least 30. Thus, the total number of applications for preplacement evaluator certification the Department expects during the first year following UAA enactment is 188.

Each of the 188 applications would need to be reviewed by Department staff for completeness and accuracy. Staff would then be required to judge whether each applicant has satisfied the certification requirements. Certification workload would also include administering and grading any required certification examinations. Overall, it is estimated that the certification workload would be approximately 3 hours per applicant. The estimate is based on the amount of time it takes staff at the Department of Regulation and Licensing (DOL) to process applications for social worker certification, and it includes the additional workload required for examination activities. Therefore, assuming 188 applicants, the total workload directly related to certifying preplacement evaluators would equal 564 hours.

Additional workload will be generated as a result of the UAA's allowing preplacement and final adoption evaluators to work independently. Currently, all social workers conducting foster home licensing evaluations work for agencies licensed by DHFS. Accordingly, if these workers have questions regarding state law and regulations, they are able to consult with more experienced co-workers and agency supervisors. Social workers working independently, however, will not have agency expertise to draw upon and will instead turn to the Department for consultation. Likewise, families who are unhappy with the work of an independent evaluator will not be able to address concerns to agency administrators. They too will depend upon Department staff. The demand for family and evaluator consultation is expected to generate 470 hours of additional DHFS workload annually.

Overall, ongoing certification and consultation activities would generate 1034 hours of workload (564hrs + 470hrs), requiring one permanent .50 FTE Program and Policy Analyst 5. Note that the number of applicants for preplacement evaluator certification would likely decrease after the first year which the UAA is in effect as current adoption professionals become certified. Nonetheless, the Department's certification workload will not decrease. This is because in addition to processing new applications, staff will need to review applications for certification renewals and investigate complaints levied against certified evaluators.

Investigating Delinquent Dispositional Reports

The UAA specifies that a health care facility must release a minor for the purposes of adoption to a non-parent or non-guardian if the minor's birth mother has given approval by signing an authorization for the transfer of custody. This is in contrast to current law, which prohibits health care facilities from releasing minors to prospective adoptive parents.

When a health care facility releases a minor to a prospective adoptive parent, certain UAA reporting requirements apply. One of those specifies that no later than 30 days after the minor is released, the individual who took custody of the minor must report to DHFS which, if any, of a variety of custodial dispositions has occurred. If after 45 days the Department has not received the required report, it must immediately investigate to determine the minor's location. If the Department locates the minor and subsequently learns that a satisfactory disposition has not occurred, it must take action to remove the minor from the placement.

The amount of time necessary to investigate a delinquent dispositional report is likely to fluctuate significantly from case to case. Some cases will require no more than helping prospective adoptive parents assemble the required paperwork. Others will require staff to attempt to locate a child who may have been moved anywhere in the world. A portion of the cases will require Department staff to take action necessary to remove the child from his or her current placement.

It is not possible to determine how many delinquent dispositional reports Department personnel would be required to investigate each year. Assuming even a minimal amount, at least .25 FTE Program and Policy Analyst 5 will be required to perform the investigations. In addition, a .25 FTE Attorney will be required to provide consultation and prepare petitions in cases where the Department seeks to remove a child from his or her current placement.

Investigating Adoptive Placements Made Despite Negative Preplacement Evaluations

The UAA stipulates that DHFS must investigate if, prior to the issuance of an adoption decree, it discovers that a minor has been placed for adoption with an individual for whom it has on file a negative preplacement evaluation. As part of its investigation, the Department must immediately review the preplacement evaluation and investigate the circumstances of the placement. It may also request that the individual relinquish physical custody of the minor. If DHFS makes such a request and the individual refuses to relinquish the minor, the Department must immediately file a petition to remove the minor from that individual's home.

It is not possible to determine how many investigations Department staff will be required to perform under this provision. So long as the number is low, the workload will be minimal and will not require additional staff resources.

Modified Independent Adoption Procedures

The UAA would modify the procedure for independent adoptions, resulting in a short-term decrease in Department expenditures for adoption assistance. This decrease, however, would be at least partially offset in the long-term due to an increase in disrupted independent adoptive placements, which would also result from the UAA's modification of independent adoption procedures.

Under current law, a parent who wishes to independently place his or her child in a particular adoptive home must first file an adoptive placement petition with the court. Along with this petition, the parent must also file a petition for a voluntary termination of parental rights (TPR). While the two petitions are pending, the child must either remain with the parent or be placed in a temporary foster home. After granting the TPR and placement petition, the court must immediately appoint a guardian for the child. The guardian must be either a county department, a licensed child welfare agency or, in the case of a child with special needs, the Department. After the court appoints a guardian, it issues an order which places the child with the prospective adoptive parent. The prospective adoptive parent may then file a petition for final adoption.

Under the UAA, a parent who wishes to independently place his or her child in a particular adoptive home would not be required to file a TPR or adoptive placement petition prior to the placement. Instead, the parent could place the child directly. A TPR petition would ultimately be required, but would not be filed until sometime after the adoptive placement. Accordingly, the court would not appoint a guardian for the child prior to placement.

The UAA's independent adoption procedures would decrease the number of children eligible for adoption assistance payments. DHFS provides adoption assistance to parents who adopt special needs children, provided those children meet certain statutory requirements. One of the requirements is that the child must have been under the guardianship of either the Department or another child welfare agency at the time of the adoptive placement. Currently, all children placed independently have agency guardians at the time of placement. Under the UAA, however, almost none of these children would. As a result, their adoptive parents will never be able to receive adoption assistance, even if the child is ultimately identified as having special needs.

In 1998, there were approximately 17 adoptions of independently placed children who were eligible for adoption assistance. The average adoption assistance payment for 1998 was \$667. Assuming these figures remain constant, the Department's adoption assistance expenditures will decrease in the short-term by approximately \$11,339 as a result of the UAA's modified independent adoption procedures.

In the long-term, the decrease in adoption assistance expenditures will be at least partially offset. Adoption assistance may only be provided on the behalf of children with special needs. Children are normally identified as having special needs when a TPR is executed. Under current law, this occurs prior to the child's independent placement. Thus, the prospective adoptive parent almost always knows if the child has special needs before accepting the child into his or her home. Under the UAA, the TPR would normally not occur until after the independent placement.

Forgoing the TPR until after the adoptive placement will result in more children being placed with prospective adoptive parents who are unaware of the child's special needs. When the full nature and cost of providing for these needs come to light, some prospective adoptive parents would be unwilling or unable to bear them. Without the financial help that adoption assistance could provide, several prospective adoptive parents may decide not to go forward with the adoption. The result would be an increased number of failed independent adoptive placements. Ultimately, this will result in increased costs for both counties and the Department.

When an independent adoption fails and the parent refuses to take the child back, the child becomes a public foster care case. Since there would be more failed independent adoptions under the UAA, there would also be more public foster care cases. Initially the county would be responsible for these cases, paying for foster care services out of their own funds as well as Department-administered community aids. Eventually, if efforts to reunite child and parent fail, the county will take action to terminate the parental rights of the child's parent. Since the child would be one with special needs, the Department would become the child's guardian upon execution of the TPR.

After becoming responsible for the child, the Department would attempt to place the child into a new adoptive home. Since the Department would have guardianship of the child at the time of the placement, the new prospective adoptive parents would be eligible for adoption assistance. Adoption assistance payments are normally funded 42% from GPR and 58% by a federal match. To be eligible for the federal match, however, the payment must be on behalf of a child who has been removed from home pursuant to a court order.

Under the UAA, parents would make independent adoptive placements directly and without a court order. As a result, adoption assistance payments made on behalf of independently-placed children would not qualify for the federal match. This is irrelevant in terms of the child's original placement since the absence of an agency guardian would have already rendered the child ineligible for adoption assistance. However, if the original placement fails and the Department re-replaces the child, the result would be an increase in GPR expenditures. Instead of funding the adoption assistance for the child 58% from federal match, the Department would have to fund the payment with 100% GPR.

The number of independent adoptive placements which would fail as a result of the UAA's independent adoption procedures cannot be determined. Therefore, it is not clear how much county and Department GPR expenditures would increase. Nonetheless, it is clear that there would be some increase and that it would at least partially offset the initial decrease in adoption assistance expenditures.

Elimination of Foreign Adoption Procedures

The UAA eliminates all current foreign adoption procedures. This places in question what role the Department would continue to play in foreign adoptions and may result in minimal increased expenditures for the Department and counties.

Current law specifies a number of requirements which must be satisfied before a prospective adoptive parent may bring a foreign child into this country for adoption. One requirement is that the prospective adoptive parent file a \$1000 bond with DHFS which is conditioned on the child not becoming dependent on public funds for support before the adoption is finalized. A second is that the prospective adoptive parent file a certified copy of any judgements, orders or other documents of the foreign jurisdiction which free the child for adoption. A third is that

the prospective adoptive parents furnish the Department with a home study recommending the adoptive placement. After these requirements are satisfied and the child arrives in the country, current law requires that the child's guardian file either a TPR or adoption petition within 60 days.

In conjunction with these procedures, current law charges DHFS with certain responsibilities. Specifically, DHFS must review any foreign court documents submitted by the prospective adoptive parents and verify that the child is legally free for adoption, confirm that the prospective adoptive parents have submitted a favorable home study and make certain that a licensed child welfare agency has been identified to provide services for the child. If all of these statutory requirements are satisfied, DHFS must then write a letter to the U.S. Immigration and Naturalization Service certifying that all preadoptive requirements that can be met before a child is brought into this country have been met. For reviewing foreign adoptive documents and providing the necessary certifications, the Department may charge the prospective adoptive parents a \$75 fee.

The UAA retains the \$75 fee the Department may charge for reviewing foreign adoptive documents and providing certifications. Nonetheless, it eliminates the Department's statutory authority to conduct these activities and eliminates the statutory section which stipulates the foreign adoption procedures. As a result, all of the statutory requirements specific to foreign adoptions would no longer exist. Since filing foreign adoption documents with the Department would no longer be required before bringing a foreign child into the country, DHFS review and certification of these documents would be unnecessary. Overall it is unclear what, if any, responsibilities the Department would have under the UAA in regards to foreign adoptions.

With the pre-foreign adoption requirements eliminated, prospective adoptive parents would no longer have to file a \$1,000 bond with the Department before bringing a foreign child into the state. To the extent these children become dependent on public assistance, DHFS and county expenditures will increase. The amount of increased expenditures, however, is likely to be minimal. Federal law requires that prospective adoptive parents pay for any public support the child receives within three years of being brought into the country. Thus, the state and counties would only be required to pay the costs of assistance for children who receive public funds after this three-year period. Since only a small number of foreign children become dependent on public funding, this is likely to apply to very few children. For example, there were approximately 63 foreign adoption bonds submitted in 1999 and zero forfeitures.

Placement Preferences

The UAA implements a number of preferences that agencies must follow when placing a child for adoption. At least one violates federal law and places Wisconsin at risk of losing a portion of its federal funding under Section IV-E of the Social Security Act.

The UAA specifies that when making an adoptive placement an agency must give preference to individuals with characteristics requested by the child's parent or guardian. These characteristics include race, national origin or ethnic background. Using these characteristics as a factor in making adoptive placements violates the federal Multiethnic Placement Act (MPA), which stipulates that race, culture or ethnicity may not be used as a basis for denying or delaying an adoptive placement. States violating the MPA are subject to a penalty of up to 5 percent of their IV-E allowance. Wisconsin captures and depends upon approximately \$40 million IV-E dollars annually. By allowing adoption agencies to place children based on factors forbidden by the MPA, the UAA places \$2,000,000 of Wisconsin's IV-E funding in jeopardy.

Establishing a State-wide Adoption Registry

The UAA makes several changes to the Department's Vital Records program. Under the Act, the Vital Records office would assume responsibility for several functions that are currently the responsibility of the Adoption Search program. These functions include searching for certain birth parent information and, under certain circumstances, disclosing identifying information to adoptees, adoptees' former parents or adult siblings. Since these functions are currently being performed by the Department, there would be no additional cost to the Department from these provisions of the bill.

Unsealing of Adoptee Birth Records

The UAA requires the Department to unseal records of an adoptee's birth ninety-nine years after that birth. The Department's birth records were manually recorded from the late 1880's until the 1970's. Records up until 1948 are still filed alphabetically, not by date. There is no way of automatically determining the birth dates for children born during this period except by looking at each individual file. Consequently, in order to unseal records of adoptions that are 99 years or older, the record system would have to be automated. The Department would have to contract with a vendor to review each case file, create an automatic index and enter each record into the file.

It is not possible to determine the exact cost of automating the Department's mid 1880's - 1948 birth records without requesting a formal bid from a vendor. However, an estimate may be made based on the Department's cost for automating its 1948-1969 birth records, which it was required to do in 1970s. The project took ten years to complete and required three full-time staff, for a staff cost over the life of the project of \$1.2 million. In addition, the Department contracted with a vendor to enter birth indexes; the average cost for entering one year's worth of data was \$8,000. The total costs of entering all the data for the 1948-1969 period was \$176,000. Based on this experience, it is likely that the cost of automating all the remaining records would be at least \$2 million GPR.

Expanding Persons who can Request Medical / Genetic Information

The UAA expands the persons who can request medical/genetic information to descendants of adopted children and requires DHFS to notify direct descendants of the existence of certain medical conditions. Both of these provisions would increase Department costs by an amount which cannot be determined.

Other Costs Involved with Implementing the UAA

The UAA constitutes a major departure from Wisconsin's current adoption laws. Implementing and adjusting to such a significant change will create a large administrative workload for the Department which cannot be fully estimated. For example, DHFS staff would be required to: re-write current brochures, forms and web-site pages; repeal and revise the administrative code HFS 50,51 and 53; and consult with citizens who are seeking to understand and abide by the new law.

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 99-2418/1

Admin. Rule #

INTRODUCTION # AB 587

Subject

Uniform Adoption Act

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

1.0 FTE 6- Month Project Position (\$29,304) + One time costs for 4.3 FTEs (\$32,400) = \$61,704

II. Annualized Costs:

Annualized Fiscal impact on State funds from:

Increased Costs

Decreased Costs

A. State Costs by Category

State Operations - Salaries and Fringes

\$ 189,123

\$ -

(FTE Position Changes)

(4.0 FTE)

(- FTE)

State Operations - Other Costs

15,200

-

Local Assistance

-

Aids to Individuals or Organizations

SEE TEXT

-

TOTAL State Costs by Category

\$ 204,323

\$ -

B. State Costs by Source of Funds

Increased Costs

Decreased Costs

GPR

\$ 106,161

\$ -

FED

98,162

-

PRO/PRS

-

SEG/SEG-S

-

State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)

Increased Rev.

Decreased Rev.

GPR Taxes

\$

\$ -

GPR Earned

-

FED

-

PRO/PRS

-

SEG/SEG-S

-

TOTAL State Revenues

\$

\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

204,323 +
SEE TEXT

SEE TEXT

NET CHANGE IN COSTS

\$

\$

NET CHANGE IN REVENUES

\$

\$

0

0

Prepared By: / Phone # / Agency Name

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Date

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01/05/00