

Fiscal Estimate Narratives

DCF 8/14/2013

LRB Number	13-1629/1	Introduction Number	AB-0151	Estimate Type	Original
Description Right of a parent to have counsel in a proceeding for a child alleged to be in need of protection or services; the power of the juvenile court to appoint counsel in such a proceeding; and elimination of the right to a jury trial in such a proceeding or in a proceeding for termination of parental rights; granting rule-making authority; and making appropriations					

Assumptions Used in Arriving at Fiscal Estimate

Under current statutes, a court assigned jurisdiction under the Children's Code (juvenile court) may not appoint counsel for any party other than the child, an Indian parent or and Indian custodian in a child is in need of protection or services (CHIPS) proceeding. In addition, a parent over age 18 does not have a statutory right to be represented by counsel during a CHIPS proceeding, and therefore the court may not refer an adult parent to the State Public Defender (SPD) for possible representation. However, under current case law, the juvenile court may appoint counsel at its discretion, with the parent's legal representation generally paid for by the county

This bill grants a parent of any age the right to counsel in a CHIPS proceeding if a child has been taken into custody. If the parent cannot afford representation, the parent can access representation through the SPD. The bill also makes provision for counsel to be appointed at the time of the temporary physical custody hearing. The right to counsel for a parent in a CHIPS proceeding sunsets on June 30, 2017 under this bill. The bill also requires the both the SPD and the Department of Children and Families (DCF) to submit a report by January 1, 2017 to the Legislature regarding costs and data related to a parent's right to counsel for CHIPS proceedings.

Under current law, a party to a CHIPS or termination of parental rights (TPR) proceeding may request a jury trial to determine if there are grounds to grant a CHIPS adjudication or TPR order. This bill eliminates a parent's current right to a jury trial in a CHIPS or TPR proceeding.

Providing the right to counsel and eliminating the right to a jury trial may expedite CHIPS and TPR hearings potentially reduce the costs of these proceedings. In addition, there may be a reduction in the county costs of appointing counsel for parents in CHIPS proceedings by allowing the parents to be represented by an SPD. The net effect of these changes is difficult to predict, and therefore the amount of possible savings to the Department and county child welfare departments can not be determined.

Long-Range Fiscal Implications