

Fiscal Estimate Narratives

DCF 1/17/2014

LRB Number	13-1630/1	Introduction Number	AB-0152	Estimate Type	Original
Description Children in need of protection or services jurisdiction over, and grounds for involuntary termination of parental rights to, a child under 3 years of age whose parent had an involuntary termination of parental rights within 3 years prior to the child's birth; reasonable efforts by an agency to return a child safely home when the child has been adjudged to be in need of protection or services; requirements for further participation in an action to terminate parental rights by a man alleged to be the child's father; revising certain grounds for an involuntary termination of parental rights and certain notice exceptions for an involuntary termination of parental rights proceeding; waiver of counsel for a parent in an involuntary termination of parental rights or a contested adoption proceeding; and requiring a parent's signature on a petition for postdispositional relief or a notice of appeal of a termination of parental rights order or a child in need of protection or services or paternity adjudication					

Assumptions Used in Arriving at Fiscal Estimate

This bill makes a number of changes to Child in Need of Protection or Services (CHIPS) Petition and Termination of Parent Rights (TPR) requirements in current law:

- The bill creates a new ground for filing CHIPS petition which grants the juvenile court jurisdiction over a child under the age of three whose parent's rights were involuntarily terminated with respect to another child. The involuntary termination must have occurred three years prior to the birth of the child currently the subject of the CHIPS petition, if the juvenile court found at a temporary physical custody (TPC) hearing the child should remain in custody.
- Allows the filing of a TPR petition for a child found in need of protection or services based on the new CHIPS ground (created under this bill). The juvenile court must provide oral and written notification of this fact when entering an order terminating the parental rights of one or both parents with respect to a previous child.
- Deletes the demonstration of a substantial likelihood the parent will continue to fail, for the next nine months, to meet the conditions for the safe return home of the child from the TPR ground of a continuing CHIPS. However, the bill provides that if the child was placed outside the home for less than 15 of the last 22 months, the petitioner must demonstrate a substantial likelihood exists the parent will not meet the conditions of the order at the time the child reaches 15 of 22 months in placement outside the home.
- Revises the TPR ground of a continuing parental disability, requiring the parent to have inpatient treatment history for at least 15 of the last 22 months prior to the filing of the TPR petition, rather than an inpatient treatment history for at least two of the last five years.
- Revises the TPR ground of conception as a result of sexual assault, applying that ground equally to a mother, as well as a father, committing a sexual assault leading to the conception of a child. The bill, however, specifies the ground is inapplicable to a person committing a nonviolent sexual assault of a minor, if the person was also a minor at the time of the assault and the age difference between the person and the victim is four years or less.
- Eliminates the physician attestation requirement from those notice exceptions, instead requiring proof of a sexual assault by a final judgment of conviction or other evidence. Under the bill, the notice exception does not apply to a father under age 18 at the time of a nonviolent sexual assault of a minor, if the age difference between the father and the victim is four years or less.
- Revises the TPR grounds of child abuse, homicide of a parent, and felony against a child to allow evidence of the criminal conduct itself to be proven, as an alternative to allowing proof by a final judgment of conviction.

In addition, the bill makes a number of changes to the requirements relating to reasonable efforts, including:

- A juvenile court must determine an agency is not required to make reasonable efforts if egregious

circumstances exist under which reasonable efforts are not required, unless the court determines that such efforts would be in the best interest of the child.

- The TPR ground, based on continuing CHIPS, requiring an agency to make reasonable efforts to reunify the family, is inapplicable for any period when reasonable efforts were not required due to the egregious circumstances specified in statute.

Because the Juvenile Justice Code contains parallel provisions to the Children's Code for holding a child or juvenile in custody, the bill revises the parallel provisions relating to reasonable efforts in both the Children's Code and the Juvenile Justice Code.

The bill also specifies that a parent, 18 years of age or over, ordered to appear in person at hearings for an involuntary TPR or contested adoption proceeding, and who has failed to appear at consecutive hearings, waives the right to counsel.

This bill also requires signatures from parents and counsel on a notice of intent to appeal or notice of appeal from a TPR judgment, petition for rehearing from a CHIPS adjudication or TPR judgment or motion for post disposition relief from a CHIPS adjudication or TPR judgment.

This bill removes the right of an alleged father, determined in TPR proceedings to be the father, but who has not otherwise declared or established a relationship with the child, to further participate in the proceedings. Specifically, under the bill, a man determined to be the father may further participate in a TPR proceeding only if the man:

- Filed a declaration of paternal interest upon the child's birth or upon receipt of the TPR petition and the declaration was not revoked;
- Established and maintained a familial relationship with the child; or
- Established he was deprived of the opportunity to assume parental responsibility for the child.

This bill would increase the number of child welfare cases and thus increase the workload of child welfare agencies. In addition, the court system will experience increased responsibility related to management of CHIPS, permanency plans, TPRs, and other child welfare related hearings. In addition, appeals of initial assessment substantiations are likely to increase. Child welfare agencies would likely experience an increased need for out-of-home care placements, thereby increasing the need for foster care recruitment and ultimately increasing out-of-home care expenditures. Further, by increasing the number of the children in the child welfare system and expanding the grounds for the Termination of Parental Rights, this bill is likely to increase the number of children moving to adoption from the child welfare system, resulting in an increase in Adoption Assistance payments. The bill does not provide funding to address:

- The additional workload requirements for county and state child welfare agencies and courts.
- The out-of-home care costs incurred as a result of the increase in cases.
- The increase in Adoption Assistance payments resulting from the expanded grounds for TPR.
- The training costs incurred by county agencies as a result of the change in policy and state statutes.
- The changes needed in the eWISACWIS system.

It would be difficult to determine how much additional financial resources are needed to implement this legislation. It is unlikely that the Department and county agencies can absorb the increased workload, eWISACWIS changes, additional training, and the cost of additional out-of-home care and Adoption Assistance payments within existing resources. Under the recently completed Federal IV-E Waiver, Wisconsin identified \$97 million dollars spent on out-of-home care and child welfare administration. Using this figure as a benchmark, a 1% increase in the number of child welfare cases would roughly cost the state an additional \$970,000. For state fiscal year 2014, \$92,919,900 is budgeted for Adoption Assistance. Using this figure as a benchmark, a 1% increase in the Adoption Assistance caseload would roughly cost the state an additional \$929,200 in the first year.

These costs would increase in future years as the number of individuals receiving adoption assistance compounds because once on the caseload, persons tend to receive these payments until they reach age 18.

Long-Range Fiscal Implications