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FISCAL IMPACT STATEMENT

LS 7325

BILL NUMBER: HB 1268

NOTE PREPARED: Jan 27, 2004

BILL AMENDED: Jan 26, 2004

SUBJECT: Child Advocacy, Child Fatality Review, and CHINS.

FIRST AUTHOR: Rep. Orentlicher

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill establishes the Child Advocate Bureau, which shall investigate complaints concerning agencies that provide services to children and shall evaluate services for children. The bill provides that the child advocate and a person who provides records to the child advocate is immune from civil liability. It makes certain actions that impede the child advocate's investigation a Class A misdemeanor.

It also establishes the Statewide Child Fatality Review Committee to review the deaths of children who die suddenly or unexpectedly. The bill makes the testimony of a committee member inadmissible in certain proceedings. The bill also requires a juvenile court to order a child and the child's parent into counseling if the child is found to have committed a delinquent act that would be one of certain types of sex crimes if committed by an adult. It provides that records of state agencies regarding the death of a child who died as a result of abuse, abandonment, or neglect are not confidential. It also provides that a child is a child in need of services (CHINS) if the child: (1) lives in the same household as another child who is the victim of one of certain types of sex offenses; and (2) needs care, treatment, or rehabilitation that the child is not receiving and that is unlikely to be provided or accepted without the coercive intervention of the court. The bill establishes a rebuttable presumption that a child is a CHINS under certain circumstances. It provides that a child presumed to be a CHINS may not be taken into custody or emergency custody unless a court finds cause following a hearing. It also provides that a state employee who falsifies child abuse or neglect information and the child suffers bodily injury as a result of the offense commits a Class D felony, and if the victim dies as a result of the offense, the state employee commits a Class C felony.

Effective Date: July 1, 2004.

Summary of Net State Impact: (Revised) This bill would impact state expenditures and revenues in several

possible ways. They are as follows: (1) creating a Child Advocate Bureau; (2) creating a Statewide Child Fatality Review Committee; (3) amending the definition of a Child in Need of Services (CHINS); (4) requiring the court to order a child convicted of a sex offense and the child's parent or guardian to receive psychological counseling; (5) allowing the court to charge a person who interferes with the investigation of a Child Advocate with a Class A Misdemeanor; (6) allowing the court to charge an individual who knowingly falsifies child abuse or neglect information or records, if the individual is a state employee and the victim suffers serious bodily injury as a result of the offense, with a Class D felony; and (7) allowing the court to charge an individual who knowingly falsifies child abuse or neglect information or records, if the individual is a state employee and the victim dies as a result of the offense, with a Class C felony.

(1) The bill would establish a bureau, the Child Advocate Bureau, within the Indiana Department of Administration. The source of funds and resources for the Bureau will ultimately depend upon legislative and administrative actions. However, a somewhat comparable office and position exists, the Department of Correction Ombudsman Bureau. The position was appropriated \$150,000 in FY 2004.

(2) The bill would establish a Statewide Child Fatality Review Committee. The bill does not specify reimbursement rates for Committee members, however, the expenses of the Committee shall be paid from funds appropriated to the Division of Families and Children. Ultimately, funds and resources required to satisfy this provision will depend upon legislative and administrative actions.

(3) The bill amends the definition of a CHINS. This provision may increase the total number of CHINS cases, and, as a result, increase expenditures for the state. The Family and Social Services Administration (FSSA) estimates the current annual cost of a CHINS case to be approximately \$14,451 per child. Total increases in expenditures are dependent upon the number of children referred for a CHINS determination who would fall under the requirements of this bill. This provision may result in the caseloads of the county Office of Family and Children, court with juvenile jurisdiction, and county prosecutor increasing. Out-of-home placements and services to CHINS are primarily funded by the local county Family and Children's Fund. Additions to the number of children being supervised by the county Offices of Family and Children may result in the need for additional staff.

(4) The bill would require the court to order a child, and the child's parent or guardian, to receive psychological counseling if the child is a delinquent child who has committed an act that would be considered a sexual offense if it were committed by an adult. The bill could potentially increase expenditures for the state. Any increases, however, are dependent on (1) the number of juveniles adjudicated as sexual offenders annually, that would not have been ordered to receive psychological counseling under current statute, and (2) the number of parents or guardians that are ordered to undergo counseling.

(5) The bill also allows the court to charge a person who (1) intentionally interferes with or prevents the completion of the work of a child advocate; (2) knowingly offers compensation to a child advocate in an effort to affect the outcome of an investigation or a potential investigation; (3) knowingly or intentionally retaliates against an individual who provides information to the child advocate; or (4) knowingly or intentionally makes threats against: (a) the child advocate; (b) an individual who has filed a complaint; or (c) an individual who provides information to the child advocate; because of an investigation or a potential investigation; with a Class A misdemeanor. The bill could potentially increase local expenditures. A Class A misdemeanor is punishable by up to one year in jail. However, increases in expenditures are likely small. This provision of the bill could potentially increase revenue for the state and local governments, a result of an increase in collection of court fines and fees. Any change in revenue for either government is, however, likely to be small.

(6) The bill allows the court to charge an individual who knowingly falsifies child abuse or neglect information or records, if the individual is a state employee and the victim suffers serious bodily injury as a result of the offense, with a Class D felony.

(7) The bill allows the court to charge an individual who knowingly falsifies child abuse or neglect information or records, if the individual is a state employee and the victim dies as a result of the offense, with a Class C felony.

Explanation of State Expenditures: (Revised) *Child Advocate Bureau:* The bill would establish a separate bureau, the Child Advocate Bureau, within the Indiana Department of Administration. The responsibilities of the Child Advocate Bureau are to receive, investigate, and attempt to resolve complaints that any state agency: (1) violated a specific law, rule, or department written policy concerning services to a child; or (2) failed to provide any services to a child that the agency is required to provide.

The Department of Administration shall provide and maintain office space for the Bureau. The Governor would appoint a Director for the Bureau. In addition, the Director may employ staff. The bill does not specify the number of staff or what the salaries for the Director and staff would be. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. However, a somewhat comparable office and position exists, the Department of Correction Ombudsman Bureau. The Department of Correction Ombudsman Bureau was appropriated \$150,000 in FY 2004.

Statewide Child Fatality Review Committee: The bill would establish the 13-member Statewide Child Fatality Review Committee consisting of state employees and lay members. The Committee is established to: (1) review a child's death that is (a) sudden; (b) unexpected; or (c) unexplained; if the county where the child died does not have a local child fatality review team or if the local child family review team requests a review of the child's death by the statewide committee; and (2) review the death of a child or a near fatality of a child upon request by an individual.

The Division of Family and Children shall provide training to the Committee. Furthermore, the Division shall develop a data collection form for the Committee. The bill does not specify reimbursement rates for Committee members, however, the expenses of the Committee shall be paid from funds appropriated to the Division.

The funds required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. Total reversions for the Family and Social Services Administration were \$95.3 M in FY 2003.

Child in Need of Services (CHINS): The bill amends the definition of a CHINS. It states that a child becomes a CHINS if before the child turns 18 years of age, the child lives in the same household as another child who is the victim of a sex offense and the child needs care, treatment, or rehabilitation that: (a) the child is not receiving; and (b) is unlikely to be provided or accepted without the coercive intervention of the court.

This provision may increase the total number of CHINS cases. Under current practice an order of the court decides whether a child is a CHINS. If this change increases the number of CHINS cases, state expenditures

will increase. FSSA estimates the current annual cost of a CHINS case to be approximately \$14,451 per child. Total increases in expenditures are dependent upon the number of children referred for a CHINS determination who would fall under the requirements of this bill.

Out-of-home placements and services to CHINS are funded by the local county Family and Children's Fund. Certain out-of-home placements may be matched with federal IV-E funds, and CHINS are eligible for Medicaid services. Child welfare caseworkers and other staff of the local Offices of Family and Children are state employees. Additions to the number of children being supervised by the county Offices of Family and Children may result in the need for additional staff. In CY 2002 total CHINS expenditures were \$195.6 M for 13,500 children.

Psychological Services: The bill would require the court to order a child, and the child's parent or guardian, to receive psychological counseling if the child is a delinquent child who has committed an act that would be considered a sexual offense if it were committed by an adult. The bill does not specify whether or not the juvenile and parent or guardian should receive counseling together, separately, or both together and separately.

Current statute allows the court to order a delinquent child to receive psychological treatment. In FY 2002, 74 youths were adjudicated as sexual offenders, and 81 were adjudicated in FY 2003. The number of these offenders that were ordered to receive psychological counseling is unknown. The bill could potentially increase expenditures for the state. Any increases, however, are dependent on (1) the number of juveniles adjudicated as sexual offenders annually that would not have been ordered to receive psychological counseling under current statute, and (2) the number of parents or guardians that are ordered to undergo counseling.

Penalty Provisions: The bill allows the court to charge an individual who knowingly falsifies child abuse or neglect information or records, if the individual is a state employee and the victim suffers serious bodily injury as a result of the offense, with a Class D felony. The bill also allows the court to charge an individual who knowingly falsifies child abuse or neglect information or records, if the individual is a state employee and the victim dies as a result of the offense, with a Class C felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months. The average length of stay for all Class C felony offenders is approximately two years.

Explanation of State Revenues: (Revised) *Interference:* The bill would allow the court to charge a person who (1) intentionally interferes with or prevents the completion of the work of a child advocate; (2) knowingly offers compensation to a child advocate in an effort to affect the outcome of an investigation or a potential investigation; (3) knowingly or intentionally retaliates against an individual who provides information to the child advocate; or (4) knowingly or intentionally makes threats against: (a) the child advocate; (b) an individual who has filed a complaint; or (c) an individual who provides information to the child advocate; because of an investigation or a potential investigation; with a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor

is \$5,000. However, any additional revenue would likely be small.

Penalty Provisions: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class C or D felony is \$10,000. However, any additional revenues would likely be small.

Summary of Net Local Impact: See *Summary of Net State Impact*.

Explanation of Local Expenditures: (Revised) *Class A Misdemeanor Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

Class C and D Felony Penalty Provisions: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

See *Explanation of State Revenues*

Explanation of Local Revenues: *County Office of Family and Children, Court with Juvenile Jurisdiction, and County Prosecutor:* The caseloads of the county Office of Family and Children, court with juvenile jurisdiction, and county prosecutor may increase. This increase in caseload and associated costs is unknown and contingent upon judicial action. FSSA estimates the average cost of providing services for a CHINS for CY 2002 to be approximately \$14,451 per year. Out-of-home placements and services to CHINS are primarily funded by the local county Family and Children's Fund. Certain out-of-home placements may be matched with federal IV-E funds, and CHINS are eligible for Medicaid services. (See *Explanation of State Expenditures: Child in Need of Services.*)

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small. (See *Explanation of State Revenues.*)

State Agencies Affected: Family and Social Services Administration; Department of Administration; Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies; County Offices of Family and Children; County Prosecuting Attorneys; Courts with Juvenile Jurisdiction; Trial courts, local law enforcement agencies.

Information Sources: Jane Bisbee, Family and Social Services Administration; Department of Correction.

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