LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6876 | **NOTE PREPARED:** Jan 26, 2012
BILL NUMBER: SB 286 | **BILL AMENDED:** Jan 26, 2012

SUBJECT: Department of Child Services.

FIRST AUTHOR: Sen. Lawson C | **BILL STATUS:** 2nd Reading - 1st House
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
DEDICATED
X **FEDERAL**

Summary of Legislation: (Amended) This bill has the following provisions:

(1) Requires the Department of Child Services (DCS) to conduct a criminal history check of certain individuals before reunification of a child with the child's parent, guardian, or custodian.
(2) Provides that an audio recording of a telephone call to the child abuse hotline is confidential and may be released only upon court order.
(3) Provides that an audio record of a report of child abuse or neglect that is the subject of a complaint made to a prosecuting attorney shall be released to the prosecuting attorney upon request of the prosecuting attorney.
(4) Allows the DCS to consider the results of a criminal history check in deciding if a child can be reunified with the child's parent, guardian, or custodian.
(5) Requires a court to order a guardian to provide financial assistance to support a protected person if the DCS is going to provide financial assistance to a guardian for the benefit of the protected person.
(6) Requires the DCS to establish a residential placement committee and a permanency roundtable to review certain placements of children.
(7) Requires a person filing a petition to terminate parental rights to request a hearing on the petition.
(8) Provides that if a hearing regarding a petition to terminate parental rights is not commenced or held within a certain time, the court shall dismiss the petition.
(9) Removes requirements that a county pays for certain child placements.
(10) Provides that a court may appoint a court appointed special advocate (CASA) or guardian ad litem (GAL) only if the person has training appropriate for that role.
(11) Changes the number of days for which the DCS may grant a waiver for the maximum stay for a child if the child caring institution or group home caring for the child is a licensed shelter care facility.

(12) Provides that operators of therapeutic foster homes are certified and not licensed.
(13) Provides that the DCS may make certain reports and material available to the State Superintendent of Public Instruction.
(14) Provides that the results of an administrative hearing regarding an investigation into child abuse or neglect shall be forwarded to the Department of Education (DOE) in certain circumstances.
(15) Modifies the definition of "child abuse or neglect", "victim of child abuse or neglect", "child", "related", "court appointed special advocate," "guardian ad litem," "shelter care facility," and "foster family home".
(16) Provides that a person may operate a foster family home for a related person without a license.
(17) Provides for the creation of regional-based fatality review teams.
(18) Changes the law regarding:
(a) the disclosure of certain reports regarding the fatality or near fatality of a child;
(b) the expungement of reports of child abuse and neglect;
(c) when a child is a child in need of services (CHINS); and
(d) requirements of a motion to dismiss a petition to terminate parental rights.
(19) Provides that certain administrative hearings may be stayed pending a decision to prosecute the case.
(20) Expands the applicability of a chapter concerning child videotape testimony in CHINS proceedings.
(21) Requires a court to hold an initial hearing regarding a child alleged to be a CHINS within 10 days of the filing of the petition.
(22) Provides additional circumstances establishing prima facie evidence that there is a reasonable probability that:
(a) the conditions that resulted in the removal of a child from a parent will not be remedied; or
(b) the continuation of the parent-child relationship poses a threat to the well-being of a child.
(23) Requires the DCS to annually prepare a report of all child fatalities in Indiana that are the result of child abuse or neglect.
(24) Repeals older youth foster care and replaces it with a collaborative care program.
(25) Repeals a chapter requiring the DCS to make certain reports to the General Assembly.
(26) Repeals a circumstance when a child is a CHINS.
(27) Makes DCS responsible for the expenses of child services only if the provider has an executed contract with the DCS, unless the services are recommended or approved by the Director of the DCS or the Director's designee.

Effective Date: Upon passage; July 1, 2012.

Explanation of State Expenditures: The following provisions of the bill are expected to impact state expenditures:

(1) National Criminal History Background Checks: The DCS reports the costs of these criminal background checks (each is a total of $32.25, of which $15 is deposited in the General Fund) will be provided by the DCS. The DCS also reports these costs can be claimed under the federal IV-E program and reimbursed at a 66% rate. Therefore, for every national criminal history background check DCS requests for family reunification at a cost of $32.25, the state receives federal IV-E reimbursement for $21.60 of this expense, and the General Fund receives $15 from the original $32.25 in fees. The net impact of each national criminal history background check requested is an increase of $4.35 in state revenue. Total increases in state revenue from national criminal history background check requests is indeterminable and will depend on DCS administrative decisions.

Additionally, to the extent the DCS requests national criminal history background checks for family reunification, the workload of the Indiana State Police (ISP) is expected to increase. Actual increases are

unknown.

(5, 23) Older Youth Foster Care and Guardianship Assistance Program: The DCS reports states currently have the option to implement these programs under the federal Fostering Connections Act. The DCS reports the provisions of the bill that make changes to the Older Youth Foster Care program and establish the Guardianship Assistance program are expected to save the state approximately $5.8 M in the first year of implementation and $4.2 M annually thereafter (cost savings of $5.8 M annually and an increase in state expenditures of $1.6 M per year from increased program participation). The DCS reports these provisions can be implemented within the DCS's current budget and will not require an additional appropriation or allotment.

(11) Maximum Stay in Shelter Care Facility: The bill changes the maximum stay for a child placed in a shelter care facility from 60 days to 20 days. The DCS reports shelter care facilities are currently used as a temporary option when more permanent placement cannot be found immediately. The DCS currently reimburses the costs of providing care for DCS placements. The DCS also reports a youth's average length of stay in a shelter care facility is less than 20 days.

Payments made by DCS to shelter care facilities are eligible for reimbursement under the federal IV-E program at a reimbursement rate (FMAP) of 67%. Therefore, any reduction in DCS expenditures for shelter care payments would reduce state expenditures by approximately 33% of the total payment amount made to shelter care facilities. Actual decreases in state expenditures for shelter care facility payments as a result of this bill are unknown but expected to be small.

(12) Foster Care Certification: The DCS reports that starting January 1, 2012, foster care payments will no longer be based on the type of license a foster care provider holds. The DCS reports the changes in the bill are expected to simplify the application process to provide foster care in the state.

(26) DCS Responsibility for Expenses of Child Services: This bill provides the DCS is responsible for the costs of child services only if the service-providing entity maintains an executed contract with the Department (unless the services are recommended or approved by the DCS). The bill also removes language governing when the DCS is not responsible for the payment of child services. This removed language required a child whose services were ordered by a juvenile court to be either (1) eligible under the federal IV-E program or the IV-D program or (2) approved or recommended by the DCS.

Currently, if a juvenile court judge orders residential services for a child that are either not reimbursable under the federal IV-E or IV-D program or approved by the DCS, the DCS is not responsible for the costs of those programs. The bill removes this language from current law. Under the bill, if a judge were to order residential services from a provider that the DCS does not currently maintain a contract with, the DCS reports counties will be responsible for the costs of the services.

Currently, the DCS is engaged in a request for proposal process (RFP) to develop a limited amount of contracts with providers that meet high treatment standards necessary for those children placed in residential care. The impact to the total number of service providers where DCS is currently responsible for the payment of services a child receives is indeterminable. The total number of providers where DCS is responsible for the payment of services they offer could decrease, remain the same, or increase.

To the extent a judge orders services for a child that previously would have been financed by the DCS, but under the new RFP would not, DCS expenditures may decrease. By the same regards, if (as a result of this bill)

judges order services from providers that currently maintain a contract with the DCS at greater rates, DCS expenditures may increase. The net effect on DCS expenditures is indeterminable.

Explanation of State Revenues: The following provisions of the bill are expected to impact state revenues.

(1) National Criminal History Background Checks: (See *Explanation of State Expenditures*.)

(10) Training for Attorney GALs: The DCS reports that, currently, attorney guardian ad litems (GALs) do not receive training in early childhood, child, and adolescent development as required under the federal Child Abuse and Prevention Treatment Act (CAPTA). Under the bill, attorney GALs will be required to receive this training.

The DCS reports that unless this change is made to the training requirement of attorney GALs, the state stands to lose federal CAPTA funding. Possible decreases in federal CAPTA funds is not known. The DCS received approximately $548,000 in FY 2011 in federal CAPTA funding.

Background Information- Federal IV-E Program: The federal Title IV-E program does not use performance metrics to determine federal reimbursement amounts (unlike the federal Title IV-D program). Rather, the IV-E program functions much like the Medicaid program. States are reimbursed a percentage of their total IV-E costs. For FFY 2011, Indiana received approximately $62.3 M in IV-E reimbursement. The current reimbursement under the IV-E program is approximately 67%.

Explanation of Local Expenditures: The following provisions of the bill are expected to impact local expenditures.

(26) DCS Responsibility for Expenses of Child Services: To the extent a judge orders a service that is provided by a service provider that does not maintain a contract with the DCS, the DCS reports counties will be responsible for the costs of these services. Actual increases in county expenditures will depend on the decisions of judges as well as the number of residential service providers affected by the DCS RFP.

Explanation of Local Revenues:

State Agencies Affected: DCS, ISP.

Local Agencies Affected: Local courts, counties.

Information Sources: Brady Brookes, DCS.

Fiscal Analyst: Bill Brumbach, 232-9559.