

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 867 - HB 1377**

March 27, 2021

**SUMMARY OF BILL:** Enacts *Eli's Law*. Requires the Department of Children's Services (DCS) to conduct an immediate investigation into the safety and well-being of any child born to a parent that has another child in the custody of the Department due to dependency and neglect upon becoming aware of the child's birth.

Establishes a rebuttable presumption that any child born to a parent that has another child in the custody of DCS due to dependency and neglect is subject to an immediate threat to the child's health or safety and that there is no less drastic alternative to adequately protect the child's health or safety than to remove the child from the custody of the parent without delay for a hearing.

Requires DCS, in the case the Department determines the child is not subject to an immediate threat to the child's health or safety, to provide written notice of such determination, along with any previous allegations, complaints, petitions against the parent, and the evidence upon which the determination was made within 24 hours of the determination.

Imposes specific criteria for the return to the parent's custody of any child removed under the processes established in this legislation.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$9,718,100/FY21-22 and Subsequent Years**

**Increase Federal Expenditures - \$4,131,800/FY21-22 and Subsequent Years**

Assumptions:

- Under current practice, a child is only removed from a parent's custody following a proper investigation and a court adjudicating that removal is in the best interest of the child and is the least drastic remedy.
- The proposed legislation would create a rebuttable assumption that any child born to a parent that has another child in the custody of DCS due to dependency and neglect is subject to an immediate threat to the child's health or safety and that there is no less drastic alternative to adequately protect the child's health or safety than to remove the

child from the custody of the parent without delay. As such, any sibling to a child in custody would be removed from the parent's custody upon the court or DCS becoming aware of their birth without the prerequisite of a hearing or investigation.

- The precise number of non-custodial siblings to children in DCS custody is unknown. However, there are 1,202 children currently in DCS custody with at least one sibling who is not in custody.
- The non-custodial siblings of these 1,202 children represent those that, under the proposed legislation, would have been removed from the custody of their parents and placed into the custody of DCS upon the court or DCS learning of their births.
- It is assumed that this number is representative of what could be expected in any given year.
- However, it is further assumed that children born to mothers who already have at least one child in DCS custody are significantly more likely to end up in custody than the general population.
- Since the family is already in front of a juvenile court, regular updates to the family's status are made, making it more likely that any abuse or neglect will be discovered by the court or DCS. As such, it is assumed that not all of the 1,202 children represent additional cases to DCS, but rather a portion of that population would end up in DCS custody eventually under current law and practice, with the proposed legislation serving only to expedite that outcome.
- Furthermore, following removal, if DCS determines the child was not subject to an immediate threat to the child's health or safety, the Department may decide to advocate for return of the child to the parent's custody or some other least drastic remedy. It is reasonable to assume that the court would order the child placed in some situation other than DCS custody in an unknown number of those cases.
- The precise percentage of non-custodial siblings to children in DCS custody that would eventually end up in custody under current law and practice, and those that may be returned to their parent's or some other's custody is not known. It is reasonably estimated to be 25 percent.
- Therefore, the increase in children placed into DCS custody annually is estimated to be 901 (1,202 – 25.0%).
- Pursuant to Tenn. Code Ann. § 37-5-132(a)(2), DCS is required to maintain staffing levels of case managers to allow caseloads not to exceed an average of 20 children monitored and supervised in active cases relating to ongoing services.
- Based on information provided by the DCS, one team leader is required for every five case managers, and one team coordinator for every five team leaders.
- DCS will require 56 additional positions to accommodate the increase of an estimated 901 children in custody per year as follows:
  - 45 Case Managers;
  - 9 Team Leaders; and
  - 2 Team Coordinators.
- The total increase in expenditures to DCS for new positions is estimated to be \$3,380,938 (\$1,855,044 salaries + \$685,894 benefits + \$840,000 other costs) in FY21-22 and subsequent years.
- The average length of stay for a child in a lowest level foster care home is nine months.

- It is assumed that 75 percent of the of 901 children, or 676 children (901 x 75.0%), will be placed in a DCS foster home, and 25 percent, or 225 children (901 x 25.0%), would be placed in a private provider foster home.
- The daily rate for a DCS foster home is \$26.22.
- Therefore, the increase in expenditures for DCS foster care is estimated to be \$6,469,523 (676 children x \$26.22 x 365 days).
- The daily rate for a private provider foster home is \$48.70.
- Therefore, the increase in expenditures for private provider foster care is estimated to be \$3,999,488 (225 children x \$48.70 x 365 days).
- The total increase in expenditures to DCS for foster care is estimated to be \$10,469,011 (\$6,469,523 + \$3,999,488) in FY21-22 and subsequent years.
- Based on information provided by DCS, prior to removing a child from a parent's custody, federal regulations require, among other things, the Department to explore the least drastic alternatives to removal. Because the proposed legislation would remove a child from a parent's custody under an assumption that the child is subject to an immediate threat to the child's health or safety, and before the less drastic alternatives have been explored, it is assumed that federal Title IV-E funds will not be available for cases in which the child has been removed under the processes established in this legislation.
- Therefore, the total increase in state expenditures is estimated to be \$13,849,949 (\$3,380,938 positions + \$10,469,011 foster care) in FY21-22 and subsequent years.
- The increase in expenditures of \$13,849,949 will consist of \$9,718,128 in state funding and \$4,131,821 in federal funding, as follows:
  - \$7,617,472 in DCS state funds (\$13,849,949 x 55.0%).
  - \$2,100,656 in TennCare state funds [(\$13,849,949 x 45.0%) x 33.705%].
  - \$4,131,821 in TennCare federal funds [(\$13,849,949 x 45.0%) x 66.295%].

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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