



March 4, 2024

**SUMMARY OF BILL:** Requires the Department of Children’s Services (DCS) to create a private foster care pilot program in which private entities provide foster care services that are analogous or functionally equivalent to services provided by DCS for up to 450 children who meet specific requirements. Grants the private entities full decision-making authority over the children in their custody without DCS interference. Specifies that DCS will create a process for selecting children to participate in the pilot program, and that a court is authorized to place the children into the pilot program. Creates requirements and standards for private entities participating in the pilot program. Requires DCS to determine a cost per child formula and compensate the private entities according to that formula by utilizing existing DCS resources. Authorizes DCS to promulgate rules to effectuate the purposes of the pilot program. Requires DCS to make a determination on all new private entity applications within 30 days of receiving the application. Requires the Comptroller of the Treasury to audit the pilot program. Establishes that the pilot program is repealed on January 1, 2030.

**FISCAL IMPACT:**

**Increase State Revenue - \$1,000,000/FY24-25/Strategic Technology Solutions**

**Increase State Expenditures – \$2,921,200/FY24-25**

**\$1,921,200/Each FY25-26 through FY28-29**

**\$960,600/FY29-30**

**Decrease Federal Expenditures – Net Impact –**

**\$1,605,000/Each FY24-25 through FY28-29**

**\$802,500/FY29-30**

**Other Fiscal Impact – The proposed legislation will result in shift in the allocation of current recurring General Fund expenditures of \$8,685,900 in each FY24-25 through FY28-29 and of \$4,342,900 in FY29-30 from DCS to the pilot program private entities.**

**Federal CAPTA funding may be jeopardized if the state is found to be out of compliance with federal regulations.**

Assumptions:

- Pursuant to the proposed legislation, private entity means a child care or child placing agency licensed in Tennessee, as defined in Tenn. Code Ann. § 37-5-501(b) as a person or entity that provides child care, or an entity or person that places children in foster boarding homes or foster homes for temporary care or for adoption, or any other entity or person or group of persons who are engaged in providing adoption studies or foster care studies or placement services.
- Pursuant to the proposed legislation, the pilot program may only serve children who are younger than 18 years of age, are not in need of sub-acute psychiatric care, and are not eligible for funds under Title IV-E funding, as provided in 42 U.S.C. §§ 670-679.
- Is it assumed that the children participating in the pilot program would otherwise be in DCS custody.
- It is assumed children in the pilot program will not qualify for the special circumstances or kinship board rates due to the eligibility requirements of participating in the pilot program. The current average daily regular board rate for foster care is \$32.16.
- Rates effective on July 1, 2024 are assumed to increase by approximately five percent. Therefore, the expected average daily rate is per child expected to be \$33.77 ( $\$32.16 \times 1.05$ ) in FY24-25 and subsequent years.
- Assuming the payments to foster parents of private entities are equal to those of DCS's foster parents, the proposed legislation will result in continued recurring state expenditures of \$5,546,723 ( $\$33.77 \times 365 \times 450$ ) in FY24-25 and subsequent years; however, this will not be an increase in state expenditures, but rather a change in allocation of these funds from DCS to the pilot program.
- The proposed legislation requires each counselor and case manager employed by a private entity to obtain a minimum of 10 hours of attachment and bonding training provided by DCS.
- It is assumed that these trainings can be provided by utilizing existing DCS personnel, and without any increase in state expenditures.
- According to the proposed legislation, the child-to-case-manager ratio for the private entities will be based upon the total number of children in that entity's custody: either 15 children per case manager, 12 children per case manager, or 10 children per case manager. It is estimated that the average ratio will be 12 children per case manager.
- Therefore, the total number of private entity case managers will be approximately 38 ( $450 \text{ children} / 12 \text{ children per case manager}$ ) case managers, the cost of which will be defrayed with DCS expenditures.
- In order for the pilot program to be analogous or functionally equivalent to the services provided by DCS, it is assumed that for every five case managers there will need to be one team leader, or an additional 8 team leaders ( $38 \text{ case managers} / 5$ ), and for every four team leaders there is one team coordinator, or an additional 2 ( $8 \text{ team leaders} / 4$ ) team coordinators.
- For the purpose of assisting families and children through the court system in a similar way as what is provided by DCS, the pilot program will require an additional five associate counsel positions for the private entities.
- The additional positions will result in the following increase in expenditures:

<b>Title</b>	<b>Salary</b>	<b>Benefits</b>	<b># Positions</b>	<b>Total</b>
Case Manager	\$54,396	\$16,632	38	\$2,699,075
Team Leader	\$54,369	\$16,462	8	\$568,226
Team Coordinator	\$76,596	\$20,315	2	\$193,823
Associate Counsel	\$131,004	\$29,342	5	\$801,728
<b>Total:</b>				<b>\$4,262,852</b>

- Prior to the proposed legislation, these positions would be required for DCS. However, with the enactment of the pilot program, funding for these positions will instead be allocated to private entities.
- Under DCS, these additional positions are currently funded as follows:
  - 44 percent, or \$1,875,655 (\$4,262,852 x 44%), DCS state funding,
  - 10 percent, or \$426,285 (\$4,262,852 x 10%), Title IV-E funding,
  - 46 percent, or \$1,960,912 (\$4,262,852 x 46%), TennCare funding, which consists of:
    - 64.928 percent, or \$1,273,181 (\$1,960,912 x 64.928%) in federal funding, and
    - 35.072 percent, or \$687,731 (\$1,960,912 x 35.072%) in state funding.
- However, based on information provided by DCS, it is assumed that the private entities will not be eligible to bill TennCare or Title IV-E for these position costs; therefore, the federal portion of these costs will need to be covered using state dollars.
- Therefore, there will be an increase in state expenditures and corresponding decrease in federal expenditures of \$1,699,466 (\$426,285 + \$1,273,181) in FY24-25 and subsequent years, and a continued state expenditure of \$2,563,385 (\$1,875,655 + \$687,731) allocated to the pilot program instead of DCS in FY24-25 and subsequent years.
- According to DCS, each child will receive a clothing allowance of \$250 per year, resulting in a shift in allocations of \$112,500 (\$250 x 450 children) from DCS to the private entities.
- Pursuant to the proposed legislation, DCS will be required to create and promulgate rules for the pilot program, review private entity applications, and ensure that private entities are providing services analogous to those provided in DCS custody. Therefore, DCS will require the following additional positions:

<b>Title</b>	<b>Salary</b>	<b>Benefits</b>	<b># Positions</b>	<b>Total</b>
Program Specialist	\$59,496	\$17,478	3	\$230,923
Program Coordinator	\$66,600	\$18,657	1	\$85,257
<b>Total:</b>				<b>\$316,180</b>

- The cost of these additional positions will be covered with:
  - 54 percent, or \$170,737 (\$316,180 x 54%), DCS state funding,
  - 46 percent, or \$145,443 (\$316,180 x 46%), TennCare funding, which consists of:
    - 64.928 percent, or \$94,433 (\$145,443 x 64.928%) in federal funding, and

- 35.072%, or \$51,010 ( $\$145,443 \times 35.072\%$ ) in state funding.
- Therefore, these positions will result in a recurring increase in state expenditures of \$221,747 ( $\$170,737 + \$51,010$ ) and a recurring increase in federal expenditures of \$94,433 in FY24-25 and subsequent years.
- There will also be a one-time increase in state expenditures of approximately \$1,000,000 in FY24-25 associated with expanding DCS's Tennessee Family and Child Tracking System (TFACTS) so that the private entities can utilize its services similarly to DCS. These costs will be paid to Strategic Technology Solutions (STS) resulting in an increase in state revenue of \$1,000,000.
- Pursuant to the proposed legislation, a private entity must have a facility for immediate housing of foster children upon applying to DCS to participate in the pilot program. Therefore, DCS would not be required to reimburse the private entity for the cost of an adequate facility.
- The private entities will be required to provide a monthly report to the State Foster Care and Adoption Review Board regarding the number of children it served, along with the stability and status of the children currently in custody. However, this Review Board does not currently exist, so it is unknown whether it will be able to handle the proposed legislation without any expenditures.
- Any increase in court proceedings that result from the proposed legislation can be handled within existing court resources, and without any significant fiscal impact to the Administrative Office of the Courts.
- The Comptroller of the Treasury will be able to audit the pilot program by utilizing existing resources and personnel, and without any increase in expenditures.
- The proposed legislation takes effect upon becoming law, meaning private entities will be able to apply for the pilot program immediately upon it becoming law.
- Since the proposed legislation requires DCS to review applications within 30 days of receipt, and the unknown timeframe it will take to expand TFACTS, it is unlikely DCS will be able to adequately carry out the provisions of the proposed legislation immediately upon it becoming law
- The total increase in state expenditures as a result of the proposed legislation will be \$2,921,213 ( $\$1,699,466 + \$221,747 + \$1,000,000$ ) in FY24-25, and \$1,921,213 ( $\$1,699,466 + \$221,747$ ) in FY25-26 and subsequent years which will be paid to pilot program private entities.
- There will also a shift in General Fund expenditure allocations of \$8,685,856 ( $\$463,050 + \$5,546,723 + \$2,563,583 + \$112,500$ ) in FY24-25 and subsequent years from DCS to the pilot program private entities.
- The total net decrease in federal expenditures as a result of the proposed legislation will be \$1,605,033 ( $\$1,699,466 - \$94,433$ ) in FY24-25 and subsequent years.
- The pilot program is repealed on January 1, 2030. Therefore, the impact in FY29-30 will be equal to 50% of the full year impact, or:
  - \$960,607 in increased state expenditures ( $\$1,921,213 \times 50\%$ );
  - \$4,342,928 in a shift of General Fund expenditure allocations ( $\$8,685,856 \times 50\%$ ); and
  - \$802,517 in decreased federal expenditures ( $\$1,605,033 \times 50\%$ ).

- According to DCS, this legislation could jeopardize \$2,140,186 in federal CAPTA funding due to the requirement that private entities be given full decision-making authority over children without DCS interference.

**CERTIFICATION:**

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

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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