

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6087

BILL NUMBER: SB 40

NOTE PREPARED: Nov 28, 2023

BILL AMENDED:

SUBJECT: Representation of Caregiver in CHINS Cases.

FIRST AUTHOR: Sen. Bohacek

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that an unlicensed caregiver is entitled to representation by counsel in a child in need of services (CHINS) proceeding under certain circumstances.

Effective Date: July 1, 2024.

Explanation of State Expenditures: *Public Defense Fund:* If an unlicensed caregiver is found indigent and entitled to representation, it will increase the number of claims for reimbursement from the Public Defense Fund. The bill is estimated to increase state expenditures from the Public Defense Fund by approximately \$2.1 M to \$2.3 M annually, beginning in FY 2025.

Department of Child Services (DCS): This bill could increase the workload of the DCS to attend additional court hearings. The workload impact will likely be minimal, and the DCS could likely accomplish the task within existing resources.

Additional Information - According to the DCS's Practice Indicator Report, on average, about 8,838 CHINS were in out-of-home placement within the last 12 months. Of those in out-of-home placement, about 50% were in a relative home placement. According to the DCS, about 75% of relative home placements are unlicensed caregivers. OFMA assumes the cost-per-case for a unlicensed caregiver is similar to the cost of representation for a parent, guardian, or custodian in a CHINS case.

The estimate includes reimbursements at 40% for Public Defender Commission members (commission counties) in CHINS cases. Under current statute (IC 33-40-6-6), if the balance in the Public Defense Fund is not adequate to fully reimburse all certified claims in noncapital cases, the Public Defender Commission

shall prorate reimbursement of certified claims in noncapital cases.

In FY 2023, the Public Defender Commission reimbursement for indigent defense in non-capital cases was approximately \$34.9 M from the Public Defense Fund.

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary* - If a unlicensed caregiver is found indigent and entitled to representation, the bill will increase county costs for indigent counsel services and public defender caseloads. The bill is estimated to increase local expenditures by approximately \$4.4 M to \$4.8 M annually. The costs incurred by counties may be partially offset by the federal Title IV-E reimbursement grant for eligible CHINS expenses.

The following table shows the cost of indigent counsel services for unlicensed caregivers.

Cost of Indigent Counsel for Unlicensed Caregivers (in Millions)			
	Commission Counties*	Non-Commission Counties	Total County Cost
High	\$3.5	\$1.3	\$4.8
Average	\$3.2	\$1.2	\$4.5
Low	\$3.2	\$1.2	\$4.4

*The estimate includes reimbursements at 40% for public defenders in commission counties.

This estimate does not take into account siblings in the same placement type. If siblings are in the same placement type, local expenditures could be reduced. According to the DCS, about 66% of sibling cases in out-of-home placement are placed together. The average number of children per case is 2.66.

Additional Information - Currently, 66 counties receive public defense reimbursement and 5 counties receive IV-E funding only. In CY 2022, there were approximately 8,894 new CHINS filings. Of the new filings, about 81% of new cases were in commission counties.

Under current law, a public defender must be appointed to an indigent person at the trial and appellate level for a criminal case, a child charged with a delinquent act case, a parent in a TPR (termination of parental rights) case, and a parent in a juvenile CHINS case.

Explanation of Local Revenues:

State Agencies Affected: Department of Child Services; Public Defender Commission.

Local Agencies Affected: Courts with juvenile and probate jurisdiction; County public defenders.

Information Sources: Indiana Public Defender Commission, Funding and Reimbursement History, <https://www.in.gov/publicdefender/funding-and-reimbursement-history/>; Indiana Supreme Court, Reports & Statistics, <https://publicaccess.courts.in.gov/ICOR>; Department of Child Services, Report & Statistics, Practice Indicator Reports, September 2022 - September 2023; DCS Sibling Placement Report,

<https://www.in.gov/dcs/reports-and-statistics/practice-indicator-reports/september-2023/>.

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