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S.B. 216
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 216's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Johnson

Local Impact Statement Procedure Required: Yes

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Highlights

- Public children services agencies (PCSAs) will experience an increase in foster care placement and case management costs. The total costs will depend on the number of additional children placed into foster care because of the bill. Placements under the bill are for a minimum of six months. Foster care maintenance rates vary according to the age or needs of the child, as well as county residence. Rates paid to foster families range from \$10 to \$200 per day (about \$300 to \$6,000 monthly). However, treatment foster care for children with specialized needs could be more. Some federal reimbursements could be received for eligible Title IV-E cases.
- PCSAs will also experience an increase in costs to provide supervised visits between parents and children, file complaints with a juvenile court, and provide home studies.
- Medicaid costs will increase under the bill for any additional (1) individuals enrolled onto Medicaid that receive treatment from community addiction services providers, and (2) foster care placements (children in foster care are Medicaid eligible). These costs will depend on the number of individuals and the type of treatment services provided.
- Juvenile courts generally will incur potentially significant annual costs related to additional caseloads, and case oversight requirements, which will be dependent upon the number of reported substance-exposed infants in the court's jurisdiction.
- Some alcohol and drug testing costs may be reimbursed by a parent or covered if medically necessary from an individual's insurance, including Medicaid. The amount that could potentially be covered or reimbursed is unknown.

- There could be costs for required health care visits for impacted children who are reunified with parents. These visits would occur at least once per month for six months. If a child is on Medicaid, Medicaid could pay for medically necessary services. It is possible that a PCSA will be responsible for some portion of costs that are not covered by Medicaid or another insurance program.

Detailed Analysis

The bill creates a process through which an infant exposed to drugs or alcohol may be removed from the custody of the infant's parents on the grounds of that exposure. Under the bill, a public children services agency (PCSA) is required to conduct an alcohol or drug test on an infant or the infant's mother if the PCSA receives a report of child abuse regarding an alleged substance-exposed infant.

Under current law, unchanged by the bill, if a juvenile court issues a temporary custody or protective supervision order with respect to a child adjudicated to be abused, neglected, or dependent and addiction of the parent or caregiver is the basis for the order, then the court is required to order the parent or caregiver to submit to a drug or alcohol assessment and treatment from a community addiction services provider, if needed. The court is permitted to order drug testing before, during, and after the treatment and is required to notify the PCSA of any order.

Under the bill, if an order described above is issued for a substance-exposed infant, the court is required to issue an order requiring both of the child's parents to do all of the following:

- Complete a course specific to caring for a newborn experiencing alcohol or drug withdrawal;
- Complete an inpatient rehabilitation program provided by a community addiction services provider; and
- Undergo a home study conducted by an assessor.

Upon completion of the above, the court is required to order drug testing (1) each month for a minimum of three months following the order at random intervals, and (2) each month for six months following reunification at random intervals.

The court is prohibited from ordering (1) commitment of the child to the temporary custody of either parent or any person in the household, and (2) placement of the child in protective supervision. The court is required to award legal custody to the child's father if determined fit by the PCSA. The court is required to issue orders that prohibit (1) any contact between the child and the parents, and (2) the child and parents residing together until reunification requirements are met.

If the parents successfully complete the requirements listed above and continue to test negative for drugs and alcohol, the court is required to permit the parent or parents to incrementally transition to full-time care through visits supervised by the PCSA and then through unsupervised weekend visits. If the parent completes the requirements, has tested negative for three consecutive months, and is not the subject of a pending criminal proceeding, and the child has been on temporary custody for a minimum of six months, the court is required to order the reunification of the parent and child.

Upon reunification, the court is required to order that the parent (1) receive a caseworker from a PCSA for a home visit once a month, (2) take the child to be examined by a health care provider not less than once a month for six months, (3) continue to submit to testing, and (4) comply with any court orders regarding the other parent.

Fiscal impact

Juvenile courts

According to a 2009 report by the Substance Abuse and Mental Health Services Administration (SAMHSA), 10% to 11% of all births nationally are affected by prenatal alcohol or illicit drug exposure. In Ohio, from 2016 to 2020, more than 135,000 babies were born annually. Applying the national SAMHSA percentage of births affected by prenatal alcohol or drug exposure to the number of annual births in Ohio, we can estimate that between 13,500 and 15,000 infants are born each year with some exposure to drugs or alcohol.

While it is very unlikely that all of these potential births would result in a new case in the juvenile courts, the number of potential additional cases could be significant. Juvenile courts generally will incur potentially significant annual costs related to additional caseloads, and the case oversight requirements as described above. Impact on each juvenile division of a court of common pleas will be dependent on the number of substance-exposed infants in the court's jurisdiction relative to the court's current caseload. Statewide, from 2016 to 2020, there were, on average, 19,700 incoming cases of abuse, neglect, or dependency heard in the juvenile courts annually.¹

Public children services agencies

PCSAAs will experience an increase in costs to provide supervised visits between parents and children that are required under the bill and to provide the required home studies. PCSAAs pay for staffing costs as well as the space in which the supervised visits occur. In addition, PCSAAs will experience an increase in costs for any additional children entering foster care because of the bill. These costs include both placement and case management costs. The extent of these costs will depend on the number of additional children who would not have otherwise entered foster care (PCSAAs might work with some of these families now, but placements do not always occur). Under the bill, unless a child is placed with his or her father, temporary custody is for a minimum of six months. Foster care is paid for by both federal funding through Title IV-E of the Social Security Act, as well as a nonfederal share provided by counties. The breakdown between these two sources is based on the Federal Medical Assistance Percentage (FMAP), which was about 64% federal and 36% nonfederal share in FY 2021. Counties are responsible for the total cost of foster placement if a child is not eligible for Title IV-E. Foster care maintenance payments are paid to parents for each foster child in their home. The payments vary depending on the age and needs of the child, as well as the county location. Foster care per-diem rates for Title IV-E cases currently range between \$10 and \$200 per day (about \$300 to \$6,000 per month).² Rates

¹ Incoming cases include all new cases filed plus cases that were transferred into the court, reopened, redesignated, or reactivated.

² Ohio Department of Job and Family Services e-manual: [https://emanuals.jfs.ohio.gov/pdf/pdf-letters/FCASPL-377---Title-IV-E-Foster-Care-Maintenance-\(FCM\)-Ceilings-Revisions-FFY-2022.pdf](https://emanuals.jfs.ohio.gov/pdf/pdf-letters/FCASPL-377---Title-IV-E-Foster-Care-Maintenance-(FCM)-Ceilings-Revisions-FFY-2022.pdf).

would be higher if treatment foster care is required. In addition, children in foster care are eligible for Medicaid, so Medicaid costs could also increase for any additional children enrolled.

Treatment and testing

The bill could result in additional individuals receiving inpatient rehabilitation treatment services from community addiction services providers. These services are typically paid for by insurance, Medicaid, or in some cases, self-pay. In addition, if any local funding from county alcohol, drug addiction, and mental health services boards is available, some of these funds may also be used. Thus, it is possible that these entities could realize an increase in treatment costs for any impacted enrollees. The total cost will depend on the number of individuals treated and the scope of treatment provided.

PCSAs are required to test an infant's mother or infant if a report of child abuse regarding an alleged substance-exposed infant is received. Additional tests would be performed during the court process and reunification process. Arrangements for administering these required tests, as well as funding the costs of the test, must be determined in accordance with continuing law. If a parent required to submit to alcohol or drug testing by the court is not a recipient of Medicaid, the PCSA that refers the parent for the tests may require the parent to reimburse the PCSA for the cost of conducting the tests. As a result, Medicaid or other public health plans may experience additional costs if the required testing is considered medically necessary and covered. However, it is possible that a PCSA may be responsible for some costs or that other available state or local sources might be used. This would depend on the court arrangements made.

Once reunification occurs, a parent must take a child to be examined by a health care professional at least once a month for six months. If such a child is on Medicaid, costs could increase for any medically necessary services provided during these visits. It is possible that PCSAs could be responsible for some portion of costs if services were not covered, depending on the court arrangements made. These costs would depend on the amount charged per visit and the type of care provided.