



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # SB0400

Title: Restrict governmental entity from interfering with parental rights

Primary Sponsor: Manzella, Theresa

Status: As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Expenditures:				
General Fund	unknown	unknown	unknown	unknown
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	unknown	unknown	unknown	unknown

Description of fiscal impact: SB 400 provides that if a parent prevails in a judicial proceeding against a governmental entity for violation of their parental fundamental rights, the parent is entitled to reasonable attorney fees and costs paid by the governmental entity. The fiscal impact cannot be reasonably determined.

FISCAL ANALYSIS

Assumptions:

Department of Health and Human Services (DPHHS)

1. DPHHS assumes SB 400 could increase liability but is unable to appropriately determine the fiscal impact due to the inability to predict the number of cases or the amount of attorney time applied to the lawsuit to where DPHHS would need to be found to have interfered with a parent's fundamental parental rights.
2. In FY 2020, there were two Fair Hearings regarding substantiation of abuse and neglect in FY 2020. Both hearings were found in favor of DPHHS.
3. In FY 2020, three tort claims were brought against DPHHS. One was determined in DPHHS favor and the other two remain pending.
4. In FY 2020, appeals were requested on 25 dependency neglect cases. One decision was reversed and ten are still pending. The other 14 appeals have been dismissed in favor of DPHHS.

Judicial Branch

- 5. This bill restricts a governmental entity’s ability to interfere with fundamental parental rights. Should the parental rights be subject to termination, they must have the right to due process in all cases.
- 6. Section 1 stipulates that when a parent’s fundamental rights are violated, a parent may assert that violation as a claim or defense in a judicial proceeding.
- 7. The number of district court cases may increase as a result of this legislation; however, the Judicial Branch is unable to estimate the impact on the judicial workload or the fiscal impact. The cumulative impact of such legislation may eventually require additional judicial resources because the court dockets currently are full in many judicial districts throughout the state.

Technical Notes:

- 1. SB 400 is unclear with respect to the circumstances that would allow a parent to file an action under this new provision, and DPHHS is unable to determine the number of judicial proceedings that would be brought forward and ruled in favor of the parent as a cause for action for interference with parental fundamental rights.

Theresa Mangle 4.1
Sponsor’s Initials Date

KA
Budget Director’s Initials

3-31-21
Date