



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

HB0016 - Revise laws relating to child abuse and neglect proceedings (Carlson, Jennifer)

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$374,934	\$375,066	\$372,804	\$377,296
Federal Special Revenue	\$70,692	\$67,892	\$74,549	\$74,550
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Federal Special Revenue	\$70,692	\$67,892	\$74,549	\$74,550
Net Impact-General Fund Balance:	<u>(\$374,934)</u>	<u>(\$375,066)</u>	<u>(\$372,804)</u>	<u>(\$377,296)</u>

Description of fiscal impact: HB 16 revises procedures related to child abuse neglect proceedings. The statutory timeframe for holding an Emergency Protective Services (EPS) hearing would be reduced from 5 days to 3 days, which would increase the workload of the State Office of the Public Defender as well as the Judicial Branch courts. The bill includes biennial appropriations of \$450,000 to the Judicial Branch and \$300,000 to the State Office of the Public Defender.

FISCAL ANALYSIS

Assumptions:**Judicial Branch**

- Section 3 of HB 16 allows parents whose child has been removed to participate in a prehearing conference (PHC) within 72 hours. Presumably, the PHC would happen prior to the hearing required in Section 2. Currently the Judicial Branch holds prehearing conferences prior to the show cause hearings in certain pilot counties using limited federal grant dollars. Section 3 would extend the option to all parents.
- The Judicial Branch will utilize contracted attorneys to facilitate prehearing conferences allowed for in Section 3.
- Each PHC will require an average of three hours charged at \$62 per hour, for a cost of \$186 per prehearing conference.

4. The ten-year average number of child abuse and neglect cases filed is 2,082 per year. It is estimated that 60% of the cases will request a PHC for 1,249 prehearing conferences per year.
5. Total PHC costs are estimated at \$232,314 per year, or \$464,628 for the biennium (\$186 per conference x 1,249 requests for conferences x 2 years).
6. The Judicial Branch will enter into an MOU with the University of Montana's (UM) Center for Children, Families and Workforce Development to provide prehearing conference training for the facilitators.
7. UM currently charges \$40 per hour for these services. The Judicial Branch estimates a 6% increase in costs due to inflation, for an hourly cost of \$42.40.
8. Eight 40-hour training sessions each year are estimated for a total cost of \$13,568, or \$27,136 for the biennium. Training costs are anticipated to be an ongoing cost to ensure existing facilitators receive refresher training and that new facilitators are properly trained.
9. The Judicial Branch estimates that a .50 FTE will be required to provide administrative services related to this program.
10. Estimated costs for 0.50 FTE are \$46,944 for FY 2024 and \$47,076 for FY 2025.
11. One-time startup costs include the standard new employee package of a desk, chair, bookshelf, and file cabinet for \$1,600 and computer \$1,200, for a total new employee startup cost of \$2,800 to be incurred in FY 2024.
12. The Judicial Branch currently uses approximately \$100,000 in limited Court Improvement Program federal grant funds for prehearing conferences held prior to show cause hearings in certain pilot counties. It is assumed that the Judicial Branch will continue to contribute CIP grant funds to cover the amount of expenditures over and above the \$450,000 biennial appropriation in section 5 of the bill.
13. Before accounting for federal funding from the Court Improvement Program, costs for each fiscal year are \$295,626 in FY 2024, \$292,958 in FY 2025, \$297,353 in FY 2026, and \$301,846 in FY 2027.
14. Section 2 of the act requires an emergency protective services hearing within 72 hours of a child's removal. If the court determines the removal is necessary, the judge will order terms of visitation and other treatment requirements. Judges will alter schedules to accommodate hearings, which will delay other scheduled matters. If a hearing is required on a weekend or holiday when courts are closed (i.e. late Friday removal with a Monday holiday), the Judicial Branch may incur costs related to overtime for court reporters but the cost is impossible to estimate, however the cumulative impact over time may require additional judicial resources.

Office of the State Public Defender (OPD)

15. OPD anticipates it would assign counsel to represent clients in roughly 665 EPS hearings per year of the biennium. At least one party will always be represented by an FTE attorney, while any additional parties would be represented by contract attorneys. Attorneys will spend on average 3 hours per EPS hearing. Contractor attorneys are currently paid \$71 per hour, though OPD anticipates it will need to pay a higher rate of \$109 per hour to ensure contractor availability for these emergency hearings. The differential rate of \$38 per hour applied to the EPS caseload would cost approximately \$75,810 per year. The \$300,000 biennial appropriation in HB 16 would be sufficient to cover the anticipated cost of implementation. Authority above the amount listed in these calculations would be held as a contingency appropriation to be used in the event the actual caseload and cost estimates are higher than estimated.
16. OPD assumes the \$300,000 appropriation will become part of the ongoing base for future biennia.

Department of Public Health and Human Services (DPHHS)

17. The current work done to prepare for filing an abuse and neglect petition will be used for prehearing conferences and emergency protective services hearings required in HB 16. As a result, DPHHS will not incur additional costs.

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.50	0.50	0.50	0.50
<u>Expenditures:</u>				
Personal Services	\$46,944	\$47,076	\$47,782	\$48,488
Operating Expenses	\$321,692	\$321,692	\$327,655	\$333,785
Contingency Approp OPD	\$76,990	\$74,190	\$71,916	\$69,573
TOTAL Expenditures	\$445,626	\$442,958	\$447,353	\$451,846
<u>Funding of Expenditures:</u>				
General Fund (01)	\$374,934	\$375,066	\$372,804	\$377,296
Federal Special Revenue (03)	\$70,692	\$67,892	\$74,549	\$74,550
TOTAL Funding of Exp.	\$445,626	\$442,958	\$447,353	\$451,846
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$70,692	\$67,892	\$74,549	\$74,550
TOTAL Revenues	\$70,692	\$67,892	\$74,549	\$74,550
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$374,934)	(\$375,066)	(\$372,804)	(\$377,296)
Federal Special Revenue (03)	\$0	\$0	\$0	\$0

Technical Notes:

1. New cases are filed through county clerks of court offices. Clerks' offices are closed on weekends and holidays, which may preclude filings within the 72-hour required timeframe.
2. Calculations in this fiscal note assume that courts will continue to allow for remote appearances that would allow OPD and contract attorneys to appear remotely for EPS hearings. Every EPS hearing that OPD can staff with a remote full-time employee would reduce the fiscal impact and increase the consistence and quality of representation. In the event the courts disallow remote appearances for EPS hearings, costs to implement HB 16 would increase.
3. OPD anticipates all EPS hearings would be held Monday through Friday, 8 am to 5 pm hours. If EPS hearings are held outside these hours, OPD would need to establish an on-call rotation and work with unionized staff to pay a higher rate of compensation for on call time, which would increase OPD's costs related to these EPS hearings.

Jennifer Carlsson
Sponsor's Initials

Jan 3, 2023
Date

[Signature]
Budget Director's Initials

12-22-22
Date