



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0148 - Revise laws regarding legal representation of children (Lenz, Dennis R)

Status: As Amended in Senate Committee

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" 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 2024	FY 2025	FY 2026	FY 2027
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
Expenditures:				
General Fund	\$407,590	\$407,590	\$413,704	\$419,909
Federal Special Revenue	\$178,870	\$178,870	\$181,555	\$184,279
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Federal Special Revenue	\$178,870	\$178,870	\$181,555	\$184,279
Net Impact-General Fund Balance:	(\$407,590)	(\$407,590)	(\$413,704)	(\$419,909)

Description of fiscal impact: SB 148 requires legal representation for children involved with child abuse and neglect cases that are eligible for federal Title IV-E reimbursement. Amendments to SB 148 do not materially change the fiscal impact, however, the estimated costs incurred by the Office of the Public Defender have been revised downward to correct an error made in the original fiscal note.

FISCAL ANALYSIS

Assumptions:

Department of Public Health & Human Services (DPHHS)

1. Legal representation of children in dependent neglect cases are eligible for federal Title IV-E reimbursement. The calculation for Title IV-E eligible expenditures is based on Montana Title IV-E blended saturation rate and the federal participation rate of allowable expenses.
2. The Montana Title IV-E blended saturation rate is based on Title IV-E eligible children in foster care, adoption and guardianship placements and eligible activities. The Title IV-E saturation rate changes per quarter but is approximately 61% and the federal participation rate for quality legal representation is 50%. A table splitting out the IV-E funding and state funding can be found in Assumption #5.

Office of Public Defender (OPD)

3. OPD, regarding the new requirement to appoint counsel for all children in all proceedings under petitions filed pursuant to 41-3-422, assumes that SB 148 would require assignment of an attorney to represent the involved children in approximately an additional 413 cases per year. As OPD primarily assigns its FTE attorneys to represent parents, OPD would assign these new, additional child appointments from SB 148 to contract attorneys.
4. OPD’s current case weight predicts such new appointments will require an average of 20 hours of attorney time per case with a total of 413 cases at a rate of \$71.
5. Additional attorney time and cost for additional hearings are as follows: 413 attorney matters x 20 hours x \$71 per hour totaling \$586,460 per year. 1.5% inflation factor will be added to years 3 and 4.

	2024	2025	2026	2027
Office of Public Defender Projected Costs	\$ 586,460	\$ 586,460	\$ 595,257	\$ 604,186
Montana Blended Title IV-E Saturation Rate	61%	61%	61%	61%
Title IV-E Eligible Cost	\$ 357,741	\$ 357,741	\$ 363,107	\$ 368,553
Federal Participation Rate	50%	50%	50%	50%
Federal Title IV-E Reimbursement	\$ 178,870	\$ 178,870	\$ 181,553	\$ 184,277

Judicial Branch

6. This bill changes 41-3-425, MCA, to require the court to appoint the office of the state public defender to immediately assign counsel for any child or youth involved in an abuse and neglect proceeding.
7. This bill does not relieve the court of the obligation to appoint a GAL or CASA pursuant to 41-3-112, MCA. As such, there will be no reduction of costs for the Judicial Branch because according to 3-5-901(e)(iv), MCA, the Judicial Branch is still obligated to pay the expenses associated with the appointment of a guardian ad litem or child advocate appointed pursuant to Title 41, chapter 3, part 4, MCA.

	<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>				
<u>Expenditures:</u>				
Operating Expenses	\$586,460	\$586,460	\$595,257	\$604,186
TOTAL Expenditures	<u>\$586,460</u>	<u>\$586,460</u>	<u>\$595,257</u>	<u>\$604,186</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$407,590	\$407,590	\$413,704	\$419,909
Federal Special Revenue (03)	\$178,870	\$178,870	\$181,555	\$184,279
TOTAL Funding of Exp.	<u>\$586,460</u>	<u>\$586,460</u>	<u>\$595,263</u>	<u>\$604,192</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$178,870	\$178,870	\$181,553	\$184,277
TOTAL Revenues	<u>\$178,870</u>	<u>\$178,870</u>	<u>\$181,553</u>	<u>\$184,277</u>

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$407,590)	(\$407,590)	(\$413,704)	(\$419,909)
Federal Special Revenue (03)	\$0	\$0	(\$2)	(\$2)

NO SPONSOR SIGNATURE 3.16.23
Sponsor's Initials *Date*

[Signature] 3-16-23
Budget Director's Initials *Date*