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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 1/27/15  
**LAST UPDATED** 3/17/15     **HB** 118/aSPAC

**SPONSOR** Fajardo

**SHORT TITLE** Family in Need of Court-Ordered Services     **SB** \_\_\_\_\_

**ANALYST** Klundt

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		TBD	TBD	TBD	Recurring	CYFD Operating Budget
		TBD	TBD	TBD	Recurring	Courts Operating Budget

Parenthesis ( ) indicate expenditure decreases

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Children, Youth and Families Department (CYFD)

Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of SPAC Amendment

The SPAC amendment to HB118 is a technical correction striking language “that found credible evidence” with “where the department substantiated” on page 2, line16 and corresponds to existing agency regulations.

#### Synopsis of Original Bill

House Bill 118 broadens the definition of family in need of court-ordered services by adding the category of families wherein the child was found by credible evidence to have been abused or neglected. CYFD reported this bill provides the opportunity to enforce the engagement of families in need of services who are unwilling to do so voluntarily. Additionally, the agency stated this bill ensures family involvement in services designed to help meet their needs and strengthen their family unit without the necessity for an abuse and neglect petition and/or removal of the children.

## **FISCAL IMPLICATIONS**

The Executive recommendation included \$136.1 thousand and the LFC recommendation included \$89.9 thousand from the general fund in FY16 for families in need of court-ordered services (FINCOS).

The Administrative Office of the Courts (AOC) reported possible fiscal impacts, but however did not quantify them, due to increasing caseloads. According to the AOC, in FY14 courts experienced an 11.7 percent increase in the statewide abuse or neglect caseload. So far FY15 shows the trend continuing. Additionally, the Second Judicial District experienced a 30 percent increase in case filings from calendar year 2013 to calendar year 2014. Cases filed under the FINCOS Act and cases filed under the Abuse and Neglect Act are both heard by Children's Court judges.

The AOC also reported that the Court Appointed Attorney Fee Fund (CAAFF) may be impacted as attorneys are appointed for respondents and children in both FINCOS and neglect cases. Currently, attorneys on contract with the courts and paid through the CAAFF are required to handle FINCOS cases to which they are appointed. The statewide increase in the abuse and neglect caseload has already strained CAAFF. In the Second Judicial District court appointed attorneys reached caseloads of over 100. In FY15 the AOC had to request two supplemental appropriations. This supplemental amount allowed the AOC to contract with an additional eight attorneys in order to cap caseloads at 70 cases. Should FINCOS cases begin to be regularly filed, the AOC believes the strain on court resources and CAAFF may be significant.

## **SIGNIFICANT ISSUES**

CYFD reported this bill increases the flexibility of the child welfare system to respond to the specific needs of individual families by allowing for a level of intervention above voluntary services, but below a petition for custody, when a child is found by credible evidence to have been abused and/or neglected. This bill acknowledges that not all abuse and neglect occurrences require the separation of the children from the family unit. Currently, there are two primary methods for a family to receive services. On one end of the spectrum are voluntary services without court intervention. On the other end of the spectrum is court-ordered services implemented while the child is in the legal and physical custody of CYFD. The bill introduces a third option for cases that do require intervention, but where the need does not necessarily rise to the level of severity where the child must be removed.

Currently, the families in need of court-ordered services statute is narrowly tailored to provide services for families whose children might have run away, are truant, or do not want to return home. According to the Administrative Office of the Courts, this bill would expand the statute to add the use of court services to include families who have had at least one substantiated investigation by CYFD under the Abuse and Neglect Act.

According to CYFD's "360 Yearly" SFY14 Annual Report, out of 21,129 accepted reports that meet a "sufficient basis" for investigation, 5,531 resulted in a substantiated investigation. The AOC reported data in the Judiciary's case management system indicates that only 18-20 percent of those cases are filed in the courts. The AOC raised concerns that if a small percentage increase of substantiated investigations become FINCOS cases the additional strain on court resources and CAAFF, may impair the quality of representation and access to meaningful justice and

additional resources may be necessary. However, no estimate of additional resources was provided from the agency.

### **PERFORMANCE IMPLICATIONS**

CYFD has performance measures related to the safety, stability, and well-being of children which may be positively affected by this bill.

The courts measure time to permanency in abuse/neglect cases which is part of the performance-based budgeting process. The AOC reported that if the revised FINCOS is used extensively and there is no change to the number of abuse or neglect petitions filed, the court dockets will increase making it difficult to handle larger caseloads and meet timelines. However, if FINCOS cases dispose of concerns for safety before, and without, filing a petition for abuse or neglect, then it could be that performance implications are minor.

This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type
- Length of time the case is pending.

### **ADMINISTRATIVE IMPLICATIONS**

CYFD anticipates a rise in attorney, caseworker, and supervisor loads which cannot at this time be quantified. Staff time and effort necessary for implementation of this bill will be absorbed by existing resources.

According to the AOC, the Supreme Court, via the Children's Court Rules Committee, will need to review this amendment to determine if it requires the adoption or amendment of court rules or forms. This process requires time and resources, and may require the committee to develop and publish for comment any such rules and forms before submitting them to the Supreme Court for approval.

### **OTHER SUBSTANTIVE ISSUES**

According to the AOC, under the directive of the Children's Court Improvement Commission, a group of stakeholders have been collaborating on drafting and recommending proposed revisions to the Children's Code. The workgroup is comprised of representatives from CYFD, the AOC, Children's Court judges, contract attorneys, service providers and other community stakeholders. The committee came to consensus on a slate of amendments to the Code that will be filed this legislative session. The group had several discussions reviewing FINCOS as a means of service delivery. Several stakeholders had reservations, thus the issue was tabled.

Additionally, the AOC also reported this bill will allow a broader category of families to engage in required services through the use of the term "credible evidence" as the standard on which to initiate a case. According to the agency, this is a lesser standard than initial "probable cause" standard used in the Abuse and Neglect Act (32A-4-16, 18). However, both the FINCOS Act and the Abuse and Neglect Act require the same standard of "clear and convincing evidence" in the adjudicatory phase of the case (32A-3B-14(B), 32A-4-20(H)). If CYFD has clear and convincing evidence of abuse and neglect than the current Abuse and Neglect Act should allow CYFD to file a case and require a family to participate in services. The Abuse and Neglect Act does allow the children to remain in the home if appropriate.