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| LFC Requester: | Connor Jorgenson |
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 02.23.2025 *Check all that apply:*
Bill Number: SB 491 Original Correction
 Amendment Substitute

Sponsor: L. Lopez **Agency Name and Code** OFRA, 6800
Short Title: Public Service Law Loan **Number:** _____
Repayment Additions **Person Writing** Beth Gillia
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY25 | FY26 | | |
| 0 | 0 | | |
| | | | |

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY25 | FY26 | FY27 | | |
| 0 | 0 | 0 | | |
| | | | | |

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|---------|---------|---------------------------------------|---------------------------|---------------|
| Total | 0 | Unknown | Unknown | See estimate in Fiscal Impact section | Recurring | General |

| | | | | | | |
|--|--|--|--|--------|--|--|
| | | | | below. | | |
|--|--|--|--|--------|--|--|

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill proposes to:

1. Amend the Public Service Law Loan Repayment Act to (a) add the Office of Family Representation and Advocacy (OFRA) to the definition of "public service employment" and (b) add the director of OFRA to the public service law advisory committee;
2. Enact a new law, the Child and Family Welfare Worker Loan Repayment Act, to provide student loan repayment for OFRA social workers and peer mentors; establishing the powers and duties of the Department of Higher Education for administration of the loan repayment programs; and creating the child and family welfare worker loan repayment fund;
3. Define "the office" in Article 1 of the Children's Code and in the Fostering Connections Act to mean OFRA;
4. Clarify throughout the Children's Code (including the Fostering Connections Act) that the Children's Court shall *appoint* OFRA to *represent or assign counsel* to parties in certain Children's Court cases;
5. Clarify that the Children's Court shall determine whether a respondent parent, guardian or custodian is indigent or entitled to appointed legal counsel in the in the interests of justice;
6. Codify the right of any adult represented by OFRA to knowingly and intelligently waive the right to representation by assigned counsel for all or part of the representation, and establishing that the waiver must be in writing and countersigned by the person's assigned or appointed attorney.
7. Create a new section in the Abuse and Neglect Act, Section 32A-4-10.1, that would:
 - a. Allow OFRA to seek court appointment of attorneys not contracted with OFRA to represent parties in certain cases when the OFRA Director determines that there are no OFRA staff or contract attorneys available, and authorizing OFRA to pay the appointed counsel from the date of appointment at the same rates as contracted counsel and for reasonable expenses related to the representation (at rates commensurate with those paid to contracted counsel);
 - b. Allow OFRA to pay the costs (attorney fees and reasonable expenses commensurate with those paid to contract attorneys) of non-contract counsel appointed by the court before OFRA existed to represent children, youth, and respondents in certain children's court cases;
8. Amending the Family Representation and Advocacy Act (Article 27) to clarify that OFRA represents respondents (parents, guardians, or custodians) that the court has found to be indigent or in need of counsel in the interests of justice.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

The fiscal impact of this bill is mainly associated with the cost of the student loan repayment programs. Any costs associated with other provisions in the bill will be absorbed by OFRA within its existing budget.

Projecting the cost of the two student loan repayment programs proposed in this bill is challenging because OFRA is a new state agency that is still expanding its staff. Nevertheless, we estimate the total cost of the loan repayment programs, when fully staffed, will be \$1.9 million (or 76 staff members at \$25,000 per person).

This estimate assumes:

- (a) full staffing in positions covered by the programs (which will take at least 3 years to achieve);
- (b) loan repayment of the full amount permissible by law (\$25,000 per person); and
- (c) that all 35 OFRA lawyers, all 19 OFRA social workers, and 20 (or 25% of 78) of OFRA's peer navigators have qualifying student loans.

SIGNIFICANT ISSUES

The proposed student loan programs will enhance OFRA's ability to recruit and retain staff by creating loan repayment opportunities comparable to those that already exist for similar positions at the Children, Youth and Families Department, the Law Offices of the Public Defender, and District Attorneys' Offices across the state.

Other provisions in the bill are largely clean up:

- (a) clarifying that the courts appoint OFRA, but that OFRA either represents clients directly or assigns contractors to represent parties in Children's Court cases;
- (b) clarifying that OFRA only represents respondents determined to be indigent by the court or determined by the court to qualify for OFRA-assigned counsel in the interests of justice; and
- (c) codifying adults' constitutional right to waive counsel when done knowingly and voluntarily.

The proposed new Section 32A-4-10.1 would solve certain ongoing problems, mostly created by the transition from previous direct appointment of attorneys by the court/contract management by the Administrative Office of the Courts (AOC) to OFRA. These provisions would:

- (d) allow OFRA to ask the court to appoint counsel directly when OFRA determines that no staff or contract attorneys are available and to compensate those attorneys from the date of appointment without approval by the Secretary of the General Services Department; and
- (e) allow OFRA to compensate the small number of attorneys appointed by the Court before OFRA existed for their ongoing work on Children's Court cases, even when they do not hold a contract with OFRA.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without the student loan repayment programs, OFRA will struggle to hire and retain attorneys, social workers, and peer navigators who would be able to go to the other state agencies that provide the same compensation *plus* loan repayment. Without this added financial benefit, OFRA will be at a hiring disadvantage compared to other state agencies, which will jeopardize our ability to fully implement high quality, interdisciplinary legal representation statewide.

Clarification that OFRA represents only indigent respondents will ensure that state funds are used wisely and are not used to provide attorneys to individuals who are otherwise able to pay for counsel themselves. Further, clarifying that it remains the court's duty to determine indigency (or the need for counsel in the interests of justice) will ensure that decisions about who qualifies for OFRA representation are made independently and efficiently.

Without the proposed new Section 32A-4-10.1, attorneys previously appointed by the court to represent parties in Children's Court cases, but who never contracted with the AOC or OFRA, will continue to seek payment for legal services provided, but neither OFRA nor AOC will have a lawful mechanism to pay these court appointed attorneys for ongoing services. This could have two pernicious effects: first, it could lead to lower quality representation of children and parents by attorneys who are not compensated for their work, and second, it could open OFRA and AOC to lawsuits for unpaid services.

AMENDMENTS