

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-0241/2	Introduction Number AB-0047
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Description
 guardianships of children

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Decrease Existing Appropriations	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Create New Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs	3. <input type="checkbox"/> Increase Revenue	5. Types of Local Government Units Affected	
<input checked="" type="checkbox"/> Indeterminate	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Towns	<input type="checkbox"/> Village <input type="checkbox"/> Cities
1. <input type="checkbox"/> Increase Costs	4. <input type="checkbox"/> Decrease Revenue	<input type="checkbox"/> Counties	<input type="checkbox"/> Others
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> School Districts	<input type="checkbox"/> WTCS Districts

Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

Agency/Prepared By DCF/ ELIZABETH ELGAR (608) 422-6344	Authorized Signature Kim Swissdorf (608) 422-6351	Date 3/12/2019
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Fiscal Estimate Narratives

DCF 3/12/2019

LRB Number 19-0241/2	Introduction Number AB-0047	Estimate Type Original
Description guardianships of children		

Assumptions Used in Arriving at Fiscal Estimate

The bill creates a new process and standards for appointment of a guardian of a minor's person. The bill removes guardianships of a minor's person from ch. 54, Wis stats., and creates a new statute governing guardianships of a child's person in a new subchapter under ch. 48, Wis stats. This change transfers jurisdiction over private guardianships from the probate court under Chapter 54 to the children's court under Chapter 48. Private guardianships do not require involvement by the child welfare system and therefore are informally referred to as "private" guardianships. Note that private guardianships are not eligible for subsidized guardianship, so we do not anticipate any effects on subsidized guardianship costs.

The bill creates four types of guardianships of a child's person: full; limited; temporary; and emergency, but clarifies that a parent retains all rights and duties that are not assigned to the guardian or otherwise limited by statute or court order.

The bill also requires the appointment of a guardian ad litem (GAL) in proceedings to appoint a guardian or terminate a guardianship, as well as in proceedings to modify a guardianship, if a hearing will be held. The GAL represents the best interests of the child throughout the proceedings and must conduct a diligent investigation sufficient to represent the interests of the child in court.

This bill would increase the workload of DMCPDS (and county departments of social or human services) because it requires that GALs in minor guardianship proceedings be given greater access to child welfare, CPS, juvenile law enforcement, juvenile court, pupil, mental health, and health records than is given to GALs under current law. Currently, access to child welfare agency records under chapter 48 of the children's code is limited to relevant records when there is proper authorization to release the records. Under this legislation, in every minor guardianship proceeding the court must order the custodian of the specified records to provide a copy of the records to the GAL upon the GAL's request. (Section 21, section 48.975(3)(c), p. 17-18). Although the GAL may not in all cases ask for all of the specified records, some GAL's may believe it is their responsibility to request all available records. Therefore, the legislation increases the burden on DMCPDS and other public child welfare agencies to provide more records for minor guardianship proceedings that may not be relevant to the guardianship proceeding.

It is difficult to predict the increased agency burden or expense of providing the additional records. The amount of increase depends on the number and scope of the records requests, but responding to requests for social and health services records is time-intensive. The records of DMCPDS and other child welfare agencies generally include not just child welfare records but also the other types of specified records for the child, siblings, and other family members, which is highly sensitive. Responding to such record requests is time intensive because they require careful review and significant redactions to protect the confidential information of family members which may not be relevant to the minor guardianship proceeding but may be confidential under other law.

The fiscal effect is indeterminate because the degree to which the provisions of this bill will increase the information requests to DMCPDS and local health or social services departments for child welfare records and reports is unknown.

Long-Range Fiscal Implications