



FINAL FISCAL NOTE

Drafting Number: LLS 14-0478
Prime Sponsor(s): Rep. Landgraf
 Sen. Carroll

Date: July 23, 2014
Bill Status: Signed into Law
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SHORT TITLE: PROTECT RAPE VICTIM WHERE CHILD CONCEIVED

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
State Expenditures	Potential increase. See State Expenditures section.	
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

In 2013, Senate Bill 13-277 became law and created a process to terminate the parent-child relationship of a person convicted of sexual assault and a child conceived as a result of the sexual assault. This bill makes changes to certain provisions enacted in SB 13-277 and makes additional changes to state law in response to the task force created last year to study issues concerning children conceived through sexual assault. These provisions of the current bill are described below.

Proceedings when sexual assault is alleged. The bill establishes a process to allow a victim in a sexual assault case where no conviction occurred to file a petition to terminate the parent-child relationship of the parent who allegedly committed the sexual assault and the child conceived as a result of the alleged sexual assault. This process is similar to the process created by SB 13-277 involving a conviction for sexual assault. In evaluating the petition, the court must find that there is clear and convincing evidence that various conditions are met, including whether the alleged sexual assault was committed by the respondent and the child was conceived as a result of that sexual assault.

Repeal of stays of proceedings. The bill repeals provisions that allowed for a stay of civil domestic relations proceedings or a paternity action until criminal charges of sexual assault are resolved against the alleged perpetrator.

Due process. The bill adds additional due process protections to persons convicted of sexual assault who are respondents in parent-child relationship termination cases. If the respondent is a member of an Indian tribe, tribal notification of the filing is required in accordance with the federal Indian Child Welfare Act.

Victim protections. The bill requires the victim of a sexual assault and the child to be identified by their initials in summons and other documents relating to a petition to terminate the parent-child relationship. Protective measures may be taken during court proceedings at the request of the victim. For victims of sexual assault who are indigent, legal counsel may be provided and fees waived when filing.

Confirmation of parentage. The bill establishes a process to determine the parentage of the child allegedly conceived through sexual assault, as evidenced by admission of the respondent or confirmation of paternity through genetic testing.

Other provisions. The courts are instructed not to presume that having only one remaining parent is contrary to the best interests of the child when considering termination of the parent-child relationship of a person convicted of, or found to have committed sexual assault. In addition, the bill creates a process by which the court may require a parent whose parent-child relationship has been terminated to provide medical and family information to the child, and to do so in a way that protects the child from knowing the identity of the person.

State Expenditures

The bill is expected to increase caseload and costs in the courts by a small amount. These costs in the Judicial Department are discussed below. No appropriation is required at this time.

Caseload increase. Additional petitions to terminate the parent-child relationship are expected to be filed for cases where there is an allegation of sexual assault but no conviction. The number of cases is difficult to predict and is assumed to be less than 50 per year. The courts are also required to evaluate evidence and make findings in some cases concerning whether or not an alleged sexual assault occurred when there was an allegation but no conviction. This will require additional hearings and work by judicial officers. However, given the small number of cases expected, these workload impacts can be absorbed by the courts.

Guardians ad litem. The Office of the Child's Representative may have increased costs if the courts appoint guardians ad litem (GAL) in cases covered under the bill. Given the small number of cases expected and that GALs are not required to be appointed, any cost increase is assumed to be minimal and can be addressed in the annual budget process.

Court-appointed counsel. The bill allows for court-appointed counsel for indigent petitioners. The number of appointments depends on the number of petitions filed and the financial status of petitioners. Given the low volume of cases, any increase in costs for court-appointed counsel are assumed to be absorbed within existing appropriations.

Family and medical information sharing. In cases where the court orders that family and medical information be provided by a person whose parent-child relationship has been terminated, the courts may have additional costs to process and store such information. These costs are expected to be minimal and is assumed that this information can be incorporated into the courts existing system for managing case documents.

Other costs. The bill allows the court to order a respondent to pay for genetic testing, a sex offense evaluation, or a parental risk assessment. In cases where the respondent is unable to pay, these costs may be paid by the courts.

Effective Date

The bill was signed into law by the Governor on May 9, 2014, and became effective July 1, 2014. Sections 1 through 3 apply to convictions occurring on or after July 1, 2014, and Sections 4 through 9 apply to acts occurring on or after July 1, 2014.

State and Local Government Contacts

Judicial
District Attorneys

Human Services
Counties

Law