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Nonpartisan Services for Colorado's Legislature

HB 18-1363

FINAL FISCAL NOTE

Drafting Number: LLS 18-0960 Date: August 6, 2018
Prime Sponsors: Rep. Singer; Landgraf Bill Status: Signed into Law
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Bill Topic: RECOMMENDATIONS OF CHILD SUPPORT COMMISSION

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

The bill codifies legislative recommendations from the Child Support Commission. The bill will increase state revenue and expenditures, and create a diversion from the General Fund, on an ongoing basis.

Appropriation Summary: For FY 2018-19, this bill requires and includes an appropriation of \$122,996 to the child support insurance lien fund within the Department of Human Services

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1 State Fiscal Impacts Under HB 18-1363

Table with 4 columns: Category, Sub-category, FY 2018-19, FY 2019-20. Rows include Revenue, Expenditures, Diversions, Total, and TABOR Refund.

Summary of Legislation

This bill codifies various recommendations from the Child Support Commission. These recommendations include:

- clarifying terms such as administrative process action (APA), APA-respondent, and APA-petitioner;
- allowing a county delegate child support enforcement unit (CSEU) to withdraw as a party from a case when the case is closed without leave of the court;
- allowing the CSEU to serve a subpoena for a genetic test sample and to file a motion to compel compliance;
- clarifying what should be included in a notice of financial responsibility to an APA-respondent;
- allowing the APA-respondent to waive the fourteen-day notice period;
- clarifying the process for a negotiation conference and the consequence for missing the conference;
- laying out what the courts must confirm to approve a default order and clarifying who should review such an order before it is filed;
- allowing any party to an administrative process action to request relief from a judgment or order;
- establishing the process for genetic testing and where the results must be filed;
- requiring parties to give written notice to the CSEU if they retain legal counsel;
- establishing the rights of each party in an administrative process action case; and
- setting forth procedures for a stipulated, temporary or default order of modification;

Finally, the bill also requires insurance companies to participate in the Child Support Lien Network and gives the Department of Human Services (DHS) the authority to recover fees attached to liens on insurance claims, payments, awards, and settlements and spend this revenue on costs related to participating in the Child Support Lien Network. Recovered costs are credited to the Child Support Insurance Lien Fund created in the bill.

Background

In 2016, the General Assembly passed House Bill 16-1165, which allowed the DHS child support enforcement agency, to issue a notice of administrative lien to any person, insurance company, or agency to attach insurance claim payments due to an individual who has past-due child support payments. The bill encouraged, but did not require, that the state child support enforcement agency and insurance companies to participate in the Child Support Lien Network to match insurance claims data with outstanding child support obligations. Under the law, the DHS recovers \$48.50 for every positive match that goes through the network to recover the cost to attach a lien to an insurance claim payment. Current law, however, does not enable the DHS to keep or spend the fees. Instead, money collected is reverted to the General Fund.

According to a report published by the DHS, from January to October 2017, there were 75,000 individuals with past due child support payments. In those ten months, the DHS had a match rate of 0.9 percent, or 724 cases, through voluntary use of the Child Support Lien Network.

Assumptions

By mandating that all insurance companies participate in the Child Support Lien Network, the fiscal note assumes that the match rate will increase by 2.2 percent. This estimate is based on the match rate of other states that participate in the network and mandate that all insurance companies participate. The fiscal note also assumes that after the initial addition of all insurance companies, there will be a reduction of matches of 23 percent in FY 2019-20 and \$48.50 will be recovered for each match.

State Revenue

This bill will increase revenue to the newly created Child Support Insurance Lien Cash Fund in the DHS by \$80,025 in FY 2018-19 and \$51,713 in FY 2019-20. This revenue is from adding new insurance companies to the lien network. Based on the assumptions above, it is expected that there will be 1,650 additional matches in FY 2018-19 and 1,066 additional matches in FY 2019-20.

TABOR Refund

This bill increases state revenue from the Child Support Insurance Lien Cash Fund, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Diversions

The bill will divert \$42,971 in FY 2018-19 and \$35,114 in FY 2019-20 from the General Fund to the Child Support Insurance Lien Fund created in the bill. Under the bill, the DHS would recover these amounts and deposit them into the Child Support Insurance Lien Fund; where as under current law, these amounts revert to the General Fund. These numbers are based on the current match rate of 0.9 percent. FY 2018-19 includes unrecovered fees from the second half of FY 2016-17, due to the time it takes to resolve claims.

State Expenditures

This bill will increase state cash fund expenditures in the DHS by \$122,996 in FY 2018-19 and \$86,827 in FY 2019-20. The Judicial Department will also have an increase and decrease of workload starting in FY 2018-19. These impacts are discussed below.

Department of Human Services. The DHS will have increased expenditures of \$122,996 in FY 2018-19 and \$86,827 in FY 2019-2020. These amounts are equal to the amount of the fee recovered based on the current recovery rate and the estimated increase in the recovery rate and will be used to fund the state's participation in the Child Support Insurance Lien Network.

Judicial Department. The bill will minimally impact workload to trial courts within the Judicial Department in several ways. First, in FY 2018-19, workload will decrease for the courts since courts no longer would have to review a motion and sign and order for the CSEU to withdraw as a party and hear a motion for DNA testing. Because a motion for the CSEU to withdraw as a

party is standard and granted quickly, this impact is minimal. Second, in FY 2019-20, to the extent that parties do not comply with a subpoena, workload will increase for courts to hear a motion to compel the party to comply and ask for a nonappearance default if the party still does not show. Third, workload may also increase, starting in FY 2019-20, if parties choose to have the courts decide the matter instead of going through the administrative process action. It is assumed that most parties would continue to use the administrative option and therefore the increase is expected to be minimal.

Local Government

Like the state trial courts, the bill will impact Denver County Court's workload for cases filed within its jurisdiction. See the Judicial Department approve for more information.

Effective Date

The bill was signed into law by the Governor on June 6, 2018, and takes effect on August 8, 2018, assuming no referendum petition is filed except that Sections 4 through 13 take effect on July 1, 2019.

State Appropriations

For FY 2018-19, the bill requires and includes an appropriation of \$122,996 from the Child Support Insurance Lien Fund to the Department of Human Services.

State and Local Government Contacts

Counties Human Services Judicial Personnel