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Fiscal Note

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Prime Sponsors:

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Bill Topic: REQUIREMENTS REPORTS CHILD ABUSE AND NEGLECT

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

The bill removes the ability to report child abuse anonymously and requires individuals to be notified of the ability to appeal administrative rulings of child abuse and neglect. Starting in FY 2024-25 the bill increases state and local expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$7.7 million to multiple state agencies.

Fiscal Note Status: The fiscal note reflects the bill requested by the Child Welfare System Interim Study Committee.

Table 1
State Fiscal Impacts Under Bill 9

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue, Expenditures (General Fund, Federal Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

## **Summary of Legislation**

**Reports of child abuse.** The bill requires that reports of known or suspected child abuse or neglect include the source of the report and the name, address, and occupation of the person making the report. Under current law, this information is only required whenever possible.

**Notification of appeals.** The bill requires a county department to provide a person with a written notice of the opportunity to have a hearing to appeal a finding of a confirmed report of child abuse and neglect. The bill outlines what is required in the notice and timeline for delivering the notice. If a person requests a hearing, the Colorado Department of Human Services (CDHS) must schedule a hearing within 60 days after receiving the request, and the person has the right to be represented by counsel, including by the Office of the Respondent Parents' Counsel (ORPC).

## **Assumptions**

**New appeals.** For FY 2023-24, the CDHS reports that there are 7,700 events logged in the child welfare data system that person deemed responsible may appeal to the CDHS. Of these events, it is estimated that 22 percent of them also have a dependency and neglect petition. Of the 1,694 events with a dependency and neglect petition, it is assumed that 50 percent of cases will appeal the finding of child abuse or neglect. The CDHS currently receives around 100 appeals per year associated with dependency and neglect cases, resulting in an increase of 747 additional appeals per year.

**Timeline.** In addition, the CDHS reports that, on average, it takes 72 days to reach a settlement on an appeal. If a settlement cannot be agreed on, the case then goes to the Department of Law, to continue settlement negotiations and to prepare for a hearing in front of an Administrative Law Judge (ALJ). The Department of Law present prehearing statements 30 days before a hearing with the ALJ. Because the bill requires hearings to occur within 60 days, legal work for the Department of Law must begin when the CDHS receives an appeal.

**Current appeals.** Currently, the CDHS receives 950 appeals per year, of which 304 currently go to the Department of Law to prepare for a hearing. Due to the timeline constraints outlined above, legal costs to prepare for a hearing for these 304 appeals will increase.

## **State Expenditures**

The bill increases state expenditures in the CDHS, the Department of Personnel and Administration (DPA), and the ORPC by \$8.1 million in FY 2024-25 and \$9.1 million in FY 2025-26, paid from the General Fund and federal funds. Expenditures are shown in Table 2 and detailed below.

**Table 2  
Expenditures Under Bill 9**

	FY 2024-25	FY 2025-26
<b>Department of Human Services</b>		
Personal Services	\$832,840	\$998,111
Operating Expenses	\$13,568	\$16,256
Capital Outlay Costs	\$86,710	-
Legal Services	\$5,277,368	\$5,917,981
Centrally Appropriated Costs <sup>1</sup>	\$198,081	\$237,350
FTE – Personal Services	10.6 FTE	12.7 FTE
FTE – Legal Services	22.9 FTE	25.7 FTE
<b>CDHS Subtotal</b>	<b>\$6,408,568</b>	<b>\$7,169,697</b>
<b>Department of Personnel and Administration</b>		
Personal Services	\$530,465	\$630,455
Operating Expenses	\$7,552	\$8,960
Capital Outlay Costs	\$53,360	-
Centrally Appropriated Costs <sup>1</sup>	\$117,649	\$139,685
FTE – Personal Services	5.9 FTE	7.0 FTE
<b>DPA Subtotal</b>	<b>\$709,025</b>	<b>\$779,100</b>
<b>Office of the Respondent Parents’ Counsel</b>		
Personal Services	\$130,112	\$162,640
Operating Expenses	\$1,024	\$1,280
Capital Outlay Costs	\$6,670	-
Contract Attorney	\$783,354	\$940,025
Centrally Appropriated Costs <sup>1</sup>	\$21,415	\$26,768
FTE – Personal Services	0.8 FTE	1.0 FTE
<b>ORPC Subtotal</b>	<b>\$942,575</b>	<b>\$1,130,713</b>
<i>General Fund</i>	\$529,483	\$633,933
<i>Federal Funds</i>	\$391,677	\$470,012
<i>Centrally Appropriated</i>	\$21,415	\$26,768
<b>Total Cost</b>	<b>\$8,060,168</b>	<b>\$9,079,511</b>
<b>Total FTE</b>	<b>40.2 FTE</b>	<b>46.4 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Human Services.** Starting in FY 2024-25, expenditures in the CDHS will increase to hire additional appeal staff and to cover increased legal costs from the Department of Law and the DPA.

- **Staffing.** The CDHS requires 12.7 FTE to respond to the assumed increase of appeals and to respond to appeals on a reduced timeline. Due to the reduced timeline, the fiscal note estimates that an FTE can respond to 125 appeals per year and under the bill, the fiscal note assumes the department will receive a total of 1,797 appeals. Since the CDHS already has 3.0 FTE for this purpose, this results in a need of 11.0 FTE. An additional 1.7 FTE is required to oversee the additional staff. Staff costs are assumed to start on September 1, 2024, and include personal services, operating, and capital outlay costs outlined in Table 2.
- **Legal Services.** Due to the shortened timeline, the fiscal note assumes that the legal service costs to the Department of Law will begin as soon as the CDHS receives an appeal. Currently, the average cost for cases that are referred to the Department of Law (whether it is ultimately settled or goes in front of a full hearing) is \$4,238, which includes costs for case preparation and redaction of certain case materials shared with appellants. Based on the number of appeals outlined in the assumption section, legal service costs are estimated to increase by \$5.9 million per year for an additional 46,227 hours of legal services, which equates to 25.7 FTE in the Department of Law. Costs in FY 2024-25 are prorated for a September start date. Costs in FY 2024-25 also include 2,700 hours for general counsel for rulemaking to implement the bill.
- **Administrative law judge billing.** In addition to legal services cost, the CDHS will also be billed for additional hearings in front of ALJs. More information on these costs can be found below in the Department of Personnel and Administration section.
- **Reports of child abuse.** Workload in the CDHS will increase to update mandatory reporter and caseworker training to reflect the required information needed for reporting child abuse. This update can be accomplished within existing resources.

**Department of Personnel and Administration.** Starting in FY 2024-25, expenditures in the Office of Administrative Courts in the DPA will increase to hire additional ALJs and support staff to hold additional hearings within the required time frame.

- **Staffing.** The DPA will require 7.0 FTE to hold additional administrative hearings. The fiscal note assumes that of the new appeals outlined in the assumption section, about 30 percent of them will end up before an ALJ. Currently, the DPA receives 250 appeals per year, about half of which end up at a hearing. Due to the condensed timeline and the increased likelihood a settlement would cannot be agreed to, the fiscal note assumes an additional 125 appeals will end up in front of an ALJ. Currently, hearings on average last about 29 hours resulting in a need of 5.0 FTE ALJs. In addition, the DPA will require 13 hours per case for support staff, resulting in a need for an additional 2.0 FTE.

Staffing costs assume a September 1, 2024, start date and include personnel services, operating expensive, and capital outlay costs, as shown in Table 2.

**Office of Respondent Parents' Counsel.** Starting in FY 2024-25, expenditures in the ORPC will increase to hire additional staff and to reimburse contract attorneys, as described below.

- **Staffing.** The ORPC requires 1.0 FTE to support and train attorneys on the appeals process and screen additional requests for ORPC attorneys. Staff is assumed to begin on September 1, 2024, and includes personnel services, operating expenses, and capital outlay costs shown in Table 2.
- **Contract attorney.** Starting in FY 2024-25, costs to the ORPC will increase to pay contract attorneys for their hours of working on appeals. The fiscal note assumes that cases that end in a settlement will take 5 hours of attorney time, and cases that end up at appeal will take about 29 hours. In addition, the fiscal note assumes that about 30 percent of the assumed new appeals will go in front of an ALJ and will require 29 hours of work. Contract attorneys are paid a rate of \$100 per hour. Costs in FY 2024-25 are prorated for a September 1, 2024 start date. Finally, the fiscal note also assumes that 50 percent of costs will be eligible for federal reimbursement using Title IV-E funding from the CDHS.

**Office of the Child's Representative.** Expenditures in the OCR will increase to the extent guardians ad litem are involved with administrative appeals. At the time of this writing, it is unknown how many GALs will be appointed for administrative hearings, therefore the fiscal note assumes that any additional resources will be sought through the annual budget process. For informational purposes, GALs receive a contract rate of \$100 per hour.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## Other Budget Impacts

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

## Local Government

Expenditures and workload for county departments of human services will be impacted by the bill. Workload will increase for county departments to provide a notice to individuals, as required by the bill, and to collect required information when someone report child abuse. To the extent that not being able to remain anonymous reduces reports to the hotline, workload to county workers will decrease.

## **Effective Date**

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## **State Appropriations**

For FY 2024-25, the bill requires a total appropriation of \$7.7 million including:

- \$6,801,863 from the General Fund to the Department of Human Services and 10.6 FTE, of which \$5,277,368 and an additional 22.9 FTE is reappropriated to the Department of Law for legal services and \$709,025 and an additional 5.9 FTE is reappropriated to the Department of Personnel and Administration for administrative law hearings; and
- \$921,160 and 0.8 FTE to the Office of the Respondent Parents' Counsel within the Judicial Department, of which \$529,483 is from the General Fund and \$391,677 is from federal Title IV-E funds.

## **Departmental Difference**

**Departments of Human Services, Law, and Personnel and Administration.** The CDHS, Law, and DPA estimate that the cost of the bill will total \$12.6 million (\$9.5 for DHS with \$8.1 million going to Law, and \$3.1 million for the DPA) once fully implemented. These costs are based on the assumption that of the new cases with a petition for dependency and neglect, 75 percent of them will choose to appeal. The fiscal note assumes that 50 percent of those cases will appeal based on feedback that many parties with dependency and neglect petitions enter admissions for those petitions, and would be unlikely to appeal administrative decisions. In addition, the DPA estimate assumes that all cases will end up at a hearing. The fiscal note assumes that only 30 percent will end up at hearing based on the current rate of cases being sent from the CDHS for hearing.

**Office of Respondent Parents' Counsel.** The ORPC estimates that the bill will cost them about \$616,000. This is based on the assumption that 99 percent of cases will take 5 hours of work, and 1 percent of cases will go to hearing and require 27 hours of work. The fiscal note estimates that 30 percent of new cases will go to hearing, based on the current rate of cases being sent to a hearing and assumes about 29 hours of work, in line with the case time reported by ALJs. In addition, the ORPC estimates that only 20 percent of cases will appeal due to the high number of dependency and neglect cases that enter admissions. The fiscal note uses 50 percent to account for the expected increase estimated by the CDHS, Department of Law, and the DPA.

**State and Local Government Contacts**

Counties  
Information Technology  
Personnel

Early Childhood  
Judicial

Human Services  
Law