

January 30, 2018

The Honorable Rick Wilborn, Chairperson
Senate Committee on Judiciary
Statehouse, Room 541-E
Topeka, Kansas 66612

Dear Senator Wilborn:

SUBJECT: Fiscal Note for SB 257by Senator Fitzgerald

In accordance with KSA 75-3715a, the following fiscal note concerning SB 257 is respectfully submitted to your committee.

Under current law, an agreed upon parenting plan is presumed to be in the best interest of a child. Courts can overcome the presumption, if specific facts and findings can illustrate why a parenting plan is not in the best interest of a child. SB 257 would clarify that the presumption could be overcome only by clear and convincing evidence and the court may make a determination of legal custody, residency and parenting time in accordance with the best interest of the child and considering relevant factors found in KSA 2017 Supp. 23-3203.

SB 257 would require that in an absence of a parenting plan being presented to the court, a parenting plan of roughly equal approximate time with each parent is in the best interest of a child. The presumption could be overcome if there is clear and convincing evidence illustrating that roughly equal approximate time with each parent is not in the best interest of a child and the court may make a determination of legal custody, residency and parenting time in accordance with the best interest of the child and considering relevant factors found in KSA 2017 Supp. 23-3203.

Estimated State Fiscal Effect				
	FY 2018 SGF	FY 2018 All Funds	FY 2019 SGF	FY 2019 All Funds
Revenue	--	--	--	(\$6,000,000)
Expenditure	--	--	\$28,310,958	\$28,310,958
FTE Pos.	--	--	65.00	65.00

The Department for Children and Families (DCF) estimates that SB 257 would decrease fee fund receipts by \$6.0 million dollars in FY 2019 and beyond. Lower estimated fee receipts would deplete fund balances which would, in turn, limit the amount of fee fund dollars available

for the agency to utilize. The Child Support Services (CSS) Program would be affected by the required assumption that approximately equal time with each parent is in the best interest of the child. The amount of child support paid by the non-custodial parent to the custodial parent is the result of several factors, including parenting time. If the custodial parent receives Temporary Assistance for Needy Families (TANF) assistance, the agency can capture the child support paid by the non-custodial parent. Part of the captured child support paid by the non-custodial parent is remitted back to the federal government and the rest is remitted to the agency fee fund. If the amount due to a custodial parent is reduced because of a change in parenting time, the amount of money that is remitted back to the federal government and to the agency fee fund would decrease.

Although SB 257 does not explicitly require any change in procedures in the CSS Program, DCF states that the agency would increase expenditures by \$28.3 million from the State General Fund in FY 2019 and beyond. The increased expenditures would be the result of providing additional services to parents. The Department estimates the largest increase in expenditures would result from providing attorney services for both the custodial and non-custodial parents. DCF currently obtains approximately 10,000 parenting time orders per fiscal year. The agency estimates that each parent would need roughly 15 hours of attorney time to review potential parenting time options, which would result in additional agency expenditures of \$22.5 million (2 parents X 15 hours X 75 dollars per hour attorney fee X 10,000 annual parenting orders = \$22,500,000). The remaining \$5.8 million dollars in DCF's estimate is for salaries and wages, rent, supplies, postage, computers and other operating expenditures for 65.00 new FTE positions. Of that amount; \$4.8 is specifically for salary and wages. The increase in staffing levels would allow the agency to track and monitor parenting time orders and how those orders affect child support calculations on a case by case basis.

Also not explicitly required by SB 257, DCF states that it would require the agency to advocate for custody and visitation orders to ensure a reasonable amount of money is going to the custodial parent for child support. Acting as an advocate to achieve this goal would compromise the agency's neutral status; DCF notes that losing neutral status could put the agency in the position of violating federal and state statute.

The Office of Judicial Administration estimates compliance with the bill will increase time spent by district court judicial personnel in reviewing parenting plans; however, the fiscal effect of the bill cannot be accurately estimated. Any fiscal effect associated with SB 257 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,



Shawn Sullivan,
Director of the Budget

cc: Jackie Aubert, Children & Families
Ashley Michaelis, Judiciary