

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 162

As Amended by Senate Committee on Public
Health and Welfare

Brief*

SB 162, as amended, would require a foster care case management contractor (contractor) under contract with the Department for Children and Families (DCF) to notify DCF within an established time frame whenever a child in foster care has gone missing or spent any overnight period in a facility under the control of the contractor. Within specific time frames of receipt of a contractor's notice, DCF would be required to notify the Governor, each member of the Legislature, and the official newspaper of the county where a child went missing, if any, or in a newspaper of general circulation in such county. The bill would address the information to be contained in a contractor's report to DCF and the subsequent notice provided by DCF to the specified parties.

The bill would also require DCF to assess a \$500 fine against a contractor for each day the contractor fails to report as required in the bill. The assessed fines received by DCF would be deposited in the State General Fund (SGF).

Further, the bill would authorize DCF to adopt rules and regulations as necessary to implement and administer the provisions of the bill.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Contractor Notice to DCF

A contractor would be required to notify DCF within a time period established by DCF, not to exceed 24 hours, of any time the contractor knows or has reason to know that a child in foster care for whom the contractor has case management responsibility has gone missing or spent any overnight period in a facility under the contractor's control. A contractor's report to DCF of a missing child in foster care for whom the contractor has responsibility would be required to include the age and sex of the child, the location where the child went missing, if a different placement was previously determined to be more appropriate for the child but was unavailable for any reason, and any other information required by DCF.

A contractor's report to DCF regarding any child who spent an overnight period in a facility under the control of a contractor would be required to include the reasons the child spent such overnight period in such facility.

DCF Report and Notice Requirement

DCF would be required to add information regarding which, if any, of the top five recommendations by the Child Welfare System Task Force have been implemented or addressed by the Legislature to the report of missing foster care children or foster care children spending any overnight period in a facility under the control of a contractor.

After receiving a contractor's notice of a missing child in foster care or a child in foster care who spent any overnight period in a facility under the control of the contractor, DCF would be required to notify:

- The Governor within 24 hours of receiving such notice; and

- Each member of the Legislature and the official newspaper of the county where the child went missing or, if there is no official newspaper in the county, a newspaper of general circulation in such county within 48 hours of receiving such notice.

Background

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of Senator Baumgardner. In the Senate Committee hearing, Senator Baumgardner testified in support of the bill stating the bill would provide additional transparency and assure the Executive branch, the Legislative branch, and the general public receive timely information about delays in out-of-home placement and the children who have left their out-of home placement.

Opponent testimony was provided by a DCF representative who explained the current procedures in place to address the reporting of and investigation into the children in DCF custody who are missing. The DCF representative stated the daily updates the Secretary for Children and Families receives could easily be shared with the Governor's Office without a statutory change. The DCF representative expressed concern regarding the disclosure of confidential information on the missing children in violation of confidentiality laws relating to children's identities that might place the federal Title IV-E funds related to child welfare at risk.

No other testimony was provided.

The Senate Committee amended the bill to clarify the required time frame for a contractor to notify DCF of a foster care child who is missing or spent any overnight period in a facility under the control of the contractor and the time frame for DCF to subsequently notify the required parties; remove the requirement to publish such report in the applicable

newspaper; and specify the information to be provided in the report.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, DCF indicates much of this monitoring is already being done and estimates enactment of the bill would result in 40 notices per month at a cost of \$100 per notice. DCF also states enactment would put federal funding at risk because of non-compliance with confidentiality laws. First, providing this information to the entire Legislature would expose this information to members not authorized to receive it. Second, publishing this information in newspapers would be in violation of confidentiality laws related to children's identities. DCF currently receives approximately \$55.1 million per year in Title IV-E funds related to child welfare that would have to be replaced with SGF.

DCF indicates it is unable to determine the number of fines that would be imposed on contractors for not notifying DCF of a missing child. However, imposing significant fines against the contractors could jeopardize their financial position which, in turn, could impact the quality of services provided to DCF clients or even create liquidity issues for them. DCF states this could result in higher future rates or bail-outs of the contractors to prevent any resulting adverse effect to the clients. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.