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Revised Fiscal Note

(replaces fiscal note dated April 5, 2024)

Drafting Number: LLS 24-0342 Date: April 17, 2024
Prime Sponsors: Sen. Zenzinger; Kirkmeyer Bill Status: House Finance
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Bill Topic: KINSHIP FOSTER CARE HOMES

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

The bill creates measures that support kinship foster care homes, including providing financial supports to non-certified kinship care homes. The bill increases state and local expenditures and state revenue on an ongoing basis beginning in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill includes an appropriation \$4.6 million to multiple state agencies; however, the bill requires an appropriation of \$13.4 million.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill, as amended by the House Health and Human Services Committee. The bill was recommended by the Colorado Child Welfare System Interim Study Committee.

Table 1
State Fiscal Impacts Under SB 24-008

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

1 Based on the included appropriation, the General Assembly has indicated its intent to use federal Temporary Assistance for Needy Families (TANF) to fund a portion of the bill's costs in FY 2024-25. It is assumed this funding is from the Colorado Long-Term Works Reserve. Given that this reserve is primarily a source of one-time funding, General Fund will be required in the future to pay the state's share of costs under the bill.

Summary of Legislation

Beginning September 1, 2024, the bill creates several measures for kinship foster care homes, including:

- requiring permanency planning to not be delayed for purposes of maintaining financial support for a kinship foster care home or a non-certified kinship care foster home, except with court approval;
- expanding emergency financial assistance for a kinship foster care home to include goods needed for the child's basic care and limited rental or housing assistance, with a maximum subsidy duration of sixty days;
- requiring the Colorado Department of Human Services (CDHS) and the Judicial Department to collect data on the number of children placed with kin through a dependency and neglect case and make the data available on its website by January 30, 2025;
- requiring courts to ensure that relatives and kin are informed about the types of kinship care and financial supports available before transferring temporary legal custody of the child;
- requiring the CDHS to report on the availability of federal funds or other grant funding for legal services or legal representation of relative and kin caregivers by October 1, 2024; and
- requiring the CDHS to work with other state departments to create an interagency resource guide to assist kinship in the certification process.

The bill also establishes in statute the certification process for a kinship foster care home by a county department or child placement agency, including the process to obtain a provisional certification for six months. The bill also allows non-certified kinship care homes to be eligible for financial assistance at 30 percent of the foster care rate as established by the state, and requires the CDHS reimburse county departments for 90 percent (an increase from the current 80 percent) of the amounts expended for kinship foster care. The bill also exempts kinship foster care homes from certain certification standards and requirements and allows the CDHS to develop rules to modify the requirements for kinship foster care homes, including training topics for kinship foster care certification.

Background

Currently, kinship foster care homes can seek certification, or a provisional certification, and receive financial payments at the full 100 percent foster care rate established by the CDHS. All foster care homes, including kinship foster care homes, must meet certain standards to become certified and receive financial supports, including meeting certain safety standards and completing background checks, 27 hours of initial training, and 20 hours of ongoing training. These payments to certified kinship care homes are eligible for federal funding.

Non-certified kinship foster care homes are currently not eligible to receive these payments. The state currently reimburses counties 80 percent of the rate paid to foster care and certified kinship homes.

Assumptions

The fiscal note assumes that exempting kinship foster care homes from previously required standards will lead to more currently non-certified kinship foster care homes seeking certification at the full foster care payment rate. As a result, revenue will increase from the additional background checks performed by the Department of Public Safety (DPS) to complete certification requirements, as well as workload for CDHS from the increase in the number of federally required case reviews for youth in covered out-of-home placements to ensure compliance with certification requirements.

Non-certified kinship foster homes becoming certified. Currently, there are an estimated 6,000 non-certified kinship foster homes in the state. The fiscal note assumes that 30%, or 1,784 of current non-certified kinship homes, will undergo certification initially, due to the reduction in kinship foster care certification requirements, and that an additional 10% or 595 will seek certification in the following year. The remaining 4,162 non-certified kinship homes are assumed to opt to seek the new subsidy for non-certified homes at 30% the foster care payment rate.

The fiscal note assumes a six-month implementation period for new certified and non-certified kinship foster home payments, resulting in only half-year costs in FY 2024-25, with payments expected to begin January 1, 2025.

State Revenue

This bill increases state revenue to the CBI Identification Unit Cash Fund in the DPS by \$70,468 in FY 2024-25 and \$23,503 in FY 2025-26 from additional fingerprint-based criminal history background checks from the assumed number of new certified foster homes outlined above. The current fee for background checks is \$39.50, which includes \$11.25 for a Federal Bureau of Investigation (FBI) fingerprint-based check, which is passed on to that federal agency. The federal portion of this fee is excluded from the state TABOR limit.

State Expenditures

The bill increases state expenditures by approximately \$13.5 million in FY 2024-25 and \$29.0 million in FY 2025-26 and future year, paid from the General Fund, cash funds, and federal funding sources, including the Colorado Long-Term Works Reserve. Costs are primarily in the CDHS, as well as in the Department of Public Safety. Workload will also increase for other state departments. Expenditures are shown in Table 2 and detailed below.

**Table 2
 Expenditures Under SB 24-008**

	FY 2024-25	FY 2025-26
Department of Human Services		
Personal Services	\$192,485	\$230,981
Operating Expenses	\$3,200	\$3,840
Capital Outlay Costs	\$20,010	-
Certified Kinship Foster Care Payments	\$7,186,532	\$19,158,714
Non-Certified Kinship Foster Care Payments	\$5,030,568	\$8,625,212
County Reimbursements	\$955,576	\$955,576
Centrally Appropriated Costs ¹	\$46,324	\$55,589
FTE – Personal Services	2.5 FTE	3.0 FTE
CDHS Subtotal	\$13,434,694	\$29,029,912
<i>General Fund</i>	\$190,672	\$11,605,280
<i>Colorado Works Long-Term Reserve</i>	\$5,516,580	-
<i>Cash Funds</i>	\$1,221,710	\$2,778,393
<i>Federal Funds</i>	\$6,459,408	\$14,590,650
<i>Centrally Appropriated Costs</i>	\$46,324	\$55,589
Department of Public Safety		
Personal Services	\$19,338	\$6,033
Background Check Expenses	\$16,341	\$5,450
FBI Background Check Pass-Through	\$20,070	\$6,694
Centrally Appropriated Costs ¹	\$5,789	\$1,891
FTE – Personal Services	0.3 FTE	0.1 FTE
DPS Subtotal	\$61,538	\$20,068
Total Cost	\$13,496,232	\$29,049,980
Total FTE	2.8 FTE	3.1 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Human Services. Costs will increase for staff and payments to kinship foster care homes and county departments.

- **Staff.** The CDHS requires 3.0 FTE for additional reviews of foster home cases and county departments. The increase in non-certified kinship foster homes seeking certification, as discussed in the Assumptions section, would increase the number of case reviews that the CDHS is federally required to perform for any child or youth in covered out-of-home placements to ensure compliance with the certification requirements. FTE is prorated for a September start date in FY 2024-25 and is eligible for federal funding.

Workload for the CDHS will also increase to confirm relatives and kin were advised about kinship foster care, to coordinate the development of the resource guide, collect and publish data, modify the child welfare information system to verify non-certified kinship providers receiving funding, and report on the availability of federal funds or other grant funding. This workload can be accomplished within existing resources.

As more certifications are requested, the number of appeals by denied applicants that would go through the administrative appeals process may also increase, which may require additional staff and resources. It is assumed these expenses, if incurred, would be addressed through the annual budget process.

- **Certified kinship foster care homes payments.** Costs will increase by \$7.2 million in FY 2024-25 and \$19.2 million in FY 2025-26 and future years for increased payments to certified kinship foster care homes, based on the assumed number of newly certified kinship foster homes outlined above and a half-year impact in FY 2024-25. To the extent certification rates vary in future years, exact costs will be addressed through the annual budget process. Based on these assumptions, and using the established rates for kinship foster care payments based on age and an assumed average length of stay of 164 days, the annual payment for each new certified case is \$8,057. These payments are eligible for federal funding and it is assumed that unspent state TANF funds in the Colorado Works Long-Term Reserve will be used to cover a portion of the state share of costs in FY 2024-25.
- **Non-certified kinship foster care home payments.** Payments to non-certified kinship foster care homes will increase by \$5.0 million in FY 2024-25 and \$8.6 million in FY 2025-26 and future years, based on the assumed number of remaining non-certified kinship foster care outlined in the Assumption section and a half-year impact in FY 2024-25. The annual payment for these cases would be 30 percent the established foster care rate, or \$2,417, assuming the same average length of stay referenced above. As with certified homes, costs may vary from these estimates depending on kinship foster care home participation and use, and will be adjusted through the budget process as necessary. It is assumed that unspent state TANF reserve funds in the Colorado Works Long-Term Reserve will be used to cover a portion of the state share of costs in FY 2024-25.

- **County reimbursements.** The CDHS expenditures for reimbursements to counties for amounts expended for kinship foster care will increase by \$955,576 for current cases due to the increase in state reimbursement from 80% to 90% of eligible costs. The additional 10% is included in calculations for new certifications. It is assumed that unspent state TANF reserve funds in the Colorado Works Long-Term Reserve will be used to cover these costs in FY 2024-25.

Department of Public Safety. The bill increases cash fund expenditures for fingerprint-based criminal history background checks by \$61,538 in FY 2024-25 and \$20,068 in FY 2025-26, paid from the CBI Identification Unit Cash fund in DPS. This covers the costs of conducting additional background checks of the assumed number of newly certified kinship foster care and includes the pass through costs for the FBI component of the background check.

Judicial Department. Trial court workload may increase from kinship foster care homes appealing a certification denial; however, this is expected to be minimal.

Other departments. Workload will increase for the Department of Public Health and Environment, the Department of Education, and the Department of Health Care Policy and Financing to aid in the development of the resource guide. This workload can be accomplished within existing resources.

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.

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown Table 1 and discussed in the State Revenue section above. This estimate assumes the December 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Local Government

On net, the bill will increase county costs to support for kinship foster care homes statewide by an estimated \$200,000 in FY 2024-25 and \$1.8 million in FY 2025-26. This increase reflects the net impact after accounting for the 10 percent county match required for child welfare expenses (estimated at \$1.2 million in FY 2024-25 and \$2.7 million in FY 2025-26, as reflected in the cash fund portion of the CDHS expenditures above) and the increase in state reimbursements to counties for certified kinship care payments (\$955,576 per years starting in FY 2024-25). Workload for county departments will also increase to the extent that additional kinship foster care homes seek certification.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires total appropriations of \$13.4 million to multiple state agencies, including:

- \$13,388,370 and 2.5 FTE to the Department of Human Services, of which \$190,672 is from the General Fund, \$5,516,580 is from the Colorado Long-Term Works Reserve, \$1,221,710 is cash funds consisting of county matching funds, and \$6,459,408 is federal funds; and
- \$55,748 and 0.3 FTE to the Department of Public Safety from the CBI Identification Unit Cash Fund, of which \$20,070 is reappropriated funds passed through to the federal government for FBI background check costs.

The reengrossed bill currently includes the following appropriations, totaling \$4.6 million:

- \$4,561,010 and 2.5 FTE to the Department of Human Services from federal TANF funds in the Colorado Long-Term Works Reserve; and
- \$54,436 and 0.3 FTE to the Department of Public Safety from the CBI Identification Unit Cash Fund, of which \$20,070 is reappropriated funds passed through to the federal government for FBI background check costs.

State and Local Government Contacts

Child Welfare	Counties	Education
Health Care Policy and Financing	Human Services	Judicial
Public Health and Environment	Public Safety	

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: leg.colorado.gov/fiscalnotes.