



SF 545 – Termination of Parental Rights, Transfers of Guardianship (LSB2640SV)
Analyst: Laura Book (515.205.9275) laura.book@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 545](#) provides for the reinstatement of parental rights following the granting of a termination of parental rights order, under certain circumstances. The Bill provides that a child, the child’s guardian ad litem (GAL), the Department of Human Services, or an agency or person to whom guardianship and custody of the child has been transferred following termination of the parental rights of a parent, may petition the juvenile court to reinstate the previously terminated parental rights of the child’s former parent if certain circumstances exist.

[Senate File 545](#) also provides for the appointment of a GAL and attorney for the child if the child does not already have a GAL and attorney, at no cost to the child.

Background

Currently, under Iowa Code section [815.11](#), the State Public Defender is authorized to pay for the fees and expenses of a GAL or attorney for an indigent juvenile in a juvenile court proceeding.

Assumptions

- There are no comparable court-appointed services for which the State Public Defender historically or currently pays. The closest estimation of costs would be a Child in Need of Assistance (CINA) proceeding through the disposition and possible postdisposition review hearings under Iowa Code section [232.87](#).
- There is no court-appointed counsel for any parent, guardian, or legal custodian of the child. There is no provision for appeal of reinstatement by a child, parent, guardian, or custodian.
- In FY 2017 and FY 2018 there were 2,180 and 2,451 termination of parental rights cases filed. It is assumed the caseload will continue to grow in future fiscal years.

Fiscal Impact

[Senate File 545](#) may have a significant fiscal impact on the State Public Defender and the Indigent Defense Fund. The costs of the GAL fees and expenses may increase expenditures from the Indigent Defense Fund. Since the reinstatement of parental rights is a new procedure established under this Bill, there is no estimate available as to the number of cases and claims that will be filed and what other expenses there may be.

The State Public Defender states that the closest comparable estimation of costs for this new proceeding would be the average cost of CINA disposition claims currently paid out of the Indigent Defense Fund. **Table 1** shows the average and total cost for a CINA disposition claim for juvenile representation for the past three years:

**Table 1— Average and Total Cost for a CINA Disposition Claim
for Juvenile Representation**

Fiscal Year	Number of Claims	Amount Paid	Total Annual Cost
2018	1,650	\$676.73	\$1,116,605
2017	1,544	\$689.31	\$1,064,295
2016	1,460	\$700.40	\$1,022,584

Based on this comparison, the annual fiscal impact of [SF 545](#) to the Indigent Defense Fund could be approximately \$1.0 million.

In addition, the Bill does not require the child to be deemed indigent before being assigned a GAL or attorney. As required by Iowa Code section [815.11](#), the Indigent Defense Fund may only be used to provide funding to indigent persons. If the statute is interpreted to require the State Public Defender to cover fees for both indigent and nonindigent children, another funding source to cover the claims may be required.

Sources

Office of the State Public Defender
Judicial Branch

/s/ Holly M. Lyons

March 18, 2019

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
