

# Fiscal Note

**BILL #** HB 2177

**TITLE:** jury; parental rights; termination

**SPONSOR:** Payne

**STATUS:** As Introduced

**PREPARED BY:** Gordon Robertson

## Description

The bill would require a hearing to terminate parental rights (TPR hearing) to be tried by a jury if a parent files a request for a jury trial and would require the Administrative Office of the Courts (AOC) to publish a report by January 1, 2027 on the number, length, and outcome of parental right jury trials conducted pursuant to the bill, including feedback from parties involved in parental right jury trials.

## Estimated Impact

We estimate that the bill would result in increased state and county costs associated with the additional time and resources necessary to conduct a jury trial relative to a bench trial before a judge. The magnitude will depend on the current number of TPRs held before a jury. Under the assumption that 25% of these hearings result in a jury trial, we estimate that the bill would cost the Attorney General (AG) \$1.4 million from the General Fund and would cost the courts \$4.2 million from their own funds.

Our estimates are based on analyses provided by AOC and the AG. AOC estimated that the bill would cost the counties \$6.4 million one-time and \$9.8 million ongoing, for a total cost of \$16.8 million beginning in FY 2025. The AG estimated that the bill would cost \$5.7 million and 28 FTE positions if all TPR hearings were held before a jury, of which \$300,000 is one-time costs. The JLBC Staff estimate is lower than these numbers because both the AOC and AG assume all contested TPR cases would result in a jury trial, which we think is unlikely.

We estimate there may be additional costs for the Department of Child Safety (DCS) for non-litigating staff associated with TPR hearings. DCS has not yet responded to our request for their cost estimate.

## Analysis

In calendar year (CY) 2023, the courts heard 699 contested TPR hearings. TPR hearings occur when a person or agency with a legitimate interest in the welfare of a child petitions for a parent's parental rights to be terminated. Certain circumstances, such as choosing to allow one's child to be adopted, constitute a voluntary termination of parental rights. For the involuntary termination of parental rights, an action usually brought by DCS and which parents may contest, TPR hearings are held without jury participation. The bill would permit either parent in such a hearing to request a jury trial. If both parents request a jury trial, the courts may hold a single jury trial for both requests.

In a similar 2022 fiscal note, our office assumed that parents would request a jury trial in 25% of contested TPR hearings. Between 2003 and 2006, the state allowed jury trials for TPR hearings upon parental request. In 2005, Children's Action Alliance analyzed this TPR jury pilot program. The study found that 87% of jury-requested TPR hearings were ultimately resolved out of court prior to the hearing. To the extent that relatively few requested jury trials were heard before a jury, we assume 25% of contested TPR hearings result in a jury trial. We have based our workload estimate on a value greater than the 13% estimate of TPR jury trials from Children's Action Alliance as there is some effort associated with requests for jury trials that do not end up in a trial.

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In involuntary TPR hearings brought forth by DCS, the AG acts as the prosecutor for the case. Given the extended length of jury trials, the AG estimated that the bill would generate a total cost of \$5,656,600. This includes ongoing costs of \$3,816,800 for the cost of 28 new FTE positions, \$1,556,300 for travel and expert witness compensation, and \$283,500 for one-time costs. We believe the Attorney General's estimate assumes all TPR hearings are heard before a jury. In developing the JLBC estimate for the AG costs, we used 25% of their estimate, or \$1.4 million.

**Local Government Impact**

AOC surveyed local courts on the potential fiscal impact of the bill. Based on additional staffing and physical remodeling, the counties estimated the bill would have a \$16.8 million fiscal impact. This includes \$6.4 million for one-time capital costs to retrofit courtrooms to include appropriate infrastructure to accommodate juries, \$1.3 million for increased workload for existing judges and courtroom staff, \$4.1 million for new FTE positions, \$4.5 million for juror compensation, and \$600,000 for unforeseen costs.

AOC's estimate assumes that contested TPR hearings will grow to 1,052 annually beginning in CY 2024, and that 100% of contested TPR hearings will be heard before a jury.

In determining our estimate of the local cost, we applied the 25% factor to that estimate for an overall local cost of \$4.2 million.

2/23/24