

Colorado Legislative Council Staff

**STATE
REVISED FISCAL IMPACT**

(replaces fiscal impact dated January 28, 2004)

Drafting Number: LLS 04-0458	Date: March 16, 2004
Prime Sponsor(s): Rep. Sinclair Sen. Jones	Bill Status: Senate Judiciary Fiscal Analyst: Janis Baron (303-866-3523)

TITLE: CONCERNING TERMINATION OF CHILD SUPPORT OBLIGATIONS BASED UPON DNA EVIDENCE OF NONPARENTAGE.

Fiscal Impact Summary	FY 2004/2005	FY 2005/2006
State Revenues General Fund		
State Expenditures General Fund	Increase in General Fund Expenditures See State Expenditures Section of Fiscal Note	
FTE Position Change		
Other State Impact: None		
Effective Date: 90 Days After Adjournment Unless Referendum Petition Is Filed (August 4, 2004)		
Appropriation Summary for FY 2004/2005: None Required		
Local Government Impact: None		

Summary of Legislation

The reengrossed bill specifies that conclusive DNA evidence that a father is not the biological parent of a child for whom parentage has been established, or for whom the father is ordered to pay child support, is sufficient reason for modification/termination of the parentage or child support order. The bill establishes three exceptions wherein the law would not apply. The bill requires the court to determine whether the potential damage to the purported father that would result from preserving the determination of parentage or continuing the order for child support outweighs the harm to the child that may result from setting aside the determination of parentage or the termination of child support when making its ruling.

State Expenditures

Judicial Branch. Under current law, the adjudication of paternity is **final**. Although there may be exceptional circumstances that under law allow the court to determine that a hearing and/or modification is warranted, such circumstance is extremely rare. This bill allows any person subject to a child support order, whether through a domestic relations or paternity action, to file for termination of the support order based upon a DNA test. For FY 2002-03, there were 9,616 support orders entered in Colorado civil, domestic and juvenile cases. Of the 9,616 support orders, 1,444 paternity orders were

issued in juvenile cases. HB 04-1083 would apply to these orders in addition to all that have been ordered during the last 18 years.

The number of cases resulting from the bill cannot be quantified. That said, it is estimated that a hearing wherein DNA evidence is presented will require, **on average**, approximately 90 minutes per case to allow the court to:

- ensure that DNA testing is completed by the parties;
- allow time for parties to present DNA evidence for those cases in which DNA evidence establishes that the named father is not the biological parent; and
- consider whether the potential damage to the purported father that would result from preserving the determination of parentage or continuing the order for child support outweighs the harm to the child that may result from setting aside the determination of parentage or the termination of child support.

If one assumed 722 cases/hearings per year would result from the bill (50% of the paternity orders noted above), the courts would require 0.5 FTE magistrate. Magistrate FTE require support staff equal to the full-time equivalent of the magistrate position. Thus, under the bill, a total of 1.5 FTE would be required (0.5 FTE magistrate, 0.5 FTE division clerk, and 0.5 FTE assistant division clerk) for 722 hearings. Total funding of \$105,138 would include \$71,239 for personal services and \$33,899 for capital outlay and operating expenses.

With the termination of a child support order, additional paternity establishment and support orders may be filed by both the Department of Human Services and private parties. Case filings are contingent upon the number of terminations entered, policies of the Department of Human Services, and personal decision of the private parties. The number of these cases resulting from the bill cannot be estimated at this time.

Funding. It is anticipated that the bill will drive a fiscal impact. All costs are predicated on the number of persons who will choose to file for modification/termination of the parentage or child support order. Up until this point in time, the adjudication of paternity has been final. The fiscal note assumes that required funding under the bill will be addressed through the budget process as cases are filed and those numbers are known. The source of funding to support the bill's requirements would be General Fund.

State Appropriations

None required at this time.

Departments Contacted

Human Services

Judicial