



**153rd GENERAL ASSEMBLY  
FISCAL NOTE**

---

<b>BILL:</b>	<b>SENATE BILL NO. 79</b>
<b>AS AMENDED BY:</b>	<b>SA 1</b>
<b>SPONSOR:</b>	<b>Senator Wilson</b>
<b>DESCRIPTION:</b>	<b>AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO TERMINATION OF PARENTAL RIGHTS AND ADOPTION PROCEEDINGS.</b>

---

**Assumptions:**

1. This Act becomes effective upon signature by the Governor.
2. This Act creates a right to free legal counsel for certain relatives seeking to terminate parental rights and adopt a child in the relative's family who has been in the Department of Services for Children, Youth and Their Families (DSCYF) custody. The right to free legal counsel applies at all stages of the termination of parental rights and adoption proceedings, including any appeals. This Act also requires the DSCYF, or an agency licensed by the DSCYF, to prepare and file the social study and report that is a required part of the termination of parental rights and adoption process at no cost to the relative.
3. Upon enactment, there will be an existing population of relative guardians that, upon request to the Family Court (the Court), will be immediately eligible for the appointment of counsel. The Court has reviewed data for the past three calendar years to determine the number of relatives who would be eligible for appointment. On average, 334 children exited Division of Family Services (DFS) custody annually, and 66 of those children exited to guardianship annually.
  - a. The Court estimates that 80% of these guardians are relatives. For purposes of this fiscal projection, it is estimated that there are 160 relative guardians over the past three years. Since the intent of this Act is to provide those relative guardians who lack legal representation with free legal counsel to move forward with a termination of parental rights (TPR) proceeding and adoption, it is assumed that up to 160 relative guardians may request appointment of counsel upon enactment. However, it is possible that 160 may underrepresent the number of existing relative guardians who may request the appointment of counsel.
  - b. TPR and adoption proceedings are typically time-consuming and evidentiary-heavy. A prior review of contested TPR and adoption cases shows that attorneys spend between 40 and 75 hours on these types of cases. For this fiscal projection, it is assumed that attorneys spend 55 hours per case. The current contract hourly rate for an attorney is \$90.
  - c. Therefore, given the potential for existing guardian relatives to request counsel, the Court projects that it would expend \$792,000, which could be a one-time cost. This is determined by the number of potential cases (160) multiplied by the hours spent per case (55) and then multiplied by the current contract hourly rate (\$90).
4. A review of data over the past three years shows that the average number of children exiting DFS custody to a relative guardianship is estimated at 53 (80% of those children exited from DFS custody to guardianship annually). For the current and future years, the Court projects that \$262,350 would be spent annually on guardian representation for new TPR and adoption proceedings. This is determined from the number of potential annual cases (53), multiplied by the hours spent per case (55), and then multiplied by the current contract hourly rate (\$90).

5. Since this Act creates a pre-filing right to counsel for TPR and adoption proceedings, the Court will need to create a new process through which individuals who believe they are eligible can request an appointment of counsel without first filing a petition. The Court will require a Family Services Program Support Administrator and a Paralegal to handle and coordinate the additional responsibilities created by this Act. The Fiscal Year 2026 personnel costs, including other employment costs (OECs) at a rate of 33.34%, for the 2.0 FTE positions are estimated at \$142,509, and one-time funding of \$13,340 for projected technology equipment and furniture costs related to the startup of the positions.
6. Parents have a constitutional right to counsel when their parental rights are at stake, and these cases require the appointment of parent attorneys. At the time of this fiscal projection, the Court is in the process of a multi-year transition of parental representation, shifting to a legal services entity contracted through the Court for the primary parent.
  - a. As discussed in assumption 3a, the Court projects a potential of 160 cases among existing guardian relatives that may request legal counsel. The Court projects that it would expend \$396,000, which could be a one-time cost, to the legal services entity for parental representation for the primary parent for TPR cases.
  - b. As discussed in assumption 4, the Court projects a potential of 53 cases for guardian representation annually for the current and future years. The Court projects that it would expend \$131,175 annually for parental representation for the primary parent for TPR cases.
7. This Act requires the DSCYF, or a licensed agency with which DSCYF contracts, to prepare and file the social report at the DSCYF's expense. TPR and adoption cases have both a TPR social report and an adoption social report. The TPR social report costs \$1,325, and the adoption social report costs \$3,000.
  - a. As discussed in assumption 3a, the Court projects a potential of 160 cases among existing guardian relatives that may request legal counsel. Therefore, using the cost of the social reports and the projected number of cases, the DSCYF would spend \$692,000, which could be a one-time cost for these cases.
  - b. As discussed in assumption 4, the Court projects a potential of 53 cases for the current and future years for guardian representation annually. Therefore, using the cost of the social reports and the projected number of cases, the DSCYF would spend \$229,225 annually for these cases.
8. The Office of Defense Services (ODS), Office of Parental Representation, may experience an additional volume of cases in future years as ODS may be required to provide legal representation to a parent or secondary parent in a proceeding due to this Act. Should the caseload become burdensome, the ODS could require additional staffing and fiscal resources to comply with this Act in future years.
9. The Office of the Child Advocate (OCA) provides legal representation of children in this State and represents children in DFS cases. In alignment with the office's mission, OCA believes it is in the child's best interest to have representation in cases where other parties are all provided counsel.
  - a. As discussed in assumption 3a, the Court projects a potential of 160 cases among existing guardian relatives that may request legal counsel. Therefore, OCA could potentially represent an additional 160 children and expend an estimated \$481,600, which could be a one-time cost, for contractual Child Attorney and Family Crisis Therapist services for these cases.
  - b. As discussed in assumption 4, the Court projects a potential of 53 cases for the current and future years for guardian representation annually. Therefore, OCA would potentially represent an additional 53 children and expend approximately \$159,530 for contractual Child Attorney and Family Crisis Therapist services for these cases.

10. Lastly, the Fiscal Year 2026 personnel costs have been estimated for nine months of funding, with the annualization of the remaining three months incorporated into subsequent year estimates. Additionally, a 2% inflation cost has been included for projected increases in salary and OECs.

**Cost:**

	<b><u>One-Time</u></b>	<b><u>Operating/Recurring</u></b>
<b>Fiscal Year 2026:</b>	\$2,374,940	\$924,789
<b>Fiscal Year 2027:</b>		\$976,093
<b>Fiscal Year 2028:</b>		\$979,969

---

Prepared by Jason R. Smith  
Office of the Controller General