

March 1, 2005

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative entitled the "Parent and Child Rights Act" (File No. SA2005RF0055).

PROPOSAL

This measure would prohibit social workers from removing children from their homes and placing them in foster care solely due to the parent or guardian's refusal to allow psychiatric treatment or medication for the child. It further allows parents to object to mental health screenings and evaluations of their children in public schools and requires informed consent from both parents or guardians before conducting any such evaluations. Finally, it creates misdemeanor crimes for individuals who violate specified provisions of this measure. The main provisions and fiscal impacts of the measure are discussed below.

Major Provisions

Child Welfare Services. Under current law, Child Welfare Services (CWS) workers—usually county welfare department employees—can remove a child from his or her parent or guardian if, among other reasons, that child is suffering from (or at risk of) "serious emotional damage." However, if the child is suffering because the parent or guardian refuses to provide mental health treatment due to religious beliefs, that child cannot be removed from the home.

This measure would prohibit CWS workers or court officers from removing a child from his or her home because a parent or guardian has refused to allow adequate mental health treatment, psychiatric medication or psychiatric screening for the child, regardless of whether the refusal is based on religious beliefs.

Public Education and Mental Health. Under current law, students with disabilities are entitled to mental health services if they are needed to help the student learn in school. A parent or guardian must provide written informed consent before any mental health treatment can be provided. This act would require informed written consent from *both* parents, rather than one parent as under current law.

Court System. This measure would establish misdemeanor crimes punishable by jail time and a fine for individuals (such as social workers, teachers, or court representatives) who violate the new parental rights created by this measure. This measure also gives parents the right to have a public hearing for those dependency cases in which the government seeks to remove children from their parents. Currently, those cases are heard in a closed court. Exercising this right would either involve opening the dependency courts to the public or providing an additional public hearing.

FISCAL EFFECTS

This measure has potential fiscal effects for foster care, mental health, education, and the courts. We identify three general fiscal impacts: potential savings in foster care and mental health, potential costs in public education and the court system, and potential long-term costs that may result if parents refuse to allow their children to receive mental health services on a timely basis.

Foster Care

To the extent that fewer children are removed from their homes and placed in foster care as a result of this measure, there could be some state and local savings to the foster care program. The Department of Social Services indicates that virtually no children are removed from their homes solely because the parents refused mental health services for their children. Thus, any foster care savings are likely to be minimal.

Education and Mental Health

The requirement that both parents provide written consent could result in unknown, but possibly significant costs to schools resulting from the time and expense of trying to locate an absent parent in order to obtain approval to provide mental health services to special education students. However, there could also be unknown but potentially significant General Fund savings associated with not providing mental health treatment or evaluations to children because both parents do not consent to them.

Courts and Criminal Justice

There may be some minimal costs to the criminal justice system associated with the creation of a new crime for any resulting prosecutions. In addition, to the extent that a new public hearing is required or hearings may be longer by providing parents with the right to a public hearing, there could be some additional court costs.

Long-Term Fiscal Effects

The initiative could result in unknown, but potentially significant, long-term costs to schools, local governments, and the state depending on the extent to which students do not receive mental health services as a result of this measure. The Department of Mental Health indicates that studies document the importance of treating mental health conditions early. If this measure increases the number of children with serious emotional or mental problems who go untreated, or experience significant delays in receiving treatment, the measure could result in an unknown potential increase in costs in the long term due to problems these students might experience as adults, such as involvement with the criminal justice system, inability to sustain employment, homelessness, and the need for more intensive mental health treatment. Also, students who do not receive treatment when their emotional problems first become evident may need more intensive mental health and/or educational services.

Summary of Fiscal Effects

We estimate that the measure would have the following fiscal effects:

- Unknown savings in foster care and mental health.
- Unknown costs to public education, the courts, and the criminal justice system.
- Unknown, but potentially significant, long-term costs to schools, local governments, and the state to the extent that students do not receive mental health services as a result of this measure.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Tom Campbell
Director of Finance