

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 954 (Substitute S-1 as reported)
Sponsor: Senator William Van Regenmorter
Committee: Families, Mental Health and Human Services

CONTENT

The bill would amend the juvenile code to require the appointment of a "child-attorney" to represent the best interests of a child in an abuse or neglect proceeding or in a divorce case in which the circuit court waived jurisdiction over a child to the family court; prescribe the powers and duties of a child-attorney; provide for the appointment of legal counsel for a child if a child-attorney and the child disagreed as to the child's best interests; and permit a court to assess the costs and fees of a child-attorney against any of the parties involved in the proceedings.

Under the code, the family court must appoint an attorney to represent the child in an abuse or neglect proceeding or in a divorce case in which the circuit court has waived jurisdiction over a child to the family court. The bill, instead, would require the appointment of a child-attorney. Under the code, if an attorney is appointed for a party, the court may enter an order assessing attorney costs against the party or the person responsible for the support of that party. Under the bill, this provision would apply if the court appointed an attorney, child-attorney, or legal counsel.

If the child-attorney determined, after a discussion with the child, that the child's interests as identified by the child were inconsistent with the child-attorney's determination of the child's best interests, the child-attorney would have to communicate the child's position to the court and ask the court to appoint a legal counsel to represent the child.

Consistent with the rules of professional responsibility, a child-attorney would have to identify common interests among the parties and, to the extent possible, promote a cooperative resolution of the matter. A child-attorney would not be liable in a civil action for damages for acts or omissions of the child-attorney in furtherance of his or her appointment, unless the acts or omissions were grossly negligent or willful and wanton.

MCL 712A.13a et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on State and local units of government. The number of cases that could result in the appointment of a second attorney under the bill is not determinable.

Local county courts currently pay attorney costs in many of these cases. Reimbursement for attorneys is controlled by the local units and reimbursement rates vary. Ingham County reports that costs for appointment of attorneys for children average \$250,000 annually in Ingham County.

Date Completed: 4-21-98

Fiscal Analyst: B. Bowerman

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Analysis available @ <http://www.michiganlegislature.org>

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.