

BILL SUMMARY
2nd Session of the 53rd Legislature

Bill No.:	HB2538
Version:	Introduced
Request Number:	7979
Author:	Representative McCullough
Date:	2/13/2012
Impact:	Min. \$836,366-state, \$2,160,000-total

Research Analysis

HB 2538, as introduced, removes language creating a presumption that the best interest of a child is ordinarily served by leaving the child in the custody of the parents, and, instead, provides that if a parent abrogates their natural, legal, and moral right to care for and support their children, then the best interest of the child will prevail in a proceeding for the termination of parental rights.

The measure provides that termination of parental right proceedings will be based on a best interest of the child standard and petitions will be tried before a judge. The measure repeals language granting a right to a jury trial on termination proceedings.

The measure modifies when a district attorney must file a termination motion by requiring the motion to be filed:

- Prior to the end of the twelfth, instead of fifteenth, month when a child has been placed in foster care by DHS for 12, instead of 15, of the most recent 22 months;
- Immediately upon confirmation that a child has been born testing positive for a controlled dangerous substance, provided that the parent may rebut the presumption that termination is in the best interest of the child by successful participation in a drug treatment program and drug testing.

Prepared By: Andrea Merten

Fiscal Analysis

The Department of Human Services personnel provide that drug-exposed infant statistics are not readily available for past years, but have recently started being collected. One hospital in a metro area reported 12 drug-exposed infants in the month of January, 2012. Assuming six large medical facilities in the metro areas deliver similar numbers of drug-exposed babies, the cost for outpatient treatment for parents is approximately \$2,160,000. This figure does not take into account drug-exposed babies born in rural areas or ODMHSAS indigent program outpatient treatment. Additionally, drug testing can cost anywhere from \$15 to \$130 per screen.

All adult substance abuse treatment is paid by the adult or by Medicaid if the adult is eligible, or ODMHSAS for indigent program eligibility. The Medicaid costs are paid by the Health Care Authority. The state cost for the treatment as described is \$836,366.

Prepared By: Andrea Kearney

Other Considerations

According to Department of Human Services personnel, this bill conflicts with the Federal Adoption and Safe Families Act of 1997 in that it does not provide exceptions to this mandatory ground for termination of parental rights unless the parent successfully participates in drug treatment and has negative drug test results throughout the life of the case.

Further, because the parent's only avenue to rebut the presumption that termination of parental rights is in the best interests of the child born drug-exposed, there are concerns that increased waiting lists for services will require children to remain in OKDHS custody for longer periods of time increasing costs for foster care services.