

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

February 23, 2005

TO: Honorable Suzanna Gratia Hupp, Chair, House Committee on Human Services

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB6 by Hupp (Relating to protective services; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB6, As Introduced: a negative impact of (\$63,153,681) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	(\$21,836,806)
2007	(\$41,316,875)
2008	(\$62,617,512)
2009	(\$79,130,308)
2010	(\$89,268,076)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Savings from <i>FEDERAL FUNDS</i> 555	Probable (Cost) from <i>FEDERAL FUNDS</i> 555
2006	\$837,200	(\$22,674,006)	\$1,506,056	(\$4,611,307)
2007	\$31,097,855	(\$72,414,730)	\$10,781,854	(\$15,904,985)
2008	\$111,643,496	(\$174,261,008)	\$33,959,646	(\$45,076,947)
2009	\$137,520,528	(\$216,650,836)	\$43,360,142	(\$58,538,234)
2010	\$137,694,742	(\$226,962,818)	\$43,682,444	(\$59,904,524)

Fiscal Year	Change in Number of State Employees from FY 2005
2006	203.1
2007	(77.7)
2008	(1,378.6)
2009	(1,987.4)
2010	(1,967.6)

Fiscal Analysis

ARTICLE 1 would amend Chapter 42 of the Human Resources Code to remove and repeal provisions relating to residential child-care services, and add a new chapter that includes most of the repealed sections plus additional sections.

Section 1.16 would add Chapter 49, Regulation of Certain Facilities, Homes, and Agencies that Provide Residential Child-Care Services, to the Human Resources Code. Section 49.052 would establish the State Advisory Committee on Residential Child-Care Administrators and Facilities. Section 49.102 would require the Health and Human Services Commission (HHSC) Executive Commissioner to conduct a comprehensive review of all rules and standards at least every three years. Section 49.102 would require Department of Family and Protective Services (DFPS) to develop and implement a classification and risk-analysis system for licensing standards. Section 49.103 would require residential child-care facilities contracting with the agency to implement a behavior intervention program that includes instruction for direct delivery staff.

Section 49.108 would require DFPS to periodically inspect a random sample of foster homes until September 1, 2008. Section 49.109 would require the agency to implement a training program for its inspectors and administer competency-based examinations by January 1, 2006. Section 49.110 would establish procedures for sharing inspection results with representatives of residential child-care facilities. Section 49.111 would require the HHSC Executive Commissioner by rule to establish an informal dispute resolution process. Section 49.112 would require DFPS to include information on violations of minimum standards in its computerized database and to categorize the violations according to various criteria.

Section 49.115 would require DFPS to establish procedures to deny a residential child-care license if an applicant's license was revoked in another state, or the applicant was barred from holding a license or operating a foster care facility in another state. Section 49.117 would require the HHSC Executive Commissioner to adopt rules limiting the total number of residential child-care facilities operating in a county and the total number of children served by a residential child-care facility. Section 49.154 would add grounds for denying a residential child-care license, and require a person whose license or certification was revoked or denied to wait five years before applying for another one. Section 49.155 would permit DFPS to suspend a residential child-care facility license and order immediate closure based on the possibility of immediate risk to child health and safety. Section 49.160 would expand the grounds for imposing administrative penalties and increase the ceilings placed on administrative penalties. Section 49.161 would strengthen the administrative penalty process and provide for the amelioration of violations.

Sections 1.17 and **1.18** would amend the Education Code to (a) require the Texas Education Agency (TEA) to include in its annual report a summary compilation of the overall performance of students in foster care or other residential care under the conservatorship of DFPS and (b) require TEA and the Higher Education Coordinating Board to develop outreach programs to inform these students about the availability of tuition and fee exemptions.

Sections 1.20 and **1.21** would amend the Family Code to require the court to (a) order certain persons to support children in DFPS substitute care and (b) appoint an attorney ad litem to represent the interests of an indigent parent in a suit filed by a governmental entity requesting temporary managing conservatorship of a child. **Section 1.22** would require DFPS to annually make an unannounced visit to the home of each child whose parents are receiving adoption assistance payments. **Section 1.23** would require the Office of the Attorney General to expedite the commencement of an action to enforce child support orders for children receiving DFPS services. **Section 1.25** would require the court to order persons convicted of making a false report of child abuse or neglect to pay reasonable attorney's fees and make these persons liable to the state for a civil penalty of \$1,000. **Section 1.26** would require DFPS to provide the identity of persons convicted of making a false report to various interested parties.

Section 1.27 would require DFPS to immediately refer to local law enforcement agencies reports of abuse or neglect that allege circumstances that could result in death or serious harm to a child. It would also require the agency, in cooperation with local law enforcement officials and the

Commission on State Emergency Communications, to develop a training program for intake workers. **Section 1.28** would require DFPS to audio- or video- tape interviews with every child who is alleged to be a victim of abuse or neglect.

Section 1.29 would require DFPS to provide a “proposed child placement resources form” to the parent or other person having legal custody of a child who is the subject of an abuse or neglect investigation. **Section 1.31** would require the agency to perform a background and criminal history check and home study of each relative identified as a potential caregiver on the proposed child placement resources form.

Section 1.35 relates to privatization of certain child welfare functions. It would require DFPS to contract with substitute care providers for all necessary substitute care services, including the recruitment, training, and management of foster parents; the inspection of foster homes; the recruitment of adoptive families; parenting classes; family preservation services; and case management services. It would require HHSC and DFPS to jointly adopt a substitute care services transition plan and rules that require DFPS to begin the transition as soon as possible after September 1, 2005. It would prohibit DFPS from directly providing substitute care services for children, including inspections of foster homes, after August 31, 2008. It would require the HHSC Executive Commissioner to evaluate whether existing rate structures are adequate to compensate substitute care providers and, if they are not, to adopt rules that adjust the rates to appropriate levels. **Section 1.36** would establish a Joint Committee on Restructuring Substitute Care Services that would be abolished on October 31, 2008.

Section 1.37 would require DFPS to use real-time technology to screen possible placement options and institute a quality assistance system for placement decisions. **Section 1.38** would require the agency to immediately seek a private licensed agency to place children whose permanency plan is adoption. **Section 1.39** would require the agency to implement a relative caregiver placement program by March 1, 2006

ARTICLE 2 would amend Chapter 40 of the Human Resources Code relating to the adult protective services system. **Section 2.02** would require DFPS to establish a training program that adult protective services employees must complete before initiating an investigation or providing services. **Section 2.03** would require the agency to implement a quality assurance program for adult protective services. **Section 2.10** would require the agency to establish a program to provide temporary emergency shelter for adult protective services clients under emergency order to move to safer surroundings. **Section 2.12** would require DFPS to contract with a private agency for the provision of guardianship services. **Section 2.13** would require health and human services agencies to adopt a joint memorandum of agreement to establish a system of local interagency staffing groups for elderly and disabled persons needing multi-agency services.

Methodology

Section 1.16. Section 49.102 -- DFPS indicates that it would need to hire a contractor to assist in developing and implementing the classification and risk analysis system for residential child-care facilities (RCCFs). The total cost would be \$400,000 during fiscal years 2006-08. Section 49.108 -- It is assumed that funds currently expended by DFPS to inspect homes and institutions would be used to pay contractors in the same amount. Inspecting a random sample would represent a new cost requiring a one-time automation expenditure of \$80,000, and an annual expenditure of \$250,000 in 2006 (rising to \$350,000 in 2010) for additional staff (6.1 FTEs in 2006 rising to 8.9 FTEs in 2010).

Section 49.109 -- DFPS estimates a cost of \$155,000 in 2006 and \$73,000 each following year, with one additional FTE, for training and competency-based examinations. Section 49.110 -- The agency estimates a cost of \$1.9 million in 2006, and \$352,000 each following year, for exit conferences with residential child-care providers. Section 49.111 -- The agency estimates a one-time cost of \$218,000 relating to the informal dispute resolution process. Section 49.112 -- The agency estimates a one-time cost of \$219,000 for the computerized database on minimum standard violations.

Sections 49.115 and 49.117 -- DFPS estimates a cost of \$96,000 in 2006 and \$69,000 each following year, with one additional FTE, relating to new disciplinary procedures and county limitations. 49.154

and 49.155 -- DFPS estimates a cost of \$139,000 in 2006, and \$69,000 each following year, with one additional FTE, relating to the five-year waiting period and immediate closure requirement. Section 49.160 -- DFPS estimates a one-time cost of \$494,000 relating to the administrative penalty process. Section 49.163 -- DFPS estimates a cost of \$75,000 in 2006, and \$69,000 each following year, relating to administrative penalty hearings.

Section 1.22. It is assumed that additional FTEs would be needed to perform annual home visits to families receiving adoption assistance: 59.5 FTEs in 2006 rising to 87.1 FTEs in 2010. The estimate assumes a hiring ratio of seven caseworkers per supervisor, six caseworkers per clerical employee, and 30 caseworkers per attorney. The total cost would be \$2.5 million in 2006 rising to \$3.4 million in 2010.

Section 1.27. The agency estimates a cost of \$122,000 in 2006, and \$84,000 each following year, for the intake training program. Section 1.28. The agency estimates a cost of \$324,000 in 2006, and \$312,000 each following year, with three additional FTEs, relating to the audio-taping requirement. Section 1.31. It is assumed that the state would pay the anticipated cost of \$41 to perform a background and criminal history check on each adult in each prospective kinship family. The total cost would be \$384,000 in 2006 rising to \$523,000 in 2010. It is also assumed that additional workers would be needed to perform a home assessment on each family: 22.1 FTEs in 2006 rising to 30.2 FTEs in 2010. The total cost would be \$0.9 million in 2006 rising to \$1.2 million in 2010.

Section 1.35. There would be multiple fiscal impacts for this section that would privatize certain child welfare functions. For the section as a whole: the General Revenue Fund savings would be \$29.2 million in 2007, \$109.6 million in 2008, and \$135.3 million each following year; the total General Revenue Fund cost would be \$3.1 million in 2006 rising to \$172.0 million in 2010.

Substitute Care Services. It is assumed that substitute care services for children in temporary and permanent managing conservatorship would transition to private contractors on a monthly rollout schedule during fiscal year 2007. DFPS would save 202.2 FTEs in 2007 and 364.0 FTEs each following year. This estimate is based on the agency's methodology that allocates 9.0% of the direct delivery workforce to substitute care services (foster and adoptive home development). It is assumed that the transition would be cost neutral. The total savings/costs would equal \$11.2 million in 2007 and \$20.2 million each following year. Fringe benefit savings/costs totaling \$2.0 million in 2007 and \$3.7 million each following year are included in this estimate. Fringe benefit appropriations would move from the Comptroller's Office and the Employees Retirement System to DFPS.

Case Management Services. It is assumed that case management services for children in temporary and permanent managing conservatorship would transition to private contractors on a monthly rollout schedule from the middle of fiscal year 2007 through 2008. DFPS would save 135.4 FTEs in 2007, 967.4 FTEs in 2008, and 1,393 FTEs each following year. This estimate is based on the agency's methodology that allocates 34.3% of the direct delivery workforce to case management (conservatorship) services. It is assumed that the transition would be cost neutral. The total savings/costs would equal \$7.5 million in 2007, \$53.8 million in 2008, and \$77.4 million each year thereafter. Fringe benefit savings/costs totaling \$1.4 million in 2007, \$9.7 million in 2008, and \$14.0 million each following year are included in this estimate. Fringe benefit appropriations would move from the Comptroller's Office and the Employees Retirement System to DFPS.

Family-Based Safety Services. It is assumed that family-based safety services (in-home case management) would transition to private contractors on a monthly rollout schedule from the middle of fiscal year 2007 through 2008. DFPS would save 63.9 FTEs in 2007, 456.3 FTEs in 2008, and 657.0 FTEs each following year. This estimate is based on the agency's methodology that allocates 15.9% of the direct delivery workforce to family-based safety services. It is assumed that the transition would be cost neutral. The total savings/costs would equal \$3.6 million in 2007, \$25.4 million in 2008, and \$36.5 million each year thereafter. Fringe benefit savings/costs totaling \$0.6 million in 2007, \$4.6 million in 2008, and \$6.6 million each following year are included in this estimate. Fringe benefit appropriations would move from the Comptroller's Office and the Employees Retirement System to DFPS.

Child Placing Agency (CPA) Rate Differential. It is assumed that foster care payments would rise as more than 5,000 foster children (FTEs) move from DFPS to privately managed foster care settings during fiscal year 2007. This is because foster care rates are higher for privately managed foster care services. The total increase in cost would be \$8.7 million in 2007, \$24.9 million in 2008, \$38.3 million in 2009, and \$41.6 million in 2010. This estimate is based on agency caseload projections.

Foster Day Care Purchased Services. It is assumed that foster day care purchased services dollars relating to substitute care and family-based safety services would transfer to private contractors on a monthly basis during fiscal year 2007. It is also assumed that the transition would be cost-neutral. The total savings/costs would be \$3.8 million in 2007 and \$10.8 million each following year. This estimate is based on agency projections.

Other Purchased Services. It is assumed that other purchased services dollars relating to substitute care and family-based safety services would transfer to private contractors on a monthly basis during fiscal year 2007. It is also assumed that the transition would be cost neutral. The total savings/cost would be \$10.4 million in 2007 and \$29.7 million each following year. This estimate is based on agency projections.

Residential Child Care Licensing Staff. DFPS indicates that ten additional FTEs would be needed to provide adequate regulatory oversight of the expanded private system of residential child care services and to maintain a ratio of one monitoring worker for every 20 licensees. The total cost would be \$.5 million each year.

Oversight Responsibilities. DFPS indicates that additional FTEs would be needed to manage contracts, process payments, conduct audits and provide quality assurance for the new system. These include 27.5 FTEs in fiscal year 2006 (total salary = \$1.2 million), 91.5 FTEs in 2007 (total salary = \$3.7 million), and 159.0 FTEs each following year (total salary = \$6.5 million). The total cost would be \$2.1 million in 2006, increasing to \$10.0 million in 2010.

Information Technology Projects. DFPS indicates that modifications to existing automated systems would be needed to develop secure interfaces with external providers. The total cost to modify the IMPACT automated system would be \$1.5 million. This cost would be incurred during fiscal year 2006.

Section 1.39. There would be multiple fiscal impacts for this section that would establish a relative caregiver placement program. For the section as a whole, the General Revenue Fund cost would be \$7.8 million in 2006, \$22.1 million in 2007, \$28.7 million in 2008, \$35.7 million in 2009, and \$43.2 million in 2010.

It is assumed that the relative caregiver placement program would be implemented on March 1, 2006. The program would serve 3,464 children in fiscal year 2006, 7,495 children in fiscal year 2007, and grow by 8 percent each following year. All participants would receive the one-time \$1,000 per-child stipend (total cost = \$3.5 million in 2006 rising to \$9.4 million in 2010). The disruption rate (participants returning to DFPS paid foster care) is estimated to be 9.5 percent. The net number of participants who remain would receive a one-time \$500 flexible benefit (total cost = \$1.6 million in 2006 rising to \$4.3 million in 2010).

Twenty-five percent of the families would receive five hours of counseling costing \$60 per hour (total cost = \$0.2 million in 2006 rising to \$0.5 million in 2010). Forty-three percent of the children would use day care services costing \$17.52 per day (total cost = \$2.7 million in 2006 rising to \$30.0 million in 2010). Training costs would also be incurred during the first year of the program (total cost = \$28,000).

DFPS indicates that it would need additional direct delivery staff (caseworkers, supervisors, clerical staff, and attorneys) to implement the program. The estimate assumes a hiring ratio of seven caseworkers per supervisor, six caseworkers per clerical employee, and 30 caseworkers per attorney. It is assumed that supervisors would be hired at the same time as caseworkers, with other staff phased in three and six months after the hiring of caseworkers. It is also assumed that clerical and legal staff

would not be needed during the initial three month training period for caseworkers, with half needed during the next three months when caseworkers are assumed to be carrying half the caseload of a fully trained worker. The number of additional FTE positions would be 29.2 for fiscal year 2006 (total salary cost of \$0.9 million) rising to 89.6 FTE's in fiscal year 2010 (total salary cost of \$2.5 million). Fringe benefit costs would rise from \$254,845 in fiscal year 2006 to \$756,863 in fiscal year 2010. In addition to salary and fringe benefits, the estimate includes cost for travel, computers, telecommunications equipment and other operating expenses.

It is assumed that the relative caregiver placement program would reduce the disruption rate of relative placements from the current rate of 18.5 percent to 9.5 percent. Savings are calculated by estimating the costs of foster care projected to be associated with relative care disruptions if the relative caregiver program is not implemented, and calculating the costs projected if the relative caregiver program is implemented. The difference between the costs associated with a higher disruption rate and the relative caregiver program disruption rate is considered to be a savings to foster care. Total savings would rise from \$2.3 million in fiscal year 2006 to \$6.7 million in fiscal year 2010.

Section 2.02. DFPS indicates that additional FTEs would be needed to implement a comprehensive training program for adult protective services employees. These include nine FTEs in fiscal year 2006 and 14 FTEs each following year. The total cost would be \$0.5million in 2006 and \$0.7 million each following year. **Section 2.12.** The agency indicates that it would provide contract guardianship services for 829 individuals in fiscal year 2006 rising to 888 individuals in 2010. The annual cost per person would be \$3,123 for a total cost of \$2.6 million in fiscal year 2006 rising to \$2.8 million in 2010.

Section 2.13. The agency indicates that three FTEs would be needed to handle the workload associated with more intensive staffing of highly complex adult protective services cases. This estimate assumes that ten percent of confirmed cases would be referred to local interagency staffing groups. The total cost would be \$0.1 million each year.

The Health and Human Services Commission indicates that it would need five additional FTEs (total salary = \$191,412) starting in 2006 to carry out duties and responsibilities added by the bill.

The Office of the Attorney General indicates that it would need an additional part-time attorney and legal assistant (total salary = \$86,500) starting in 2006 because tighter regulation of residential child-care services will result in more enforcement actions and an increased number of cases for judicial review.

It is assumed that TANF Federal Funds will not be available to finance any of the activities mentioned above; therefore, General Revenue Funds are used in place of TANF Federal Funds (\$9.3 million in fiscal year 2006 rising to \$19.0 million in fiscal year 2010). It is also assumed that Child Care Development Fund (CCDF) Federal Funds will not be available; therefore, General Revenue Funds are used in place of CCDF Federal Funds (\$3.3 million in fiscal year 2006 rising to \$30.4 million in fiscal year 2010).

It is assumed that all remaining sections would have no significant impact.

Technology

The total cost of all Information Technology (IT) changes will be \$5,632,859. Most costs would occur in 2006. The following sections would have IT impacts: 1.16, 1.26, 1.35, and 1.37.

Additional costs for workstation setup and maintenance for new staff are assigned to each section where staff increases are identified. Ongoing maintenance of desktop/laptop equipment is approximately \$3.4 million per year. Those costs are identified in each specific section that projects new staff increases and they are netted against savings that are for projected staff decreases. Technology cost-savings are acknowledged as staff reductions occur by section. These cost savings are calculated by reversing the workstation ongoing maintenance costs categories and defining them as savings. Staff reductions of 2,414 FTEs in the out years will reduce the ongoing maintenance cost of

workstations by approximately \$8.4 million per year and result in the approximately \$5.7 million dollar technology savings for 2009 through 2011.

Local Government Impact

School districts do not currently report data that identifies children in foster care. It is assumed that the analyses and reporting of assessment data required under this bill could be accomplished either through manual coding of assessment answer sheets by district personnel or through state level analysis using some type of data extract provided by the Department of Family and Protective Services.

It is assumed that the outreach program would be accomplished by distributing information to school districts to ensure school guidance counselors are aware of the tuition exemption program.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 332 Department of Housing and Community Affairs, 360 State Office of Administrative Hearings, 477 Commission on State Emergency Communications, 529 Health and Human Services Commission, 530 Department of Family and Protective Services, 537 Department of State Health Services, 538 Department of Assistive and Rehabilitative Services, 539 Department of Aging and Disability Services, 694 Youth Commission, 696 Department of Criminal Justice, 701 Central Education Agency, 781 Higher Education Coordinating Board

LBB Staff: JOB, CL, PP, LR, NM, RC