

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 4, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: SB186 by Patrick, Dan (Relating to the protection of life, including unborn life, from the point of fertilization; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB186, As Introduced: a negative impact of (\$217,365,880) through the biennium ending August 31, 2009.

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
2008	(\$51,974,867)
2009	(\$165,391,013)
2010	(\$197,412,098)
2011	(\$219,075,638)
2012	(\$239,712,637)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>GR MATCH FOR MEDICAID</i> 758	Probable (Cost) from <i>VENDOR DRUG REBATES-MEDICAID</i> 8068	Probable (Cost) from <i>GR MATCH FOR TITLE XXI</i> 8010	Probable (Cost) from <i>VENDOR DRUG REBATES-CHIP</i> 8070
2008	(\$50,278,659)	(\$680,988)	(\$10,564)	(\$126)
2009	(\$158,025,183)	(\$2,272,280)	(\$159,380)	(\$2,312)
2010	(\$183,675,373)	(\$3,184,336)	(\$619,912)	(\$10,797)
2011	(\$199,943,023)	(\$3,937,181)	(\$866,521)	(\$15,409)
2012	(\$213,930,469)	(\$4,537,198)	(\$967,387)	(\$17,290)

Fiscal Year	Probable (Cost) from <i>PREMIUM CO- PAYMENTS</i> 3643	Probable (Cost) from <i>EXPERIENCE REBATES-CHIP</i> 8054	Probable (Cost) from <i>GR for ECI</i> 8086	Probable (Cost) from <i>GENERAL REVENUE FUND</i> 1
2008	(\$359)	(\$163)	(\$1,257,236)	(\$318,024)
2009	(\$6,432)	(\$2,488)	(\$5,769,343)	(\$1,326,723)
2010	(\$30,038)	(\$9,777)	(\$10,678,100)	(\$2,328,329)
2011	(\$42,867)	(\$13,684)	(\$14,832,868)	(\$3,322,842)
2012	(\$48,100)	(\$15,282)	(\$20,394,922)	(\$4,309,475)

Fiscal Year	Probable (Cost) from FEDERAL FUNDS 555	Probable Revenue Gain from VENDOR DRUG REBATES-MEDICAID 8068	Probable Revenue Gain from VENDOR DRUG REBATES-CHIP 8070	Probable Revenue Gain from PREMIUM CO- PAYMENTS 3643
2008	(\$78,287,449)	\$680,988	\$126	\$359
2009	(\$241,359,920)	\$2,272,280	\$2,312	\$6,432
2010	(\$282,557,821)	\$3,184,336	\$10,797	\$30,038
2011	(\$308,821,928)	\$3,937,181	\$15,409	\$42,867
2012	(\$331,022,658)	\$4,537,198	\$17,290	\$48,100

Fiscal Year	Probable Revenue Gain from EXPERIENCE REBATES-CHIP 8054	Probable Revenue (Loss) from GENERAL REVENUE FUND 1
2008	\$163	(\$110,384)
2009	\$2,488	(\$110,384)
2010	\$9,777	(\$110,384)
2011	\$13,684	(\$110,384)
2012	\$15,282	(\$110,384)

Fiscal Analysis

Contingent upon the Texas Attorney General determining that the United States Constitution no longer prohibits a state from banning abortion, existing state statutes related to legal abortion are repealed. Within 60 days of the Attorney General's determination, producing an abortion, as defined by the bill, with or without a woman's consent, becomes a felony offense and if the abortion results in the death of the mother, the person producing the abortion commits an additional felony offense; exception to the offenses is provided if the abortion was procured or attempted on medical advice for the purpose of preventing the death of the mother. The revised statute would apply only to an offense committed on or after its effective date.

Methodology

It is assumed that effective September 1, 2007 abortion, except to prevent the death of the mother, would become illegal in the state of Texas. It is assumed that the laws governing abortions in other states remain unchanged. Absent a determination by the Attorney General that states are no longer prohibited from banning abortion, there would be no fiscal impact to the state. A determination making abortion illegal after September 1, 2007 would delay fiscal impact.

The rate of abortion per 1,000 women ages 18-44 ranged from 17.26 to 17.68 in calendar years 2001-2003 (the most recent years for which data is available). It is assumed that the calendar year 2003 rate of 17.52 would have continued in fiscal years 2008-2012, had abortion remained legal. Based on population projections for women of child-bearing age an estimated 78,718 abortions would have occurred in fiscal year 2008 increasing to 82,828 by fiscal year 2012. It is assumed that 20 percent of women would have the means to obtain an abortion in another state; it is assumed that 1 percent of these pregnancies would result in an abortion obtained in Texas on medical advice for the purpose of preventing the death of the mother or would result in a miscarriage or fetal death. It is assumed that the other 79 percent of projected abortions would now result in a live birth, increasing the number of births in the state by 23,531 in fiscal year 2008; 62,385 in fiscal year 2009; 62,941 in fiscal year 2010; 63,520 in fiscal year 2011; and 64,224 in fiscal year 2012. Many of the abortions that would have occurred in one fiscal year result in a birth in the following fiscal year due to the time in the gestational period when abortions occur.

The percentage of births paid by Medicaid increased each calendar year from 2000 to 2005, reaching an estimated 55.1 percent in calendar year 2005. It is assumed that the percentage of births paid by Medicaid would continue at the calendar year 2005 level and that this percentage would hold for the increased births as well. In calendar year 2005 approximately 67 percent of the births paid by Medicaid were paid through the acute care Pregnant Women risk group; it is assumed this percentage will remain constant and apply to the increased births as well. It is assumed that the remaining 33

percent of births will be paid through the Medicaid Cost-Reimbursed program; some of these pregnancies could be covered through the CHIP Perinatal program if funds were available, but for purposes of this analysis it is assumed they will be paid through Medicaid. It is assumed that women who are covered through the acute care program will receive 10 months of services at an average cost per month of \$673.38. It is assumed that women who are covered through Cost-Reimbursed will receive coverage for the birth only at a cost of \$2,989.17 per birth. Increased acute care Medicaid caseload is estimated to be 11,186 average monthly recipient months in fiscal year 2008; 19,222 in fiscal year 2009; 19,394 in fiscal year 2010; 19,581 in fiscal year 2011; and 19,802 in fiscal year 2012. The total cost to the acute care Medicaid program to cover increased births is an estimated \$90.4 million All Funds in fiscal year 2008, \$155.3 million All Funds in fiscal year 2009, \$156.7 million All Funds in fiscal year 2010, \$158.2 million All Funds in fiscal year 2011, and \$160.0 million All Funds in fiscal year 2012. Increased births paid through Medicaid Cost-Reimbursed are estimated to be 4,277 in fiscal year 2008; 11,340 in fiscal year 2009; 11,442 in fiscal year 2010; 11,546 in fiscal year 2011; and 11,675 in fiscal year 2012. The cost to Medicaid Cost-Reimbursed is an estimated \$12.8 million All Funds in fiscal year 2008, \$33.9 million All Funds in fiscal year 2009, \$34.2 million All Funds in fiscal year 2010, \$34.5 million All Funds in fiscal year 2011, and \$34.9 million All Funds in fiscal year 2012.

It is assumed that all infants whose birth was paid through Medicaid will remain eligible for the program during the first year of their life, receiving 12 months of coverage at an average cost of \$661.79 per month. Increased acute care Medicaid caseload is estimated to be 3,085 average monthly recipient months in fiscal year 2008; 25,594 in fiscal year 2009; 28,794 in fiscal year 2010; 29,055 in fiscal year 2011; and 29,359 in fiscal year 2012. The total estimated cost to the Medicaid program to cover the increase in infants is an estimated \$24.5 million All Funds in fiscal year 2008, \$203.3 million All Funds in fiscal year 2009, \$228.7 million All Funds in fiscal year 2010, \$230.7 million All Funds in fiscal year 2011, and \$233.2 million All Funds in fiscal year 2012.

Based on estimated income levels of one to five year-olds in Texas, it is assumed that 32 percent of the increased births in the state will be eligible for Medicaid through the Expansion Children risk group upon their first birthday. It is assumed that 88 percent of these children will remain eligible at each six month renewal. Average cost per recipient month is estimated to be \$199.88. Increased acute care Medicaid caseload is estimated to be 1,791 average monthly recipient months in fiscal year 2009; 17,125 in fiscal year 2010; 32,119 in fiscal year 2011; and 43,900 in fiscal year 2012. The total estimated cost to the Medicaid program to cover increased child population is \$4.3 million All Funds in fiscal year 2009, \$41.1 million All Funds in fiscal year 2010, \$77.0 million All Funds in fiscal year 2011, and \$105.3 million All Funds in fiscal year 2012.

In fiscal year 2006 approximately 0.3 percent of infants and 2.7 percent of children one to five years old were covered through the Children's Health Insurance Program (CHIP). It is assumed that these enrollment rates would apply to increased births as well. It is assumed that children under age 1 will receive 12 months of coverage and those aged one to five years will receive six months upon their first birthday with 62 percent continuing coverage at each six month renewal. The average cost per month for infants is estimated to be \$176.76 and for children ages one to five \$106.51. Total increased CHIP caseload is estimated to be 17 average monthly recipient months in fiscal year 2008; 306 in fiscal year 2009; 1,427 in fiscal year 2010; 2,037 in fiscal year 2011; and 2,285 in fiscal year 2012. The total estimated cost to the CHIP program is \$40,609 All Funds in fiscal year 2008; \$0.6 million All Funds in fiscal year 2009; \$2.4 million All Funds in fiscal year 2010; \$3.4 million All Funds in fiscal year 2011; and \$3.7 million All Funds in fiscal year 2012.

In fiscal year 2006 approximately 3.6 percent of infants and children ages one to two received eligibility determinations for Early Childhood Intervention (ECI) services, 0.6 percent received follow along services, and 4.2 percent received comprehensive services. It is assumed that these rates would apply to increased births as well. Increased eligibility determinations at an average cost of \$880.80 are estimated to be 842 in fiscal year 2008; 3,074 in fiscal year 2009; 5,326 in fiscal year 2010; 7,399 in fiscal year 2011; and 10,173 in fiscal year 2012. Increased children receiving follow along services at an average annual cost of \$161.00 are estimated to be 144 in fiscal year 2008; 526 in fiscal year 2009; 911 in fiscal year 2010; 1,265 in fiscal year 2011; and 1,740 in fiscal year 2012. Increased children receiving comprehensive services at an average annual cost of \$2,084.40 are estimated to be 976 in fiscal year 2008; 3,563 in fiscal year 2009; 6,174 in fiscal year 2010; 8,576 in fiscal year 2011; and

11,792 in fiscal year 2012. Total estimated cost to the ECI program is \$2.8 million All Funds in fiscal year 2008; \$10.2 million All Funds in fiscal year 2009; \$17.7 million All Funds in fiscal year 2010; \$24.6 million All Funds in fiscal year 2011; and \$33.8 million All Funds in fiscal year 2012.

Increased births are estimated to result in an increased population of children 18 and under of 0.4 percent in fiscal year 2008, 1.3 percent in fiscal year 2009, 2.3 percent in fiscal year 2010, 3.3 percent in fiscal year 2011, and 4.2 percent in fiscal year 2012. Assuming no change in income level in the increased population, it is assumed that Temporary Assistance for Needy Families (TANF) cash assistance caseloads will increase by equal proportions resulting in increased caseloads of 488 in fiscal year 2008; 1,768 in fiscal year 2009; 3,039 in fiscal year 2010; 4,301 in fiscal year 2011; and 5,553 in fiscal year 2012. Average monthly grant per recipient is assumed to be \$65.67. Total estimated cost to TANF cash assistance is \$0.4 million All Funds in fiscal year 2008, \$1.4 million All Funds in fiscal year 2009, \$2.4 million All Funds in fiscal year 2010, \$3.4 million All Funds in fiscal year 2011, and \$4.4 million All Funds in fiscal year 2012.

It is assumed that abortion facility licensing activities at the Department of State Health Services (DSHS) would no longer be required. There would be a reduction of 1.0 FTE at DSHS for a savings of \$66,542 each fiscal year beginning in 2008. There would also be a loss of revenue from licensing fees estimated to be \$110, 384 each fiscal year beginning in 2008.

Other state programs that serve children, pregnant women, or families would also likely experience increased costs to serve increased populations. Programs for which an estimated cost cannot be determined include foster care at the Department of Family and Protective Services, Food Stamps at HHSC, Children with Special Health Care Needs at DSHS, and TANF-related costs at the Texas Workforce Commission. Estimated costs for Medicaid, CHIP, ECI, and TANF are client services costs only and do not include additional administrative costs, including FTEs, to serve the additional clients; those costs cannot be estimated at this time.

Total net impact is estimated to be \$130.3 million All Funds in fiscal year 2008, \$406.8 million in fiscal year 2009, \$480.0 million All Funds in fiscal year 2010, \$527.9 million All Funds in fiscal year 2011, and \$570.7 million All Funds in fiscal year 2012. These include costs to General Revenue Funds of \$52.5 million in fiscal year 2008, \$167.6 million in fiscal year 2009, \$200.5 million in fiscal year 2010, \$223.0 million in fiscal year 2011, and \$244.2 million in fiscal year 2012. They also include net revenue offsets of \$0.6 million in fiscal year 2008, \$2.2 million in fiscal year 2009, \$3.1 million in fiscal year 2010, \$3.9 million in fiscal year 2011, and \$4.5 million in fiscal year 2012. General Revenue Funds assumed to finance TANF cash assistance could be replaced with TANF Federal Funds if those funds were available; Some General Revenue Funds assumed to finance ECI services could be replaced with Special Education Grants for Infants & Families with Disabilities Federal Funds if those funds were available. It is assumed that CHIP federal matching funds would be available; however, if the state exhausts its capped federal allotment, General Revenue Funds would be required in lieu of assumed Federal Funds.

Local Government Impact

No significant fiscal implication to units of local government is anticipated. To the extent that local governments provide services to pregnant women, children, and families, there could be a fiscal impact.

Source Agencies: 302 Office of the Attorney General, 537 State Health Services, Department of, 696 Department of Criminal Justice, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 538 Assistive and Rehabilitative Services, Department of

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