

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 27, 2007

TO: Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: SB758 by Nelson (Relating to child protective services. ), Conference Committee Report

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB758, Conference Committee Report: a negative impact of (\$18,071,283) 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	(\$5,380,598)
2009	(\$12,690,685)
2010	(\$13,549,457)
2011	(\$14,572,769)
2012	(\$15,746,265)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings from GENERAL REVENUE FUND - DFPS 1	Probable Savings from FEDERAL FUNDS - DFPS 555	Probable (Cost) from GENERAL REVENUE FUND - DFPS 1	Probable (Cost) from FEDERAL FUNDS - DFPS 555
2008	\$1,035,822	\$189,373	(\$8,830,148)	(\$2,680,682)
2009	\$9,104,154	\$1,270,788	(\$24,208,567)	(\$5,360,921)
2010	\$9,104,154	\$1,270,788	(\$25,067,339)	(\$5,517,319)
2011	\$9,104,154	\$1,270,788	(\$26,090,651)	(\$5,703,050)
2012	\$9,104,154	\$1,270,788	(\$27,264,147)	(\$5,915,994)

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND - DPS 1	Probable (Cost) from STATE HIGHWAY FUND 6	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND - DPS 1	Change in Number of State Employees from FY 2007
2008	(\$3,123,648)	(\$391,064)	\$5,537,376	77.2
2009	(\$3,123,648)	(\$39,935)	\$5,537,376	22.4
2010	(\$3,123,648)	(\$39,935)	\$5,537,376	25.4
2011	(\$3,123,648)	(\$39,935)	\$5,537,376	27.4
2012	(\$3,123,648)	(\$382,682)	\$5,537,376	30.4

## Fiscal Analysis

**Section 1** would amend Section 29.153(b), Education Code, to clarify the eligibility for public school prekindergarten programs of certain children who are or were in the conservatorship of DFPS.

**Section 4** would amend Section 162.304, Family Code, to require the Executive Commissioner of Health and Human Services to adopt rules setting the maximum adoption subsidy payment for a child who would have remained in foster care through age 17 as the amount that would have been paid to the foster parent based on the child's service level when the adoption assistance agreement was finalized. It would also limit the maximum adoption subsidy payment to the minimum amount paid to a foster parent for the child's service level.

**Section 8** would amend Section 263.102, Family Code, to require the Department of Family and Protective Services (DFPS) to consult with relevant professionals when developing a service plan for a child under two years of age. The service plan may require therapeutic family visits between the child and the child's parents that are supervised by a licensed psychologist or another relevant professional.

**Section 12** would amend Section 264.106, Family Code, to remove the option of using an independent administrator to provide substitute care and case management services. It would also replace the requirement to privatize all case management services with a goal of privatizing 5 percent of cases, and require DFPS to develop a pilot program for the competitive procurement of these services by September 1, 2008.

**Section 16** would amend Section 264.113, Family Code, to require DFPS to work with OneStar Foundation to expand the faith-based foster parent recruitment program. It would also permit the foundation to provide training and technical assistance to establish networks and services in faith-based organizations.

**Section 19** would add Section 264.2011, Family Code, to require DFPS to develop a program to strengthen eligible families through enhanced in-home support. The program would provide limited funding to cover non-recurring expenses.

**Section 23** would add Section 191.0047, Health and Safety Code, to require the Department of State Health Services (DSHS) to verify birth information or provide a certified copy of a birth record for children served by DFPS. It would also require DFPS to reimburse DSHS for actual costs.

**Section 29** would add Section 42.0211, Human Resources Code, to require the residential child-care licensing division to employ at least one investigation safety specialist and one risk analyst to perform certain duties. It would also require a performance management unit to conduct quality assurance reviews and make recommendations for improving the quality and consistency of monitoring and investigations.

**Section 31** would amend Section 42.042, Human Resources Code, to allow residential child-care facilities that provide emergency services to temporarily exceed their capacity for up to 48 hours to care for a child in an emergency.

**Section 32** would amend Section 42.044, Human Resources Code, to require that a team of two or more residential child-care monitoring staff conduct at least one of the unannounced annual inspections of residential child-care facilities. It would require DFPS to (a) investigate serious incident reports involving a child under the age of six who lives in an agency foster home or foster group home (b) investigate alleged violations of minimum standards that pose a high degree of risk to a child under the age of six who lives in an agency foster home or foster group home and (c) conduct at least one annual enforcement team conference for each child-placing agency. It would also require DFPS to meet with and verify the qualifications of day care center directors during unannounced inspections or subsequent meetings.

**Section 39** would amend Section 42.056, Human Resources Code, to require day care centers to submit a complete set of fingerprints with every request for a background and criminal history check. The fingerprints would then be submitted to the Department of Public Safety for a state and FBI

criminal history check.

**Section 47** would amend Section 45.004, Human Resources Code, to remove the option of using independent administrators to provide substitute care and case management services. **Sections 49** would amend Section 45.054, Human Resources Code, to eliminate the requirement for an independent third-party evaluation of the privatization of substitute care services. It would also move the requirement for an independent evaluation of the privatization of case management services back one year (to the second anniversary of the first contract under the pilot program) and require submission of the evaluation report by September 1, 2010.

**Section 51** would require DFPS to develop and implement a child protective services improvement plan that includes specific elements, such as expanding the use of family group decision making and reducing caseloads for family-based safety service workers. Many of these elements are in the agency's exceptional items funding request for 2008-09.

**Section 52** would require DFPS to submit a detailed implementation plan for the child protective services improvement plan, and for the continuation of all child protective services reform activities, by December 31, 2007. It would also require the agency to submit annual progress reports that include estimated cost savings, beginning on August 31, 2008. The plan and progress reports would be submitted to the Governor, Lieutenant Governor, Speaker of the House, appropriate legislative oversight committees, Legislative Budget Board, and State Auditor.

**Section 53** would require DFPS to actively pursue a federal waiver or other federal authorization to use any available federal funds to provide monthly monetary assistance under a caregiver agreement in accordance with Section 264.755, Family Code.

The bill would be effective on September 1, 2007.

## Methodology

**Eligibility for Public School Prekindergarten Programs.** The bill would not be anticipated to have significant fiscal implications for funding distributed under the Foundation School Program.

**Maximum Adoption Subsidy Payment.** DFPS indicates that setting the maximum adoption subsidy payment at the minimum amount paid to a foster parent for the service level of a child who would have remained in paid foster care through age 17 would be cost neutral (foster care savings would equal adoption subsidy costs).

**Therapeutic Family Visits.** DFPS estimates 5,885 children under the age of two would require six therapeutic visits supervised by a licensed psychologist per year. It is assumed that all of the children would be eligible for Medicaid and the cost per visit would be \$76.92. The total annual cost of \$2.7 million would be financed with General Revenue Funds (40%) and Federal Funds (60%). The cost may be lower if other relevant professionals are used.

**Case Management Services.** DFPS estimates the total cost to privatize 5 percent of case management services starting on September 1, 2008, would be \$0.1 million for fiscal year 2008, \$6.0 million for fiscal year 2009, \$7.0 million for fiscal year 2010, \$8.2 million for fiscal year 2011, and \$9.6 million for fiscal year 2012. This would be financed with General Revenue Funds and federal entitlement revenue. The agency assumes it would (a) pay more to purchase case management services due an increase over baseline costs of 11 percent for service improvements, 10 percent for contractor administrative costs, and 5 percent for contractor profit/overhead; (b) need additional staff to provide court liaison services, manage contracts, and handle additional reporting requirements; and (c) phase-out 5 percent of current direct delivery staff and purchased services.

DFPS estimates the cost to purchase case management services would be \$12.1 million for fiscal year 2009, \$13.0 million for fiscal year 2010, \$14.1 million for fiscal year 2011, and \$ 15.3 million for fiscal year 2012 (the cost would rise due to caseload increases). The agency estimates the savings due to phasing out direct delivery staff and purchased services would be \$9.1 million and 121.6 FTEs per year starting in fiscal year 2009.

DFPS estimates 2.2 FTEs in fiscal year 2008, 41.0 FTEs in fiscal year 2009, 44.0 FTEs in fiscal year 2010, 46.0 FTEs in fiscal year 2011, and 49.0 FTEs in fiscal year 2012 would be needed to handle additional workload associated with court liaison services, contract management, and management reporting. The cost for the new staff would be \$0.1 million for fiscal year 2008 and \$3.1 million for fiscal year 2009, rising to \$3.5 million for fiscal year 2012. Nearly 95 percent of the cost would be for court liaison staff.

**Foster Parent Recruitment Program.** DFPS indicates that any costs associated with working with OneStar Foundation to expand the faith-based foster parent recruitment program could be absorbed within current resources.

**In-home Family Support Services.** DFPS has estimated it would cost \$4.8 million per year to provide enhanced in-home support services. It is assumed the program would be financed with General Revenue Funds and start on January 1, 2008.

**Birth Information.** DSHS estimates the memorandum of agreement to verify birth information or provide certified copies of birth records for children served by DFPS would have no net fiscal impact. DFPS indicates that any costs would be insignificant because the agency routinely orders and pays for birth records for many clients.

**Residential Child-care Licensing Staff.** DFPS has estimated it would cost \$1.8 million per year to hire 21 child risk analysts, investigation screeners, and quality assurance staff for the residential child-care licensing program. The cost would be financed with General Revenue Funds and federal entitlement revenue. It is assumed the program would start on January 1, 2008.

**Temporary Emergency Services.** It is assumed there would be no significant fiscal impact from the provision allowing residential child-care facilities to temporarily exceed their capacity for up to 48 hours to care for a child in an emergency.

**Residential Child-care Licensing Functional Units.** DFPS has estimated it would need \$4.1 million and 63 FTEs per year to create functional units for the residential child-care licensing program. The cost would be financed with General Revenue Funds and federal entitlement revenue. It is assumed the program would start on January 1, 2008.

**Independent Administrator/Evaluator.** It is assumed there would be an annual savings of \$1.2 million in General Revenue Funds and federal entitlement revenue due to removing the option of using independent administrators, and eliminating the requirement for an independent third-party evaluation of substitute care services.

**Day Care Center Unannounced Inspections.** DFPS estimates it would need 15 FTEs to conduct 3,565 subsequent meetings with day care center directors each year. The total cost of \$0.8 million in fiscal year 2008, and \$0.7 million in subsequent fiscal years, would be financed with General Revenue Funds (97%) and Federal Funds (3%).

**Day Care Center Background Checks.** DFPS estimates it would need 3 FTEs to process 141,438 FBI checks for day care centers each year. There would also be a one-time cost to program the automation system to upload data provided by the Department of Public Safety (DPS). The total cost of \$0.3 million in fiscal year 2008, and \$0.2 million in subsequent years, would be financed with General Revenue Funds (97%) and Federal Funds (3%).

DPS estimates the additional background checks would generate \$5.5 million per year in fee revenue with approximately \$3.1 million returned to the FBI for professional services as required by federal law. DPS also estimates it would need 1 FTE to handle the anticipated increase in criminal history record functions. It is assumed FBI services would be paid from the General Revenue Fund and other costs would be financed with Other Funds (State Highway Fund 6).

**Monthly Monetary Assistance.** DFPS indicates that the requirement to actively pursue a federal waiver or authorization to provide monthly monetary assistance for relative and other designated caregivers would only have a fiscal impact if federal funds were made available for this purpose. The

agency assumes the cost would be limited to the amount of the additional federal funds which cannot be determined at this time. It is assumed that the Executive Commissioner of Health and Human Services would develop rules to implement the requirement within available federal funds.

**Total Cost.** The total estimated cost to implement the provisions of the bill (net of savings) is \$13.8 million All Funds (\$10.9 million General Revenue) for fiscal year 2008, \$22.4 million All Funds (\$18.2 million General Revenue) for fiscal year 2009, \$23.4 million All Funds (\$19.1 million General Revenue) for fiscal year 2010, \$24.6 million All Funds (\$20.1 million General Revenue) for fiscal year 2011, and \$26.3 million All Funds (\$21.3 million General Revenue) for fiscal year 2012.

**Technology**

DFPS estimates the requirements for additional regulation of day care centers would have a technology impact of \$137,864 in fiscal year 2008 (IT setup and one-time programming) and \$15,608 in subsequent years (network support). DPS estimates the requirements would have a technology impact of \$342,747 in fiscal year 2008 and fiscal year 2012 (database expansion) and \$149 in fiscal years 2009-11 (enterprise agreement).

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 308 State Auditor's Office, 405 Department of Public Safety, 473 Public Utility Commission of Texas, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 537 State Health Services, Department of, 538 Assistive and Rehabilitative Services, Department of

**LBB Staff:** JOB, CL, KJG, NM, PP