

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 23, 2009

TO: Honorable Patrick M. Rose, Chair, House Committee on Human Services

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

IN RE: **HB2860** by Dukes (Relating to financial assistance programs in connection with certain children in the conservatorship of the Department of Family and Protective Services.),  
**Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2860, Committee Report 1st House, Substituted: a negative impact of (\$4,230,705) through the biennium ending August 31, 2011.

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
2010	(\$2,250,638)
2011	(\$1,980,067)
2012	(\$5,489,346)
2013	(\$6,805,649)
2014	(\$9,368,074)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Probable Savings from General Revenue Fund 1	Probable (Cost) from Federal Funds 555	Probable Savings from Federal Funds 555
2010	(\$2,285,318)	\$34,680	(\$357,584)	\$169,320
2011	(\$5,607,040)	\$3,626,973	(\$4,205,157)	\$5,614,512
2012	(\$8,387,699)	\$2,898,353	(\$6,015,668)	\$4,526,896
2013	(\$10,748,685)	\$3,943,036	(\$7,510,514)	\$6,095,074
2014	(\$13,035,517)	\$3,667,443	(\$8,925,760)	\$5,681,380

Fiscal Year	Change in Number of State Employees from FY 2009
2010	17.0
2011	17.0
2012	17.0
2013	17.0
2014	17.0

Fiscal Analysis

The purpose of the bill is to implement certain optional provisions in the federal Fostering

Connections and Increasing Adoptions Act of 2008. These provisions would allow the state to use Title IV-E federal funds to (a) extend eligibility for adoption assistance benefits to children who are 18, 19, or 20 years old (b) extend eligibility for foster care benefits to children who are 18, 19, 20, or 21 years old (c) provide kinship guardianship assistance benefits for children who are 0 to 17 years old and (d) extend eligibility for kinship guardianship assistance benefits to children who are age 18, 19, or 20 years old. The federal law makes children receiving any of the optional benefits categorically eligible for Medicaid.

The bill does not explicitly extend the federal benefits to children who are ineligible for Title IV-E federal financial assistance; however, it is assumed that the intent of the bill is to have the Executive Commissioner of Health and Human Services adopt rules providing equivalent benefits for these children using 100 percent General Revenue Funds. Approximately 27 percent of children receiving foster care benefits, and 22 percent of children receiving adoption assistance benefits, are not eligible to receive Title IV-E federal financial assistance in Texas.

SECTION 1 would amend Section 162.3041, Family Code, to extend adoption assistance benefits to age 21 for a child who is covered by an adoption assistance agreement that was first entered into after the child's 16th birthday, and who is (a) regularly attending high school or enrolled in a program leading to a high school diploma or its equivalent (b) regularly attending an institution of higher education or postsecondary vocational or technical program (c) participating in a program or activity that promotes or removes barriers to employment (d) employed for at least 80 hours a month or (e) incapable of doing any of these activities due to a documented medical condition.

SECTION 2 would amend Section 264.101, Family Code, to extend foster care benefits to age 22 for a child who is regularly attending high school or enrolled in a program leading to a high school diploma or its equivalent, and to age 21 for a child who meets other eligibility criteria such as participating in a program or activity that promotes or removes barriers to employment.

SECTION 5 would amend Chapter 264, Family Code, to establish a new permanency care assistance program to provide kinship guardianship assistance benefits for eligible children. It would require DFPS to enter into an agreement with a kinship provider who is eligible to receive permanency care assistance benefits. The agreement must be in writing and provide for the payment of monthly benefits to the kinship provider. The agreement may provide for reimbursement of up to \$2,000 in non-recurring expenses incurred by the kinship provider while obtaining permanent managing conservatorship of the child. SECTION 5 would also extend eligibility for permanency care assistance benefits until the child's 21st birthday under circumstances similar to those noted above for the extension of adoption subsidy payments. It would require the Executive Commissioner to adopt rules establishing eligibility requirements for the program and ensuring that the program conforms to requirements for federal assistance under the Fostering Connections and Increasing Adoptions Act of 2008. It would also require the Executive Commissioner to set the maximum monthly permanency care assistance payment in an amount that does not exceed the monthly foster care maintenance payment that would have been paid on behalf of the child. SECTION 6 would require the Executive Commissioner to adopt rules for the permanency care assistance program by April 1, 2010.

SECTION 8 would make the provisions relating to extended adoption assistance, foster care, and permanency care assistance benefits effective on October 1, 2010. Other provisions of the bill would take effect on September 1, 2009.

## **Methodology**

**Extension of Adoption Assistance Benefits.** State law currently provides adoption assistance benefits for children with special needs who are 0 to 17 years old; extends the benefits to age 19 if the child is receiving financial support from parents and is enrolled in a high school, vocational or technical program; and extends the benefits to age 21 if the child is receiving financial support from parents, has a disability, and an application has been filed for Supplemental Security Income. DFPS estimates that 50 children would be eligible for extended adoption assistance benefits starting on October 1, 2010, and 54 additional children would become eligible for extended adoption assistance benefits each following year. The number of eligible children would increase in fiscal years 2012 and 2013 due to the addition of new children, and then level off in fiscal year 2014 as children begin to age out of the

system. It is assumed that the average monthly payment would be \$428.30 and 79.2 percent of the children would be eligible for Title IV-E federal financial assistance. It is also assumed that General Revenue Funds freed-up by the use of federal matching funds for payments that would have been made under current law would be negligible. The total cost for extended adoption assistance benefits would be \$0.3 million in All Funds and \$0.1 million in General Revenue Funds in fiscal year 2011, rising to \$1.0 million in All Funds and \$0.5 million in General Revenue Funds in fiscal year 2014. The cost of providing Medicaid coverage for these children would be \$0.2 million in All Funds and \$0.1 million in General Revenue Funds in fiscal year 2011, rising to \$0.8 million in All Funds and \$0.3 million in General Revenue Funds in fiscal year 2014.

**Extension of Foster Care Benefits.** State law currently provides foster care benefits for children who are 0 to 17 years old; extends the benefits until the child graduates from high school, or ceases to be enrolled in a secondary school program leading toward a high school diploma; and extends the benefits to age 21 if the child is regularly attending an institution of higher education or a vocational or technical program. DFPS reports that extended foster care benefits were paid on behalf of 461 children who were 18, 19, or 20 years old in November 2008. The agency assumes there would be 3 percent annual growth in this population which is already eligible for extended foster care benefits. It is assumed that the average monthly number of children living in extended foster care arrangements would increase from 489 in fiscal year 2011 to 534 in fiscal year 2014. Because some of these children would be eligible for Title IV-E federal financial assistance under the bill, there would be a savings of \$0.9 million in General Revenue Funds and \$2.4 million in TANF Federal Funds in fiscal year 2011, which would be offset by an equal amount of Title IV-E federal matching funds. The savings would rise to \$1.0 million in General Revenue Funds and \$2.7 million in TANF Federal Funds in fiscal year 2014 with an equivalent offset in federal matching funds.

Because the bill would extend foster care benefits to new groups of children (such as those working at least 80 hours a month), it is assumed that there would be a 10 percent increase in the number of children willing to accept extended foster care benefits in fiscal year 2011, with 3 percent annual growth in subsequent years. The average monthly number of children would rise from 49 in fiscal year 2011 to 54 in fiscal year 2014; the average monthly payment would range from \$1,043 to \$5,217 (only two of the children would qualify for the highest monthly payment each year); and 73 percent of the children would be eligible for Title IV-E federal financial assistance. The total cost of extended foster care benefits for this group would be \$0.9 million in All Funds and \$0.6 million in General Revenue Funds in fiscal year 2011, rising to \$1.0 million in All Funds and \$0.7 million in General Revenue Funds in fiscal year 2014. It is assumed that any cost associated with providing Medicaid coverage for these children would be negligible because Medicaid coverage is already provided to former foster youth up to age 21.

**New Permanency Care Assistance Program.** DFPS estimates that permanency care assistance benefits would be provided on behalf of 612 children initially placed in the Relative and Other Designated Caregiver Program each year, including 545 children living with a relative and 67 children living with an unrelated adult with whom they have a significant relationship. The agency also estimates that permanency care assistance benefits would be provided on behalf of 362 children currently living in paid foster care. It is assumed that relatives willing to care for these children on a permanent basis would become licensed or verified foster care providers, receive monthly foster care payments for the children in their care for six months, and then receive monthly permanency care assistance benefits until the children reach their 18th birthday (if not receiving extended benefits) or their 21st birthday (if receiving extended benefits). Costs and savings would begin to accrue in fiscal year 2010. These include paying a one-time \$1,000 family integration stipend, and not paying a \$500 annual reimbursement of expenses for each child. There would be additional costs and savings associated with (a) avoiding foster care for three months while the caregiver becomes a licensed or verified foster care provider (b) paying foster care benefits for six months to meet a federal requirement (c) paying up to \$2,000 for non-recurring expenses associated with obtaining permanent guardianship of a child (d) paying permanency care assistance benefits ranging from \$400 to \$545 per month and (e) avoiding foster care costs during the initial stages of permanency care assistance. The total cost would be \$0.4 million in All Funds and General Revenue Funds in fiscal year 2010 and \$7.0 million in All Funds and \$4.5 million in General Revenue Funds in fiscal year 2011, rising to \$17.7 million in All Funds and \$11.2 million in General Revenue Funds in fiscal year 2014. The total savings for the program would be \$0.2 million in All Funds in fiscal year 2010, and \$9.2 million in All Funds and \$3.7 million in

General Revenue Funds in fiscal year 2012, rising to \$9.3 million in All Funds and \$3.7 million in General Revenue Funds in fiscal year 2014. It is assumed that children receiving permanency care assistance benefits would already be eligible for Medicaid coverage under current law.

DFPS indicates it would need 1 FTE (Program Specialist VI) to coordinate and develop rules and policy for the permanency care assistance program, and 12 FTEs (Program Specialist IVs) to negotiate permanency assistance agreements starting in June 2010. The total cost would be \$0.5 million in All Funds and \$0.4 million in General Revenue Funds in fiscal year 2010 and \$1.1 million in All Funds and \$0.9 million in General Revenue Funds in subsequent years.

**Technology**

DFPS indicates it would need to make significant changes to the IMPACT automation system to allow the payment of monthly permanency care assistance benefits. The estimated cost for these changes includes a one-time cost of \$1.4 million in fiscal year 2010, and \$0.3 million in ongoing costs associated with adding 4.0 FTE positions (2 Systems Analysts IV and 2 Systems Analysts III) in fiscal year 2010. The total cost would be \$1.7 million in All Funds and \$1.5 million in General Revenue Funds in fiscal year 2010, and \$0.3 million in All Funds and General Revenue Funds in subsequent years. These costs are included above.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 539 Aging and Disability Services, Department of

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