

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 30, 2009

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

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

IN RE: SB67 by Nelson (Relating to the imposition of background and criminal history check requirements for operators and employees of certain facilities and agencies serving children, the elderly, or persons who are disabled; providing criminal penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB67, Committee Report 1st House, Substituted: a negative impact of (\$1,689,531) 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 | \$0 |
| 2011 | (\$1,689,531) |
| 2012 | \$19,037,818 |
| 2013 | \$19,047,045 |
| 2014 | \$19,047,055 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1 | Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666 | Probable (Cost) from <i>General Revenue Fund</i> 1 | Probable (Cost) from <i>GR Match For Medicaid</i> 758 |
|-------------|--|---|--|---|
| 2010 | \$0 | \$0 | \$0 | \$0 |
| 2011 | \$0 | \$0 | (\$1,689,118) | (\$413) |
| 2012 | \$19,526,713 | \$2,695,623 | (\$488,657) | (\$238) |
| 2013 | \$19,526,713 | \$2,695,623 | (\$479,472) | (\$196) |
| 2014 | \$19,526,723 | \$2,695,623 | (\$479,472) | (\$196) |

| Fiscal Year | Probable (Cost) from <i>Federal Funds</i> 555 | Probable (Cost) from <i>State Highway Fund</i> 6 | Probable (Cost) from <i>Appropriated Receipts</i> 666 | Change in Number of State Employees from FY 2009 |
|-------------|---|--|---|--|
| 2010 | \$0 | \$0 | \$0 | 0.0 |
| 2011 | (\$4,667) | \$0 | \$0 | 25.8 |
| 2012 | (\$3,748) | (\$10,414,230) | (\$2,695,623) | 73.7 |
| 2013 | (\$2,279) | (\$10,414,230) | (\$2,695,623) | 73.7 |
| 2014 | (\$2,279) | (\$10,414,230) | (\$2,695,623) | 73.7 |

Fiscal Analysis

Section 1 of the bill would amend Section 42.056 of the Human Resources Code by expanding the population for which background and criminal history checks and fingerprint checks must be performed. Requests for fingerprint checks would be submitted by directors, owners, and operators of child-care facilities and child-placing agencies. Requests for checks would be submitted for current and prospective employees of these facilities and agencies, prospective foster parents providing care through child-placing agencies, prospective adoptive parents seeking to adopt through those agencies, and those older than 14 years of age who will have unsupervised access to children in the prospective adoptive home.

Section 2 of the bill would amend Section 43.004 of the Human Resources Code to require a fingerprint check for individuals applying for either a child-care administrator's license or a child-placing agency administrator's license.

Section 3 of the bill would amend Chapter 161 of the Human Resources Code by adding a new section that would require the submission of a set of fingerprints for all employees and prospective employees by a director, owner or operator of a facility or agency serving patients who are elderly and/or disabled and licensed by the Department of Aging and Disability Services (DADS). The bill authorizes DADS to charge a fee equal to administrative costs.

Section 6 of the bill would specify that the provisions relating to background and criminal history checks apply only to those checks performed on or after September 1, 2011, and that adoption of rules must occur no later than September 1, 2010. For all other provisions of the bill, the effective date would be September 1, 2009.

Methodology

Calculations assume that implementation of the bill would require that 570,123 additional background and criminal history checks that would include FBI fingerprint-based checks, be performed in each fiscal year from 2012 through 2014. This analysis assumes that, since DFPS already processes fingerprint check results for certain individuals and systems and procedures are already in place, DADS would contract with DFPS for their fingerprint check processing requirements.

The bill would result in a total increase in revenue of \$66,667,008 for the five years covered by this cost estimate from fees collected for the fingerprint checks. Costs for the Department of Public Safety (DPS) listed below are assumed to be offset by this revenue increase starting in fiscal year 2012. However, a portion of this revenue (approximately \$29.5 million for the five year period) is returned to the FBI for professional services as required by federal statute.

Costs for DFPS are estimated to be \$512,199 in All Funds for fiscal year 2011, \$963,894 for fiscal year 2012, and \$960,660 for fiscal years 2013 and 2014. Full-time-equivalent (FTE) needs are estimated at 7.8 in 2011 and 15.6 in each fiscal year thereafter. These costs and FTEs include the additional fingerprint check processing for DADS. Although the provisions of the bill do not impact fiscal year 2011 directly, the agency indicates a need to begin hiring and training staff to handle the influx expected at the start of fiscal year 2012.

Costs for DPS are estimated to be \$10,414,230 in All Funds in fiscal years 2012-2014, including approximately \$9.8 million per year returned to the FBI. These costs include 22.0 FTEs in fiscal years 2012-2014.

Costs for DADS are estimated to be \$1,181,998 in All Funds in fiscal year 2011, \$2,224,370 in fiscal year 2012, and \$2,216,907 in fiscal years 2013-2014 for 18 FTEs in fiscal year 2011 and 36.1 FTEs in fiscal years 2012-2014, for the additional workload associated with the fingerprint check results.

Technology

There would be an estimated technology impact at DPS of \$111,482 in fiscal years 2012-2014 for computers, printers, and enterprise agreements. These amounts are included in the costs above.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 530 Family and Protective Services, Department of,
539 Aging and Disability Services, Department of

LBB Staff: JOB, CL, PP, VJC, MB