

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

Revision 1

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TO: Honorable Richard Pena Raymond, Chair, House Committee on Human Services

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

IN RE: HB253 by Hilderbran (Relating to the protection of children by enforcing compulsory public school attendance requirements, ensuring reports of abuse or neglect, protecting children from abuse and neglect, ensuring that births are reported, and prosecuting the offense of bigamy; providing criminal penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 25.094(e) of the Education Code to make failure to attend school a Class B misdemeanor, which would transfer such cases to juvenile courts and juvenile probation departments. Juvenile probation boards receive funding from the Juvenile Probation Commission, which represents an average of 28.8 percent of funds spent on basic probation services for youth.

The bill would amend the Family Code, the Health and Safety Code, and the Education Code relating to the protection of children by enforcing compulsory public school attendance requirements, ensuring reports of abuse or neglect, protecting children from abuse and neglect, and ensuring that births are reported and to the prosecution of the offense of bigamy, providing criminal penalties.

The bill would increase the criminal penalties for the offense of failure to report the abuse or neglect of a child. The bill would also require a court to make an additional finding before issuing a temporary restraining order in a suit by the State to remove an alleged perpetrator from the home. The bill would add bigamy with a minor to the list of offenses and limitations periods provided in the Code of Criminal Procedure, and would enhance the crime of bigamy if it is shown that the person the defendant purports to marry or lives with under the appearance of being married is 17 years of age or younger.

According to the Department of Family and Protective Services (DFPS), the bill may have the effect of increasing the rate of reporting by professionals. DFPS indicates provisions of the bill are consistent with DFPS' experience that there are some cases of child abuse or neglect in which the circumstances of imminent danger are so emergent, and the family is so unwilling or unable to protect the child, that there are no reasonable efforts that can be made to prevent the removal without jeopardizing the child's health and safety. In these circumstances, the bill would allow the court to determine that DFPS met requirements related to making reasonable efforts to prevent removal.

To the extent the bill would amend court procedures relating to child protection cases, no increase in judicial workloads, or significant fiscal implication to DFPS is anticipated. The bill would take effect September 1, 2011.

Local Government Impact

Changing the juvenile offense of failure to attend school from a misdemeanor C to a misdemeanor B would have the effect of increasing the amount of referrals to juvenile probation departments, and by extension increasing the amount of youth who receive basic supervision services. As a class C misdemeanor presently, the vast majority of cases of failure to attend school are handled by justice courts and municipal courts. Class B misdemeanors are referred to juvenile courts. In fiscal year

2010 a total of 113,070 cases of failure to attend school were filed and handled by justice courts and municipal courts. In contrast, juvenile probation departments received 1,901 referrals for truancy/failure to attend school in fiscal year 2010 out of a total of 89,419 referrals to juvenile probation departments. If all cases of failure to attend school were filed as referrals to juvenile probation departments, it would more than double the total number of referrals handled by the juvenile probation department system. A county's portion of costs per youth on supervision is estimated to be approximately \$12.29 per youth per day for community supervision, and approximately \$6.15 per youth per day for deferred prosecution. The average days on supervision for the 1,901 cases that were filed with juvenile probation departments in fiscal year 2010 was 135 days for deferred prosecution and 206 days for community supervision. Costs to counties would be significant overall, but would vary depending on the number of truancy cases in a particular county.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of, 696 Department of Criminal Justice, 665 Juvenile Probation Commission

LBB Staff: JOB, CL, TB, ESi, NM, GG, MWU, KKR, TP