

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

Revision 1

May 4, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB4119** by Hughes (Relating to investigations of and procedures for reports of child abuse and neglect.), **Committee Report 1st House, Substituted**

The fiscal implications of the bill cannot be determined.

The bill would amend the Family Code to add procedural protections for individuals reported to have committed abuse or neglect.

The amendment to Section 261.002 of the bill would require the Department of Family and Protective Services (DFPS) to provide to individuals reported to have committed abuse or neglect written notice that information regarding the case will be added to the central registry, a copy of the record, and an opportunity to appeal the department's findings prior to adding a record of a reported case of child abuse or neglect to the central registry. The department findings may be appealed through the department's administrative review of investigation findings (ARIF) process and/or by appealing to a district court in which the individual resides. The district court can sustain the agency's finding of abuse or neglect if there is clear and convincing evidence. The individual would be entitled to a jury trial. DFPS may not include the record in the central registry if the department's findings of abuse or neglect are not sustained by the district court's findings of abuse or neglect.

The amendment to Section 261.309, Family Code, would provide that a persons under investigation for allegedly abusing or neglecting the person's child would not be subject to, and would not be required to submit to, the jurisdiction of SOAH in any proceedings in connection to the alleged abuse or neglect.

Under current law, a State Office of Administrative Hearing (SOAH) is authorized only when DFPS proposes to release information contained in the central registry to a third party. The requirement to allow individuals to appeal prior to placing a person's name on the central registry could cause a significant increase in the number of cases, which could result in a cost for DFPS and the Office of the Attorney General. However, the number of individuals that will appeal requiring a jury trial is uncertain. The number of cases that will settle prior to trial is also uncertain. Alternatively, SOAH indicates that the amendments to Sections 261.002 and 261.309, Family Code, remove nearly all work that SOAH currently performs in DFPS contested cases. The Office of Court Administration indicates the provisions of the bill can be implemented within existing resources.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 360 State Office of Administrative Hearings, 530 Family and Protective Services, Department of

LBB Staff: UP, SJ, NB, WP, ER