

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 20, 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.), **As Introduced**

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. Specifically, 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, 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. DFPS may not include the record in the central registry if the department's findings of abuse or neglect are not sustained by an administrative law judge. 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 provide a SOAH hearing before a person's name is placed on the central registry is estimated to cause a significant increase in the number of cases, depending on the interpretation of the amendment to Section 261.309, Family Code.

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 allegedly abuse or neglect. SOAH indicated that it is not clear whether this amendment is to remove SOAH's jurisdiction from all cases involving persons alleged to have abused or neglected their own children or whether the amendment is intended to prevent any SOAH proceedings while such persons are under investigations by DFPS. If this provision is interpreted to remove SOAH jurisdiction from all cases in which a parent is being investigated for abuse or neglect of a child, it would result in a significant reduction in the number of cases. If it is interpreted to merely postpone a SOAH hearing until all investigations are completed, it would not reduce the number of cases. Additionally, it appears that cases can remain unresolved if the individual does not choose a SOAH hearing because the record can't be added to the central registry if the department's findings aren't sustained by an administrative law judge. Further, the bill does not specify what process, if any, would replace a SOAH hearing. Thus, the effect of this proposed amendment is uncertain.

Because the interpretation of the proposed amendment to Section 261.309, Family Code, is not clear, the net fiscal impact of the provisions of the bill is uncertain.

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, 360 State Office of Administrative Hearings, 530 Family and Protective Services, Department of

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