LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 23, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB4** by Burkett (Relating to monetary assistance provided by the Department of Family and Protective Services to certain relative or designated caregivers; creating a criminal offense; creating a civil penalty.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4, As Passed 2nd House: a negative impact of ($37,800,806) through the biennium ending August 31, 2019. The agency is not required to implement the legislation in the absence of an appropriation.

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
2018	($19,017,000)
2019	($18,783,806)
2020	($19,799,138)
2021	($20,652,762)
2022	($21,547,768)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *GR Match For Title IV-E FMAP* 8008	Probable Savings/(Cost) from *Federal Funds* 555
2018	($20,360,032)	$1,343,032	$2,241,219
2019	($21,270,777)	$2,486,971	$4,456,185
2020	($22,283,664)	$2,484,526	$4,458,630
2021	($23,137,288)	$2,484,526	$4,458,630
2022	($24,032,294)	$2,484,526	$4,458,630

Fiscal Analysis

The bill would amend the payment structure for caregiver assistance payments entered into by the Department of Family and Protective Services (DFPS) with relative and other designated caregivers. Instead of providing a uniform annual payment, the bill would require a payment of up to 50 percent of the daily basic foster care rate for caregivers with income at or below 300 percent of the federal poverty limit (FPL). DFPS may not provide monetary assistance to an eligible caregiver after the first anniversary of the date of receiving monetary assistance under this section. DPFS may extend monetary assistance payment for six months at its discretion and for good cause. Any caregiver who entered into an agreement on or after June 1, 2017 but before the effective date of the bill and received monetary assistance would not begin receiving additional payments until the previous payment had been offset. A caregiver who has a family income greater than 300 percent FPL would not be eligible for monetary assistance under the provisions of the bill. The bill would require DFPS to implement a process for verifying the family income of a relative or other designated caregiver for determining eligibility. The bill would allow a caregiver who enters into a caregiver assistance agreement with DFPS, obtains permanent managing conservatorship of a child, and meets all other eligibility requirements, to receive an annual reimbursement for expenses not to exceed $500 until the earlier of the third anniversary of being awarded permanent managing conservatorship or the child's 18th birthday.

The bill creates a criminal offense and civil penalty for persons knowingly entering into a fraudulent caregiver assistance agreement. The punishment for this offense would range from a misdemeanor to a felony with punishment increasing in severity based upon the number of days the individual received monetary assistance under the agreement. The bill would require the attorney general to bring an action to recover a civil penalty authorized by the bill. The commissioner of DFPS would be authorized to adopt rules necessary to determine if a violation had occurred.

The bill would require DFPS to publish an annual report regarding the relative and other designated caregiver placement program.

The bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing the provisions of the bill; otherwise, the bill would not take effect.

Methodology

The actual number of children who might be diverted from paid foster care and the portion of recipients receiving extended payments is not known. The estimated cost of this legislation is based on the assumptions outlined below, but costs could be higher or lower depending on actual placements from foster care and duration of time spent in the relative and other caregiver monetary assistance program.

Assuming the Eighty-fifth Legislature appropriates funding for purposes of implementing the provisions of the bill, the estimated cost would be based on the following assumptions. According to DFPS, current recipients of relative caregiver monetary assistance payments would be eligible for the new payment structure. Based on projected recipients of initial integration payments under the current structure, and an assumed payment duration of twelve months, it is assumed that 8,032 average monthly caregivers in fiscal year 2018 will receive a daily payment of $11.55 (50 percent of the current daily basic foster care rate) at a cost of $33.9 million in General Revenue Funds increasing each year to 8,993 average monthly caregivers and a cost of $37.9 million in General Revenue Funds by fiscal year 2022. It is assumed allowing certain caregivers to continue to receive the annual $500 reimbursement payment after obtaining permanent managing conservatorship will result in 3,725 payments in fiscal year 2018 and an estimated cost of $1.9 million in General Revenue Funds, increasing to 3,962 payments by fiscal year 2022 at an estimated cost of $2.0 million in General Revenue Funds. After accounting for savings from no longer making the current annual payments to these caregivers and the required offset for agreements entered into from June to August of 2017, the estimated cost under the new structure of payments to families with income up to 300 percent FPL is $21.9 million in General Revenue Funds in fiscal year 2018 increasing to $26.9 million in General Revenue Funds by fiscal year 2022. It is unknown what portion of recipients might qualify for extended payments and choose to continue receiving them, but that provision of the bill is likely to result in increased costs not reflected here.

It is assumed the new payment structure will increase placements of children with relatives who will receive monetary assistance, reducing paid foster care placements. It is assumed 10 percent of foster care children at the basic level of care will be diverted to the relative caregiver program resulting in an estimated increase of 504 average monthly recipients of the $11.55 daily payment in fiscal year 2018 and an estimated cost of $2.1 million in General Revenue Funds, increasing to 945 average monthly recipients and an estimated cost of $4.0 million in General Revenue Funds by fiscal year 2022. The estimated cost of providing annual $500 reimbursement payment after obtaining permanent managing conservatorship to these additional caregivers will result in 156 additional payments beginning in fiscal year 2019 at an estimated cost of $0.1 million in General Revenue Funds, increasing to 440 payments by fiscal year 2022 at an estimated cost of $0.2 million in General Revenue Funds. The estimated savings to paid foster care for these children (assuming the projected weighted average daily rate across placement types) is $7.5 in All Funds, including $5.1 million in General Revenue Funds, in fiscal year 2018 increasing to $14.0 million in All Funds, including $9.6 million in General Revenue Funds in each of fiscal years 2018 to 2022. The net savings for children diverted from paid foster care to a relative placement is estimated to be $5.4 million in All Funds, including $3.0 million in General Revenue Funds, in fiscal year 2018 increasing to $9.8 to $10.0 million in All Funds, including to $5.4 to $5.5 million in General Revenue Funds, in each of fiscal years 2018 to 2022. The net savings could be higher or lower depending on the actual number of placements diverted from paid foster care.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies. This analysis assumes no increase in fraud cases and no significant fiscal impact to HHSC for the Office of Inspector General. It is assumed there would be no significant fiscal impact to DFPS from reporting requirements or provisions authorizing the commissioner to adopt rules.

According to the Office of the Attorney General, Office of Court Administration, and Texas Judicial Council, any additional work resulting from the passage of this bill could be absorbed within current resources.

DFPS estimates a one-time cost of $250,000 in All Funds, including $125,000 in General Revenue Funds, in fiscal year 2018 for modifications to the IMPACT system to allow payments to be processed under the new structure. This analysis assumes IMPACT upgrades are completed in a timely manner. The agency may need to employ temporary employees for manual payment processing if modifications are delayed. This analysis does not reflect any cost for those temporary employees.

The net estimated cost of the bill is $16.8 million in All Funds, including a cost of $19.0 million in General Revenue Funds and a savings of $2.2 million in Federal Funds, in fiscal year 2018 with the cost expected to increase each year due to caseload growth, reaching $17.1 million in All Funds, including a cost of $21.5 million in General Revenue Funds and a savings of $4.5 million in Federal Funds, by fiscal year 2022.

Technology

There would be a one-time cost of $250,000 in All Funds, including $125,000 in General Revenue Funds for modifications to the IMPACT system.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than $4,000, confinement in jail for a term not to exceed one year, or both. A Class B misdemeanor is punishable by a fine of not more than $2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class C misdemeanor is punishable by a fine of not more than $500. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact. In addition to the fine, punishment can include up to 180 days of deferred disposition.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 696 Department of Criminal Justice

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