

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB7** by Wu (Relating to child protective services suits, motions, and services by the Department of Family and Protective Services.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Passed 2nd House: a negative impact of (\$4,401,428) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

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

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$1,805,616)
2019	(\$2,595,812)
2020	(\$2,595,812)
2021	(\$2,595,812)
2022	(\$2,595,812)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from GR Match For Medicaid 758	Probable Savings/(Cost) from Federal Funds 555	Change in Number of State Employees from FY 2017
2018	(\$1,793,887)	(\$11,729)	(\$117,291)	10.2
2019	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2
2020	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2
2021	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2
2022	(\$1,820,892)	(\$774,920)	(\$2,863,689)	10.2

Fiscal Analysis

The bill would amend the Family Code, Government Code, Health and Safety Code, Human Resources Code, and Penal Code relating to child protective services suits, motions, and services by the Department of Family and Protective Services (DFPS).

The bill would require DFPS, upon request, to provide certain information to a parent's attorney or child's attorney ad litem before the full adversary hearing.

The bill would amend a provision in the Health and Safety Code to limit DFPS's ability to admit a minor to an inpatient mental health facility. With this bill, DFPS would be required to go through an application for court-ordered mental health services, emergency detention, or an order for protective custody or have a physician state the minor is a person with a mental illness or serious emotional disorder and one who presents a risk of serious harm to self or others if not immediately restrained or hospitalized. The bill would require DFPS to periodically review the need for continued inpatient treatment of the minor and, if inpatient treatment is no longer needed, DFPS would be required to place the child in the least restrictive environment, as appropriate.

The bill would amend a provision in the Penal Code to apply violations of certain court orders (created elsewhere in the bill) to child abuse or neglect cases, creating an offense.

The bill would modify the existing Child Care Licensing licensure process to allow for additional license types for certain providers of child-care services. The bill would allow a child-placing agency to issue a provisional verification to a prospective agency foster home.

The bill would require the Executive Commissioner of the Health and Human Services Commission (HHSC) to adopt minimum standards related to certain new license types for certain child-care providers. The bill would also require HHSC to develop and implement a procedure to require a foster home or foster group home to convert a current license to another residential child-care facility license under Chapter 42, Human Resources Code, and to require a child-placing agency to convert certain agency foster group homes to an agency foster home or to close the agency foster group home.

Certain provisions of the bill would only take effect if the Eighty-fifth Legislature appropriates money specifically for the purpose of implementing those provisions: the provisions affected by this limitation include Subchapter F, Chapter 261, Family Code (Protective Order in Certain Cases of Abuse or Neglect), Section 262.206, Family Code (Ex Parte Hearings Prohibited), Section 572.001, Health and Safety Code (admission to inpatient mental health facility), Section 25.07, Penal Code (violation of certain orders relating to child abuse or neglect), and Section 42.042, Human Resources Code (minimum standards related to continuum-of-care operations, cottage

home operations, and specialized child-care homes). This estimate does not identify costs with all of those provisions.

Except as otherwise provided, the bill would take effect on September 1, 2017. The bill stipulates how and when the provisions of the bill are to be applied and lists under which circumstances former law is continued in effect.

Methodology

The bill is estimated to result in a cost of \$1,172,907, in All Funds, in fiscal year 2018, and a cost of \$1,088,379, in All Funds, in fiscal year 2019.

According to DFPS and HHSC, all of the duties and responsibilities associated with implementing the provisions of the bill related to coordinating with TJJJ for services to multi-system youth, developing recommendations related to jury selection methods, permitting guardians ad litem to interview educators and child welfare service providers, filing protective orders jointly with a parent, relative or caregiver of the child, postponing the adversary hearing to allow a parent to work with an attorney, and requiring MCOs in STAR Health ensure continuity of care for a child whose substitute care placement has changed could be accomplished by utilizing existing agency resources.

According to DFPS, the requirement to provide certain information that will be introduced as evidence to the attorney or attorneys representing a parent or a child prior to a full adversary hearing, three additional investigative caseworkers would be necessary to attach evidence to petitions. That would result in a cost of \$323,552, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$298,568, in All Funds, in each fiscal year thereafter. DFPS estimates each removal has an average of 10 photos at \$0.39 cents per photo, resulting in a cost of \$74,408 in All Funds per fiscal year. DFPS estimates each removal has one audio recording at a cost of \$.20 per recording, resulting in a cost of \$3,816 in All Funds per fiscal year.

DFPS assumes about 10 percent of total inpatient mental health admissions, approximately 450 per year. According to the agency, this would require an additional 16 hours of caseworker time to obtain the needed certifications, participate in court hearings, and transport the minor to the additional appointments for examination. To accomplish this requirement, the agency reports an additional 4.5 conservatorship (CVS) workers plus ratio driven staff will be needed. This analysis assumes that an additional 7.15 FTE would be needed to implement this provision. This would result in a cost of approximately \$771,131, in All Funds, in fiscal year 2018 for salary, benefits, and related expenses and \$711,587, in All Funds, in each fiscal year thereafter.

The Office of Court Administration (OCA) does not anticipate a significant fiscal impact to the state court system related to the creation of a new criminal offense. OCA also does not anticipate a significant increase in the caseload or duties of the courts.

This analysis assumes that the addition of licensing types will require significant changes to the Child Care Licensing Automated Support System (CLASS). DFPS is currently in the process of initiating several projects related to IMPACT Phase II, and this analysis assumes that enhancements to the current system within the larger set of IMPACT projects would cost an additional estimated \$750,000 in fiscal year 2018.

Based on the LBB's analysis of DFPS, the addition of new license types would not result in children moving into different rate levels.

Provisions of the bill related to provisional verification of foster homes would allow kinship caregivers who are going through the process of becoming verified foster parents to receive foster care payments at an earlier date. According to DFPS, the average kinship foster family takes three months to achieve full licensure. Under current law, no new Permanency Care Assistance agreements may be entered into after the close of fiscal year 2017. It is assumed that this will result in a 50 percent reduction in the number of families entering paid kinship care, as federal and state law requires that a home must be verified for a minimum of six consecutive months to be eligible for Permanency Care Assistance and many families undertake the verification process in order to receive Permanency Care Assistance.

This analysis assumes that provisional licensure will begin on September 1, 2018 to provide time to promulgate program rules. Based on fiscal year 2016 data, it is assumed that approximately 1,200 children would enter paid kinship care annually. The children would be eligible for an extra three months of payments, at an average monthly cost of \$1,214. Total costs would be \$1.6 million in General Revenue and \$4.4 million in All Funds in fiscal year 2019 and each year thereafter. This analysis assumes that IV-E eligibility and method of finance would remain constant.

In the event that the Permanency Care Assistance program is continued, DFPS assumes that any costs associated with provisional verification would be offset by a faster exit from the foster system.

Based on the LBB's analysis of the Health and Human Services Commission, costs related to the adoption of minimum standards and procedures related to the implementation of the new licensing types created by the bill are minimal and could be absorbed by utilizing existing agency resources.

Technology

This analysis assumes that the addition of licensing types will require significant changes to the Child Care Licensing Automated Support System (CLASS). DFPS is currently in the process of initiating several projects related to IMPACT Phase II, and this analysis assumes that enhancements to the current system within the larger set of IMPACT projects would cost an additional estimated \$750,000 in fiscal year 2018.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

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

LBB Staff: UP, KCA, JJ, DFR, JLi, JGA