

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

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 Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB7, As Engrossed: a negative impact of (\$36,939,594) through the biennium ending August 31, 2019.

In addition, there could be a fiscal impact to the state for provisions of the bill related to grants for family drug courts; however, due to the number of unknown variables, such as the number of potential recipients and the value of the grants, the amount cannot be determined.

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	(\$19,095,721)
2019	(\$17,843,873)
2020	(\$17,887,202)
2021	(\$17,926,602)
2022	(\$17,964,475)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>GR Match For Medicaid</i> 758	Probable Savings/(Cost) from <i>Federal Funds</i> 555	Change in Number of State Employees from FY 2017
2018	(\$18,883,546)	(\$212,175)	(\$2,121,747)	153.5
2019	(\$17,645,608)	(\$198,265)	(\$1,982,653)	153.5
2020	(\$17,688,455)	(\$198,747)	(\$1,987,467)	153.5
2021	(\$17,727,418)	(\$199,184)	(\$1,991,845)	153.5
2022	(\$17,764,870)	(\$199,605)	(\$1,996,053)	153.5

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 require DFPS to conduct an annual independent living skill assessment for children in the conservatorship of the state, beginning at 16 years of age, and allow DFPS to conduct the assessment for youth in permanent managing conservatorship, beginning at age 14, depending on funding. The bill would require DFPS to update the assessment annually. The bill would require DFPS to create a plan to standardize the Preparation for Adult Living Program curriculum and report the plan to the legislature no later than December 1, 2018.

The bill would create the Family Drug Court Fund as a dedicated account in the General Revenue fund, to be administered by HHSC. The fund would be comprised of appropriations of money to the fund by the Legislature, and gifts, grants, and other donations received for the fund. The bill would require that funds from the account only be used to pay counties to establish and administer a family drug court, if funds are available.

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 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.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

This 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 \$21,217,468, in All Funds, in fiscal year 2018, and a cost of \$19,826,526, 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 TJJD 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, requiring all necessary referrals to service providers for parents are done within five days of the adversary hearing, 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 \$336,673, in All Funds, in fiscal year 2018 for salary and benefits and \$314,769, 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.

According to DFPS, conducting the annual life skills assessment for youth age 16 or older and some youth age 14 or older can be accomplished within existing agency resources.

This analysis assumes that administrative costs related to the establishment and operation of a grant program for family drug courts can be absorbed within HHSC's existing resources. However, there could be an indeterminate fiscal impact to the state depending upon the number and value of grants.

DFPS assumes about 10 percent of total inpatient mental health admissions, approximately 450 per year, will use the probate court process and that about half of those children will be admitted to an inpatient mental health facility through the process. 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 (3 FTE) will be needed. According to DFPS, the agency would require an additional 2 FTEs to manage the increased use of child specific contracts. This analysis assumes that each additional FTE would cost approximately \$100,905 per fiscal year for salary, benefits, and other related expenses.

According to DFPS, the bill's requirement that a child be a risk of harm to self to be admitted to an inpatient facility eliminates admissions for children who may be a risk of harm to others but not themselves. DFPS reports these children may have underlying psychiatric or psychotic issues but cannot meet the criteria as set out in this bill. DFPS assumes that 80 percent of the children currently being admitted would meet the criteria as established in the bill.

The children that do not meet that criteria would be more difficult to place due to residential treatment centers and child placing agencies being less willing to accept placement of a child that may pose a risk of harming other children in the home or facility. This analysis assumes about 10 percent of the current admissions (plus half the minors that are unsuccessful in attempting admission through the probate process) will not meet the requirements as established by this bill and will instead experience seven days of child without placement (CWOP) and then be placed in a child specific contract. According to DFPS, this would affect approximately 650 children per fiscal year and result in a cost of approximately \$4,197,640 in All Funds in fiscal year 2018 and \$4,247,264 in All Funds in fiscal year 2019. According to DFPS, this will also require an additional 94 CVS workers plus ratio related staff (47 FTE). This analysis assumes that each additional FTE would cost approximately \$100,905 per fiscal year for salary, benefits, and other related expenses.

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.

Technology

No significant technology-related costs reported by DFPS.

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