

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**April 26, 2017**

**TO:** Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3297** by Burrows (Relating to certain suits affecting the parent-child relationship.), As Introduced

**Estimated Two-year Net Impact to General Revenue Related Funds for HB3297, As Introduced:** a negative impact of (\$37,091,585) 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.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$19,896,673)
2019	(\$17,194,912)
2020	(\$17,152,571)
2021	(\$17,092,527)
2022	(\$17,044,431)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> <b>1</b>	Probable (Cost) from <i>Federal Funds</i> <b>555</b>	Probable Savings from <i>General Revenue Fund</i> <b>1</b>	Probable Savings from <i>Federal Funds</i> <b>555</b>
2018	(\$25,614,170)	(\$2,793,461)	\$6,555,626	\$740,795
2019	(\$23,717,737)	(\$2,584,891)	\$7,360,954	\$949,143
2020	(\$23,717,737)	(\$2,584,891)	\$7,403,295	\$939,875
2021	(\$23,717,737)	(\$2,584,891)	\$7,463,339	\$936,341
2022	(\$23,717,737)	(\$2,584,891)	\$7,511,435	\$929,583

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2017</b>
2018	(\$838,129)	196.3
2019	(\$838,129)	196.3
2020	(\$838,129)	196.3
2021	(\$838,129)	196.3
2022	(\$838,129)	196.3

**Fiscal Analysis**

The bill would amend the Family Code and the Code of Criminal Procedure relating to certain suits affecting the parent-child relationship.

The bill would prohibit the court from ordering payment of child support by a parent while a termination of parental rights suit is pending.

The bill would require the Department of Family and Protective Services (DFPS), in filing a petition for the termination of the parent-child relationship, to determine whether any court has continuing, exclusive jurisdiction of a child named in the petition; and if so, to file the petition in that court.

The bill would increase the burden of proof required of DFPS when filing a petition to take possession of a child without prior notice in an emergency.

The bill would disallow certain related adversary hearings to be ex parte.

The bill would repeal certain statute related to the DFPS associate judge program for Child Protective Services cases and related to DFPS' ability to employ private attorneys as necessary.

The bill would take effect September 1, 2017.

**Methodology**

According to DFPS, the agency received \$838,129 in child support collections in fiscal year 2016 that were used to offset the cost of Foster Care. This analysis assumes that the discontinuation of the court-ordered child support payments would result in an equivalent loss of General Revenue beginning in fiscal year 2018; and in addition, the state would incur a corresponding cost to General Revenue in order to fully cover the cost of the Foster Care entitlement program.

According to DFPS, children involved in Child Protective Services (CPS) investigations are frequently not found in the same county in which the court of continuing jurisdiction is found. Based on the DFPS removal data from fiscal year 2016, the agency assumes that they would require one additional investigation caseworker for every 500 children removed from their home. Assuming the number of removals remains constant, the agency would require 38.2 additional CPS investigation caseworker full-time equivalent (FTE) positions, and 18.6 additional support staff FTEs beginning in fiscal year 2018.

In addition, DFPS estimates that the increased burden of proof required of DFPS when filing a petition for emergency removal would require an additional 8.5 hours of preparation work for each removal. Assuming the removal rate remain constant at the fiscal year 2016 rate, DFPS would

require an additional 106.4 investigations caseworkers, and 60.1 additional support staff FTEs beginning in fiscal year 2018.

The DFPS also assumes that the higher burden of proof required would result in 10 percent fewer children entering conservatorship of the state. Of the projected number of children no longer needing services, DFPS assumes that 43 percent would have entered an unverified Kinship Placement, and 57 percent would have entered Paid Foster Care. Based on the average length of placement of 13 months in Kinship Placements and 6 months in Paid Foster Care, related All Funds cost savings would total \$3.3 million in fiscal year 2018, \$4.3 million in fiscal years 2019 and 2020, and \$4.4 million in fiscal years 2021 and 2022.

In addition, DFPS estimates that the agency would require approximately 16.0 additional attorney FTEs across the regions to support hearings that will require a higher burden of proof for removals, including those hearings that were traditionally ex parte.

The analysis assumes that the 239.3 additional FTEs would cost an average of approximately \$108,750 per FTE per fiscal year for related benefits and expenses, and approximately \$9,000 per FTE in fiscal year 2018 for one-time set up costs.

According to the Office of Court Administration (OCA), the repeal of Family Code, Subchapter C, Chapter 201 would eliminate the need for the agency's child protection program. This would result in a savings to the General Revenue Fund of \$4,022,832 each year and result in a reduction of 43.0 FTEs for associate judge and court coordinator positions. Under current law, these positions are appointed by the regional presiding judges of the administrative judicial regions for the disposition of child protection court cases in those regions. Child protection cases have a disposition deadline of one year with the possibility of an extension of up to six months. In the event that a court is unable to dispose of a child protection case in that timeframe then the court loses jurisdiction over that case.

OCA estimates that elimination of the Child Protection Court program would result in the child protection cases currently disposed of through the agency's Child Protection Court program associate judges being returned to the district courts where the cases were originally filed. OCA estimates that the caseload which could no longer be disposed of by the associate judges in those courts due to the repeal of Family Code, Subchapter C, would be equivalent to the workload of 16 district courts. OCA analysis is based on a caseload estimate of 3,550 existing on the effective date of the bill, which is the number of child protection cases in fiscal year 2016. Based on this estimate, it is assumed that district judges would absorb a portion of the returned cases leaving the unknown remaining amount to either be addressed by county courts or to extend past a court's jurisdiction.

### **Technology**

The annual technology impact is approximately \$1,350 per FTE each fiscal year for related computer and data center services expenses.

### **Local Government Impact**

Based on information provided by OCA, this analysis assumes that there would be a significant, but indeterminate, cost to counties due to elimination of OCA's Child Protection Court Program. Cases previously overseen by the associate judges of this state program would be returned back to the district courts from which they originated. However; OCA estimates that the number of cases returned would exceed the caseload capacity of the current district courts and that additional

courts would be necessary to meet the remaining caseload. Counties could establish associate judge courts to dispose of this increased caseload; however, the cost to local governments to address the unknown remaining cases cannot be determined.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 530 Family and Protective Services, Department of

**LBB Staff:** UP, FR, EP, JLi, SD, MW, GDz