

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 1, 2019**

**TO:** Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE: HB2350** by Capriglione (Relating to prohibition of abortion; creating a civil penalty offense; providing for a civil cause of action.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2350, As Introduced: a negative impact of (\$227,182,605) through the biennium ending August 31, 2021.

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
2020	(\$66,148,057)
2021	(\$161,034,548)
2022	(\$172,635,678)
2023	(\$176,505,914)
2024	(\$181,295,356)

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

Fiscal Year	Probable Savings/(Cost) from <i>GR Match For Medicaid 758</i>	Probable Savings/(Cost) from <i>GR For ECI 8086</i>	Probable Savings/(Cost) from <i>Federal Funds 555</i>	Probable Savings/(Cost) from <i>GR Match For Title XXI 8010</i>
2020	(\$65,227,026)	(\$858,446)	(\$100,653,921)	(\$10,042)
2021	(\$156,593,799)	(\$3,912,984)	(\$254,724,500)	(\$216,646)
2022	(\$164,256,774)	(\$7,188,178)	(\$268,345,199)	(\$627,613)
2023	(\$164,891,562)	(\$9,969,197)	(\$269,975,862)	(\$835,689)
2024	(\$165,757,124)	(\$13,535,650)	(\$271,610,653)	(\$951,465)

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>
2020	(\$52,543)
2021	(\$311,119)
2022	(\$563,113)
2023	(\$809,466)
2024	(\$1,051,117)

## **Fiscal Analysis**

Contingent upon the issuance of a United States Supreme Court judgement overruling *Roe v. Wade* as modified by *Planned Parenthood v. Casey*, the issuance of any other United States Supreme Court decision, or adoption of an amendment to the United States Constitution that wholly or partly restores to the states the authority to prohibit abortion, existing state statutes related to legal abortion are repealed.

Within 30 days of such an action, performing or inducing an abortion, as defined by the bill, with or without a woman's consent, becomes a civil and criminal offense; an exception to the offenses is provided if the abortion was procured or attempted on medical advice for the purpose of preventing the death of the mother. A person who performs or induces an abortion would be subject to a civil penalty of \$500 for each violation. The attorney general, at the request of the commission or appropriate licensing agency may take action to recover a civil penalty and may recover attorney's fees and costs incurred in bringing the action. The revised statute would apply only to an offense committed on or after its effective date.

## **Methodology**

For this analysis, it is assumed that effective September 1, 2019 abortion, except to prevent the death of the mother, would become illegal in the state of Texas. It is assumed that the laws governing abortions in other states remain unchanged.

The rate of abortion per 1,000 women ages 18-44 ranged from 12.33 to 10.48 in calendar years 2013-2015 (the most recent years for which data is available). It is assumed that the calendar year 2015 rate of 10.48 would have continued in fiscal years 2020-2024.

Based on population projections for women of child-bearing age an estimated 54,194 abortions would have occurred in fiscal year 2020 and in subsequent fiscal years. It is assumed that 20 percent of women would have the means to obtain an abortion in another state; it is assumed that 1 percent of these pregnancies would result in an abortion obtained in Texas on medical advice for the purpose of preventing the death of the mother or would result in a miscarriage or fetal death. It is assumed that the other 79 percent of projected abortions would now result in a live birth, increasing the number of births in the state by 15,714 in fiscal year 2020; 42,815 in fiscal year 2021; 42,816 in fiscal year 2022; 42,797 in fiscal years 2023 and 2024. Many of the abortions that would have occurred in one fiscal year result in a birth in the following fiscal year due to the time in the gestational period when abortions occur.

The percentage of births paid by Medicaid was an estimated 53.0 percent in fiscal year 2016. It is assumed that the percentage of births paid by Medicaid would continue at the fiscal year 2016

level and that this percentage would hold for the increased births as well. It is assumed that women who are covered through the program will receive 10 months of services at an average cost per month of \$1,132.54. Increased Medicaid caseload is estimated to be 10,870 average monthly recipient months in fiscal year 2020; 18,909 in fiscal year 2021; 18,910 in fiscal year 2022; 18,903 in fiscal year 2023; and 18,904 in fiscal year 2024. It is assumed that all infants whose birth was paid through Medicaid will remain eligible for the program during the first year of their life, receiving 12 months of coverage at an average cost of \$745.65 per month. Increased Medicaid caseload is estimated to be 1,194 average monthly recipient months in fiscal year 2020; 16,855 in fiscal year 2021; 18,909 in fiscal year 2022; 18,907 in fiscal year 2023; 18,904 in fiscal year 2024. The total estimated cost to the Medicaid program to cover the increase is an estimated \$264.9 million All Funds in fiscal year 2020, \$407.8 million All Funds in fiscal year 2021, \$426.2 million All Funds in fiscal year 2022, \$426.1 million All Funds in fiscal year 2023, and \$426.1 million All Funds in fiscal year 2024.

It is assumed that children one to five years old will be covered through the Children's Health Insurance Program (CHIP). It is assumed that children under age 1 will receive 12 months of coverage and those aged one to five years will receive six months upon their first birthday with 62 percent continuing coverage at each six month renewal. The average cost per month for infants is estimated to be \$512.26 and for children ages one to five \$162.16. Total increased CHIP caseload is estimated to be 11 average monthly recipient months in fiscal year 2020; 204 in fiscal year 2021; 975 in fiscal year 2022; 1,391 in fiscal year 2023; and 1,550 in fiscal year 2024. The total estimated cost to the CHIP program is \$66,594 All Funds in fiscal year 2020; \$0.8 million All Funds in fiscal year 2021; \$2.4 million All Funds in fiscal year 2022; \$3.2 million All Funds in fiscal year 2023; and \$3.6 million All Funds in fiscal year 2024.

It is assumed 2.44 percent of infants and children ages one to two will receive eligibility determinations, follow along services, and comprehensive services in Early Childhood Intervention (ECI). Increased ECI services are estimated to be 383 in fiscal year 2020; 1,427 in fiscal year 2021; 2,471 in fiscal year 2022; 3,427 in fiscal year 2023; 4,653 in fiscal year 2024. Total estimated cost to the ECI program is \$1.8 million All Funds in fiscal year 2020; \$6.8 million All Funds in fiscal year 2021; \$11.8 million All Funds in fiscal year 2022; \$16.3 million All Funds in fiscal year 2023; and \$22.2 million All Funds in fiscal year 2024.

Increased births are estimated to result in an increased population of children 18 and under of 0.2 percent in fiscal year 2020, 0.73 percent in fiscal year 2021, 1.25 percent in fiscal year 2022, 1.77 percent in fiscal year 2023, and 2.27 percent in fiscal year 2024. Assuming no change in income level in the increased population, it is assumed that Temporary Assistance for Needy Families (TANF) cash assistance caseloads will increase by equal proportions resulting in increased caseloads of 101 in fiscal year 2020; 376 in fiscal year 2021; 644 in fiscal year 2022; 906 in fiscal year 2023; and 1,163 in fiscal year 2024. Average monthly grant per recipient is assumed to be \$78.36. Total estimated cost to TANF cash assistance is \$94,968 All Funds in fiscal year 2020, \$0.4 million All Funds in fiscal year 2021, \$0.6 million All Funds in fiscal year 2022, \$0.9 million All Funds in fiscal year 2023, and \$1.1 million All Funds in fiscal year 2024.

It is assumed that abortion facility licensing activities at the Health and Human Services Commission (HHSC) would no longer be required. There would be a reduction of 1.0 FTE at HHSC for a savings of \$42,425 each fiscal year beginning in 2020. There would also be a loss of revenue from licensing fees estimated to be \$135,779 each fiscal year.

Other state programs that serve children, pregnant women, or families would also likely experience increased costs to serve increased populations. Programs for which an estimated cost cannot be determined include foster care at the Department of Family and Protective Services, the

Supplemental Nutrition Assistance Program, Children with Special Health Care Needs, and TANF-related costs at the Texas Workforce Commission. Estimated costs for Medicaid, CHIP, ECI, and TANF are client services costs only and do not include additional administrative costs, including FTEs, to serve the additional clients.

Total net impact is estimated to be \$166.9 million All Funds in fiscal year 2020, \$415.9 million in fiscal year 2021, \$441.1 million All Funds in fiscal year 2022, \$446.5 million All Funds in fiscal year 2023, and \$453.0 million All Funds in fiscal year 2024. These include costs to General Revenue Funds of \$66.1 million in fiscal year 2020, \$161.0 million in fiscal year 2021, \$172.6 million in fiscal year 2022, \$176.5 million in fiscal year 2023, and \$181.2 million in fiscal year 2024. General Revenue Funds assumed to finance TANF cash assistance could be replaced with TANF Federal Funds if those funds were available; Some General Revenue Funds assumed to finance ECI services could be replaced with Special Education Grants for Infants & Families with Disabilities Federal Funds if those funds were available. It is assumed that CHIP federal matching funds would be available.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated. To the extent that local governments provide services to pregnant women, children, and families, there could be a fiscal impact.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts,  
503 Texas Medical Board, 529 Health and Human Services Commission

**LBB Staff:** WP, SLE, SK, AKi, LM, Est, LCO