LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 4, 2019

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

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

IN RE: **SB568** by Huffman (Relating to the regulation of child-care facilities and family homes; providing administrative penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB568, As Introduced: a negative impact of ($34,229,269) through the biennium ending August 31, 2021. The bill would also result in a loss to General Revenue and a gain to the General Revenue-Dedicated Safety Training Account. These amounts cannot be estimated because data is not available for certain provisions of the bill.

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	($17,924,346)
2021	($16,304,923)
2022	($16,012,099)
2023	($16,012,099)
2024	($16,012,099)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Federal Funds* 555	Change in Number of State Employees from FY 2019
2020	($17,924,346)	($853,674)	218.5
2021	($16,304,923)	($858,200)	218.5
2022	($16,012,099)	($486,429)	215.4
2023	($16,012,099)	($486,429)	215.4
2024	($16,012,099)	($486,429)	215.4

Fiscal Analysis

The bill would create the General Revenue-Dedicated Safety Training Account, consisting of revenue collected by administrative penalties assessed on child care facilities and family homes under Chapter 42 of the Human Resources Code; gifts, grants, and donations; and interest. Money in the account would only be appropriated to the Health and Human Services Commission (HHSC) to provide safety training materials at no cost to licensed child care facilities and registered family homes.

The bill would require HHSC to establish safe sleeping standards for child care facilities and registered family homes. The bill would also require HHSC to modify a database to contain a minimum of five years of inspection data for all licensed child care facilities and registered family homes.

The bill would amend the Human Resources Code to expand insurance requirements to apply to registered family homes, in addition to licensed child care facilities. HHSC would be required to prescribe a form that a child care facility or family home could use to notify parents or guardians that the operation does not provide insurance, and post this form to its website.

The bill would amend child care facility license or certification and family home registration renewal procedures to require HHSC to evaluate violations of Chapter 42 of the Human Resources Code in the determination of renewal eligibility. The bill would authorize HHSC to place restrictions, conditions, or additional requirements on the license or certification of the child care facility or the registration of a family home, if HHSC determines that the child care facility or family home has repeatedly violated licensing, certification, or registration requirements.

The bill would expand the definition of a serious incident in the Human Resources Code, Section 42.063, to include an illness that requires treatment by a medical professional. Child care facilities are currently required to report to HHSC all serious incidents involving a child who receives services from the facility.

The bill would require a child care licensee or family home registrant to notify parents and guardians if their child has been abused, neglected, or exploited, or if the child has been injured or suffered an illness requiring hospitalization or medical treatment. The bill would require HHSC to prescribe a form for this notice, and to post the form on the agency's website.

Under current law, HHSC may not issue a license, listing, registration, or certification of approval to a child care facility or family home within five years of a revocation or application denial for substantive reasons. The bill would expand this five-year ban to include refusals to renew.

The bill would establish administrative penalties in the amount of $1,000 for a violation that constitutes abuse, neglect, or exploitation of a child; $500 for failure to report an injury or illness of a child that requires treatment by a medical professional or hospital; $50 per day for failure to report to a parent or guardian of each child a violation that constitutes abuse, neglect, or exploitation of a child or violates safe sleeping standards; and $50 per day for failure to report to a parent or guardian of each child that a facility or home does not maintain the minimum liability insurance required. These penalties would be deposited to the General Revenue-Dedicated Safety Training Account established by the bill.

The bill would take effect September 1, 2019.

Note: 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 in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Methodology

As there are currently administrative penalties established for the regulation of child care facilities and family homes, the allocation of administrative penalties to the General Revenue-Dedicated Safety Training Account would result in a corresponding loss in undedicated General Revenue, and an increase in revenue to the Safety Training Account. CPA indicates that the fiscal impact of this provision cannot be determined, as the number of violations related to the bill's administrative penalty provisions are unknown. However, given the collections of child care licensing administrative penalties in past years, the impact is likely to be minimal.

CPA indicates that the effect of changes to eligibility requirements on license and registration renewals is unknown, and the fiscal impact of these provisions on revenue cannot be determined.

The bill would expand the definition of the term "serious incident" in Section 42.063 of the Human Resources Code. This would require day care operations (excluding Listed Family Homes) to report to HHSC if a child's illness requires treatment by a medical professional. Day care operations are currently only required to report a child's illness to HHSC if the child requires hospitalization.

HHSC and DFPS indicate that this provision would require child care licensing regional inspectors to manage and route additional intake calls and subsequently investigate the new intake calls. HHSC handles and routes approximately 50 percent of child care licensing intake calls, and DFPS Statewide Intake staff handle and route the remaining 50 percent of calls. The two agencies estimate that approximately 15 percent of all children in day care operations would require new intake reports, or 150,000 new intakes per year.

DFPS estimates that this provision would cost $3,048,296 in All Funds for fiscal year 2020, and $2,911,127 in All Funds for future fiscal years. These activities would require 35.0 additional FTEs each fiscal year. The majority of these costs would be funded with General Revenue, and Federal Funds used would be Title XIX Medicaid and Title IV-E Foster Care. DFPS technology costs relate to additional FTEs and basic data storage under the contract for data center services. DFPS estimates these costs to be $107,491 in All Funds for fiscal year 2020, and $75,321 in All Funds for future fiscal years. These costs are included in DFPS' cost estimate for managing intake calls.

This analysis assumes that HHSC would investigate 50 percent of all intake calls. LBB estimates that the additional intake calls and new investigations would cost $15,178,090 in All Funds in fiscal year 2020, $13,602,860 in fiscal year 2021, and $13,587,401 each future fiscal years. This estimate includes the costs of 176.0 additional FTEs and associated technology costs in each fiscal year. HHSC estimates that the bill would require the agency to collect, develop, analyze, or maintain new data elements or establish new data collection/tracking mechanisms. This would require an additional 0.30 FTEs in each fiscal year. HHSC estimates that the bill would also require additional program specialists to provide program support, requiring 4.2 additional FTEs in fiscal years 2020 and 2021, and 4.1 additional FTEs in future fiscal years. HHSC estimates FTE-related technology costs of $1,363,748 in All Funds in fiscal year 2020, $955,068 in All Funds for fiscal year 2021, and $939,670 in All Funds in future fiscal years. The majority of these costs would be funded with General Revenue, and Federal Funds used would include the Child Care Development Fund block grant, as well as a variety of other Federal Funds.

HHSC estimates technology costs for changes to the database, child care licensing systems, and other related modifications to CLASS and the Public and Provider systems of $551,634 in All Funds in fiscal year 2020 and $649,136 in fiscal year 2021.

Technology

HHSC estimates technology costs in All Funds of $1,915,382 in fiscal year 2020, $1,604,204 in fiscal year 2021, and $939,670 in future fiscal years. HHSC would require additional capital authority of $1,408,546 for the 2020-21 biennium to modify CLASS and the Public and Provider systems. Of this total, HHSC estimates FTE-related technology costs of $1,363,748 in All Funds in fiscal year 2020, $955,068 in All Funds for fiscal year 2021, and $939,670 in All Funds in future fiscal years.

DFPS technology costs relate to additional FTEs and basic data storage under the contract for data center services. DFPS estimates these costs to be $105,112 in General Revenue and $107,491 in All Funds for fiscal year 2020, and $73,653 in General Revenue and $75,321 in All Funds for future fiscal years. These costs are included in DFPS' cost estimate for managing intake calls.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of

LBB Staff: WP, AKi, JQ, MNa, RC