

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

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

**March 18, 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: SB781** by Kolkhorst (Relating to the regulation of residential treatment centers.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB781, As Introduced: a negative impact of (\$3,627,825) through the biennium ending August 31, 2021. In addition, there would be costs associated with the expanded definition of residential treatment center, reporting of any incident of a child not under the state's conservatorship but in the care of a residential treatment center, and children being temporarily relocated as a result of revocation of a center's license.

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	(\$2,171,068)
2021	(\$1,456,757)
2022	(\$1,209,252)
2023	(\$1,210,207)
2024	(\$1,211,186)

**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 GR Match For Title XXI 8010	Probable Savings/(Cost) from GR Match for Food Stamp Admin 8014
2020	(\$2,110,166)	(\$60,024)	(\$21)	(\$857)
2021	(\$1,403,400)	(\$52,539)	(\$20)	(\$798)
2022	(\$1,158,273)	(\$50,161)	(\$20)	(\$798)
2023	(\$1,159,220)	(\$50,169)	(\$20)	(\$798)
2024	(\$1,160,190)	(\$50,178)	(\$20)	(\$798)

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from Federal Funds 555</b>	<b>Change in Number of State Employees from FY 2019</b>
2020	(\$148,649)	13.0
2021	(\$122,359)	13.0
2022	(\$102,145)	11.0
2023	(\$102,214)	11.0
2024	(\$102,286)	11.0

## **Fiscal Analysis**

The bill would amend chapter 40 of the Human Resources Code to require the Department of Family and Protective Services (DFPS) to establish rules to reduce the number of runaway children from Residential Treatment Centers (RTCs).

The bill would amend chapter 42 of the Human Resources Code which would not allow applicants for RTCs to be waived of notice and hearing requirements for human trafficking services.

The bill would expand the definition of a RTC to include general residential operations (GROs).

The bill would also require RTCs to submit an operations plan to the Health and Human Services Commission (HHSC) and an educational plan to the Texas Education Agency (TEA) for approval to operate. HHSC may deny any license if the agency does not believe the RTC has met standards. The bill also establishes requirements for informational confidentiality and requirements relating to children receiving educational services at a RTC.

The RTC would also be required to report to HHSC and DFPS any children who leave unauthorized, is accused of delinquent behavior, resulting in additional supervision and is charged and or convicted of a criminal offense.

If HHSC or DFPS finds that a RTC has violated rules twice within 24 months or there is a safety risk, DFPS must develop a temporary relocation plan for the children on revocation of the RTC's license.

The bill would allow HHSC to establish rules to hold public hearings and receive public input for the renewal of every RTC license. Prior to DFPS contracting with a RTC, a community engagement plan must be developed.

DFPS would develop outcome and performance measures and implement quality-based payment systems for compensating RTCs. HHSC would be required to develop a quality rating system and post the results of the ratings on their website.

TEA would be required to evaluate each licensing violation at a RTC identified by HHSC, prior to approving educational services and continue to notify HHSC of any new violations.

DFPS would develop a plan to ensure that no later than December 31, 2023 each RTC would be in compliance with the requirements of Title VII of the Bipartisan Budget Act of 2018, relating to the accreditation of RTCs. DFPS no later than December 31, 2019, would submit the plan to the Legislature. This section would expire September 1, 2023.

The bill would take effect September 1, 2019

## Methodology

The bill would create new functions at TEA, HHSC and DFPS.

Currently, TEA approves education programs for nonpublic residential facilities when a district seeks to place a child with a disability at a licensed facility. The agency does not review or approve educational programs for private or nonpublic residential facilities where districts do not seek to place/contract with those entities for any child with or without disabilities. TEA oversight or approval for education programs at private or nonpublic facilities when public school children are not receiving services will require additional staff as it is a new function of the agency.

TEA estimates it will need two Program Specialist VIs to review and approve the educational programs. Current data tracked specific to students with disabilities show a change of about 200-250 facilities on average each year (200-250 entering new into our system or leaving the system - no longer serving and reporting a child with a disability). Not all of these facilities provide an educational program, but rather rely on the local public or charter school to provide. TEA indicates that more research would be needed to provide an accurate count on how many approvals for private residential treatment center programs TEA would be responsible for. However, TEA assumes that 50 percent of the facilities reported in the system (100-125 per year) would require review and approval by the agency. TEA has indicated in order to implement the provisions of the bill, the agency would need to develop and implement changes to the Texas Education Directory (AskTed) application. The agency assumes this would take 120 hours. The cost estimate to implement the requirements in the AskTed system are \$10,034 in fiscal year 2020 and \$30,102 in fiscal year 2021, for initial development effort for a total cost of \$40,136.

The analysis assumes that additional staff would be needed at HHSC to complete additional investigations, assist in the processing of GRO-RTC applications and renewals, coordinate with DFPS the tracking and monitoring for violations at each GRO-RTC, and process GRO-RTC revocations.

The analysis assumes 3,777 hours would be needed at HHSC to develop application and system modifications to the Child Care Licensing Automation Support System (CLASS) public and private provider applications. The updates would create the ability to track the occurrence of safety incidents, track injuries in specified time periods and create new logic for a quality rating system.

The analysis includes costs that DFPS and the Department of State Health Services would provide to HHSC for new system benefits as part of the Public Assistance Cost Allocation Plan for fiscal year 2019.

HHSC indicates that DFPS and the Department of State Health Services would need to provide funding to HHSC for new system benefits as part of the Public Assistance Cost Allocation Plan for fiscal year 2019. HHSC estimates that it would cost DFPS \$482,690 in General Revenue and DSHS \$251 in General Revenue for the 2020-21 biennium.

The analysis assumes that DFPS would update current policies at no significant fiscal cost to reduce the number of runaway children at RTCs. The analysis also assumes that the new RTC definition, which, encompasses GROs could have implications for placement capacity. However, costs cannot be determined but may be significant.

DFPS indicated the new reporting requirement related to children incidents at RTCs, including those not in DFPS conservatorship, would require additional staff and training but those costs cannot be determined due to a lack of information of how many children are at RTCs that are not under DFPS conservatorship.

The agency also indicated that to develop a plan for temporary relocation of children other than those in the department's conservatorship, cannot be determined but would have a significant cost. The cost related to the reduction of capacity if an RTC loses their license cannot be determined at this time. Costs related to relocation of all children in a given facility, even temporarily, cannot be determined but is assumed to be significant.

DFPS assumes a one-time cost of \$250,000 to develop a rate methodology study for a new payment system for RTCs and changes to the Information Management Protecting Adults and Children in Texas (IMPACT) system.

New procurements at DFPS, including re-procurement of existing Single Source Continuum Contracts would be required to accommodate the new payment approach. The analysis assumes additional full-time equivalents (FTEs) would be required to implement the provisions of the bill. The analysis assumes that two contracted System Analyst Vs for an estimated 2,860 contracted hours are needed to modify IMPACT.

### **Technology**

TEA estimates that technology costs to implement the requirements in the AskTed system are \$10,034 in General Revenue in fiscal year 2020 and \$30,102 in General Revenue in fiscal year 2021, for initial development efforts. The analysis assumes FTE related costs to be \$22,005 in All Funds in fiscal year 2020 and \$12,026 in future fiscal years.

HHSC estimates that technology costs for system updates to CLASS would be \$399,068 in fiscal year 2020. The analysis assumes FTE costs would be \$57,447 in All Funds in fiscal year 2020 and \$24,365 in All Funds in future fiscal years.

DFPS estimates that technology costs for IMPACT upgrades, and a new payment method for RTCs would be \$250,000 in All Funds in fiscal year 2020. The analysis assumes related FTEs costs would be \$61,874 in All Funds in fiscal year 2020 and \$18,886 in All Funds in future fiscal years.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 701 Texas Education Agency

**LBB Staff:** WP, AKi, EP, AN, MNa