

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 3, 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: **SB2091** by Hughes (Relating to the procedures and grounds for terminating the parent-child relationship, for taking possession of a child, and for certain hearings in a suit affecting the parent-child relationship involving the Department of Family and Protective Services.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2091, As Introduced: a negative impact of (\$821,356) 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	(\$410,678)
2021	(\$410,678)
2022	(\$410,678)
2023	(\$410,678)
2024	(\$410,678)

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
2020	(\$410,513)	(\$165)	(\$1,153)
2021	(\$410,513)	(\$165)	(\$1,153)
2022	(\$410,513)	(\$165)	(\$1,153)
2023	(\$410,513)	(\$165)	(\$1,153)
2024	(\$410,513)	(\$165)	(\$1,153)

Fiscal Analysis

The bill would amend Family Code relating to procedures and grounds for removal of a child by the Department of Family Protective Services (DFPS), termination of a parent-child relationship (TPR), and adversary, permanency, and final order hearings.

The bill would prohibit a court from considering certain factors in determining whether to terminate parental rights. The bill would require DFPS to state facts in its petition and for courts at various hearing stages, in determining whether the parent took reasonable measures to protect the child, to consider whether the immediate danger and safety of the child outweighs the emotion distress or lasting adverse impacts on the child's mental or emotional state resulting from the removal of the child from the home or parent.

The bill would repeal Family Code Section 262.201 (a-5) related to the findings of the court.

The bill would require a court to conduct additional permanency hearings at least once every 90 days until an order dismissing DFPS as the child's conservator is rendered when the child has reached permanency.

The bill would permit DFPS to file suit requesting a temporary court order to require the parent, managing conservator, guardian, or other member of the child's household to participate in services for which DFPS makes a referral or are provided by DFPS to reduce a continuing danger to the physical health or safety of the child. The bill would require the petition to be supported by affidavit by a person based on personal knowledge to support a finding that the child is at risk of abuse or neglect, unless that person participates in the services requested by DFPS.

The bill would take effect October 1, 2019.

Methodology

This analysis assumes that the consideration of removals by DFPS based on the emotional distress or lasting adverse effects on the child's mental or emotional functioning could be absorbed within existing resources. This analysis also assumes that DFPS could update its Information Management Protecting Adults and Children in Texas (IMPACT) system to implement the provisions of the bill within existing resources.

Under the provisions of the bill, DFPS indicates that expert testimony would be required in court when petitioning the removal of a child to evaluate the long-term emotional distress or lasting adverse effects on the child's mental or emotional functioning. In fiscal year 2018, DFPS represented children in 12,906 cases and indicates that half of the cases (6,453) would have required expert testimony as required by the bill. The cost for expert testimony, based on current DFPS payments to professionals with similar qualifications, is \$63.82 per case. For the purposes of this analysis, it is assumed that the number of cases, expert testimony costs, and available funding sources will continue at fiscal year 2018 levels in each subsequent fiscal year. ($6,453 \times \$63.82 = \$411,831$ each year).

Based on information provided by the Office of Court Administration (OCA), this analysis assumes duties and responsibilities associated with OCA in implementing the provisions of the bill could be accomplished utilizing existing resources.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

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

LBB Staff: WP, AKi, GDz, MW, DA, AN