

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 6, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1896 by Kolkhorst (Relating to the regulation of child-care facilities.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1896, As Introduced : a negative impact of (\$63,951,739) through the biennium ending August 31, 2023.

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:

| <i>Fiscal Year</i> | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|--------------------|---|
| 2022 | (\$31,824,175) |
| 2023 | (\$32,127,564) |
| 2024 | (\$31,329,846) |
| 2025 | (\$30,089,465) |
| 2026 | (\$30,196,839) |

All Funds, Five-Year Impact:

| <i>Fiscal Year</i> | Probable Savings/(Cost) from General Revenue Fund 1 | Probable Savings/(Cost) from GR Match For Medicaid 758 | Probable Savings/(Cost) from Federal Funds 555 | <i>Change in Number of State Employees from FY 2021</i> |
|--------------------|--|---|---|---|
| 2022 | (\$31,797,492) | (\$26,683) | (\$240,150) | 51.7 |
| 2023 | (\$32,104,748) | (\$22,816) | (\$205,346) | 54.4 |
| 2024 | (\$31,311,567) | (\$18,279) | (\$164,869) | 52.9 |
| 2025 | (\$30,071,146) | (\$18,319) | (\$164,869) | 48.4 |
| 2026 | (\$30,178,520) | (\$18,319) | (\$164,869) | 49.0 |

Fiscal Analysis

The bill would amend Family Code to prohibit the Department of Family and Protective Services (DFPS) from allowing children to stay overnight in DFPS offices and require the agency and Single Source Continuum Contractors (SSCCs) to contract with facilities to reserve beds for children.

The bill would amend Government Code to require the Health and Human Services Commission (HHSC) to annually evaluate the use of benefits in the STAR Health program and report findings to the legislature.

The bill would amend Human Resources Code to require DFPS to develop a plan to eliminate the use of paper case files and fully transition to an electronic case management system. The bill would also require the State Auditors Office (SAO) to annually review each DFPS performance based contract and to provide recommendations for improving DFPS oversight and execution of contracts.

The bill would also require HHSC to develop standards for and provide a provisional license for a kinship provider who meets certain safety requirements. In addition, DFPS would be required to use data analytics collected from providers to develop an early warning system to identify at-risk providers to minimize standard violations.

The bill would require HHSC to weekly inspect General Residential Operations (GROs) that are on probation for continued violations and prohibit DFPS and SSCCs from placing a child in a facility whose license has been placed on probation.

The bill would prohibit HHSC from issuing a citation or taking disciplinary action against a GRO or Child Placing Agency for failing to employ a licensed child care or child-placing administrator under certain circumstances.

The bill would require DFPS to report to the Texas Education Agency (TEA) the educational outcomes of children placed in GROs.

The bill would require DFPS, in coordination with SSCCs, to establish a pilot program to use telehealth services to provide mental health and behavioral care for children placed in Residential Treatment Centers.

The bill would require an individual issued a provisional child-care administrator license to sign an agreement with HHSC to obtain required experience as soon as possible after the license is issued.

The bill would require DFPS to transition Family Based Safety Services (FBSS) to evidence-based programs under the Family First Prevention Services Act (FFPSA) and develop community referrals to existing Prevention and Early Intervention (PEI) programs.

Furthermore, the bill would require HHSC to adopt minimum standards related to continuum-of-care operations, cottage home operations, and specialized child-care homes.

Finally, the bill would require the transfer of powers and duties related to both the PEI program and the administration of the Community Based Care (CBC) program from DFPS to HHSC.

Methodology

This analysis assumes that Temporary Emergency Placements (TEP) would be required to prevent children from sleeping in offices, and that TEP beds would be reserved to provide placements for children if capacity in a facility is unavailable or if the facility is placed under probation. The current rate for a TEP bed is \$400.72 per day and would result in increased foster care expenditures of \$26.0 million in fiscal year 2022, \$26.3 million in fiscal year 2023 and \$25.7 million in each subsequent fiscal year. The increased use of these placements would also require an additional 1.0 Program Specialist VI Full-time Equivalent (FTE), 5.0 Residential Treatment Specialist IV FTEs, and 2.0 Coordination Specialist V FTEs in each fiscal year, to provide contract management and oversight, and child protective services program coordination.

This analysis assumes HHSC would need 1.0 Research Specialist V FTE and 0.5 Program Specialist IV FTEs in each fiscal year to annually evaluate STAR Health benefits and provide recommendations to DFPS to better coordinate the use of benefits and provisions of health and to report the findings to the legislature.

This analysis assumes that to eliminate paper case files and fully transition to an electronic case management system, DFPS would need 1.0 Management Analyst III FTE, 13.0 Systems Support Specialist II FTEs, and 1.0 Program Supervisor III FTE in each fiscal year, to support the timely and complete upload of all paper records on an ongoing basis. DFPS would also need 2.0 Program Specialist V FTEs and 2.0 Data Analyst IV FTEs in each fiscal year, to develop and support a system to develop an early warning system to identify at-risk

providers to minimize standard violations.

This analysis also assumes modifications to the Information Management Protecting Adults and Children in Texas (IMPACT) system would be required to track information related to the provisional licenses for kinship providers as well as to support new reporting to TEA related to a child's education outcomes in a GRO.

This analysis assumes that SAO would evaluate 5.0 contracts in fiscal year 2022, 9.0 contracts in fiscal year 2023, 11.0 contracts in fiscal year 2024, 13.0 contracts in fiscal year 2025, and 15.0 contracts in fiscal year 2026. It is assumed that overnight travel will be required for all of the contactors in regions outside of the Austin area in the first year the contract is active. In subsequent years, only 50.0 percent of the contracts already audited would require travel, based on risk assessment and whether or not the contract entered a new phase.

This analysis assumes the average hourly fee for auditing these contracts would be \$95.00 per hour and would require 1,600.0 direct hours per year. To complete these audits the SAO would need 3.1 FTEs in fiscal 2022, 4.1 FTEs in fiscal year 2023 and 2024, 4.7 FTEs in fiscal year 2025 and 5.3 FTEs in fiscal year 2026. The total cost to the SAO is estimated at \$0.5 million in General Revenue in fiscal year 2022, increasing to \$0.9 million in General Revenue by fiscal year 2026.

This analysis assumes HHSC would need an additional Program Specialist IV FTE in each fiscal year to address an increase in the number of applicants for a provisional child-care administrator license.

This analysis assumes HHSC would need to make updates to the Childcare Licensing Automated Support System (CLASS), Public Provider Portal, and CLASSMate systems. It is assumed HHSC would require a total of 17.3 FTEs in fiscal year 2022, 19.3 FTEs in fiscal years 2023 and 2024, and 14.2 FTEs in subsequent years to make necessary technology changes and provide ongoing support. The analysis assumes HHSC would stagger these upgrades, resulting in some upgrades not being completed until the 2024-25 biennium.

In addition, Human Resources Code Sec. 42.042(g) identifies the types of child-care providers in this state, including cottage home operations, specialized child-care homes, and continuum-of-care residential operations. However, HHSC does not currently license these provider types because CLASS does not have the functionality to do so. HHSC indicates additional funding and FTEs would be needed in order to make necessary upgrades to CLASS to begin licensing these provider types and additional resources may be needed to conduct licensing activities. However, because the bill would not add a new requirement to HHSC, this analysis does not include funding for this purpose.

Based on analysis of TEA, it is assumed that the costs related to implementing the provisions of the bill could be absorbed within existing resources.

In addition, this analysis assumes that, excluding any technology costs, there would be a net zero All Funds cost to the state to transfer the duties and functions related to PEI and the administration of CBC from HHSC to DFPS. However, as DFPS continues to be the federally recognized state agency responsible for administering the Foster Care Program in Texas and the associated federal funding, this analysis is unable to determine the federal impact of moving a portion of those responsibilities (CBC) to HHSC.

This analysis cannot determine the cost to implement the transition of FBSS to evidence-based programs under FFPSA due to the variety of interventions available on the FFPSA federal clearinghouse. Based on other PEI contracts with community agencies for evidence-based practice, this analysis assumes that the average cost per family would be \$3,547 but it cannot be determined what portion of existing FBSS families would accept FFPSA services and the portion that would be referred to the community.

Finally, this analysis cannot determine the cost to license kinship foster homes and manage related workload. Because kinship foster homes would be considered a type of residential child care operation, HHSC would need enough staff to comply with caseload guidelines imposed in relation to the foster care litigation.

It is assumed that any additional costs to DFPS and HHSC to implement the provisions of the bill could be accomplished within existing resources.

Technology

This analysis assumes 1.8 System Analyst V FTEs in fiscal year 2022 and 1.5 FTEs in fiscal year 2023, for 5,327.0 hours of work to lease additional scanners, modifications to IMPACT for back-end processing, page updates, and reporting. In addition, the move of the PEI system to the HHSC infrastructure would require additional system reconfiguration. This would result in a cost of \$0.6 million in fiscal years 2022 and 2023, and \$0.2 million in each subsequent fiscal year.

Upgrades to CLASS, the Public Provider Portal, and CLASSMate are assumed to require a total of 17.3 FTEs in fiscal year 2022, 19.3 FTEs in fiscal years 2023 and 2024, and 14.2 FTEs in subsequent fiscal years at an estimated cost of \$2.6 million in fiscal year 2022, \$2.8 million in fiscal year 2023, \$3.0 million in fiscal year 2024, and \$1.7 million in subsequent years. The analysis assumes HHSC would stagger these upgrades, resulting in some upgrades not being completed until the 2024-25 biennium.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 308 State Auditor's Office, 529 Hlth & Human Svcs Comm, 530 Family & Protective Services, 701 Texas Education Agency

LBB Staff: JMc, AKI, JLI, AN, RD