

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 17, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB730 by Frank (Relating to policies and procedures regarding certain suits affecting the parent-child relationship, investigations by the Department of Family and Protective Services, and parental child safety placements.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB730, As Passed 2nd House : a negative impact of (\$2,689,818) through the biennium ending August 31, 2025.

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>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$1,814,450)
2025	(\$875,368)
2026	(\$827,501)
2027	(\$829,578)
2028	(\$831,718)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>	<i>Probable (Cost) from GR Match For Medicaid 758</i>	<i>Probable (Cost) from Federal Funds 555</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$1,794,628)	(\$19,822)	(\$167,779)	7.0
2025	(\$865,755)	(\$9,613)	(\$85,979)	7.0
2026	(\$818,408)	(\$9,093)	(\$81,841)	7.0
2027	(\$820,462)	(\$9,116)	(\$82,046)	7.0
2028	(\$822,578)	(\$9,140)	(\$82,258)	7.0

Fiscal Analysis

The bill would prohibit an ex parte unless the court finds probable cause to believe that there is an immediate risk to the physical health or safety of the child and there is no time, consistent with the physical health or safety of the child, for a full hearing. If a ex parte hearing is held, the bill would require that it is recorded and made available to all parties under the suit upon request.

The bill would require the Department of Family and Protective Services (DFPS) after initiating an investigation upon first contact with the person, to provide verbal notification of various rights including not

having to speak with any agent of DFPS without legal counsel present. The agency would be required to adopt a form to verify that verbal notification and written summary were received.

The bill would require the parental child safety placement (PCSP) agreement to automatically terminate on the earlier of the 30th day after either the date that the agreement is signed or the child is placed with the caregiver, with the option of one 30 day extension.

The bill would require DFPS to include children who are placed with a caregiver under a PCSP agreement in any report and report the number of cases in which a court under Section 264.203 orders the parent, managing conservator, guardian, or other member of the child's household of a child who is placed with a caregiver under a PCSP to participate in services.

Lastly, the bill would require new notifications regarding changes made to the investigation report.

Methodology

According to DFPS, their Motions to Investigate (MITs) cases are typically ex parte. This analysis assumes that a majority of those cases would now require a formal hearing. It is assumed that 4.0 hours of additional attorney time would be required to prepare and attend court, as well as 2.0 hours for support staff to prepare pleading, e-filing, and setting a hearing for each case. According to DFPS, there were 544.0 MITs in fiscal year 2021. The additional workload results in the need for 1.0 Regional Attorney III Fulltime Equivalent (FTE) and 1.0 Legal Assistant II FTE.

DFPS assumes a percentage of families will choose to exercise their rights and withhold consent or refuse to speak to DFPS investigators or allow the agency to interview the child. This analysis is unable to determine the costs relating to potential legal costs if the agency has to take legal action to proceed with an investigation. The agency also indicated to implement section 2 of the bill, Texas Administrative Code would need to be amended relating to investigations policies and training of investigations staff.

This analysis assumes in instances when ex parte hearings are held, an additional 4.0 Regional Attorney II FTEs would be needed to prepare and attend hearings. It is assumed each hearing would require 4.0 hours of work and the agency assumes approximately 2,000 ex parte hearings would take place each fiscal year. This analysis is unable to determine if the costs to courts to record and transcribe the hearings would be absorbed by the court or if DFPS would have to absorb the costs.

This analysis is unable to determine how the restriction of the PCSPs to 90 days will affect the number of children entering DFPS conservatorship. After 90 days, DFPS would need to evaluate if the child could safely return home, or move forward with a legal removal if the risk has not been mitigated and immediate danger is still present.

The agency indicated there could be potential savings associated with a reduction in the number of children in state conservatorship but the agency is unable to determine the savings.

The agency has indicated that at this time, the federal Adoption and Foster Care Analysis and Reporting System does not allow for DFPS to report on PCSPs as removals. If the federal government does not approve the requested change then DFPS intends to send the information in a narrative letter.

This analysis assumed the need of 1.0 Records Management II FTE to prepare the reports, including redacting information. This analysis assumes the notification would be required for the final report. If the intent is to provide notification while the final is being drafted and routed through the approval process, then the cost would assumed to be greater.

In addition, This analysis assumes the need of 5.0 contracted IT FTEs in fiscal year 2024 and 0.5 contracted IT FTEs in fiscal year 2025 to modify the Information Management Protecting Adults and Children in Texas (IMPACT) system. Modifications would include updating the PCSP agreement page as well as updating additional pages, reports, and notifications. This analysis assumes 8,815 hours in fiscal year 2024 and 450 hours in fiscal year 2025 are needed to complete the project.

Technology

Included in estimated costs are \$977,230 in General Revenue Funds in fiscal year 2024, and \$49,887 in General Revenue Funds in fiscal year 2025 for technology costs.

Local Government Impact

DFPS assumes significant additional costs to counties associated with increased workloads for managing the additional removals of children resulting from this bill, additional time to have formal ex parte hearings on the record, and the potential for exponential increases in the number of orders in aid of investigation requested.

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

LBB Staff: JMc, CMA, ER, AN, NPe, DDel, NV