

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 21, 2023

**TO:** Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2850** by Smith (Relating to discovery procedures for certain civil actions brought under the Family Code.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2850, As Introduced : a negative impact of (\$2,838,532) through the biennium ending August 31, 2025.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$1,498,568)
2025	(\$1,339,964)
2026	(\$1,339,964)
2027	(\$1,339,964)
2028	(\$1,339,964)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Probable Savings/(Cost) from Federal Funds 555</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$1,498,568)	(\$2,908,984)	49.0
2025	(\$1,339,964)	(\$2,601,108)	49.0
2026	(\$1,339,964)	(\$2,601,108)	49.0
2027	(\$1,339,964)	(\$2,601,108)	49.0
2028	(\$1,339,964)	(\$2,601,108)	49.0

Fiscal Analysis

The bill would amend the Family Code by adding new Title 6, relating to discovery procedures for certain civil actions brought under the Family Code. The bill creates statutory discovery procedures for family law cases.

The bill would establish that a court may not exempt a party, Title IV-D agency in a Title IV-D case, from an initial disclosure under Rule 194, Texas Rule of Civil Procedure.

The bill establishes that a court may not exempt a party, Title IV-D agency in a Title IV-D case, from an initial disclosure under Rule 194, Texas Rules of Civil Procedure.

The bill establishes that a court may not require a party to a suit for dissolution of a marriage or in which child or spousal support is at issue, before receiving certain discovery information request, to provide certain

information. Additionally, the bill outlines the required response deadline for the information requested.

A responding party shall provide a copy of documents and other tangible things with a response to a request provided under this section unless:

- (1) the responsive documents are voluminous;
- (2) the response states a reasonable time and place for the production of the documents;
- (3) the responding party produces the documents at the time and place stated in the response; and
- (4) the requesting party has a reasonable opportunity to inspect the documents unless otherwise agreed to by the parties or ordered by the court.

Under the proposed legislation, if a party retains, employs, or otherwise controls an expert witness, the party must supplement the expert's deposition testimony or written report only with regard to the expert's mental impressions or opinions and the basis for those impressions or opinions. When a party takes the oral deposition of an expert witness retained by an opposing party, the party retaining the expert shall pay all reasonable fees charged by the expert for time spent in preparing for, giving, reviewing, and correcting the deposition.

## **Methodology**

The bill changes many of the discovery procedures established in 2020 by the Texas Supreme Court which made most discovery mandatory at the start of a suit without receiving a request from a party for discovery. The Supreme Court decision exempted the Office of the Attorney General (OAG), from completing unrequested discovery. The bill removes the Title IV-D exemptions and requires the OAG to submit specific discovery responses without any request from a party.

The OAG's Child Support Division (CSD) filed approximately 80,000 judicial legal actions in fiscal year 2022. The CSD anticipates 160,000 annual discovery activities, or two parties per 80,000 cases. Additional staff would be required to perform the duties associated with reviewing the status of legal actions, merging discovery documents, documenting, and responding to system activities associated with monitoring the discovery documents and mailing the discovery documents to parties. Staff members would also need to assist customers in response to questions related to these documents. CSD would need one Child Support Technician II for each of the 29 field offices and four Child Support Technician IIs for each of the five consolidated/metro offices for an additional 20 FTEs. The 49 total Child Support Technician II FTEs would cost \$4,306,752 in fiscal year 2024 and \$3,840,272 in each fiscal year thereafter. These costs include salary, general operating, travel, capital equipment, technology costs, and benefits.

In addition, the estimated 160,000 annual discovery activities would also increase CSD postage costs. Assuming a postage rate of 63 cents per item, the annual postage costs would be \$100,800 each fiscal year.

This analysis assumes that the costs to implement the bill's provisions would be funded with 34 percent General Revenue and 66 percent federal matching funds for child support enforcement.

## **Technology**

The technology impact includes one-time costs of \$259,700 in fiscal year 2024 and a recurring cost in each fiscal year of \$77,469. One-time costs include standard laptop, software, printer, and telecom/voicemail. Annual recurring charges cover voice line and software maintenance.

## **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** JMc, DDeI, LCO, HGR, NV, BH