

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

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 3, 2023**

**TO:** Honorable James B. Frank, Chair, House Committee on Human Services

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

**IN RE: SB1849** by Kolthorst (Relating to an interagency reportable conduct search engine, standards for a person's removal from the employee misconduct registry and eligibility for certification as certain Texas Juvenile Justice Department officers and employees, and the use of certain information by certain state agencies to conduct background checks.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1849, Committee Report 2nd House, Substituted : a negative impact of (\$17,919,785) 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>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2024	(\$9,447,001)
2025	(\$8,472,784)
2026	(\$7,982,747)
2027	(\$7,015,249)
2028	(\$7,028,070)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable (Cost) from General Revenue Fund 1</b>	<b>Probable Savings/(Cost) from GR Match For Medicaid 758</b>	<b>Probable Savings/(Cost) from Federal Funds 555</b>	<b>Change in Number of State Employees from FY 2023</b>
2024	(\$9,425,339)	(\$21,662)	(\$272,339)	59.4
2025	(\$8,441,930)	(\$30,854)	(\$293,398)	71.4
2026	(\$7,951,798)	(\$30,949)	(\$278,545)	71.4
2027	(\$6,984,202)	(\$31,047)	(\$279,425)	71.4
2028	(\$6,996,922)	(\$31,148)	(\$280,333)	71.4

**Fiscal Analysis**

The bill requires that a person who is identified as having engaged in reportable conduct through the reportable conduct search engine is entitled to a hearing on the merits of the allegations. The bill would allow the Health and Human Services Commission (HHSC) to remove a person from the employee misconduct registry upon receiving a written request from the person.

The bill would require the Department of Information Resources (DIR) to collaborate with the Department of

Family and Protective Services (DFPS), the Health and Human Services Commission (HHSC), the Texas Education Agency (TEA), and the Texas Juvenile Justice Department (TJJD) to establish an interagency reportable conduct search engine whose results are machine readable and accessible to participating agencies and designated users. The search engine would house information on reportable conduct maintained by DFPS, HHSC, TEA, and TJJD. This would include instances of abuse, neglect, exploitation or misconduct for which a final determination has been issued.

The bill would require the executive head of each participating agency to designate eligible employees or contractors to use reportable conduct in the database to determine whether an individual engaged in reportable conduct. The agencies would collaborate to designate additional eligible persons to determine whether an individual has engaged in reportable conduct. This would include licensed or certified long term care providers, providers under Section 1915(c) waiver program, juvenile probation departments and registered juvenile facilities, certain schools, and non-profit teacher organizations. The participating agencies would develop a process to issue revocable user credentials to each designated user.

The bill outlines the information that would be stored in the search engine, and states that an individual who engaged in reportable conduct would not be entitled notice or an opportunity for a hearing before their information is included in the search engine.

The bill would require the participating state agencies to conduct a search query using the search engine to determine whether an individual who may have access to a client has engaged in reportable conduct, and if so, whether the individual is ineligible for certain employment, volunteer positions, contracts, licensure, or certifications. Each participating agency would be required to notify an individual of such ineligibility.

The bill would establish the Office of Interagency Coordination on Reportable Conduct within DFPS to facilitate coordination and communication between DIR, participating state agencies, designated users, interested persons, and the public regarding any relevant search engine information.

The bill would require DIR and each participating agency to enter into a memorandum of understanding which specifies roles and duties of each agency with respect to establishing and maintaining the search engine.

The bill would require DFPS to conduct background checks using information provided by TJJD and the interagency reportable conduct search engine.

The bill would authorize DFPS to designate an individual as ineligible for certain certifications if the individual engaged in conduct violating provisions in the bill, or if a panel determines that the individual's certification would threaten juveniles in the juvenile justice system. It also authorizes the executive director to convene a panel for this purpose, and entitles individuals to a hearing before the State Office of Administrative Hearings if DFPS proposes to designate a person as ineligible for certifications.

## **Methodology**

### **COSTS TO DFPS:**

It is assumed that the interagency database will take one fiscal year to complete and be fully operational by fiscal year 2025. Therefore, analysis assumes that 7.0 Investigator II FTEs would be needed beginning in fiscal year 2025, to research and verify information of a person prior to adding that information to the interagency search engine. Currently Information Management Protecting Adults and Children in Texas (IMPACT) does not always capture information such as date of birth or social security number. These staff would also check those individuals who have engaged in reportable conduct in the interagency database against the agency's IMPACT system. This analysis assumes 10.0 percent of checks would require further processing, resulting in 86,851 checks each fiscal year. In addition, 3.0 Investigator III FTEs would be needed to process new searches through the search engine for DFPS agency staff, volunteers, interns and contractors. This analysis assumes 23,868 checks would be conducted each fiscal year.

This analysis assumes 1.0 Manager I FTE is needed to create positions, develop job descriptions, and hire staff. In addition, 1.0 Program Specialist V is needed to develop policy, training and provide guidance to stakeholders.

To establish the Office of Interagency Reportable Conduct, the agency is assumed to need 1.0 Director III FTE, 1.0 Program Manager IV FTE, 1.0 Program Specialist VII FTE, and 1.0 Attorney III FTE. These FTEs would be responsible for functions including for coordinating compliance, management of information technology among DIR and other agencies, and developing technical procedures.

According to the agency, the Child Care Investigation program assumes the need of 2.0 Program Specialist VI FTEs and 4.0 Administrative Assistant III FTEs. These FTEs would respond to requests for information, address any case related concerns, and provide quality assurance reviews. These FTEs would track to a final determination has been reached under child care investigations and special investigations.

Currently, a “reason to believe” allegation is the final determination unless an administrative review of finding (ARIF) is requested. The agency assumes 110.0 State Office of Administrative Hearings (SOAH) hearings may be requested each fiscal year to review the finding. Based on targeted caseloads for SOAH hearings at HHSC, this analysis assumes the need of 2.0 Attorney IV FTEs and 1.0 Legal Assistant IV FTE to staff the hearings as well as 2.0 Program Specialist VI FTEs to handle the legal sufficiency reviews that may be requested by legal services staff. Since DFPS is not listed in SOAH, Rider 7, Billing Rate for Workload, the agency would need enter into an interagency contract to pay SOAH for costs. It is assumed that SOAH's current hourly rate is \$150 per hour, including fringe of \$37.50 per hour. This analysis assumes the methodology for annual projected increase in IAC costs would be 6.35 SOAH hours total per hearing x 110.0 hearings x 187.50 per hour totaling \$130,969 annually.

To coordinate human resources functions related to hiring, transfers and ongoing employee checks with the DFPS background check unit, this analysis assumes the need of 1.0 Human Resources VI FTE beginning in fiscal year 2025. In addition, 1.0 Records Analyst II FTE is needed to redact information before uploading information to the interagency database. The agency assumes approximately 520.0 cases would need redaction work. The agency assumes the need of 1.0 Program Specialist IV FTE to provision access to the interagency database and troubleshoot any issues.

Lastly, this analysis assumes the need of 1.0 Contracted IT FTE in fiscal year 2024 and 0.5 Contracted IT FTE in fiscal year 2025 to make IT system modifications including, change configurations of the azure active directory the business to consumer (B2C) system to incorporate new user accounts as well as the creation of new interfaces to receive data from the Department of Information Resources.

Total costs to DFPS would be \$6,263,468, and 30.0 FTEs over the 2024-25 biennium.

#### COSTS TO DIR:

It is assumed that DIR will require additional staff to implement and administer an interagency reportable conduct search engine. It is assumed DIR would need additional staff as follows to implement the bill: 1.0 Systems Administrator V to support the pilot phase, and another 1.0 Systems Administrator V to support the ongoing service and ultimate expansion of the number of users. Analysis assumes a total of 2.0 FTEs are needed in fiscal year 2024 through 2028 to implement the provisions of the bill. The All Funds cost for the two FTEs would be \$193,440 per fiscal year, plus an additional cost of \$61,572 per fiscal year for employee retirement, OSAI, group insurance, and agency payroll contribution.

Total costs to DIR would be \$3,610,024, and 2.0 FTEs over the 2024-25 biennium.

#### COSTS TO HHSC:

It is assumed that HHSC will require additional staff to allow access to the information stored in the search engine and for additional SOAH hearings. It is assumed HHSC would need additional staff as follows to implement the bill: 19.0 Customer Service Representative IIIs, 6.0 Inspector Vs, and 3.0 Manager IIs to identify individuals who have engaged in reportable conduct, as reported in the database; 1.0 Attorney IV for an anticipated additional 24 cases; and 0.4 Program Specialist V for indirect agency functions. Analysis assumes a total of 29.4 FTEs are needed in fiscal year 2024 through 2028 to implement the provisions of the bill. Personnel related costs, including salaries, travel, and overhead, are estimated to total \$2,777,755 in All Funds in fiscal year 2024 and \$2,627,682 in All Funds in fiscal year 2025.

Total costs to HHSC, including SOAH hearings, would be \$6,597,221, and 29.4 FTEs over the 2024-25 biennium.

#### COSTS TO TEA:

It is assumed that TEA will require additional staff to allow access to the information stored in the search engine. It is assumed TEA would need additional staff as follows to implement the bill: 3.0 Program Specialist Vs, 1.0 Investigator VI, and 1.0 Program Specialist IV to work with 1,200 school districts and charter schools to look-up employees or applicants for employment. Analysis assumes a total of 4.0 FTEs are needed in fiscal year 2024 through 2028 to implement the provisions of the bill. Personnel related costs, including salaries, travel, and overhead, are estimated to total \$529,424 in All Funds in fiscal year 2024 and \$513,725 in All Funds in fiscal year 2025.

Total costs to TEA would be \$1,377,632, and 4.0 FTEs over the 2024-25 biennium.

#### COSTS TO TJJD:

It is assumed that TJJD will require additional staff to allow access to the information stored in the search engine. It is assumed TJJD would need additional staff as follows to implement the bill: 3.0 Investigators II to investigate reportable conduct, and 1.0 Systems Administrator III to help integrate the IT systems. Analysis assumes a total of 4.0 FTEs are needed in fiscal year 2024 through 2028 to implement the provisions of the bill. Personnel related costs, including salaries and benefits, travel, and overhead, are estimated to total \$322,096 in All Funds in fiscal year 2024 and \$315,081 in All Funds in fiscal year 2025.

Total costs to TJJD would be \$637,177, and 4.0 FTEs over the 2024-25 biennium.

#### COSTS TO SOAH:

It is assumed that SOAH would need 2.0 additional Administrative Law Judges to support the additional workload required by the bill. It is assumed that the costs for the additional FTEs, and all SOAH hearings would be funded through interagency contracts.

### **Technology**

To implement the provisions of the bill, DIR would implement a registry search engine in three phases over a three year period, with the first two phases being completed in the 2024-25 biennium. Technology related costs including development, hardware and software, and ongoing maintenance and operations are estimated to be \$1,670,000 in fiscal year 2024 and \$1,430,000 in fiscal year 2025. This analysis assumes these costs would be funded out of General Revenue to DIR. Alternatively, this could be appropriated to DFPS for an interagency contract with DIR.

It is assumed that DFPS would need additional funding for 3 System Analyst V IT Contractor FTEs in FY 2024 for 5,585 hours of work and 0.5 System Analyst V IT Contractor FTEs in FY 2025 for 1,117 hours of work. The solution for this request includes: support for configuration changes to the Azure Active Directory and B2C to federate user accounts, updates to the Administrative Review of Investigation Findings, creating new APIs to receive data from the DIR solution, updating the database to track DIR information and building a new gateway to communicate with the DIR solution; and adding IMPACT and ETL to track and report School-Based Investigations.

It is assumed HHSC would need one-time funding to update the Child Care Licensing Automation Support System (CLASS) to document findings from the other state agency registries impacted by the legislation. These costs, including other related software, are estimated to total \$1,033,384 in All Funds in fiscal year 2024.

It is assumed TEA would need funding to update the Educator Certification Online System (ECOS) for districts and charters to evaluate employees and applicants for employment. These costs, including other related software and Data Center Services are estimated to total in All Funds \$131,952 in fiscal year 2024 and \$202,531 in fiscal year 2025.

It is assumed that any technology costs associated with TJJD could be absorbed using existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 313 Department of Information Resources, 360 State Office of Administrative Hearings, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 644 Juvenile Justice Department, 701 Texas Education Agency

**LBB Staff:** JMc, NPe, LCO, CSmi, CMA, NV, SB