

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

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**February 2, 2005**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: SB6** by Nelson (Relating to protective services; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB6, As Introduced: a negative impact of (\$64,094,622) through the biennium ending August 31, 2007.

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
2006	(\$30,534,970)
2007	(\$33,559,652)
2008	(\$43,100,172)
2009	(\$44,023,152)
2010	(\$45,075,872)

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

Fiscal Year	Probable Savings from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Savings from <i>FEDERAL FUNDS</i> 555	Probable (Cost) from <i>FEDERAL FUNDS</i> 555
2006	\$0	(\$30,534,970)	\$0	(\$7,250,863)
2007	\$18,794,686	(\$52,354,338)	\$5,148,619	(\$23,500,368)
2008	\$50,082,124	(\$93,182,296)	\$14,693,749	(\$44,680,979)
2009	\$58,772,232	(\$102,795,384)	\$17,752,016	(\$49,375,974)
2010	\$58,772,232	(\$103,848,104)	\$17,752,016	(\$51,165,682)

Fiscal Year	Change in Number of State Employees from FY 2005
2006	354.8
2007	181.3
2008	(311.0)
2009	(520.0)
2010	(520.0)

## Fiscal Analysis

**Section 1.03** would require the Department of Family and Protective Services (DFPS) to enter into agreements with other states for the exchange of child abuse and neglect reports. **Section 1.06** would require the agency to provide joint training for investigators and law enforcement officers. **Section 1.08** would require the agency to include law-enforcement style training in its voluntary training standards for child protective services investigators and to provide advanced training for residential child-care facility (RCCF) investigators. **Section 1.09** would require a memorandum of understanding between DFPS and county/municipal law enforcement agencies for co-location of child abuse investigators in counties with a population of 75,000 or more. **Section 1.10** would require RCCFs to report each incident of physical or sexual abuse committed by a child against another child. **Section 1.11** would require court orders appointing DFPS as temporary managing conservator to name the person who has the right to consent to treatment for the child. **Section 1.13** would require the court to make a finding at the status hearing about whether this individual had been identified.

**Section 1.14** would only allow the court to retain jurisdiction of a suit requesting termination of the parent-child relationship, or appointment of DFPS as temporary managing conservator, for an additional 180 days, if the court finds that extraordinary circumstances exist. **Section 1.17** would require the agency to provide specific training on children's mental health issues to caseworkers and other groups such as foster parents. **Section 1.18** would allow the HHSC Executive Commissioner to adopt rules setting a limit on the amount of state money a residential child-care facility may spend on non-direct services.

**Section 1.19** relates to privatization of certain child welfare functions. It would require DFPS to contract with substitute care providers for (a) substitute care services for children in temporary and permanent managing conservatorship and (b) case management services for children in permanent managing conservatorship. It would require the HHSC Executive Commissioner to adopt a plan that requires the agency to begin the transition as soon as possible after September 1, 2005. It would prohibit the agency from directly providing substitute care services, and case management services for children in permanent managing conservatorship, after August 31, 2008. It would also require the agency to establish guidelines for caseworker-child visits; include performance criteria in substitute care contracts; and monitor the quality of contracted services. **Section 1.20** would establish a Substitute Care and Case Management Services Transition Task Force that would report to the Lieutenant Governor, the Speaker of the House, and the Legislative Budget Board. The task force would be abolished on August 31, 2008.

**Section 1.21** would require DFPS to assess whether children entering foster care have a developmental disability or mental retardation, and **Section 1.22** would establish a Foster Care Developmental Disabilities Advisory Committee.

**Section 1.24** would require DFPS to develop a statewide foster grandparents program that encourages senior citizen volunteers to mentor children living in residential child-care facilities, and authorize the agency to reimburse volunteers for their expenses (including travel). **Section 1.25** would require the agency to develop, maintain, and update a medical passport for each foster child.

**Section 1.26** would require DFPS, the Texas Workforce Commission, and local workforce boards to maintain one-stop centers for foster children. **Section 1.27** would require the agency to administer a grant program for community organizations to respond to low-priority, less serious cases of child abuse and neglect. **Section 1.28** would require the agency to establish review teams to evaluate the administration of psychotropic drugs to children in foster care, and require the HHSC Office of the Inspector General to annually review psychotropic medication prescribing patterns. **Section 1.29** would require the agency to study whether the foster care payment system creates incentives for prescribing psychotropic medications, and to submit a report to the Legislature no later than October 1, 2006. **Section 1.30** would require HHSC and DFPS to implement a plan to combine state and local funding to provide services that prevent children from entering foster care.

**Section 1.31** would authorize DFPS to develop an Internet-based system so residential child-care contractors can reconcile their accounts, and require HHSC (in coordination with the State Auditor) to begin performing complete on-site financial audits of selected residential child-care contractors by October 1, 2005. **Section 1.32** would require HHSC or the Medicaid operating agency to include

medically fragile foster children in the catastrophic case management program no later than January 1, 2006.

**Section 1.35** would require DFPS to establish an independent quality assurance program for child protective services that includes periodic audits of investigation and inspection reports. **Section 1.36** would establish a Protective Services Legislative Oversight Committee to monitor the effectiveness and efficiency of protective services. **Section 1.37** would require the agency to develop a program to provide for the timely replacement of caseworkers with trainees hired in anticipation of vacancies.

**Section 1.38** would require DFPS to include quality of care performance standards in residential child-care facility (RCCF) contracts, and require HHSC to create an alternative payment plan in all foster care contracts to encourage a reduction in the amount of time children spend at intensive levels of care. Costs are noted under Section 1.19 above. **Section 1.39** would require the agency to develop a program to display photographs and information about missing foster children on the Internet. **Section 1.41** would require RCCFs to immediately notify DFPS and local law enforcement agencies about missing children. Costs are included in Section 1.46 below. **Section 1.42** would require the agency to conduct background and criminal history checks on prospective RCCF employees who will provide direct care or have direct access to children. **Section 1.43** would require RCCFs to establish an employee drug-testing policy no later than January 1, 2006. **Section 1.44** would require DFPS to perform a risk assessment of RCCF employees and volunteers who have been convicted of a crime, and children over age 13 staying at the facility. **Section 1.45** would prohibit RCCFs from employing persons who are ineligible to receive a license or certification. **Section 1.46** would require licensees to report serious incidents involving children and potential violations of regulatory law. **Section 1.48** would require DFPS to deny a license for anyone who had a substantial interest in an RCCF that was subject to adverse regulatory action.

**Section 1.49** would establish an At-Risk Prevention Services Task Force to develop a strategic plan to improve the availability and delivery of prevention services. The plan would be due by September 1, 2006, and the task force would be abolished on June 1, 2007.

**Section 2.02** would require DFPS to establish a training program that adult protective services employees must complete before initiating an investigation or providing services. **Section 2.03** would require the agency to implement a quality assurance program for adult protective services. **Section 2.10** would require the agency to establish a program to provide temporary emergency shelter for adult protective services clients under emergency order to move to safer surroundings. **Section 2.12** would require DFPS to contract with a private agency for the provision of guardianship services. **Section 2.13** would require health and human services agencies to adopt a joint memorandum of agreement to establish a system of local interagency staffing groups for elderly and disabled persons needing multi-agency services.

## Methodology

**Section 1.03.** The Department of Family and Protective Services (DFPS) indicates that one additional FTE would be needed to negotiate agreements with other states and handle litigation arising from regulatory action. There would also be a one-time technology cost to build interfaces with other states (\$50,000 per interface based on 500 hours of work at \$100 per hour, or \$2.5 million) and develop a standardized database for the child-care licensing program (\$0.4 million). The total cost would be \$2.9 million in 2006 and \$68,000 each following year.

**Section 1.10.** The agency indicates that nine FTEs would be needed to investigate nearly 1,000 reports of physical or sexual abuse committed by a child against another child per year. The total cost would be \$0.5 million in fiscal year 2006 and \$0.4 million each following year.

**Sections 1.11 and 1.13.** DFPS indicates that 39.5 FTEs would be needed to handle the additional workload of requesting the court to name a new caseworker to consent to treatment when a child's case is transferred. This estimate is based on the following assumptions -- 1,108 substitute care workers would transfer an average of 8 cases per worker per month; each transfer would require 0.58 hours of work; and 130 service delivery hours would be available per worker per month. The total cost would be \$2.2 million in 2006 and \$2.0 million each following year.

**Section 1.14.** DFPS indicates that 5.5 FTEs would be needed to handle the additional workload associated with re-filing petitions and seeking custody for cases that would terminate prematurely due to congested court dockets. This estimate is based on the following assumptions – an average of 47 petitions would be re-filed per month; each petition would require 14 hours of work; and 130 service delivery hours would be available per worker per month. The total cost would be approximately \$0.3 million per year.

**Section 1.19.** There would be multiple fiscal impacts for this section that would privatize certain child welfare functions. For the section as a whole: the total savings would be \$18.8 million in 2007, \$50.1 million in 2008, and \$58.8 million each following year; the total cost would be \$6.0 million in 2006 rising to \$80.2 million in 2010.

Substitute Care Services. It is assumed that substitute care services for children in temporary and permanent managing conservatorship would transition to private contractors on a quarterly rollout schedule during fiscal year 2007. DFPS would save 206.7 FTEs in 2007 and 372.0 FTEs each following year. This estimate is based on the agency's methodology that allocates 9.0% of the direct delivery workforce to substitute care services (foster and adoptive home development). It is assumed that the transition would be cost neutral. The total savings/costs would equal \$11.7 million in 2007 and \$21.0 million each following year. Fringe benefit savings/costs totaling \$2.3 million in 2007 and \$4.1 million each following year are included in this estimate. Fringe benefit appropriations would move from the Comptroller's Office and the Employees Retirement System to DFPS.

Case Management Services. It is assumed that case management services for children in permanent managing conservatorship would transition to private contractors on a quarterly rollout schedule from the middle of fiscal year 2007 through 2008. DFPS would save 66.5 FTEs in 2007, 475.0 FTEs in 2008, and 684.0 FTEs each following year. This estimate is based on the agency's methodology that allocates 34.3% of the direct delivery workforce to case management (conservatorship) services, and the agency's assumption that 48% of the children receiving case management services are in permanent managing conservatorship. It is assumed that the transition would be cost neutral. The total savings/costs would equal \$3.7 million in 2007, \$26.7 million in 2008, and \$38.5 million each year thereafter. Fringe benefit savings/costs totaling \$0.7 million in 2007, \$4.9 million in 2008, and \$7.5 million each following year are included in this estimate. Fringe benefit appropriations would move from the Comptroller's Office and the Employees Retirement System to DFPS.

Child Placing Agency (CPA) Rate Differential. It is assumed that foster care payments would rise as more than 5,000 foster children (FTEs) move from DFPS to privately managed foster care settings during fiscal year 2007. This is because foster care rates are higher for privately managed foster care services. The total increase in cost would be \$16.3 million in 2007, \$32.5 million in 2008, \$35.1 million in 2009, and \$37.9 million in 2010. This estimate is based on agency projections.

Foster Day Care Purchased Services. It is assumed that foster day care purchased services dollars relating to substitute care services for children in permanent and temporary managing conservatorship would transfer to private contractors on a quarterly basis during fiscal year 2007. It is also assumed that the transition would be cost-neutral. The total savings/costs would be \$2.8 million in 2007 and \$5.6 million each following year. This estimate is based on agency projections.

Other Purchased Services. It is assumed that other purchased services dollars relating to substitute care services for children in permanent and temporary managing conservatorship would transfer to private contractors on a quarterly basis during fiscal year 2007. It is also assumed that the transition would be cost neutral. The total savings/cost would be \$5.8 million in 2007 and \$11.5 million each following year. This estimate is based on agency projections.

Residential Child Care Licensing Staff. DFPS indicates that ten additional FTEs would be needed to provide adequate regulatory oversight of the expanded private system of residential child care services and to maintain a ratio of one monitoring worker for every 20 licensees. The total cost would be \$0.5 million each year.

Oversight Responsibilities. DFPS indicates that additional FTEs would be needed to manage contracts, process payments, conduct audits and provide quality assurance for the new system. These

include 38.5 FTEs in fiscal year 2006 (total salary = \$1.6 million), 84.5 FTEs in 2007 (total salary = \$3.5 million), and 166.0 FTEs each following year (total salary = \$6.8 million). The total cost would be \$2.5 million in 2006, increasing to \$10.1 million in 2010.

Information Technology Projects. DFPS indicates that modifications to existing automated systems would be needed to develop secure interfaces with external providers. The total cost to modify the IMPACT automated system would be \$1.9 million, and the total cost to modify the CLASS (child-care licensing) automated system would be \$2.2 million. These costs would be incurred during fiscal year 2006. The total cost would be \$4.1 million in 2006.

**Section 1.21.** It is assumed that 25% of children entering foster care (3,921 in fiscal year 2006 and 4,234 each following year) would require a full screening for developmental disabilities and mental retardation, with an estimated cost per screen of \$330. It is also assumed that the Federal Medical Assistance Percentage (FMAP) would apply. The total savings would be \$4.7 million in 2006 and \$5.0 million each following year. **Section 1.24.** It is assumed that three FTEs would be needed to develop and oversee implementation of the statewide volunteer foster grandparents mentoring program, and that these FTEs would be phased in during fiscal year 2006. The estimate includes \$10,000 per year for recruitment, training and travel costs for volunteers and staff. The total cost would be approximately \$78,000 in 2006 and \$134,000 each following year. **Section 1.25.** DFPS indicates that it would need to modify the IMPACT automated system to add data fields and build interfaces for medical passports for foster children. The total cost would be \$0.5 million in 2006.

**Section 1.26.** The Texas Workforce Commission (TWC) indicates that it would provide workforce services to foster children who may be served in one-stop centers using Workforce Investment Act (Youth Activities) Federal Funds that are appropriated to the agency.

**Section 1.27.** DFPS indicates that it would use existing resources to provide grants for community-based organizations to respond to low-priority, less serious cases of abuse/neglect. The agency would also use oversight staff included in the estimate for Section 1.19 to administer the grant program.

**Section 1.28.** It is assumed that DPFS psychotropic review teams would review 2,767 cases per year in 252 four-hour review sessions costing \$1,400 per session. It is also assumed that there would be travel costs (\$10,000 per year) and technology costs (\$64,000 in fiscal year 2006). Total costs would be \$0.4 million each year. **Section 1.31.** DFPS indicates that the cost to develop an internet-based system for residential contractors is included in the estimate for Section 1.19. HHSC indicates that six FTEs would be needed to perform on-site financial audits of selected contractors. The total cost would be \$0.4 million each year.

**Section 1.32.** It is assumed that the number of medically fragile foster children requiring catastrophic case management would be 954 in fiscal year 2006 and 1,009 each following year. The annual case management cost per child would be \$2,109 and the Federal Medical Assistance Percentage (FMAP) would apply. Implementation is assumed to occur January 1, 2006; the case management cost per child for eight months of fiscal year 2006 would be \$1,406. The total cost would be \$1.3 million in 2006 and \$2.2 million each following year.

**Section 1.35.** DFPS indicates that the cost to develop and implement an independent quality assurance program for child protective services is included in the estimate for Section 1.19. **Section 1.37.** It is assumed that additional FTEs would be needed to implement a statewide caseworker replacement program. These include 141.8 FTEs in fiscal year 2006 and 189.0 FTEs each following year. The total cost would be \$7.4 million in 2006 and \$9.8 million each following year.

**Section 1.38.** DFPS indicates that the cost to develop and implement quality of care performance standards for residential child-care facilities is included in the estimate for Section 1.19. **Section 1.41.** DFPS indicates that the cost to investigate additional reports of children who are missing from residential child-care facilities is included in the estimate for Section 1.46. **Section 1.42.** It is assumed that the state would pay for background and criminal history checks on prospective residential child-care facility employees (new hires). Each check would cost \$39 and there would be 50,000 checks per year (200,000 current employees \* 25% turnover rate). DFPS also indicates that six FTEs would be needed to handle litigation associated with requests for administrative hearings. The total cost would be \$2.4 million each year.

**Section 1.43.** It is assumed that drug tests are not currently being conducted and the cost would be passed on to the state. Each drug test would cost \$15 and there would be 200,000 tests per year.



DFPS also indicates that one additional FTE would be needed to develop and maintain the drug testing policy and provide technical assistance. The total cost would be \$3.1 million each year.

**Section 1.44.** DFPS indicates that eight FTEs would be needed to process nearly 10,000 risk assessments per year. The total cost would be \$0.6 million in 2006 and \$0.4 million each following year. **Section 1.45 and Section 1.48.** DFPS indicates that one FTE would be needed to handle the workload increase associated with the new employment prohibitions and grounds for denying a license or certification. The total cost would be \$138,000 in 2006 and \$68,000 in each following year.

**Section 1.46.** DFPS indicates that 74 FTEs (total salary = \$2.1 million per year) would be needed to handle the workload associated with the new reporting requirements. The total cost would be \$3.8 million in 2006 and \$3.4 million each following year.

**Section 2.02.** DFPS indicates that additional FTEs would be needed to implement a comprehensive training program for adult protective services employees. These include nine FTEs in fiscal year 2006 and 14 FTEs each following year. The total cost would be \$.5 million in 2006 and \$.7 million each following year.

**Section 2.12.** The agency indicates that it would provide contract guardianship services for 829 individuals in fiscal year 2006 rising to 888 individuals in 2010. The annual cost per person would be \$3,123 for a total cost of \$2.6 million in fiscal year 2006 rising to \$2.8 million in 2010. **Section 2.13.** The agency indicates that three FTEs would be needed to handle the workload associated with more intensive staffing of highly complex adult protective services cases. This estimate assumes that ten percent of confirmed cases would be referred to local interagency staffing groups. The total cost would be \$.1 million each year.

It is assumed that all remaining provisions would have no significant impact.

## **Technology**

The bill would have the following costs related to information technology:

\$4.95 million for IMPACT and \$2.86 million for CLASS over the entire lifecycle of the project.  
\$2.14 million for Set-up and Maintenance.

\$9.9 million for complete Information Technology costs related to the bill.

Modifications to CLASS will be necessary as well as staff to monitor the agencies that contract for case management services.

## **Local Government Impact**

To the extent that the semi-annual process of evaluating the appropriateness of a child's educational placement for a placement review report would require school districts to process additional requests for information or other activities, the additional workload would result in an increase in administrative costs to local school districts. Costs would likely vary considerably among individual districts, with districts with larger populations of children in foster care experiencing the highest costs.

It is likely that school districts would encounter some additional workload associated with processing requests for the information to be included in medical passports. To the extent that processing such requests required resources above the level currently needed to process transfer requests associated with the same population of students, school districts would incur additional administrative costs associated with the requirement. Costs would likely vary considerably among individual districts, with districts with larger populations of children in foster care experiencing the highest costs.

School districts choosing to seek access to additional "pooled" funding under a contract or grant to provide instruction in parenting and homemaking skills could realize an increase in revenue. It is assumed that the revenue would be for the most part equivalent to any additional costs that would be associated with providing the required services.

These implications would continue while the provisions remain in effect.

**Source Agencies:** 304 Comptroller of Public Accounts, 308 State Auditor's Office, 320 Texas Workforce Commission, 332 Department of Housing and Community Affairs, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 529 Health and Human Services Commission, 530 Department of Family and Protective Services, 537 STATE HEALTH SERVICES, 538 Assistive and Rehabilitative Services, 539 AGING AND DISABILITY SERVICES, 694 Youth Commission, 696 Department of Criminal Justice, 701 Central Education Agency

**LBB Staff:** JOB, CL, PP, LR, NM, RC, KJG