

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

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**March 28, 2017**

**TO:** Honorable Byron Cook, Chair, House Committee on State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3859** by Frank (Relating to the conscience rights of certain religious organizations and individuals.), **As Introduced**

**The fiscal implications of the bill cannot be determined at this time as it is unknown how many child welfare service providers will decline to provide services to individuals under the circumstances described in the bill and then use the cause action in response to adverse action by the Department of Family and Protective Services (DFPS).**

The bill would add Chapter 45 to Title 2 of the Family Code which would create a cause of action for child welfare services provider against a state agency if that state agency were to discriminate or take any adverse action against the provider on the basis that the provider declined to provide services to an individual on the basis of the provider's sincerely held religious beliefs, provides or intends to provide religious education, declined to provide health care or referrals that is related to certain contraceptive services, or refused to enter into a contract inconsistent with their rights under that chapter. The bill would also create a private cause of action for any provider suffering a violation or threatened violation, waiving sovereign immunity from suit with regard to the extent of liability created by the proposed chapter.

A significant portion of child care services providers are faith-based organizations, making the pool of potential litigants large. In cases where DFPS purchases services from the child welfare services provider, such protected action described in the bill could give rise to contractual issues. In addition, if a Single Source Continuum Contractors (SSCC) in a Foster Care Redesign catchment exercises the newly created accommodations for sincerely held religious beliefs, the agency would be required to create and maintain a duplicative legacy system in the region to provide services for any child not receiving services through the SSCC. Due to these reasons, DFPS cannot determine the fiscal implications of this bill.

The Office of Court Administration anticipates no significant fiscal impact resulting from this bill.

The bill would take effect immediately if it receives a vote of two-thirds of all members elected to each house. Otherwise, the bill would take effect on September 1, 2017.

**Local Government Impact**

According to the Texas Municipal League, the fiscal impact to municipalities cannot be determined due to the indeterminate potential liability municipalities may incur.

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

**LBB Staff:** UP, AG, EP, JLi, JGA, MH, CG, KVe