

MEMO

TO: Senate chairs and minority leads of committees to which Senate File 716 has been referred

House of Representatives chairs and minority leads of committees to which House File 912 has been referred

FROM: Christian Larson, Director

DATE: December 20, 2024

SUBJECT: Local Impact Note request: SF 716 (Champion) – Minnesota African American Family Preservation and Child Welfare Disproportionality Act

Enclosed is the local impact note for Senate File 716 as enacted in Laws of Minnesota 2024, [Chapter 117](#). The local impact note was requested by Senator John Marty as the chair of the Senate Finance Committee.

The Legislative Budget Office (LBO) is charged with coordinating the development of local impact notes under [Minnesota Statutes 2024, section 3.987](#). Local impact notes estimate the fiscal impact of proposed legislation on cities, townships, counties, and school districts.

The local impact note provides a summary of the bill, a description of the methodology used in the development of the note, and analysis developed by the LBO. The local impact note is available electronically on the [LBO website](#).

If you or your staff have any questions about this local impact note or the local impact note process, please contact LBO Lead Budget Analyst, Joel Enders, at joel.enders@lbo.mn.gov or 651-284-6542.

cc: Senator Bobby Joe Champion
Representative Esther Agbaje
Senate Fiscal Staff
House Fiscal Staff
LBO staff

Committee leadership receiving a copy of this Local Impact Note:

Senator Melissa Wiklund
Senator Paul Utke
Senator Ron Latz
Senator Warren Limmer
Senator John Marty
Senator Eric Pratt

Representative Dave Pinto
Representative Brian Daniels
Representative Nolan West
Representative Carlie Kotyza-Witthuhn
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Local Impact Note

2023-2024 Legislative Session
Minnesota Legislative Budget Office

Senate File 716 / House File 912 – Minnesota African American Family Preservation and Child Welfare Disproportionality Act

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Date: December 20, 2024

Note: The following local impact note has been prepared on Senate File 716 as enacted in Laws of Minnesota 2024, [Chapter 117](#).

Executive Summary

The fiscal impacts of Senate File (SF) 716 cannot be accurately projected due to data limitations and unknown future conditions described in the Methodology and Data Limitations section. However, there are several potentially significant fiscal impacts that were identified by social service agencies and county attorney offices.

Active efforts, safety planning, training, and case review requirements (discussed in the Survey Response Summary section) will likely increase social service agency costs for assessments, investigations, prevention services, and supports at the front end of the child welfare system. Over time, the implementation of bill provisions will likely reduce out-of-home placements and related costs at the back end of the system, but it is unknown how long it will take for this shift to occur and to what extent out-of-home placements will be reduced. Thus, the net fiscal impact of SF 716 is unknown and will likely change over time.

County attorney offices anticipate that more attorney and staff time will be spent on consultations and hearings related to assessments, investigations, and ongoing cases. Permanency cases are generally expected to decrease, but the time and resources spent per case is expected to increase, as are the frequency of appeals.

To understand the scope of potential fiscal impacts to local units of government, the LBO, in consultation with the Association of Minnesota Counties (AMC) and Minnesota Association of County Social Service Administrators (MACSSA) developed and sent survey packets to 76 social service agencies. The LBO received responses from 55 agencies providing services to 65 counties, a response rate of 70 percent. The LBO also sent survey packets to Minnesota County Attorney offices via the Minnesota County Attorneys Association (MCAA). The LBO received responses from 31 of 87 county attorney offices, a response rate of 35.6 percent. The LBO also conducted a review of published studies and comparable legislation from other states.

Bill Description

The following bill summary was prepared by Senate Counsel, Research, and Fiscal Analysis (SCRFA).¹

Chapter 117 – Minnesota African American Family Preservation and Child Welfare Disproportionality Act establishment (SF 716/HF 912)

Chapter 117 establishes the Minnesota African American Family Preservation and Child Welfare Disproportionality Act in Minnesota Statutes, chapter 260, and provides requirements for responsible social services agencies and courts when they interact with African American or disproportionately represented children in the child protection system. Chapter 117 has an effective date of January 1, 2027, unless otherwise noted, and except for the phase-in program established in Hennepin and Ramsey Counties that is effective January 1, 2025.

Section 1 (adds Minn. Stat. § 260.61) This section provides that sections 260.61 to 260.693 may be cited as the “Minnesota African American Family Preservation and Child Welfare Disproportionality Act.”

Section 2 (adds Minn. Stat. § 260.62) This section provides the purposes of the Minnesota African American and Child Welfare Disproportionality Act.

Section 3 (adds Minn. Stat. § 260.63) This section provides the definitions that apply to the Minnesota African American and Child Welfare Disproportionality Act, including “active efforts,” “African American child,” “child placement proceeding,” and “disproportionately represented child.”

Section 4 (adds Minn. Stat. § 260.64) This section establishes requirements for responsible social services agencies to prevent the out-of-home placement of an African American or disproportionately represented child, including providing active efforts and developing a safety plan. Prohibits a court from ordering foster care or permanent out-of-home placement unless the court finds by clear and convincing evidence that the child would be at risk of serious emotional damage or serious physical damage.

Section 5 (adds Minn. Stat. § 260.641) This section requires a responsible social services agency to engage in best practices related to visitation when an African American or disproportionately represented child is in an out-of-home placement.

Section 6 (adds Minn. Stat. § 260.65) This section requires a responsible social services agency to make active efforts to locate an African American or disproportionately represented child’s noncustodial or non-adjudicated parent or relatives prior to removal, and establishes additional requirements related to notice, recordkeeping, and assessment of a parent or relative’s ability to care for the child. Also

¹ The original document can be found at <https://assets.senate.mn/summ/chapter/2024/0/Chapter-117-Act-Summary-MAAFPA.pdf>.

provides that the relative search, notice, engagement, and placement consideration requirements under section 260C.221 apply.

Section 7 (adds Minn. Stat. § 260.66) This section establishes the procedure for an emergency removal of an African American or disproportionately represented child, including emergency petition, placement, and procedure requirements.

Section 8 (adds Minn. Stat. § 260.67) This section establishes a procedure and placement preferences for the transfer of permanent legal and physical custody of an African American or disproportionately represented child and prohibits a court from terminating parental rights solely on the parent's failure to complete case plan requirements. Prohibits the termination of parental rights of a parent of an African American or disproportionately represented child unless certain allegations are made. Provides when a court may terminate parental rights of a parent of an African American or disproportionately represented child. Extends appeal timelines for a parent of an African American or disproportionately represented child whose parental rights have been terminated.

Section 9 (adds Minn. Stat. § 260.68) This section prohibits certain conduct by responsible social services agency employees who have duties related to child protection. Requires each responsible social services agency to conduct a review of all child protection cases handled by the agency and provides what the case review must include. Requires the responsible social services agency to provide a summary report to the African American Child Well-Being Advisory Council, the commissioner, and the legislature.

Section 10 (adds Minn. Stat. § 260.69) This section requires the commissioner of human services to collaborate with the Children's Justice Initiative to ensure cultural competency training is given to individuals working in the child welfare system. Provides that the training must also be made available to attorneys, juvenile court judges, and family law judges.

Section 11 (adds Minn. Stat. § 260.691) This section codifies the African American Child Well-Being Advisory Council currently established within the Department of Human Services and provides its duties, including an annual report.

Section 12 (adds Minn. Stat. § 260.692) This section codifies the African American Child Well-Being Unit currently established within the Department of Human Services and provides its duties, including conducting systemic case reviews and providing reports.

Section 13 (adds Minn. Stat. § 260.693) This section establishes African American and disproportionately represented family preservation grants.

Section 14 (amends Minn. Stat. § 260C.329, subdivision 3) This section allows a child who is ten years of age or older, the responsible social services agency, or guardian ad litem to file a petition for the reestablishment of the legal parent and child relationship and makes additional changes to the timeline for such petition.

Section 15 (amends Minn. Stat. § 260C.329, subdivision 8) This section modifies the amount of time needed to have elapsed following a final order terminating parental rights before a court may grant a petition to reestablish the legal parent and child relationship from 48 months to 24 months.

Section 16 (DIRECTION TO COMMISSIONER; DISAGGREGATE DATA) This section requires the commissioner of human services to establish a process to improve the disaggregation of data to monitor child welfare outcomes for African American and other disproportionately represented children. Requires the commissioner to begin disaggregating data by January 1, 2027.

Section 17 (CHILD WELFARE COMPLIANCE AND FEEDBACK PORTAL) This section requires the commissioner of human services to develop, maintain, and administer a publicly accessible online compliance and feedback portal to receive reports of noncompliance with the Minnesota African American Family Preservation and Child Welfare Disproportionality Act.

Section 18 (DIRECTION TO COMMISSIONER; MAINTAINING CONNECTIONS) This section requires the commissioner of human services to develop and publish guidance on best practices for ensuring that African American and disproportionately represented children in foster care maintain connections and relationships with their parents, custodians, and extended relative and kin network.

Section 19 (COMPLIANCE SYSTEM REVIEW DEVELOPMENT) This section requires the commissioner of human services, in consultation with counties and the working group established in section 21, to develop a system to review county compliance with the Minnesota African American Family Preservation and Child Welfare Disproportionality Act. Requires the commissioner to provide a report to the legislature on the proposed compliance system review process and proposed statutory language.

Section 20 (PHASE-IN PROGRAMS) This section requires the commissioner of human services to establish a phase-in program in Hennepin and Ramsey Counties that implements the Minnesota African American Family Preservation and Child Welfare Disproportionality Act for a two-year period. Provides that sections 1 to 17 of this Act are effective January 1, 2025, for the purposes of the phase-in program.

Section 21 (WORKING GROUP) This section establishes a working group to provide guidance and oversight for the phase-in programs in Hennepin and Ramsey counties and provides the members and duties. The working group must evaluate the cost of the phase-in program and assess the future costs of implementing the Minnesota African American Family Preservation and Child Welfare Disproportionality Act statewide.

Section 22 (APPROPRIATIONS) This section provides the appropriations for the Minnesota African American Family Preservation and Child Welfare Disproportionality Act.

Methodology and Data Limitations

Local Impact Defined

Minnesota Statutes 2024, section 3.986 defines “local fiscal impact” as “increased or decreased costs or revenues that a political subdivision would incur as a result of a law enacted after June 30, 1997, or rule proposed after December 31, 1999.” For the purposes of local impact notes, political subdivisions include school districts, counties, and home rule charter or statutory cities.²

This analysis is limited to counties as bill provisions are not applicable to school districts or cities. Local impact notes are prepared at the request of the chair or ranking minority member of either legislative Tax, Finance, or Ways and Means Committee.

Approach

To understand the scope of potential fiscal impacts, the LBO, in consultation with the AMC and MACSSA, designed a qualitative survey that was sent to all 76 county social service agencies and 87 county attorney offices. The LBO received responses from 55 social service agencies providing services to 65 counties, a response rate of 70 percent. The LBO received responses from 31 of 87 county attorney offices, a response rate of 35.6 percent.

In the survey, county social service agencies were asked to respond to a series of 7 questions, and county attorney offices were asked to respond to 6 questions. Questions were designed to be open-ended in order to obtain as much information as possible and allow agencies the opportunity to expand upon their answers. The survey was distributed via email, and respondents had 4 weeks to respond. Once responses were received and the survey closed, the LBO coded respondents’ answers to identify patterns and trends that would help inform a fiscal impact analysis. Responses varied depending on county geography, demographics, and socio-economic makeup, as well as agency staff size, level of services provided, and interpretation of the bill language. Trends and general themes are discussed in the Survey Response Summary section.

The LBO also conducted a review of published studies and comparable legislation from other states.

Data Limitations and Unknown Future Conditions

Precise local fiscal impacts cannot be accurately projected due to several data limitations and unknown future conditions. Instead, this local impact note includes generalized fiscal impacts that may occur based on survey results and specific examples provided by respondents.

The LBO and survey respondents encountered technology, data availability, and data reconciliation barriers that made it difficult to accurately project fiscal impacts. The statewide system used to track child welfare cases, the Social Service Information System (SSIS), does not collect the financial data necessary to compare baseline costs

² Minnesota Statutes 2024, section 3.986, <https://www.revisor.mn.gov/statutes/cite/3.986>.

for active efforts versus non-active efforts cases. Agencies often found it difficult or infeasible to reconcile payroll or other accounting system data with SSIS case data. For example, one social service agency stated that “existing financial and case management systems, such as SSIS and Tableau Server, do not track costs at the level of detail needed to distinguish between ICWA, non-ICWA, potential MAAFPAs, and potential non-MAAFPA cases. This lack of detailed, case-specific financial data makes it difficult to attribute specific costs to activities such as active efforts, tribal engagement, and cultural services.” Another agency noted “the system’s (SSIS) limitations make it difficult to pull detailed information, such as individualized cost breakdowns for staff and services rendered over the past five years... to estimate average costs effectively, our agency would need to undertake extensive data collection efforts” that would require “a significant investment of time and resources, rendering the task impractical within the established deadline”. Social service agency expenditure data reported to the Department of Human Services (DHS) is aggregated at the level of children’s social services, which includes child protection services among other social services provided to children and families, making analysis specific to child protection difficult.³

Service level variations between agencies made it difficult to develop a uniform impact methodology. Survey results suggest the level of prevention services and supports that agencies provide to avoid out-of-home placements can vary from agency-to-agency. Thus, the gap between reasonable efforts provided currently and active efforts as required by SF 716 may be closer for some agencies than others. Agencies that have further to go to meet new active efforts standards would incur relatively higher costs to implement SF 716 as compared to agencies already applying many of the requirements in the bill. The LBO was not able to generalize impact across agencies, but survey results do suggest activities or areas that may be impacted.

Bill provisions will likely reduce out-of-home placements and related costs, but the LBO was not able to quantify the timing and extent to which out-of-home placements will be reduced. The LBO did not identify any peer reviewed studies or data from other states that could inform a placement rate analysis.

As part of the survey request, the LBO asked agencies to estimate for each of the last 5 years the average per-child cost when the Indian Child Welfare Act (ICWA) applies in comparison to the average per-child cost when ICWA does not apply. ICWA is a federal law governing the removal and out-of-home placement of American Indian children. ICWA includes active efforts standards (discussed below), that are similar to the active efforts requirements of SF 716. This comparison was intended to provide an indicator of cost difference between active efforts and reasonable efforts, the basic standard applicable to all non-ICWA cases. While agencies agreed that ICWA cases generally require more staff time, services, and supports than non-ICWA cases, most survey respondents found it difficult to estimate average per-child costs. When estimates were

³ The Legislative Auditor identified similar barriers in a 2022 report. See State of Minnesota Office of the Legislative Auditor, Program Evaluation Division, *Child Protection Removals and Reunifications* (2022), 22-23, <https://www.auditor.leg.state.mn.us/ped/pedrep/childprotect.pdf>. For expenditure data reported to DHS, see Minnesota Department of Human Services, *Minnesota County Human Service Cost Report* (2020), <https://edocs.dhs.state.mn.us/lfsrserver/Public/DHS-4179R-ENG>. Note that SF 716, section 16 directs DHS to establish a process to improve the disaggregation of data to monitor child welfare outcomes.

provided, methodologies and the factors included in the estimates varied too greatly to develop generalizable comparisons.

Other State Legislation and Literature Review

Four states, including Minnesota, have introduced child welfare legislation that applies active efforts and placement requirements to the broader child welfare system. Montana Senate Bill (SB) 328, introduced and enacted during the 2023 legislative session, amended the definition of “reasonable efforts” to align with active efforts standards and established preference criteria for foster care, preadoptive, and adoptive placements.⁴ A fiscal note prepared for SB 328 estimated there was no fiscal impact to the state.⁵ A bill requiring the South Dakota Department of Social Services to engage in active efforts for “any proceeding that involves a minor child” was introduced during the 2024 session but was not enacted.⁶ Testimony at a House Judiciary hearing included a verbal fiscal impact estimate of three million dollars ongoing to the state, including 45-65 new caseworkers.⁷ The LBO did not identify a written published estimate. Note that child protection services in Montana and South Dakota are administered directly by the state through local offices. Illinois House Bill (HB) 5036 and SB 3183, introduced during the 2024 legislative session, replaced statute references to “reasonable efforts” with “active efforts.” Neither bill was enacted, and the LBO did not identify any published estimates.⁸

The LBO did not identify any peer-reviewed studies or governmental reports that could inform a fiscal impact analysis.

Survey Response Summary – Social Service Agencies

The LBO, in consultation with the AMC and MACSSA, developed and sent survey packets to 77 social service agencies. The LBO received responses from 55 agencies providing services to 65 counties, a response rate of 70 percent. Based on survey results, the LBO identified five areas where social service agencies anticipated significant fiscal impacts: active efforts, safety planning, training, case reviews, and out-of-home placements.

Active Efforts

Section 4 of SF 716 states that “a responsible social services agency shall make active efforts to prevent the out-of-home placement of an African American or a disproportionately represented child, eliminate the need for a child's removal from the child's home, and reunify an African American or a disproportionately represented child

⁴ Senate Bill 328, Montana 68th Legislature (2023), https://bills.legmt.gov/#/bill/20231/LC0553?open_tab=sum.

⁵ Montana Governor's Office of Budget and Program Planning, Fiscal Note for SB0328, 68th Legislature (2023), <https://docs.legmt.gov/download-ticket?ticketId=008dea68-6ef5-4806-906f-7769ec43cdb1>.

⁶ House Bill 1151, South Dakota 99th Legislative Session (2024), <https://mylrc.sdlegislature.gov/api/Documents/262613.pdf>.

⁷ South Dakota House of Reps., hearing on HB 1151, 99th Leg. Sess. (February 12, 2024), available at <https://sdpb.sd.gov/sdpbpodcast/2024/hju22.mp3#t=2652>. Relevant discussion begins at approximately 01:23:00 of the audio recording.

⁸ Senate Bill 3183, Illinois 103rd General Assembly (2024), <https://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=112&GA=103&DocTypeId=SB&DocNum=3183&GAID=17&LegID=152462&SpecSess=&Session=>.

with the child's family as soon as practicable.” The terms “active efforts” and “disproportionately represented child” are defined in bill section 3, subdivision 2 (emphasis added):

"Active efforts" means a rigorous and concerted level of effort that the responsible social services agency must continuously make throughout the time that the responsible social services agency is involved with an African American or a disproportionately represented child and the child's family. To provide active efforts to preserve an African American or a disproportionately represented child's family, the responsible social services agency must continuously involve an African American or a disproportionately represented child's family in all services for the family, including case planning and choosing services and providers, and inform the family of the ability to file a report of noncompliance with this act with the commissioner through the child welfare compliance and feedback portal. When providing active efforts, a responsible social services agency must consider an African American or a disproportionately represented child's family's social and cultural values at all times while providing services to the African American or disproportionately represented child and the child's family. Active efforts includes continuous efforts to preserve an African American or a disproportionately represented child's family and to prevent the out-of-home placement of an African American or a disproportionately represented child. If an African American or a disproportionately represented child enters out-of-home placement, the responsible social services agency must make active efforts to reunify the African American or disproportionately represented child with the child's family as soon as possible. *Active efforts sets a higher standard for the responsible social services agency than reasonable efforts to preserve the child's family, prevent the child's out-of-home placement, and reunify the child with the child's family.* Active efforts includes the provision of reasonable efforts as required by Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679c.

"Disproportionately represented child" means a person who is under the age of 18 and who is a member of a community whose race, culture, ethnicity, disability status, or low-income socioeconomic status is disproportionately encountered, engaged, or identified in the child welfare system as compared to the representation in the state's total child population, *as determined on an annual basis by the commissioner.* A child's race, culture, or ethnicity is determined based upon a child's self-identification or identification of a child's race, culture, or ethnicity as reported by the child's parent or guardian.⁹

Current state and federal laws require social service agencies to make active efforts to assist families and prevent out-of-home placements when the ICWA applies. Survey responses indicate the annual number of active efforts cases varies from infrequent to approximately 30 percent of cases, depending on the agency. Reasonable efforts,

⁹ Laws of Minnesota 2024, chapter 117, section 3.

considered the basic standard, are required in all other cases.¹⁰ Survey respondents estimated that when SF 716 becomes effective (January 2025 for the phase-in program, January 2027 statewide), 70 to 90 percent, or more, of child welfare cases will require active efforts, but cautioned that it was difficult to estimate eligibility because a precise definition of “disproportionately represented child” has yet to be determined by the Commissioner of DHS. Active efforts requirements applied to a higher percentage of child welfare cases will likely increase agency costs, but staffing, data, and definition constraints made it difficult for social service agencies to provide exact estimates at this time. Based on experience applying active efforts for ICWA cases and bill language interpretation, agencies identified four areas where they expect increased costs due to expanded active efforts – staffing, professional and contracted services, economic supports, and overhead. Note that survey results suggest the level of services and supports agencies provide can vary from agency-to-agency, thus the gap between reasonable and active efforts as required by SF 716 may be closer for some agencies than others.

Survey respondents anticipated that active efforts will require more direct staff engagement, side-by-side assistance, and time per case than reasonable efforts, as well as more relative search, administrative, and documentation time. Several agencies expect they will need to expand hours of operation to meet active effort requirements. The following table, provided by a social service agency in central Minnesota, illustrates potential differences between reasonable efforts and active efforts based on agency experience and interpretation of bill language.

Table 1: Staff Time, Tasks, and Resources Comparison of Reasonable versus Active Efforts

Non-Active Efforts Case	Active Efforts Case
Caseworker provides parent with resources for chemical use assessments and provides the information needed for the parent to call and schedule their appointment.	Caseworker locates culturally appropriate service, schedules the assessment for the parent, reminds the parent of the appointment the day before, reminds the parent of the appointment the day of, sets up transportation, or provides transportation to the appointment if a ride is unavailable and waits during the assessment to provide transportation back.
Caseworker meets with parents monthly at minimum to discuss the case plan, make progress on the case plan, and discuss safety concerns.	Caseworker meets with parents weekly to discuss the case plan, make progress on the case plan, and discuss safety concerns.

¹⁰ Minnesota Statutes 2024, section 260.012. Note that a 2022 evaluation by the Office of the Legislative Auditor found that statute does not clearly define what reasonable efforts look like in practice. See State of Minnesota Office of the Legislative Auditor, Program Evaluation Division, *Child Protection Removals and Reunifications* (2022), S-3, 40-41, <https://www.auditor.leg.state.mn.us/ped/pedrep/childprotect.pdf>.

<p>Caseworker makes referral to visitation agency for parent to see their infant 2-3 times per week. Parent schedules visitation through visitation center and attends visitations. Foster parent brings infant to visits as scheduled.</p>	<p>Caseworker provides 3+ visits per week to parent and infant in a home like setting. Caseworker transports infant and parent to and from the visitation.</p>
<p>Parent does not have childcare for child(ren) while they are attending treatment. Caseworker provides list of daycares in the county that the parent can utilize and provides a childcare assistance application to parent to fill out and return to agency.</p>	<p>Caseworker calls all daycares in the county to find a daycare spot for the children. Caseworker drives to daycare to pick up application. Caseworker drives to parent to bring application and completes it with parent. Caseworker drives to return application to daycare provider. Caseworker completes childcare assistance application with parent. If application denied, agency pays for daycare cost.</p>
<p>Caseworker provides court information to parent to attend hearing.</p>	<p>Caseworker picks up the parent and transports them to court. Caseworker transports parent home after court.</p>
<p>Agency sends out relative search letters to inform relatives of children being in placement.</p>	<p>Agency sends out relative search letters by certified mail to inform relatives of children being in placement. Agency makes face to face contact with all relatives who did not respond to letter at their homes to inquire if they are able to be a placement option.</p>

If more time is spent per case, agencies will likely have to reduce per-staff caseloads and hire additional staff to meet and document active efforts requirements. Many survey respondents indicated they may need additional office space, vehicles, equipment, and supplies to accommodate additional staff.

Survey respondents anticipated that to meet active efforts requirements and help prevent out-of-home placements, agencies will need to increase professional and contract services provided to families. Increased provision of Family Group Decision Making (FGDM) services, transportation, safety planning (discussed below), mental health counseling, parenting skills, or culturally appropriate services were frequently cited examples. Many agencies cautioned that culturally appropriate service providers were limited in their service area, making it difficult to locate, schedule, and provide transportation to services such as mental health counseling in a client's first language or group therapy provided in a culturally familiar setting. Rural agencies anticipated children or families may have to travel or be transported long distances to receive culturally appropriate services.

Agencies generally expect that moving from reasonable to active efforts standards for a majority of cases will require additional economic supports to families, relatives, or non-custodial parents for things like housing, food, clothing, utilities, medical, daycare, transportation, and home repair costs. The extent to which economic support costs are anticipated to increase depends on the level of support currently provided by the agency and interpretation of bill requirements. For example, one agency explained that currently, if a parent received an eviction notice, a caseworker would refer them to housing assistance services and provide contact information. Under the active efforts requirements of SF 716, the caseworker would directly contact all known housing assistance services and complete any required paperwork for the parent. If assistance was denied, the agency would pay the past due rent or for temporary hotel accommodations. If necessary, the caseworker would help locate new housing, and the agency would pay the security deposit.

Safety Planning

SF 716 requires that, prior to petitioning the court to remove a disproportionately represented child from the child's home, a social service agency must work with the child's family to develop and implement a safety plan. The agency must:

- Make active efforts to engage the child's parent or custodian and the child, when appropriate
- Assess the family's cultural and economic needs and, if applicable, needs and services related to the child's disability
- Hold a family group consultation meeting and connect the family with supports to establish a safety network for the family
- Provide support, guidance, and input to assist the family and the family's safety network with developing the safety plan
- If neglect is alleged, incorporate into the safety plan economic services and supports for the child and the child's family, if eligible, to address the family's specific needs to prevent neglect

Agencies noted that these requirements shift the focus of safety planning to assessments and in-home services to help prevent out-of-home placements. Survey respondents interpret bill requirements as more intensive than current standards and anticipate that safety planning would need to begin on the first visit. Staff will need to meet with more family, community members, and culturally appropriate service providers. The frequency of caseworker home visits will likely need to increase depending on the risk level.

Several agencies discussed increased provision of FGDM in the safety planning process. In FGDM, families partner with relatives and friends to create a way for children to stay safe using family resources. FGDM is provided to families in a variety of ways statewide. Some social service agencies have internal staff credentialed to facilitate FGDM, but others outsource to FGDM providers. Agency responses identify

FGDM as an area where additional internal staff or outside providers will be needed to satisfy active efforts requirements.

Training

Most agencies reported the need to implement new training as a result of the bill. While some differences were identified between what types of training would be necessary, there was a general agreement that there would be a fiscal impact.

The two types of training most often identified were cultural competency training and training on active efforts for consistency in service delivery. Section 10 of SF 716 requires cultural competency training for child welfare workers and supervisors. DHS must develop training content and collaborate with the Children's Justice Initiative to ensure that trainings are provided. Agencies stated concern about the availability of trainers, the cost of the training, and whether state funding will be provided. Concerns were also raised over whether agencies would be responsible for providing training to community partners, in addition to training agency staff.

Projected costs varied depending on the agency and service area. Some agencies have internally developed training and resources that could be expanded. Others would have to create completely new trainings or outsource their trainings. Two agencies provided estimates of training costs per staff member, with one advising the cost would be \$1,500 per staff member, and another advising the cost would be \$5,000 per staff member. Other agencies provided estimates of the cost per year, ranging from \$9,000 to \$200,000, depending on the agency size. While the range of estimates given varied too greatly with too many variables to develop a fiscal impact methodology, staff numbers were the primary cost driver.

Case Review Requirements

SF 716 requires social service agencies to annually review all child welfare cases involving disproportionately represented children. Case reviews must include specific data enumerated in section 9, subdivision 2(b), along with a remediation plan if the case review shows "disproportionality and disparities in child welfare outcomes for African American and other disproportionately represented children and the children's families, compared to the agency's overall outcomes."¹¹

Agencies reported varying levels of fiscal impact to collect, track, and manage required case review data. Many respondents noted that SSIS is not capable of tracking and reporting required data elements. Absent upgrades to SSIS, agencies anticipate the need to manually collect and track data or purchase a third-party software solution. Software solutions were described as potentially costly to implement and could include ongoing fiscal impacts due to maintenance costs. If a statewide solution is not implemented, agencies will differ in collecting and maintaining the data. One agency described using a spreadsheet, while others anticipated the need to purchase software. The size of the agency, budget limitations, and number of cases would likely impact agency-level decisions on implementations of case review data collection.

¹¹ Laws of Minnesota 2024, chapter 117, section 9, subdivision 2(d).

Most agencies expected they would assign case review duties to existing staff and hire between one-half and four additional FTEs, depending on caseload. Some agencies anticipated hiring additional social workers, while others would hire a part- or full-time data analysts to help manage case review information.

Out-of-Home Placements

Several agencies anticipated that active efforts, safety planning, and placement requirements would reduce out-of-home placements and related costs. In Minnesota, the average out-of-home placement cost per child was estimated at \$28,290 for a period of 6 months, according to the 2018 Child Welfare Inventory Benefit-Cost Analysis published by MMB.¹²

Agencies cautioned that it would take time for costs to shift but were unable to estimate the exact timing and to what extent out-of-home placements would decrease. The LBO did not identify any peer reviewed studies or data from other states that could inform a placement rate analysis.

Survey Response Summary – County Attorneys

The LBO sent survey packets to county attorney offices via the MCAA. The LBO received responses from 31 offices, a response rate of 35.6 percent. Survey respondents generally anticipated that more attorney and staff time will be spent on consultations and hearings related to assessments, investigations, and ongoing cases. Permanency cases are generally expected to decrease, but the time and resources spent per case is expected to increase, as well as the frequency of appeals.

Similar to social service agencies, county attorney offices estimated that when SF 716 becomes effective, a significantly higher proportion of cases (approximately 75 to 95 percent) will require active efforts, depending on the county. County attorney offices generally expect that active efforts cases will remain open longer and require more hearings than reasonable efforts cases based on comparative experience with ICWA and non-ICWA cases and interpretation of bill language. Several counties estimated that attorneys who traditionally handled reasonable efforts cases will need to reduce caseloads by approximately 20 percent to accommodate the tasks and time required for active efforts cases. Meeting active efforts standards in ICWA cases can include tasks such as:

- Ensuring compliance with state and federal laws regarding certified mailings
- Filing certified mail receipts and responses with the court
- Obtaining a qualified expert witness and securing affidavit or testimony from service providers to show that active efforts were provided

¹² Laura Kramer, Jocelyn Rousey, and Pete Bernardy, *Child Welfare Inventory and Benefit-Cost Analysis* (St. Paul: Minnesota Management and Budget, 2018), 27, <https://mn.gov/mmb-stat/results-first/child-welfare-report.pdf>.

- Ensuring notices were sent to all identified relatives
- Ensuring relatives' responses to notices are reported to the Court
- Preparing for and attending hearings that are more frequent and have a higher evidentiary burden than reasonable efforts cases
- Advising social workers on active efforts requirements.

Survey respondents anticipated that county attorney offices will spend more time advising social service agencies on eligibility, active efforts, safety planning, investigations, and related topics than is currently provided, particularly during the first years of bill implementation. For example, one office explained they currently consult on 10 percent of total cases per year but anticipate consulting on 30 percent of total cases when SF 716 becomes effective.

Over half of survey respondents were unable to provide workload or fiscal estimates due to data limitations or staffing constraints. Nine offices estimated that permanency cases may decrease by 10 to 30 percent, while two offices expected minimal or no decrease. Nine offices estimated that consultation activities would increase by 10 to 40 percent. Nine offices estimated that the frequency of litigation would increase by 20 to 50 percent, particularly in permanency and post-permanency cases. Ten offices estimated that 0 to 12 FTEs would be required to meet increased workload at a fiscal impact of \$0 to \$1,220,200.

Potential Fiscal Impacts Summary

The combined fiscal impacts of SF 716 cannot be accurately projected due to data limitations and unknown future conditions. However, there are several potentially significant fiscal impacts identified by county social service agencies and county attorney offices.

Active efforts, safety planning, training, and case review requirements will likely increase costs for assessments, investigations, and prevention services and supports at the front end of the child welfare system. Over time, bill provisions will likely reduce out-of-home placements and related costs at the back end of the system, but it is unknown how long it will take for this shift to occur and to what extent out-of-home placements will be reduced. Most agencies were unable to estimate the total fiscal impact. Eleven social service agencies included staffing estimates that anticipated a median FTE increase of approximately 50 percent to meet bill requirements, with a range of 18 to 112 percent. Ten agencies included total impact estimates that anticipated a median total children services program cost increase of 22.9 percent, with a range of 5.1 to 95 percent.¹³ One agency estimated minimal or no fiscal impact. Agencies were not able to forecast changes in out-of-home placements.

¹³ Children service program costs were taken from the 2021 *Minnesota County Human Service Cost Report* provided by the Minnesota Department of Human Services. Reports can be found at <https://mn.gov/dhs/general-public/publications-forms-resources/reports/cost-reports.jsp>. Note the 2021 cost report was not published on the DHS website at the time of this writing.

County attorney offices anticipate that more attorney and staff time will be spent on consultations and hearings related to assessments, investigations, and ongoing cases. Permanency cases are generally expected to decrease, but the time and resources spent per case are expected to increase, as well as the frequency of appeals.

Appendix A: LBO Survey – SF 716

Senate File 716 Local Fiscal Impact Survey

You are being contacted on behalf of the Minnesota Legislative Budget Office (LBO) regarding a local impact note request made by the Minnesota Legislature. Local impact notes are governed by Minnesota Statutes [3.986](#), [3.987](#), and [3.988](#). A local impact note FAQ can be found on the [LBO website](#).

Responses to the following questions will help legislators understand the potential local fiscal impacts of [Senate File \(SF\) 716](#), as enacted.¹⁴ “Local fiscal impact” means increased or decreased costs or revenues that a political subdivision would incur as a result of an enacted law or rule. Exact costs are not required but assumptions should be reasonable, and enough detail included for the generalist reader to understand the narrative or estimate. Estimates can be shown as a range of fiscal impacts.

Please send your responses to joel.enders@lbo.mn.gov by October 16, 2024. If you have any questions or would like to discuss your response, please contact Joel Enders at joel.enders@lbo.mn.gov or 651-284-6542. Responses will be organized and summarized in the local impact note, but survey participants will not be identified.

This survey is organized in two parts. Part one is to be completed by the county social service agency, while part 2 is to be completed by the county attorney’s office.

Part 1 – Social Service Agency

1. Describe the costs incurred by the agency at each phase of the current process:

- Assessment / Investigation
- Ongoing
 - In-home cases
 - Out-of-home cases
- Permanency

How will this bill change or shift agency fiscal impacts?

2. Select 3-5 ICWA case examples to compare with 3-5 non-ICWA case examples of similar complexity and scope. *If ICWA cases are infrequent such that comparison is difficult or infeasible, skip to question 4.*

- Narratively discuss the staff time and associated caseload, services, administrative tasks, and other resources needed to fulfill the active effort requirements of selected ICWA cases.¹⁵

¹⁴ SF716 is codified in Laws of Minnesota 2024, chapter 117.

¹⁵ Note this sentence refers to active efforts as defined by the Minnesota Indian Family Preservation Act, <https://www.revisor.mn.gov/statutes/cite/260.755#stat.260.755.1a>.

- Compare the above with the staff time and associated caseload, services, administrative tasks, and other resources needed to fulfill the reasonable effort requirements of selected non-ICWA cases.
 - Describe any anticipated impacts that go beyond ICWA active effort requirements based on the definition of active efforts in section 3, subdivision 2 of [SF 716](#), as enacted.
3. Estimate the average per-child cost when ICWA applies to the average per-child cost when ICWA does not apply for each of the last 5 years. The estimate should be limited to the direct staff and service costs incurred by the social service agency. *It may not be feasible to provide an estimate in the requested timeframe due to differences in accounting systems, technology resources, or data collection methods. In this case, please describe the barriers to developing an estimate.*

Example – For each of the last five fiscal years, identify the total amount spent on ICWA child protection cases and the number of children subject to ICWA requirements. Divide annual cost by the number of children who received services in that year to produce an estimated cost-per-child for each of the last five fiscal years. Make the same per-child estimate for the total amount spent on children not subject to ICWA requirements.

4. Has the agency developed any fiscal, eligibility, or staffing estimates to help prepare for bill implementation? If so, please describe or attach the estimate(s) and explain how the estimate was calculated or developed.
5. Describe the efforts required for your agency to comply with the case review requirements specified in section 9, subdivision 2 of [SF 716](#), as enacted. If possible, estimate needed staff or consultant time and associated cost. Identify costs that are anticipated to be one-time and those that would be ongoing. Would you anticipate hiring additional staff, assigning additional duties to existing staff, utilizing consultants, or a combination thereof?
6. Describe any other anticipated fiscal impacts not discussed above.

Example – Section 10 requires cultural competency training for individuals working in the child welfare system.

7. Describe any resource, staff capacity, technology, data, or external constraints that may hinder the agency's ability to assess fiscal impact or implement the bill as intended.

Example – The agency may identify the availability of culturally appropriate services or the availability of training resources as potential implementation constraints, or it may not be feasible to reconcile case information stored in SSIS with agency payroll or accounting system data to develop an estimate.

Part 2 – County Attorney’s Office

1. Describe the costs incurred by the office at each phase of the current process:

- Assessment / Investigation
- Ongoing
 - In-home cases
 - Out-of-home cases
- Permanency

How will this bill change or shift office fiscal impacts?

2. Select 3-5 ICWA case examples to compare with 3-5 non-ICWA case examples of similar complexity and scope. *If ICWA cases are infrequent such that comparison is difficult or infeasible, skip to question 4.*

- Narratively discuss the staff time and associated caseload, services, administrative tasks, and other resources needed to fulfill the active effort requirements of selected ICWA cases.¹⁶
- Compare the above with the staff time and associated caseload, services, administrative tasks, and other resources needed to fulfill the reasonable effort requirements of selected non-ICWA cases.
- Describe any anticipated impacts that go beyond ICWA active effort requirements based on the definition of active efforts in section 3, subdivision 2 of [SF 716](#), as enacted.

3. Estimate and compare the average per-child cost when ICWA applies to the average per-child cost when ICWA does not apply for each of the last 5 years. The estimate should be limited to the direct staff and service costs incurred by the social service agency. *It may not be feasible to provide an estimate in the requested timeframe due to differences in accounting systems, technology resources, or data collection methods. In this case, please describe the barriers to developing an estimate.*

4. Has the office developed any fiscal, eligibility, or staffing estimates to help prepare for bill implementation? If so, please describe or attach the estimate(s) and explain how the estimate was calculated or developed.

5. Describe any other anticipated fiscal impacts not discussed above.

6. Describe any resource, staff capacity, technology, data, or external constraints that may hinder the agency’s ability to assess fiscal impact or implement the bill as intended.

¹⁶ Note this sentence refers to active efforts as defined by the Minnesota Indian Family Preservation Act, <https://www.revisor.mn.gov/statutes/cite/260.755#stat.260.755.1a>.