



Providing nonpartisan legal, research, and fiscal analysis services to the Minnesota Senate

S.F. No. 716 – Minnesota African American Family Preservation and Child Welfare Disproportionality Act establishment (as proposed to be amended by the A-1 amendment)

Author: Senator Bobby Joe Champion

Prepared by: Aly Hoffman Litchy, Senate Counsel (651/296-4394)

Date: March 15, 2024

Bill Overview

S.F. 716 establishes the Minnesota African American Family Preservation and Child Welfare Disproportionality Act in Minnesota Statutes, chapter 260. The bill provides the purpose of the Act, definitions that apply to the Act, and requirements for responsible social services agencies and courts. S.F. 716 also establishes an African American Child Welfare Oversight Council and requires the commissioner of human services to establish an African American Child Well-Being Unit within the Department of Human Services. Additionally, the bill establishes the African American and disproportionately represented family preservation grant program and places additional requirements on the commissioner of human services and responsible social services agencies.

Section Summaries

Section 1 (adds 260.61) provides that sections 260.61 to 260.695 may be cited as the Minnesota African American Family Preservation and Child Welfare Disproportionality Act.

Section 2 (adds 260.62) describes the purposes of the Minnesota African American Family Preservation and Child Welfare Disproportionality Act.

Section 3 (adds 260.63) provides the definitions for the Minnesota African American Family Preservation and Child Welfare Disproportionality Act, such as “active efforts,” “African American child,” “child placement proceeding,” “disproportionately represented child,” and “egregious harm.”

Section 4 (adds 260.64) provides the duties to prevent out-of-home placement and promote family reunification.

Paragraph (a) requires a responsible social services agency to make active efforts to prevent the out-of-home placement of an African American or disproportionately represented child.

Paragraph (b) requires the responsible social services agency to work with the child's family to allow the child to remain in the home and implement a safety plan prior to petitioning the court to remove the child. Requires the responsible social services agency to (1) make active efforts to engage the child's parent; (2) assess cultural and economic needs; (3) hold a family group consultation meeting; and (4) provide support, guidance, and input to assist the family.

Paragraph (c) provides what must be contained in the safety plan.

Paragraph (d) 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's health or welfare would be immediately endangered.

Paragraph (e) requires the court to make findings whether active efforts were provided by the responsible social services agency.

Section 5 (adds 260.65) requires responsible social services agencies to make active efforts in certain situations relating to noncustodial and nonadjudicated parents.

Paragraph (a) requires a responsible social services agency to make active efforts to identify and locate an African American or disproportionately represented child's noncustodial or nonadjudicated parent prior to or within 48 hours of the removal of the child.

Paragraph (b) requires the responsible social services agency to assess a noncustodial or nonadjudicated parent's ability to care for the child before placing the child in foster care. Requires the court to order that the child be placed in the noncustodial or nonadjudicated parent's home if that parent is willing and able to provide daily care for the child.

Paragraph (c) allows an African American or disproportionately represented child or the child's parent or custodian to select one or more relatives who may be willing and able to care for the child if the noncustodial or nonadjudicated parent is unwilling or unable to provide daily care. Requires the responsible social services agency to place the child with the relative after assessing the relative's willingness and ability to provide care.

Paragraph (d) requires the responsible social services agency to inform selected relatives and the child's parent or custodian of the difference between informal kinship care arrangements and court-ordered foster care. Allows the selected relative and the child's parent or custodian to request an informal kinship care arrangement and requires the responsible social services agency to comply with the request.

Paragraph (e) requires a responsible social services agency to make active efforts to support relatives with whom a child is placed in completing the child foster care licensing process.

Paragraph (f) prohibits a responsible social services agency from ruling out a relative in the future or denying a relative's request to be considered if the relative decides not to be a child's foster care or temporary placement option.

Section 6 (adds 260.66) provides the process for an emergency removal.

Subdivision 1 provides that nothing in this section shall prevent the emergency removal of an African American or disproportionately represented child's parent or custodian or the emergency placement of the child in a foster setting to prevent imminent physical damage or harm.

Subdivision 2 provides what a petition for emergency removal must contain.

Subdivision 3 requires a court to hold a hearing no later than 72 hours after the emergency removal of the child and requires a court to hold additional hearings whenever new information indicates that the emergency situation has ended. Requires a parent or custodian of an African American or disproportionately represented child subject to an emergency hearing to be represented by counsel.

Subdivision 4 requires an emergency removal or placement to terminate once the responsible social services agency or court has sufficient evidence to determine that emergency removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and requires the child to be immediately returned to the child's parent or custodian. Provides that an emergency removal or placement ends when a court orders the child to be placed in foster care. Prohibits an emergency removal or placement to extend beyond 30 days unless the court makes certain findings.

Section 7 (adds 260.67) provides placement preferences if a child cannot be returned to the child's parent and places limitations on the termination of parental rights.

Subdivision 1 requires the court, if possible, to place an African American or disproportionately represented child with a noncustodial parent or a willing and able relative when transferring legal and physical custody if the child cannot be returned to the child's parent.

Subdivision 2 prohibits the termination of parental rights of a parent of an African American or disproportionately represented child based 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 the allegations involve certain crimes. Allows for the voluntarily termination of parental rights.

Subdivision 3 allows a parent of an African American or disproportionately represented child whose parental rights have been terminated to appeal the decision within 90 days.

Section 8 (adds 260.68) describes the responsible social services agency's conduct and case review requirements.

Subdivision 1 requires certain conduct of a responsible social services agency employee.

Subdivision 2 requires a responsible social services agency to notify the commissioner of human services when making a maltreatment determination involving an African American or disproportionately represented child or placing a child in foster care. Requires the commissioner to review the responsible social services agency's handling of the child's case.

Requires the responsible social services agency to fully cooperate with the commissioner and the African American Child Welfare Oversight Council. Requires the responsible social services agency to notify the commissioner of a pending adoptive or preadoptive placement proceeding and provides what the notice must contain. Does not allow a preadoptive or adoptive placement proceeding to be held when the responsible social services agency identifies a nonrelative as the adoptive placement until at least 30 days after the commissioner receives notice or until an adoption home study is completed.

Subdivision 3 requires a responsible social services agency to review all child protection cases handled by the agency every 24 months and must report the agency's findings to various groups and stakeholders. Provides what the case review must include and requires a remediation plan when a case review shows disproportionality and disparities in child welfare outcomes.

Subdivision 4 provides that any responsible social services agency that does not comply with this section is subject to corrective action and a fine determined by the commissioner of human services.

Section 9 (adds 260.69) establishes the African American Child Welfare Oversight Council.

Subdivision 1 creates the African American Child Welfare Oversight Council to formulate and recommend policies and procedures relating to child welfare services for African American children.

Subdivision 2 provides the composition of the council and lists the members.

Subdivision 3 requires the commissioner of human services to convene the first meeting of the council no later than December 15, 2024, and requires the council to meet at least six times per year.

Subdivision 4 provides the duties of the council.

Subdivision 5 allows the council to initiate a secondary case review of an African American child's case upon the request of the child or the child's parent or custodian. Allows the council access to certain data and requires a state agency, statewide system, or political subdivision to share the data. Clarifies that not public data acquired by the council retains its original classification and provides that the proceedings and records of the council that pertain to the case review of a child are private or confidential data.

Subdivision 6 requires the council, beginning January 1, 2026, to provide an annual report to the chairs and ranking minority members of the legislative committees with jurisdiction over child protection.

Subdivision 7 provides that meetings of the council are subject to Minnesota's Open Meeting Law.

Section 10 (adds 260.694) establishes the African American Child Well-Being Unit.

Subdivision 1 requires the commissioner of human services to establish an African American Child Well-Being Unit within the Department of Human Services to assist counties and monitor child welfare processes.

Subdivision 2 provides the duties of the African American Child Well-Being Unit.

Subdivision 3 requires the African American Child Well-Being Unit to provide regular updates on unit activities to the African American Child Welfare Oversight Council and requires the publication of an annual census of African American children in out-of-home placements statewide.

Subdivision 4 allows the commissioner of human services to engage the African American Child Welfare Oversight Council for assistance in establishing the African American Child Well-Being Unit.

Section 11 (adds 260.695) establishes African American and disproportionately represented family preservation grants.

Subdivision 1 requires the commissioner of human services to establish direct grants to organizations, service providers, and programs owned and led by African Americans and other individuals from disproportionately represented communities.

Subdivision 2 provides what services are eligible for grants under this section.

Subdivision 3 provides what services are ineligible for grants under this section.

Subdivision 4 requires the commissioner to request proposals for grants and to specify the information and criteria required.

Section 12 (amends 260C.329, subdivision 3) expands who may file a petition to reestablish the legal parent and child relationship to include an African American or disproportionately represented child who is ten years of age or older, the responsible social services agency, or a guardian ad litem. Removes certain situations when a petition can be filed.

Section 13 (amends 260C.329, subdivision 8) removes the requirement that at least 48 months need to have passed following a final order terminating parental rights in order for the legal parent and child relationship to be reestablished.

Section 14 (Cultural Competency Training) provides requirements for cultural competency training for individuals working with African American and disproportionately represented children and families in the child welfare system.

Subdivision 1 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.

Subdivision 2 requires the commissioner to collaborate with the African American Child Welfare Oversight Council to develop training content and establish the frequency of trainings. Requires the training to be completed prior to or within six months of an individual beginning work with any African American or disproportionately represented child and

family. Requires a responsible social services agency staff person unable to complete the training prior to working with African American or disproportionately represented children to work with a qualified staff person who has completed the training. Requires the training to be available by January 1, 2025, and provides what the training must include. Allows the training to be provided in segments and offered in person or online.

Subdivision 3 requires the commissioner, in coordination with the African American Child Welfare Oversight Council, to provide an update to the legislative committees with jurisdiction over child protection on the rollout of the training by January 1, 2025.

Section 15 (Disaggregate Data) requires the commissioner of human services to work with the African American Child Welfare Oversight Council to establish a method to disaggregate data and requires the commissioner to begin disaggregating data by January 1, 2025.

Section 16 (Ensuring Frequent Visitation) 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. Requires the responsible social services agency to make active efforts to facilitate regular and frequent visitation.

Section 17 (Child Welfare Compliance and Feedback Portal) requires the commissioner 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. Requires reports received through the portal to be transferred to the appropriate unit or department within the Department of Human Services for review and further action.

Section 18 (Direction to Commissioner) directs 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 family. Requires the commissioner to also develop guidance on engaging and assessing noncustodial and nonadjudicated parents to care for their children.

Section 19 (Appropriation) provides a blank ongoing appropriation from the general fund for the administration of the Minnesota African American Family Preservation and Child Welfare Disproportionality Act and for the development, maintenance, and administration of the child welfare compliance and feedback portal.