

SF4480 - 1E - MN Indian Family Preservation Act

Chief Author: **Mary Kunesh**
 Committee: **Health And Human Services**
 Date Completed: **4/13/2024 10:51:08 AM**
 Lead Agency: **Human Services Dept**
 Other Agencies:
 Supreme Court

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Human Services Dept						
General Fund		-	-	10	2	2
State Total						
General Fund		-	-	10	2	2
Total		-	-	10	2	2
Biennial Total				10		4

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Human Services Dept						
General Fund		-	-	-	-	-
Total		-	-	-	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Kate Schiller **Date:** 4/13/2024 10:51:08 AM
Phone: 651-296-6052 **Email:** kate.schiller@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
Human Services Dept						
General Fund	-	-	10	2	2	
Total	-	-	10	2	2	
Biennial Total			10		4	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Human Services Dept						
General Fund	-	-	10	2	2	
Total	-	-	10	2	2	
Biennial Total			10		4	
2 - Revenues, Transfers In*						
Human Services Dept						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	
Biennial Total			-		-	

SF4480 - 1E - MN Indian Family Preservation Act

Chief Author: **Mary Kunesh**
 Committee: **Health And Human Services**
 Date Completed: **4/13/2024 10:51:08 AM**
 Agency: **Human Services Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
General Fund	-	-	10	2	2
Total	-	-	10	2	2
Biennial Total			10		4

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Kate Schiller **Date:** 4/10/2024 9:53:37 AM
Phone: 651-296-6052 **Email:** kate.schiller@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	10	2	2	
Total	-	-	10	2	2	
Biennial Total			10		4	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	-	10	2	2	
Total	-	-	10	2	2	
Biennial Total			10		4	
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	
Total	-	-	-	-	-	
Biennial Total			-		-	

Bill Description

The Minnesota Indian Family Preservation Act (MIFPA) codifies language from the Indian Child Welfare Act (ICWA) and also adds additional provisions which provide greater protections for American Indian and Alaska Native (AI/AN) children and families involved in the child protection system. These laws are applicable from the moment an agency becomes involved from voluntary to involuntary proceedings. This proposal aims to clarify practices and expands protections to American Indian children eligible for ICWA.

Assumptions

No additional FTEs will be required as a result of this bill.

Changes need to be made to the ICWA screens in SSIS to document the changes for sending notices to the tribes and the BIA. These systems changes are estimated to require 126 hours of work, take approximately 3 months to complete, and cost of a total of \$18,368 for initial development. State share is assumed at 52%. This estimate includes the following assumptions:

The estimated duration and earliest completion date of the proposed project(s) assumes the work is prioritized relative to other legislative and ongoing IT work. If enacted, the completion date of the proposed project(s) will be dependent on the totality of enacted legislative IT work and ongoing IT work.

The total hours assumed in this fiscal note include the projected time required to complete systems work and a 20% contingency assumption to account for unforeseen business requirements in the development and implementation process.

In addition to the initial development costs cited above, the systems changes required in this bill will result in increased ongoing maintenance and operations costs, estimated annually at 20% of the total initial development cost.

The assumed start date is 8/15/24 and the suggested effective date is 11/27/24.

Expenditure and/or Revenue Formula

Fiscal Tracking Summary (\$000's)						
Fund	BACT	Description	FY2024	FY2025	FY2026	FY2027
1000	11	SSIS Systems updates at 52% state share	0	10	2	2

		Total Net Fiscal Impact		10	2	2
		Full Time Equivalents	0	0	0	0

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Chris Zempel

Phone: 651-247-3698

Date: 4/7/2024 3:53:59 PM

Email: christopher.zempel@state.mn.us

SF4480 - 1E - MN Indian Family Preservation Act

Chief Author: **Mary Kunesh**
 Committee: **Health And Human Services**
 Date Completed: **4/13/2024 10:51:08 AM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 4/12/2024 2:45:34 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

SF4480-1E (the "bill") aims to promote the stability and security of Indian children and their families by clarifying the parties, considerations, and procedures in child placement actions that are subject to the elevated "active efforts" standard. Specifically, the bill identifies that active efforts are required for all Indian child placement proceedings, including voluntary Indian child placements that involve a child-placing agency. Active efforts apply regardless of whether the Indian Child's Tribe intervenes in the proceedings.

The bill amends Minn. Stat. § 260.755 to include two new subdivisions: 1) identifying "petitioner" as "one or more individuals other than a parent or Indian custodian who has filed a petition or motion seeking a grant of temporary or permanent guardianship, custody, or adoption of an Indian child"; and 2) defining "tribal representative" as someone who is designated by and acting on behalf of a Tribe in a placement proceeding who is not required to be an attorney. Additionally, the definition of "extended family member" is explicitly limited to exclude the legal parent, guardian, or custodian of an Indian child's sibling unless they are independently related.

Courts are required to determine at any hearing during an emergency proceeding whether the emergency removal of an Indian child is no longer necessary. The bill amends Minn. Stat. § 260.761 to outline the required inquiries on the record the court must make regarding a child's potential lineage to an Indian Tribe. The court is also required to allow tribal representatives, the Indian Child's parents, or the Indian custodian to appear remotely in all child placement proceedings. Courts are prohibited from ordering a child placement, termination of parental rights, or temporary or permanent change in custody of an Indian child unless it finds that the child-placing agency or petitioner demonstrated that active efforts were made to preserve the Indian child's family.

The bill amends Minn. Stat. § 260.763, subd. 1 to clarify that tribal determination of the Tribe's exclusive jurisdiction is conclusive when an Indian child resides or is domiciled within the reservation of the Tribe. Minn. Stat. § 260.763, subd. 4, is amended to allow an Indian child's parent, Indian custodian, or Tribe to bring a motion or request before the court to transfer the proceeding to the jurisdiction of the Tribe at any stage of the child placement proceeding. Under Minn. Stat. § 260.765, subd. 3a, courts are required to obtain consent on the record from any parent or Indian custodian of an Indian child for adoptions as well as the voluntary termination of parental rights.

Section 27 of the bill amends Minn. Stat. § 260.771, subd. 2b to provide the right to counsel for any parent of an Indian child, Indian custodian, or Indian child ten years of age or older involved in any proceeding where the petitioner or another party seeks to temporarily or permanently remove an Indian child from their parent. The court may also appoint counsel for Indian children younger than 10 years of age if the court determines it is appropriate and in the best interest of the child.

The bill adds two new subdivisions to Minn. Stat. 260.771: 1) a prohibition on foster parents intervening as parties to a child placement proceeding, termination of parental rights proceeding, or transfer of custody proceeding under chapters 259, 260, 260C, or 260D; and 2) allowing any Tribe that an Indian child may be eligible for membership in as a party to the proceedings without the need to file a motion, allowing the Tribal representative to appear remotely at any hearing without prior request and file documents with the court using any method, and exempting Tribal representatives from paying any required filing fees.

Article II, section 6 of the bill amends Minn. Stat. § 260C.503, subd. 1 to extend the timeline for the court to hold the admit-deny hearing in a permanency proceeding from 12 to 15 months. The court may extend the total time the child may continue out of the home placement under an existing petition for an additional six months in lieu of filing a permanency petition as required under Minn. Stat. § 260C.505. Section 8 of the bill amends Minn. Stat. § 260C.505 to require a permanency or termination of parental rights petition prior to the time the child has been in foster care for 14 months (instead of 11 months). Trial home visits are also permitted up to 12 months as opposed to six months under Minn. Stat. § 260D.12.

Assumptions

It is assumed each courthouse has at least one courtroom that is adequately equipped to provide remote participation for Tribal representatives, the Indian child's parents, or the Indian custodian in all child placement proceedings. The Minnesota Judicial Branch does not anticipate incurring any costs to install additional courtroom technology to meet the requirements of this bill.

This bill requires the court to make specific, additional findings regarding the child placement agency's or petitioner's active efforts. Current law requires the court to make certain findings when ordering an out-of-home permanency placement or an emergency removal. It is assumed this bill may initially impact hearing time and the overall amount of time it takes for the court to issue an order containing all required findings due to the new statutory requirements, but this increase will likely be temporary as the procedural requirements become more familiar and courts will still be subject to statutory timelines for issuing orders.

In contrast to the current language of Minn. Stat. § 260.771, subd. 2b, this bill clarifies that an Indian child's parent or custodian shall have the right to be represented by an attorney in any state court child placement proceeding. It is assumed that the appointment and funding of any counsel pursuant to this bill would remain a county expense. This bill also extends the right to the appointment of counsel to any Indian child under ten years of age if the court determines that appointment is appropriate and in the best interest of the Indian Child. While the bill does not identify which entity would be responsible for funding an appointment for an Indian child under 10 years of age (the county or the public defender), it is assumed that it would not be a Judicial Branch expense.

Although the bill indicates that the clerk of court must accept and file any case documents submitted by a Tribal representative, regardless of the method of transmission or format of the documents, it is assumed that filers will be required to comply with the Supreme Court's rules governing the filing of court documents.

The bill extends the timeline for the court to hold the admit-deny hearing in a permanency proceeding from 12 to 15 months. The bill also extends the time before a permanency or termination of parental rights petition must be filed to 14 months instead of 11 months. While it is anticipated these extensions will result in child placement proceedings taking a longer overall time to reach disposition, it is assumed this will not significantly increase the number of hearings held or the judicial branch resources required to process these cases.

Expenditure and/or Revenue Formula

This bill is not anticipated to have a significant fiscal impact on the Minnesota Judicial Branch, and any potential increase in case filings or case duration as a result of this bill will likely be absorbed.

Long-Term Fiscal Considerations

None.

Local Fiscal Impact

There will be a cost to counties to provide court appointed counsel in these cases. It is not possible to estimate the exact impact or the number of case filings that will require the court to appoint counsel.

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Callie Lehman

Phone: 651-297-7579

Date: 4/12/2024 2:41:31 PM

Email: callie.lehman@courts.state.mn.us