

Fiscal Estimate - 2009 Session

Original Updated Corrected Supplemental

LRB Number 09-3345/1		Introduction Number AB-0421	
Description Indian child welfare			
Fiscal Effect			
State:			
<input checked="" type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Decrease Existing Appropriations	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Decrease Costs	
<input type="checkbox"/> Create New Appropriations			
Local:			
<input type="checkbox"/> No Local Government Costs			
<input checked="" type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	5. Types of Local Government Units Affected	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Towns	<input type="checkbox"/> Village <input type="checkbox"/> Cities
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	<input type="checkbox"/> Counties	<input type="checkbox"/> Others
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> School Districts	<input type="checkbox"/> WTCS Districts
Fund Sources Affected		Affected Ch. 20 Appropriations	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Agency/Prepared By DCF/ Nick Bubb (608) 266-5422		Authorized Signature Robert Nikolay (608) 261-4349	Date 9/15/2009

Fiscal Estimate Narratives

DCF 9/15/2009

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Assumptions Used in Arriving at Fiscal Estimate

This bill codifies the federal Indian Child Welfare Act (ICWA) of 1978 into Wisconsin Statutes. While 25 U.S.C. § 1901 et seq supersedes Wisconsin law, compliance with the federal law is currently mixed. It is anticipated that codifying existing federal requirements will increase state and local compliance with ICWA. The Department of Children and Families estimates that this bill has an indeterminate fiscal effect.

Achieving full compliance with the ICWA requirements may increase costs to county child welfare agencies and, in the case of Milwaukee County, the Department of Children and Families. Presently cases that are subject to ICWA are not always identified. This means that some child welfare agencies may not be following all of the actions required by ICWA. Specifically, once a case is identified as being subject to ICWA jurisdiction, child welfare agencies are required to provide notice by registered mail to the child's Tribe or the Bureau of Indian Affairs. Before an Indian child may be removed from his or her home or before the rights of his or her parents are terminated, testimony of a qualified expert witness must be presented that remaining in the home would subject the child to serious physical or emotional damage. In addition, under ICWA, the court must find that active efforts have been made by the child welfare agency to prevent the breakup of the Indian family. Under ICWA, indigent parents are also guaranteed the right to an attorney. Under current Wisconsin law, the provision of court-appointed attorneys to indigent clients is under the court's discretion. Furthermore, in ICWA cases, placements are subject to a hierarchy of placement preferences.

Because of these requirements, compliance with the federal law could also increase the amount of time that social workers spend on these cases. Because the number of ICWA cases in any given county is relatively low, it is assumed that these additional requirements could be absorbed within the existing budgets of child welfare agencies.

In order to achieve compliance with ICWA requirements, the Department of Children and Families will need to provide training and technical assistance. The Department may need to modify the child welfare information system. To the extent necessary, these activities can be absorbed in the Department's current budget.

Implementation of this bill may assist in Wisconsin avoiding federal financial penalties. Compliance with ICWA is a measured category on the federal Child and Family Services Review (CFSR). ICWA compliance was identified as an issue in Wisconsin's 2004 CFSR. Wisconsin is undergoing its second CFSR in 2010. If the State of Wisconsin were to fall farther out of compliance with ICWA requirements, the state could face financial penalties.

If compliance with ICWA increases notification of cases to the Tribes, there may be increased costs to the tribal courts to respond to notices and assume tribal jurisdiction of cases.

The net effect of these changes is unknown and so the fiscal effect of this bill is indeterminate.

Long-Range Fiscal Implications