



Illinois Department of Insurance

JB PRITZKER
Governor

ANN GILLESPIE
Director

April 1, 2026

RE: Public Act 104-0445 – Survey Results of Child Welfare Liability Insurance Survey Act

To the Honorable Members of the General Assembly:

Public Act 104-0445 directed the Department of Insurance (the Department) to survey insurers about the liability insurance market that serves community-based providers of foster care and adoption services, study the results, and report the responses.

I am pleased to release the results of this survey, which includes information on: 1) the available liability insurers and policy details; 2) premium levels and drivers of premium costs; 3) descriptions of claims; 4) coverage options offered in Illinois and other states; 5) conditions in excess/surplus markets; and 6) efforts in other states to address similar insurance challenges.

Sincerely,

Ann Gillespie, Director
Illinois Department of Insurance

SURVEY RESULTS OF CHILD WELFARE LIABILITY INSURANCE SURVEY ACT



April 1, 2026

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Executive Summary

Public Act 104-0445, the Child Welfare Liability Insurance Survey Act, directed the Illinois Department of Insurance (DOI) to survey insurers regarding the availability and cost of liability insurance for community-based foster care and adoption services. This report presents data from three sources: primary data collected from 33 insurance carriers surveyed by DOI between February and March 2026, 26 Illinois child welfare agencies surveyed by the Illinois Department of Children and Family Services (DCFS), and anonymous responses from 32 Illinois providers that participated in a 2025 survey conducted by the National Organization of State Associations for Children.

Results from Illinois Department of Children and Family Services (DCFS) Premium Data

When the total premiums of reporting child welfare agencies are examined, general liability premiums among reporting child welfare agencies increased 117% between FY23 and FY26 from \$2.7M to \$5.9M. Among the 21 child welfare agencies that maintained coverage throughout the period, the average per agency increase was 179%. Four child welfare agencies reported no general liability coverage in FY26, either because they didn't have it at the time of the survey or they did not obtain coverage. Umbrella coverage declined the most dramatically with 10 of 23 child welfare agencies losing coverage between FY23 and FY26. This represents a loss of 43%. While the total umbrella premiums declined 27%, this reflected a loss of coverage rather than cost savings due to the number of child welfare agencies with coverage decreasing in FY26 compared to FY23. Sexual abuse and molestation (SAM) premiums increased 58%, while the number of child welfare agencies carrying SAM as an add-on policy decreased from 17 to 12.

Results from Illinois Department of Insurance (DOI) Survey

Insurer survey responses identified sexual and physical abuse claims as the dominant factor driving premium increases and market shrinkage. Child welfare agencies are underwritten as a class rather than individually, leading to child welfare agencies with no history of lawsuits to see an increase in their premiums. Of the total 33 insurers surveyed, there were two active carriers, and one carrier that confirmed that they had exited the market.

Results from 2025 National Provider Survey

Among the Illinois child welfare agencies surveyed from the national survey, 81% reported difficulty securing bids from insurance carriers compared to 62% nationally, and 50% indicated that they are "very likely" or "likely" to reduce their services due to insurance concerns. This is

nearly double the national rate at 27%. Two child welfare agencies have already reported that they have begun to reduce or eliminate their services. Several child welfare agencies indicated that overbroad indemnification clauses in state contracts are a contributing factor, a concern echoed by insurer responses and documented in actuarial research from Washington State.

In the following report, we will discuss the historical market background necessary to contextualize the data collected by DOI briefly mentioned above. Additionally, we will further examine the data collected by DOI and DCFS, as well as the qualitative responses provided by both child welfare agencies and insurers in the State.

1Background

Illinois Child Welfare Law mandates that foster care agencies carry liability insurance. Due to the rising premiums and limited providers, Public Act 104-0445, the Child Welfare Liability Act was enacted on December 12, 2025. The Act directs the Illinois Department of Insurance (DOI) to survey insurers regarding the availability and cost of liability insurance for community-based foster care and adoption services. This report examines three different primary and secondary data sets. This includes primary data collected from 32 insurance carriers surveyed by DOI, 26 Illinois child welfare agencies surveyed by the Illinois Department of Children and Family Services (DCFS), and anonymous responses from 32 Illinois providers that participated in a 2025 survey conducted by the National Organization of State Associations for Children.

As of the publication of this report, approximately 16,053 youth are currently in the care of child welfare agencies in Illinois.¹ State licensing regulations require child welfare agencies to maintain liability insurance with a single limit minimum coverage of \$300,000 per occurrence.² Following several large settlements in different states, insurance companies have increasingly withdrawn from the child welfare agency liability insurance market nationally, resulting in significant challenges for child welfare agencies seeking coverage. Notably, the 2023 Martinez case³ in California with a jury judgment of \$24.8 million⁴ and a \$23 million Illinois settlement in the Hudson case^{5 6} have been pivotal events. The Martinez case resulted from the negligence of

¹ Illinois Department of Children & Family Services, “Youth in Care by County (Sonoma Co. Super. Ct., filed May re by County),” (2025), <https://dcfs.illinois.gov/content/dam/soi/en/web/dcfs/documents/about-us/reports-and-statistics/documents/youth-in-care-by-county.pdf>.

² 89 Ill. Adm. Code §401.220(g).

³ C.F. et al. v Alternative Family Services Inc. et al., SCV264540 (Sonoma Co. Super. Ct. filed May 31, 2019).

⁴ Brian Joseph, “The California Foster Care Crisis You Know Nothing About,” *Capitol Weekly*, September, 18, 2024, <https://capitolweekly.net/the-california-foster-care-crisis-you-know-nothing-about/>.

⁵ Jade Aubrey, “Illinois Community-Based Foster Homes Face Insurance ‘Crisis,’” *Capitol News Illinois*, April 25, 2025, <https://capitolnewsillinois.com/news/illinois-community-based-foster-homes-face-insurance-crisis/>.

⁶ Hudson v. Lutheran Social Services of Illinois, No. 12-L-8027 (Illinois, 2018).

the agency to perform proper background checks on the foster parents the agency was contracting with. Whereas the Hudson case resulted in a child's death after the child was placed back with their abusive mother following placement in a child welfare agency due to parental abuse.⁷ However, early indications of market tightening emerged between 2014 and 2016, when specialty carriers began reducing capacity and premium increases exceeded general market trends.⁸ During this period, the introduction of abuse and molestation exclusions and rising retention rates signaled further market contraction. By 2022, coverage restrictions had expanded, prompting multiple carriers to exit the national market entirely. Remaining insurers imposed severe limits and exclusions, rendering premiums unaffordable for many child welfare agencies.⁹

A significant factor contributing to increased verdict payouts is public sentiment, commonly referred to as social inflation.¹⁰ Social inflation describes the rising costs associated with societal trends that elevate claim frequency and severity beyond the effects of standard economic inflation. This can include the repeal of previously enacted public policies that limit the cost of lawsuits, the retroactive extension or repeal of statutes of limitation, the frequency of lawsuits, and the increased awards and settlements from those suits.¹¹ For the purposes of contextualizing the historical background of the market, it is important to understand the two types of insurance policies commonly written for child welfare agencies. Insurance policies for these providers are typically written on either an "occurrence" or a "claims-made" basis. "Occurrence" policies generally provide coverage for incidents that "occur" during the policy period, regardless of when the incident is discovered or the claim for coverage is reported to the insurer. In contrast, a "claims-made" policy will provide coverage only for claims first reported during the policy period regarding incidents that occurred during a defined period.

The extension of statute of limitations is one of the factors of social inflation. When states extend or eliminate the window for survivors to file claims, they retroactively expose insurers to liability for incidents that occurred decades ago – often under policies priced for completely different

⁷ Matthew Hendrickson, "Lutheran Social Services Ordered to Pay \$45M in Lawsuit Over Toddler's Murder," Chicago Sun-Times, March 30, 2018, <https://chicago.suntimes.com/2018/3/30/18316301/lutheran-social-services-ordered-to-pay-45m-in-lawsuit-over-toddler-s-murder>.

⁸ The Robert E. Miller Group & National Child & Family Services Liability Insurance Working Group, "Insurance Market Failure in Child and Family Services (2025)," PowerPoint presentation.

⁹ *Id.*

¹⁰ Miller Group, *supra* note 8.

¹¹ Scott Dziengelski, Naomi Schaefer Riley, et al., "An Uninsurable and Unavailable Foster Care System: How Lawsuits, Regulations, Social Inflation, and Policy Failures Are Making the Most Vulnerable Children Uninsurable," *American Enterprise Institute*, March, 19, 2025, <https://www.aei.org/research-products/report/an-uninsurable-and-unavailable-foster-care-system-how-lawsuits-regulations-social-inflation-and-policy-failures-are-making-the-most-vulnerable-children-uninsurable/>.

legal and social environments¹². The Miller Group, an independent insurance agency in the Midwest, describes this as the “tail risk that is nearly impossible to price accurately.”¹³ Illinois’ own statute of limitation signed in 2010 triggers a 20-year statute of limitation on actions for damages for personal injury based on childhood sexual abuse either once the survivor turns 18 or once the survivor discovers the injury and its connection to abuse, not when the discovery of the abuse happens. Knowing the abuse occurred alone is not enough to start the 20-year time limit.¹⁴ This means that a claim filed today under an occurrence policy could relate to an incident from the 1990s under a policy that would cost a fraction of what it would cost today. A policy written decades ago was priced for the legal and social environment of its time; however, when that claim surfaces today, its value reflects current jury awards, current legal fees, and current settlement expectations, creating losses that the original premium was never designed to cover. As will be discussed further in this report, insurers that were previously offering occurrence policies have shifted towards providing claims-made policies due to this lengthened tail risk.

Additionally, jury awards in child abuse cases have escalated dramatically and now regularly exceed policy limits. Washington State conducted an actuarial feasibility study regarding the availability and affordability of insurance coverage for various child welfare agencies in the state. The study documented that Washington state indemnity payouts roughly doubled from an average of \$123M per year (FY2017-22) to about \$252M (FY23-24).¹⁵ The large payouts are not only seen in Washington, but in also other states as well: the previously cited Martinez case that triggered the collapse of California’s child welfare agency liability insurance market, and the Hudson case in Illinois originally resulted in a jury judgment of \$45 million in which the award was ultimately lowered to \$23 million¹⁶. Although the settlement had been for half the verdict, all child welfare agencies started to see a rise in their premiums.¹⁷ Large verdicts do not just affect the cases that go to trial; they reset the settlement value of every similar claim in the pipeline because plaintiff attorneys now have a credible threat of a much larger jury award.

Lastly, the insurers argue that indemnification clauses in state contracts shift the liability to child welfare agencies, requiring them to hold the state harmless even for incidents outside of the

¹² Social environment refers to shifting community standards. Historical Past events are being evaluated by current, shifting societal standards (for example, changing views on spanking), creating a liability exposure that no insurer can price accurately.

¹³ Miller Group, *supra* note 8.

¹⁴ 735 ILCS 5/13-202.2(b) (2010).

¹⁵ Davies Actuarial, Audit & Consulting, Inc., “Market Study Regarding the Availability and Affordability of Insurance Coverage for Child Placing Agencies, Group Foster Homes, Childcare Centers, and Family Childcare Homes in Washington State, Including Consideration of the Feasibility of a Joint Underwriting Association to Provide Such Insurance,” *Washington Office of the Insurance Commissioner*, December 16, 2025, <https://www.insurance.wa.gov/sites/default/files/2026-01/wa-oic-jua-feasability-study-child-facing-orgs.pdf>.

¹⁶ Aubrey, *supra* note 5.

¹⁷ Aubrey, *supra* note 5.

child welfare agency's operational control. When DCFS is named in a civil lawsuit, damages against them are capped at approximately \$2 million in the Court of Claims. By contrast, private child welfare agencies are not considered part of the State and therefore do not benefit from sovereign immunity. Claims against them proceed in circuit court and are not subject to the Court of Claims damages cap.

While all child-serving sectors experience liability exposure, child welfare agencies face disproportionate risk relative to their peers. Praesidium, an organization that accredits organizations in sexual assault and molestation prevention trainings, administered a survey in 2024. Their 2024 benchmarking survey of sexual molestation liability (SML) insurance carriers found that only 25% of the carriers surveyed were writing SML insurance for foster care – one of the lowest sectors in all the industries surveyed which included camps, schools, sports programs, and religious organizations to name a few.¹⁸ This distinction is emphasized by the Washington State Feasibility study which compared childcare organizations broadly and found that the rate indication for child placement agencies (CPA) and group foster homes (GFH) combined was +1,080% (for indications that included "package" policies which included both liability and property coverages) to +1,553% (for indications that excluded package policies) meaning that current liability premiums charged for CPAs and GHFs are actuarially inadequate in relation to losses and expenses in aggregate – by about ten times their current rate. While the credibility of these projections is low (24% and 22% respectively), the study found the projections to be reliable enough to conclude premiums were actuarially inadequate. This was compared to the rate indication for childcare liability, which was +5.2% (including package policies) and -22.6% (excluding package policies), indicating that the current premiums charged for childcare liability insurance is reasonable in the aggregate relative to loss experience.¹⁹

A rate indication is a quantitative, actuarial analysis determining the necessary insurance premium adjustment to meet target profit levels. A rate indication uses the fundamental insurance equation of premiums being the total of losses, loss adjustment expenses, underwriting expenses and underwriting profits. This is done through the analysis of historical data.

As carriers exit, the remaining market becomes more concentrated. More concentrated markets produce less competitive pricing and less willingness to absorb risk. As premiums rise, child welfare agencies with thinner margins drop coverage or reduce limits, thereby increasing actual exposure. As their actual exposure increases, the remaining carriers tighten underwriting

¹⁸ Praesidium, "Insurance Carrier Benchmarking: Sexual Abuse and Molestation Liability," February 2025, <https://www.praesidiuminc.com/2024-insurance-carrier-benchmarking-overview/>.

¹⁹ Davies Actuarial, *supra* note 14.

further. As underwriting standards tighten and remaining carriers reassess the viability of the market, additional carriers exit, returning the cycle to its starting point and leaving child welfare agencies with fewer coverage options. This becomes a positive feedback loop where child welfare agencies will increasingly begin to either be unable to afford their coverage or start to cut back on their programs. As child welfare agencies start to reduce the scope of their coverage, the children currently in the care of child welfare agencies will have to come under the care of state custody. 50% of the Illinois respondents in the national survey reported they are “very likely” or “likely” to make future changes to their services they provide due to insurance concerns – nearly double the national rate at 27%. Two child welfare agencies have already begun reducing or eliminating service contracts.²⁰ If this trend continues, the children currently serviced by those child welfare agencies will need to be absorbed by DCFS directly.

Data collected by DCFS indicates that aggregate general liability premiums for child welfare agencies increased by 117% (n=26) between FY23 and FY26. Among child welfare agencies maintaining coverage over that period, individual premiums rose by an average of 179% (n=21). During the same period, umbrella coverage limits declined significantly; agencies that previously held \$5 million to \$10 million in excess coverage experienced reductions or eliminations of these layers. Ten of the 23 child welfare agencies lost their umbrella coverage, resulting in a 27% decline between FY23 and FY26. Additionally, premiums for sexual abuse and molestation (SAM) insurance increased by 58% over this period. Notably, the number of child welfare agencies carrying SAM insurance decreased from 19 in FY23 to 14 in FY26. There was a net change in six child welfare agencies. This figure includes two child welfare agencies that bundled SAM coverage with general or umbrella liabilities, one child welfare agency gained SAM in FY26 that they did not have in FY23, and several others that did not report whether they had secured coverage for FY26.

Coverage Type	FY 23 Total	FY 24 Total	FY 25 Total	FY 26 Total	FY 23- FY 26 change	FY23-FY26 % Change
General Liability	\$ 2,707,934.00	\$ 3,897,318.00	\$ 4,401,095.65	\$ 5,880,194.00	\$ 3,172,260.00	117.15%
Umbrella Liability	\$ 2,235,647.00	\$ 2,654,205.00	\$ 3,905,734.00	\$ 1,638,429.00	\$ (597,218.00)	-26.71%
Sexual Assault and Molestation Liability	\$ 1,494,062.00	\$ 1,739,704.00	\$ 2,786,863.00	\$ 2,321,068.00	\$ 870,769.00	58.28%

Table 1: Aggregate Liability, Umbrella, and Sexual Abuse and Molestation Insurance Premiums for Illinois Child Welfare Agencies, FY23-FY26.

Source: Illinois Department of Children and Family Services, Child Welfare Liability Insurance Agency Premium Data, FY23-FY26

²⁰ Lisette Burton, Andrea Durbin, Lisa Pilnik, “Insuring Care: How Liability Insurance Access Threatens Community Services for Children, Association of Children’s Residential & Community Services & National Organization of State Associations for Children, July 2025.

Lastly, it is important to acknowledge that the lawsuits and verdicts discussed in this report arise from real harm suffered by children in the care of the child welfare system. Survivors of abuse in child welfare agencies have a legitimate interest in seeking accountability and compensation for injuring that may have had a lasting impact on their lives. The legal mechanisms that have expanded access to justice for survivors reflect a societal recognition of the severity of childhood abuse and the responsibility of organizations entrusted with children's care.

Methodology

Insurer Survey

Pursuant to Public Act 104-0445, the Illinois Department of Insurance developed a survey that addressed the following concerns: premium determination and underwriting, risk identification, market withdrawal, agency risk mitigation, claims data, and coverage changes and exclusions.

The following lists each category of question and what section it addressed in the Public Act.

- Premium Determination and Underwriting – Section 5(a)(1) and Section 5(a)(3)
- Risk Identification – Section 5(a)(5)
- Market Withdrawal and Resilience – Section 5(a)(10)
- Agency Risk Mitigation – Section 5(a)(10)
- Claims Data – Section 5(a)(4), Section 5(a)(6) - (a)(8)
- Coverage Changes and Exclusions – Section 5(a)(7) – (a)(8)

The pool of insurers was chosen based on the secondary data provided by DCFS. Any insurer that had provided insurance to a child welfare agency was sent a virtual survey. The survey consisted of 19 open-ended questions. There were no quantitative questions asked in the survey.

The questions were asked in reference to the following insurance lines:

Professional Liability/Errors and Omissions – Professional Liability can also be known as errors and omissions liability insurance. This protects against claims of negligence, mistakes or negligence and abuse during care. It covers legal defense courts, settlements, and judgements. This is typical of services where there is no physical injury.

Directors and Officers Liability – D&O liability insurance protects board members, staff, and volunteers from personal financial loss due to lawsuits alleging mismanagement, breach of duty

or wrongful acts. It covers legal defense costs, settlements, and judgements for non-bodily injury claims like financial mismanagement or wrongful termination.

Abuse and Molestation – This is also known as Sexual and Assault Molestation (SAM) liability insurance. This protects organizations from financial ruin due to claims of sexual or physical abuse by staff, volunteers, or foster parents. It typically covers defense, settlements, judgements, and in some cases medical expenses often including negligent hiring, supervision, or training.

General Liability – General liability insurance protects business from third-party claims involving bodily injury, property damage, and personal injury. It covers medical expenses, legal fees, settlements, and judgements, making it essential for covering accidents that occur on premises or due to operations.

Umbrella Liability – Umbrella liability is a supplemental policy that provides extra liability coverage (normally \$2M - \$10M). This coverage kicks in when primary policies are exhausted. It protects against catastrophic, high severity claims that can include sexual abuse, severe injuries, or major vehicular accidents that can exceed the standard \$1M limit.

Illinois Department of Children and Family Services (DCFS) Agency Premium Data

The Illinois Department of Children and Family Services collected liability insurance premium data from 26 community-based child welfare agencies across FY23-FY26 in Illinois. Child welfare agencies were asked to report liability, umbrella, and sexual and molestation (SAM) insurance premiums. Collectively, these child welfare agencies serve approximately 15,573 children across four program types: intact family services (6,128), foster care (8,707), congregate care (528), and independent living (120). For the purposes of this report, the child welfare agencies and their services are defined below.

Intact families' services are for families that have an open child welfare case – a hotline call has been made, an investigation took place, there is an indication of abuse or neglect, but DCFS thinks the child(ren) can stay in the home with proper oversight and safety plans.

Foster care serves youth who have been removed from their homes and placed into the home of another caregiver, who can be related, or unrelated to the child.

Congregate care serves youth who live in residential treatment centers, group homes, or transitional living programs that have awake staff 24/7 (i.e. not a family-like setting)

Independent living supports older youth who are aging out of care (usually 19-21 years old) who have been set up in their own apartments and still get case management and other support.

Service Type	Children Served	Percent of Total
Intact/Prevention Services	6,218	39.93%
Foster Care/ Kinship/ Adoption	8,707	55.91%
Congregate/ Residential Care	528	3.39%
Independent Living	120	0.77%
Total	15,573	100.00%

Table 2: Distribution of Children Served by Service Type Among Illinois Child Welfare Agencies, by Number and Percentage Total (N=15,573)

Source: Illinois Department of Children and Family Services, Child Welfare Liability Insurance Agency Premium Data, FY23-FY26

2025 National Survey Report

The National Organization of State Associations for Children and the Association of Children’s Residential and Community Services Conduced a National Survey of Community-Based Child Welfare providers between March and May 2025²¹. There were a total of 327 providers across 46 states who participated in the national survey. Illinois recorded the highest state-level response rate, with 32 Illinois child welfare providers participating. The survey addressed insurance conditions including premium changes, carrier availability, coverage types, bid difficulty, and anticipated services changes due to insurance concerns.

Illinois-specific findings reported in this section are derived from analysis of the raw survey data provided directly to the Illinois Department of Insurance. Response rates varied by questions. For questions where not all 32 Illinois respondents provided an answer, the applicable sample size is noted.

DOI Insurer Survey Findings

A total of 31 insurers responded, 13 of which did not write child welfare liability insurance. Three carriers responded to the survey in its entirety, and 16 provided partial or minimal responses, with two child welfare agencies choosing not to complete the survey.

²¹ National Organization of State Associations for Children and the Association of Children’s Residential and Community Services, *National Child Welfare Liability Insurance Provider Survey* (Mar.–May 2025) (unpublished raw data on file with the Illinois Department of Insurance).

From the three carriers that responded to the survey in its entirety, two are active carriers, and one carrier no longer offers child welfare liability insurance.

The survey was sent out in February 2026, and responses and follow-up responses were collected through mid-March 2026. Insurer responses are reported in aggregate and anonymized form. Individual insurer responses are not attributed by name. Because insurer participation was voluntary and consistent entirely of open-ended qualitative questions, findings reflect the perspectives of responding carriers and may not represent the full range of the market conditions.

Premium Determination and Underwriting

Within the survey, there were four questions that addressed premium determination and underwriting. The questions asked about the factors driving liability insurance premiums for community-based providers and child welfare agencies, and about specific liabilities or exposures that might prompt the company to limit coverage or withdraw from the market.

Of the three responses, two carriers use a similar framework to set premiums: specialty rates are based on a mix of revenues, foster placement counts, adoption counts, case management volume, bed counts, and loss history. Both carriers weighed the following factors heavily in their underwriting decisions:

- Population served and intensity of services provided;
- Historical loss experience of the agency; and
- Type and scope of services.

It is important to note that pricing is not arbitrary; small child welfare agencies with minimal claims history are often rated based on sector-wide risks rather than individual performance. Due to the long-term risks associated with abuse and class actions, insurers evaluate child welfare providers collectively as a class rather than as individual entities. According to the Miller Group, insurers now price policies to worst-case outcome given the unpredictability of verdict size.²² In an interview with Capitol News Illinois, Pamela Davis, the founder, President and CEO of Nonprofits Insurance Alliance (NIA), said "insurance companies are struggling to distinguish low-risk foster child welfare agencies from high-risk ones, since child welfare agencies who are doing a "good job" and those who are doing a "bad job" are getting sued the same."²³ This collective approach can be linked to the long-tail nature of abuse liability, where the true cost of

²² Miller Group, *supra* note 8.

²³ Aubrey, *supra* note 5.

a claim may not emerge until years or decades after the policy period ends. Insurers argue that, as the statutes of limitations are extended, insurance pricing and capacity is destabilized as carriers recognize that they could not underwrite unknowable exposure stretching back generations.²⁴ As one insurer succinctly placed, occurrence abuse can be dangerous as a claim because it may not come in for many years after the occurrence took place. A policy placed 10 years ago may be priced for the claims environment in place at that time. That claim may have been worth \$100K at the time but may now be worth \$1.0M and span over years, triggering multiple policies.

This is evident in the survey, where child welfare agencies reported significant premium increases despite zero claims over five to ten years. Child welfare agencies cannot simply earn their way to a lower premium through risk mitigation alone. This resonates with responses from child welfare agencies. The risk is environmental, not individual.

According to the Miller Group, “the risk environment fundamentally changed, even though contract language did not.” The change is not due to providers assuming new obligations, the risk stems from changes in the litigation landscape.²⁵ This change is echoed by social inflation leading to larger jury awards.

Risk Identification

Two survey questions addressed risk identification. Both carriers identified sexual and physical abuse claims as the dominant factor driving premiums to increase and insurers to exit the market. Some of the factors specifically listed include negligent supervision, negligent selection of foster parents, and an unsatisfactory case management process. Lastly, one insurer noted that plaintiff’s attorneys are actively “targeting social services and child welfare entities” in certain jurisdictions leading to an increase in class action lawsuits with large verdicts. This was also echoed by another insurer stating that the inherent severity of the class combined with the uncontrolled nature of the exposure makes it impossible to charge an adequate premium for the risk.

The insurer’s observation about jurisdictional targeting is not speculative. This reflects an emerging trend in investor-backed litigation in other states. In California, law firms backed by private investors are filing thousands of sex abuse claims against child serving government

²⁴ Miller Group, *supra* note 8.

²⁵ Miller Group, *supra* note 8.

entities. L.A. County has spent nearly \$5 billion in 2025 on sex abuse litigation, with the bulk of the total coming from a \$4-billion deal – the largest sex abuse settlement in U.S. history.²⁶

Risk Mitigation

There was one question that addressed risk mitigation in the survey, asking what child welfare agencies can do to lower their risk. One response recommended that child welfare agencies obtain a Praesidium accreditation or a comparable third-party certification. However, any child welfare agency that has a contract with DCFS is required to be accredited by the Council on Accreditation (COA).²⁷ COA views accreditation as a catalyst for change that builds on an organization's strengths and helps it achieve better results in all areas. The accreditation process is designed to meet the needs of diverse organizations. While Illinois child welfare agencies are required to be accredited, the accreditation through COA is not specifically sexual abuse prevention. Instead, it is general improvement in delivery outcomes.

Although premiums are determined by sector-wide conditions rather than just the individual child welfare agency history, one insurer noted that child welfare agencies can lower their risk exposure by installing GPS tracking and cameras in all vehicles.²⁸ When prompted for follow-up regarding the specific types of claims this would mitigate, the insurer did not respond.

While it is important for child welfare agencies to take the necessary precautions, based on the previous responses, child welfare agencies are being determined as a class rather than individually. As a result, individual risk mitigation efforts, while beneficial in reducing claim exposures, may have limited effect on lowering premium costs.

Claims Data

The claims data section contained the most extensive set of questions in the insurer survey. Insurers were asked to describe the types of liability claims encountered, whether these claims were settled or litigated, the payouts received, the typical allocation between administrative and legal expenses, and any observed changes in the frequency or severity of class-action lawsuits against community-based providers.

²⁶ Rebecca Ellis, "How Private Investors Stand to Profit from Billions in L.A. County Sex Abuse Settlements," *L.A. Times*, December 22, 2025, <https://www.latimes.com/california/story/2025-12-22/california-sex-abuse-lawsuits-investors>.

²⁷ 89 Ill. Adm. Code 401.150.

²⁸ This proposal could potentially raise significant privacy concerns for youth in care.

The active carriers reported that the most common types of claims included:

- Abuse and molestation (by staff and foster parents due to negligent oversight)
- Negligent supervision and failure to supervise
- Elopement (unauthorized departure of a child from a supervised setting) leading to theft, arson, and other crimes

Data collected from this survey was not sufficient in determining the number of cases that proceed to court versus those that are settled without a trial; however, it is general practice for insurers to attempt to settle out of court.

Coverage Changes and Exclusions

DOI asked seven questions regarding coverage change, availability, and exclusion. One insurer generalized that they had a “few” accounts with incidental exposure in the past but has non-renewed all foster and adoption exposure. Another noted that availability in the standard market has always been limited, but over the past five years, it has been almost nonexistent, and any availability has moved to excess and surplus lines. This was echoed by another insurer that provided general liability and umbrella coverage on an excess and surplus basis.

Excess and surplus line insurance provides coverage for hard-to-place risks that the standard market typically will not insure. This includes businesses with adverse loss experience, unusual or high-risk exposures, or complex products.²⁹ However, unlike admitted carriers who are subject to state rate and form regulation and backed by state guaranty funds, excess and surplus lines insurers operate outside standard regulatory oversight, providing less protection for consumers, less pricing predictability, and no guaranty fund coverage if the insurer becomes insolvent.

Additionally, it is important to note that when an occurrence-based insurer exits the market, child welfare agencies that held policies with that carrier will face an insurance gap if litigation arises. When insurers exit the market, the coverage gap is not immediately visible to child welfare agencies, meaning they may not realize they no longer have coverage.

Another insurer noted that while they have not changed their availability in liability insurance for child welfare agencies, they have added communicable disease exclusions to their liability policies – presumably after COVID-19.

²⁹ W.R. Berkley Corporation, “Excess and Surplus Lines,” accessed March 20, 2026, <https://www.berkley.com/business-insurance/excess-surplus>.

Lastly, we asked about the differences between occurrence-based and claims-based insurance to address how future claims arising from past events are handled. Because occurrence policies generally do not have a cut-off for the filing of claims, they provide broader coverage than claims-made policies.³⁰ One insurer stated that it only writes claims-made insurance abuse coverage, while another said it offers both, depending on the risk. This shift is already documented in Illinois' child welfare agency responses where several providers reported being transitioned from occurrence to claims-made policies at renewal.

Child welfare agencies also noted they had to purchase SAM insurance separately from their umbrella insurance. Historically, the coverage was bundled into umbrella policies, but now child welfare agencies must purchase SAM as an add-on.

Insurers claim that occurrence-based policies in Illinois pose a significant risk to insurance companies because of the extension of the statute of limitations signed into law on July 19, 2010.

The survey respondents argue that, taken together, these coverage changes mean that Illinois child welfare agencies are paying more for less coverage, losing access to the regulatory protections of the admitted market, and accumulating uninsured historical exposure that no current policy addresses.

Market Withdrawal

The questions that addressed market withdrawal focused on the availability of liability insurance, not just its cost. One company noted, "the inherent severity of the class combined with the uncontrolled nature of the exposure makes it impossible to charge an adequate premium." As noted above, when insurers withdraw from the market, they leave a coverage gap that can be detrimental to child welfare agencies. As insurers exit, the market becomes increasingly concentrated among a small number of insurers reducing competitive pressure on pricing and leaving child welfare agencies with fewer alternatives when coverage is non-renewed. The gap in coverage leads to an increase in premiums. This is confirmed actuarially by the Washington State Feasibility Study which found that current liability premiums for child placement child welfare agencies and group foster homes would need to exceed ten times their current rates to be adequate relative to their losses. This suggests that carriers are not exiting because the market is unprofitable at current rates, but because there are no profitable rates the market can sustain.³¹

³⁰ Davies Actuarial, *supra* note 14.

³¹ Davies Actuarial, *supra* note 14.

Illinois Department of Children and Family Services

Agency Findings

The following findings are from premium data reported by 26 Illinois community-based child welfare agencies as described in the Methodology section.

General Liability Insurance

Fiscal Year	Total General Liability Premiums	Avg per Agency	Median Premium	Number of Agencies Reported
FY 23	\$ 2,707,934.00	\$ 104,151.31	\$ 63,984.50	25
FY 24	\$ 3,897,318.00	\$ 149,896.85	\$ 74,681.50	26
FY 25	\$ 4,401,095.65	\$ 169,272.91	\$ 99,396.00	26
FY 26	\$ 5,880,194.00	\$ 226,161.31	\$ 72,915.50	22
FY23-FY26 Change	\$ 3,172,260.00	117.15%		

Table 3: Aggregate General Liability Insurance, Average Premium Per Child Welfare Agency, Median Premium, and Number of Child Welfare Agencies Reporting, FY23-FY26

Note 1: One agency did not report FY23 premiums, FY 24 premium was substituted as baseline for that child welfare agency's percentage change calculation.

Note 2: Four child welfare agencies reported \$0 in FY26 general liability premiums. These child welfare agencies are included in the aggregate total and child welfare agency count but are excluded from per-child welfare agency percentage change calculations for child welfare agencies maintain coverage.

Note 3: The number of child welfare agencies reporting varies by fiscal year due to coverage losses and data gaps.

Source: Illinois Department of Children and Family Services, Child Welfare Liability Insurance Agency Premium Data, FY23-FY26

Liability insurance premiums are the most significant and consistent cost driver across all responding agencies. The total premium across the agencies increased from \$2.7 million in FY23 to \$5.9 million in FY26. This represents an increase of 117% (n=26) in three years.

Among the 21 child welfare agencies that maintained liability coverage through the full three-year period, the average premium increased from FY23 to FY26 by 179% (n=21), and the median increased by 51%. An additional four child welfare agencies reported \$0 in FY 26 premiums. We could not determine whether this was because they had not obtained the coverage at the time of the survey or if they were unable to obtain it. Additionally, this data includes one organization that did not report its FY23 premium; its FY24 premium was used to calculate the change rather than excluding that organization from the data.

The significantly higher average in the data is due to the outliers. There were four child welfare agencies that had significant increases (883%, 806%, 751% and 517%). Therefore, the median increase of 51% is a more representative measure of the typical child welfare agency

experience, while the average reflects the disproportionate impact on a subset of smaller child welfare agencies facing extreme market conditions.

Several child welfare agencies also reported qualitative changes, including a transition from occurrence-based policies to claim-made policies. This shift narrows the scope of coverage and may leave agencies exposed to liabilities for past incidents. Deductibles have also increased for several organizations. Additionally, some child welfare agencies now operate under cost-sharing arrangements that impose greater financial risk on the organization. One organization reported that their deductible is now cost-sharing model (95%, 5%) along with going from occurrence based to claims based.

Traditionally, liability insurance policies require child welfare agencies to pay a fixed deductible per claim before the insurer assumes coverage responsibility. This fixed amount provides child welfare agencies with a predictable budget regardless of the size of the claim. However, child welfare agencies are reporting that the insurance companies are transitioning to cost sharing arrangements where the child welfare agency is expected to pay a certain percentage of a claim – the larger the claim, the greater the child welfare agency’s share of cost. In the case of this child welfare agency, they would be expected to cover 5% of a lawsuit. This shift imposes a greater financial risk on child welfare agencies as the claim severities are on the rise.

Umbrella Insurance

Fiscal Year	Total Umbrella Liability Premiums	Avg per Agency	Median Premium	Number of Agencies Reported
FY 23	\$ 2,235,647.00	\$ 85,986.42	\$ 44,003.00	23
FY 24	\$ 2,654,205.00	\$ 102,084.81	\$ 46,660.00	26
FY 25	\$ 3,905,734.00	\$ 150,220.54	\$ 121,660.50	26
FY 26	\$ 1,638,429.00	\$ 63,016.50	\$ 9,222.50	16
FY23-FY26 Change	\$ (597,218.00)	-26.71%		

Table 4: Aggregate Umbrella Liability Insurance Premiums, Average Premium Per Child welfare Agency, Median Premium, and Number of Agencies Reporting, FY23-FY26

Note 1: Of the 23 child welfare agencies that held umbrella coverage in FY23, 10 reported no umbrella coverage in FY26.

Note 2: Child welfare agencies reporting \$0 in umbrella premiums for FY26 are included in the child welfare agency count but excluded from average and median calculations for child welfare agencies maintaining coverage.

Note 3: The number of child welfare agencies reporting varies by fiscal year due to coverage losses and non-renewals.

Source: Illinois Department of Children and Family Services, Child Welfare Liability Insurance Agency Premium Data, FY23-FY26

The umbrella insurance market presents a more troubling picture in this survey. Umbrella policies provide excess liability protection above primary coverage limits – they are essential for organizations facing large claims or catastrophic loss events.

Of the 23 child welfare agencies that held umbrella coverage in FY23, ten reported no coverage in FY26. This absence may indicate either loss of policy or inability to afford replacement

coverage. Although total umbrella premiums declined by 27%, from \$2,235,647 in FY 23 to \$1,638,429 in FY 26, this reduction reflects a loss of coverage rather than cost savings. One child welfare agency that reported having coverage in FY26 did not have coverage in FY23.

Child welfare agency narratives below illustrate the severity of the umbrella market collapse in specific terms.

“Our insurer would not offer umbrella coverage at our latest renewal. Available policies for \$1 million in coverage on the excess and surplus market approached \$700,000.”

“FY23 - \$10M [in coverage]; FY24 - \$10M [in coverage]; FY25 - \$5M [in coverage]; FY26 - non-renewal [for coverage]”

“Initially had 4 layers at \$1M each. Due to cost, cancelled 3 of 4 layers [of protection].”

“Reduced to \$1M from \$5M on FY25-26 policy period.”

Source: Illinois Department of Children and Family Services, Child Welfare Liability Insurance Agency Premium Data, FY23-FY26

Sexual Abuse and Molestation (SAM)

Fiscal Year	Total SAM Liability Premiums	Avg per Agency	Median Premium	Number of Agencies Reported
FY 23	\$ 1,494,062.00	\$ 59,762.48	\$ 16,267.00	19
FY 24	\$ 1,739,704.00	\$ 69,588.16	\$ 20,449.00	20
FY 25	\$ 2,786,863.00	\$ 111,474.52	\$ 26,999.00	20
FY 26	\$ 2,321,068.00	\$ 100,916.00	\$ 1,338.50	14
FY23-FY26 Change	\$ 827,006.00	55.35%		

Table 5: Aggregate Sexual Abuse and Molestation (SAM) Liability Insurance Premiums, Average Premium Per Child Welfare Agency, Median Premium, and Number of Child Welfare Agencies Reporting, FY23-FY26

Note 1: Historically, SAM coverage was bundled within professional liability or umbrella policies. Two child welfare agencies reported that \$0 in standalone SAM premiums in FY26 had reclassified SAM coverage within their general liability or umbrella policies rather than purchasing it separately. These child welfare agencies are not counted as having lost SAM coverage.

Note 2: One child welfare agency newly reported standalone SAM premium in FY25 after unbundling coverage previously included within professional liability. This affects year-over-year comparability.

Note 3: Of the 17 child welfare agencies that carried identifiable SAM coverage in FY24, 12 reported standalone SAM coverage in FY26. Child Welfare agencies reporting \$0 in FY26 SAM premiums are included in the child welfare agency count but excluded from average and median calculations for child welfare agencies maintain coverage.

Note 4: The number of child welfare agencies reporting varies by fiscal year due to coverage, restructuring, bundling practices, and market availability.

Source: Illinois Department of Children and Family Services, Child Welfare Liability Insurance Agency Premium Data, FY23-FY26

Historically, sexual abuse and molestation (SAM) coverage was included within professional liability or umbrella policies. It is now increasingly excluded from standard policies and must be purchased separately, often at higher cost through the excess and surplus market. Total SAM premiums among reporting child welfare agencies increased by 55%, from \$1,494,062 in FY23 to \$2,321,068 in FY26. As a result, child welfare agencies are contending with both rising primary liability premiums and new standalone SAM costs. Notably, the number of child welfare agencies carrying SAM insurance decreased from 19 in FY23 to 14 in FY26. There was a net change in six agencies. This figure includes two child welfare agencies that bundled SAM coverage with general or umbrella liabilities, one child welfare agency gained SAM in FY26 that they did not have in FY23, while several others did not report whether they had secured coverage for FY26.

2025 National Provider Survey

Measure	Illinois 2019	Illinois 2025	Illinois Change	Illinois Percent Change
Total Premiums	\$2,609,692.00	\$5,521,937.00	\$2,912,245.00	111.59%
Average Premiums	\$104,387.68	\$212,382.19	\$107,994.51	103.46%
Median Premiums	\$67,264.00	\$112,506.50	\$45,242.50	67.26%

Table 6: Aggregate, Average, and Median General Liability Insurance Premiums, Illinois Respondents, 2019 and 2025.

Note: Calculations for average and medians excluded respondents reporting \$0 premiums. Illinois n=32.

Source: Insuring Care: How Liability Insurance Access Threaten Community Services for Children National Survey Report (Raw Data)

Measure	National 2019	National 2025	National change	National Percent Change
Total Premiums	\$26,904,155.68	\$57,680,692.17	\$30,776,536.49	114.39%
Average Premiums	\$112,569.69	\$227,986.93	\$115,417.24	102.53%
Median Premiums	\$33,000.00	\$75,250.00	\$42,250.00	128.03%

Table 7: Aggregate, Average, and Median General Liability Insurance Premiums, National Respondents, 2019 and 2025

Note: Calculations for average and median excluded respondents reporting \$0 premiums. n=327

Source: Insuring Care: How Liability Insurance Access Threaten Community Services for Children National Survey Report (Raw Data)

The average change in insurance conditions from 2019 to 2025 mirrored the data collected by DCFS. While the two datasets covered different time periods, both indicate that Illinois child

welfare agencies experienced a doubling of premiums. DCFS data showed an increase in general liability insurance premiums of 117% between FY23 and FY26, while the data collected by the National Survey showed an increase of 111.59% between 2019 and 2025. This data is consistent with the national data which showed an increase of 114.39%.

General Liability Carrier Changes, 2019-2025				
	Illinois Count	Illinois Percent	National Count	National Percent
Yes	15	57.69%	136	51.91%
No	11	42.31%	126	48.09%
Total	26	100.00%	262	100.00%

Table 8: Proportion of Illinois and National Respondents Reporting General Liability Carrier Changes in the Past Five Years, 2019-2025

Note: Illinois n=26; National n=262. The sample only reflects respondents who answered yes or no to the carrier change questions.

Source: Insuring Care: How Liability Insurance Access Threaten Community Services for Children National Survey Report (Raw Data).

Challenges in Obtaining Insurance, 2019-2025				
	Illinois Count	Illinois Percent	National Count	National Percent
Yes	26	81.25%	205	62.88%
No	5	15.63%	81	24.85%
Not Sure	1	3.13%	40	12.27%
Total	32	100.00%	326	100.00%

Table 9: Proportion of Illinois and National Respondents Reporting Challenges in Obtaining Insurance in the Past Five Years

Note: Illinois n=26; National N=326. the sample only reflects respondents who answered yes, no, or not sure to the question.

Source: Insuring Care: How Liability Insurance Access Threaten Community Services for Children National Survey Report (Raw Data).

Notably, the survey highlighted significant challenges in obtaining insurance: 81% (n=32) of Illinois respondents reported difficulty in securing bids from insurance carriers compared to 62% nationally (n=326). Additionally, 58% (n=26)³² of Illinois respondents reported changing their general liability carriers in the past five years compared to 52% (n=262) nationally. Although, Illinois data is consistent with the national data, there is a slight increase in carriers changing in the Illinois market compared to the national market. Respondents attributed changes in carriers to both non-renewals and unaffordable pricing, indicating market instability.

³² Sample size for this response was smaller than the original sample size because there were 26 agencies that either reported “yes” or “no” when asked if they had changed their insurance carrier in the past five years. The remaining six agencies did not respond to this question.

“We have definitely experienced an increase in premiums and a decrease in coverages despite having 0 claims for over 10 years.”

“We experienced a 100% increase in premium for a tenth of the coverage with no claims made against us.”

“We’ve had to implement new preventive strategies. Our insurance increased by \$75,000 which was unrelated to any program growth.”

“All policies moved from incident-based to claims made in recent years... Deductibles have increased across all policies.”

Source: *Insuring Care: How Liability Insurance Access Threaten Community Services for Children National Survey Report*

Likelihood of Reducing Child Welfare Services Due to Insurance Concerns, 2025				
Responses	Illinois Count	Illinois Percent	National Count	National Percent
Very Likely	6	18.75%	27	8.26%
Likely	10	31.25%	62	18.96%
Neither Likely nor Unlikely	8	25.00%	132	40.37%
Unlikely	6	18.75%	74	22.63%
Very Unlikely	2	6.25%	32	9.79%
Total	32	100.00%	327	100.00%

Table 10: *Likelihood of Making Changes to Child Welfare Services Due to Insurance Concerns at the Time of Survey, Illinois and National Respondents, 2025*

Note: Illinois n=32, National n=327.

Source: *Insuring Care: How Liability Insurance Access Threaten Community Services for Children National Survey Report (Raw Data)*

Importantly, the data indicated that 50% of Illinois respondents reported being “very likely” or “likely” to make future changes to the child welfare services they provide due to insurance concerns, nearly double the national rate of 27%. Two child welfare agencies have already begun reducing or eliminating service contracts, and two additional child welfare agencies are actively considering similar actions. One organization noted that rising premiums could result in staff reductions due to financial constraints, which may further increase liability risks. If these reductions materialize, the children currently served by those child welfare agencies would require placement through alternative providers or direct DCFS supervision, which would place additional strain on the state.

Several Illinois respondents identified the state's indemnification requirements as a contributing factor. According to the insurers, contract clauses obligate providers to hold the state harmless, thereby placing disproportionate risks on child welfare agencies and their insurers. In practice,

the insurers argue, these clauses mean that when DCFS is named in a lawsuit, private child welfare agencies and their insurers may be contractually required to participate in the defense and absorb liability even for incidents outside the child welfare agency's operational control.

The indemnification concern raised by Illinois providers is consistent with findings from the insurer survey conducted by DOI. Active carriers identified the inability to define and limit a child welfare agency's actual exposure as a factor in their underwriting decisions. Insurers noted that due to incidents outside of child welfare agencies' operational control, they cannot underwrite for risks. This was discussed by both providers and insurers as a barrier.

Discussion

The data presented by DOI, DCFS, and the national survey all present a consistent picture of deteriorating market conditions for the child welfare liability market both in Illinois and nationally. The liability coverage is shrinking, and child welfare agencies are only effectively able to get insurance through the excess and surplus lines. In DOI's survey, there were only two active carriers that provided substantive information, while a third confirmed their exit from the market. As insurers exit the market, the prices for premiums continue to rise due to instability.

While the data from DCFS has some gaps, the Illinois and national data is consistent. DCFS data shows that the general liability premiums increased 117% in three fiscal years with four child welfare agencies reporting \$0 premiums for FY26, either because they had not purchased the insurance at the time of the survey, or they were unable to find coverage. 43% of the child welfare agencies lost umbrella coverage entirely, and SAM coverage decreased for net six child welfare agencies (from 19 to 14) from FY23 to FY26. As the premiums continue to increase, coverage has continued to decrease. Child welfare agencies noted that the insurer transitioned from occurrence to claims made coverage and shifted to cost-sharing models creating additional financial uncertainty. All these factors have contributed to the child welfare agencies to either already reducing their services or planning to do so. As noted in the national survey, 50% of Illinois providers indicated that they are "very likely" or "likely" to reduce their services due to insurance coverage, compared to the national rate of 27%.

The Illinois premium increases are not a local issue, these increases mirror the national premium increases, 111.59% and 114.39% respectively. The Washington State Feasibility Study confirmed that premiums would need to exceed ten times the current rate for premiums to be adequate. In California, the market reached a point where no insurer responded to the state

Insurance Commissioner's August 2-24 request to ender the foster family agency market, even after the legislature appropriated 31.5M in emergency subsidies. ³³ Without proper coverage, child welfare agencies are unable to provide the services they currently do.

One thing to note in this data is the timeline for how the general liability insurance premiums increased. While both sets of data showed a doubling of premiums, the national survey collected data from a six-year period, while the DCFS data collected information from a three-year period. The same magnitude of increase occurred in half the time, indicating that the market is worsening.

While the Illinois and national data is consistent, it is important to note that the data is not standardized. The survey that DOI conducted was not mandatory, meaning that insurers chose to opt in to take the survey. Additionally, the questions were all open ended and insurers did not provide much detail to their responses. The inability of insurers to provide substantive claims data is not just a survey limitation, this reflects a broader structural gap where there is no standardized claims reporting limiting the ability for regulators and providers to benchmark market trends against national trends. Lastly, the DCFS data also had information gaps, the child welfare agencies that reported \$0 premiums in FY26 never reported whether it was because they had not yet started to look for coverage or because they had been unable to obtain coverage.

The indemnification concerns documented in this report reflect a pattern identified across multiple states experiencing similar market conditions. Currently, five states have enacted legislative reforms to address overbroad indemnification provisions in child welfare contracts: Pennsylvania, California, Florida, North Carolina, and Massachusetts.

Florida enacted a comprehensive approach where the state explicitly prohibited subcontractors from being held liable for the acts or omissions of the lead agency or state and limiting liability to their own negligence. ³⁴ Additionally, Pennsylvania has enabled county agencies and municipal governments to be named directly in lawsuits rather than directing liability through private contractors. ³⁵ Lastly, California has temporarily voided their indemnification clauses that require private foster family agencies to hold public entities harmless for governmental negligence. This is set to expire on January 1, 2027. ³⁶ North Carolina and Massachusetts have proposed but have not yet enacted comparable reforms.

³³ Davies Actuarial, *supra* note 14.

³⁴ Fla. Stat. §409.993 (2025).

³⁵ Act of Nov. 3, 2022, P.L. 1937, No. 127, 67 Pa.C.S. § 8102(a)).

³⁶ Davies Actuarial, *supra* note 14.

The Washington Feasibility Study also found that overbroad indemnification provisions can exacerbate problems with affordability and availability of insurance for private providers contracting with the state. According to the Study, while indemnity and insurance provision can protect a public entity, “if broadly worded, these provisions can also shield a public entity from the cost of injuries resulting from its own actions or omissions.”³⁷ Illinois providers and insurers identified indemnification requirements as a contributing factor coverage challenge in this survey.

Conclusion

The data collected pursuant to P.A. 104-0445 presents a consistent picture across the three data sources utilized in this report. The liability insurance market for child welfare agencies is shrinking, and the consequences are measurable. General liability premiums have more than doubled in the past three years. Nearly half of the child welfare agencies that held umbrella coverage in FY23 no longer carry it. Four child welfare agencies reported \$0 general liability premiums for FY26, either due to not looking for coverage at the time of the survey or being unable to obtain coverage. Lastly, half of Illinois providers surveyed nationally reported that they are “very likely” or “likely” to reduce their services due to insurance concerns.

The insurer survey confirms that these conditions are not the result of individual child welfare agency performance. Child welfare agencies are underwritten as a class, meaning that organizations with zero claims still face risky environmental conditions that could implicate them in a lawsuit. These risky environments are exacerbated by the extension of statutes of limitations, nuclear verdicts, investor-backed litigation, targeting child-serving entities, and contractual indemnification structures that transfer liability from state to private providers. While there are some actions child welfare agencies can take to mitigate their risks, like obtaining sexual assault prevention accreditation, it is unlikely that those risks can be completely eliminated.

Currently, child welfare agencies serve approximately 15,573 children in Illinois across foster care, intact family services, congregate care, and independent living programs. These child welfare agencies exist because they have the resources and capability to provide these services. If the insurance carriers continue to leave the market, these agencies will be forced to decrease or eliminate the services they provide, leading to children being placed in state custody.

³⁷ Davies Actuarial, *supra* note 14.

Illinois is not alone in these issues. This is a national issue which is also being addressed by the National Association of Insurance Commissioners (NAIC). Due to different states' experiences in the foster care and childcare liability markets, NAIC is currently working on a survey to send out to all state insurance agencies. The survey is designed to receive feedback from state insurance regulators to inform possible discussions of broader NAIC research and potential action on this subject. At the time of this report's publishing, the survey has not yet been finalized or distributed to other state insurance regulators.

On March 25, 2026, the National Association of Insurance Commissioners (NAIC) approved the formation of a Working Group to be charged with studying the issue of liability insurance for childcare services (including foster care agencies, group homes, day care, etc.) and developing recommendations for solutions. Illinois will be participating in this multi-state initiative. The Working Group will be officially formed at a future meeting of the Property & Casualty Insurance (C) Committee.

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