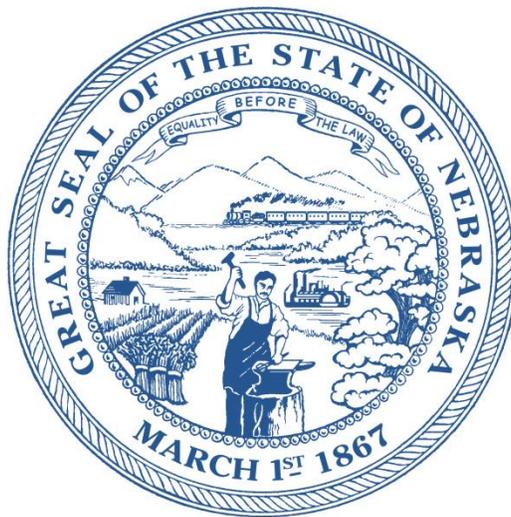


# **The Nebraska Foster Care Review Office Annual Report**

Submitted pursuant to Neb. Rev. Stat. §43-1303(4)



**Issued December 1, 2014**

*This Annual Report is dedicated to  
the 300+ Foster Care Review Office local board members  
that meet each month to review children's cases'  
the FCRO staff that facilitate the citizen review boards,  
enable the collection of the data described in this report,  
and promote children's best interests;  
and  
everyone in the child welfare system  
who works daily to improve conditions  
for children in out-of-home care.*

### **Advisory Committee Members**

Chair, Craig Timm, Omaha, local board member (term 8/6/2012-3/1/2015)

Vice-Chair, Sandy Krubak, North Platte, local board member (term 3/2/2014-3/1/2017)

Michelle Hynes, Dakota City, local board member (term 8/6/2012-3/1/2015)

Elizabeth Neeley, Seward, data expert (term 3/2/2014-3/1/2017)

Sheree Keely, Omaha, citizen at large (term 8/6/2012-3/1/2015)

# Table of Contents

<b>Executive Summary .....</b>	<b>1</b>
<b>I. Primary Information on Children and Families in the Child Welfare System.....</b>	<b>9</b>
Parties to the Child Welfare System .....	10
Trauma and healing.....	11
Nebraska children in out-of-home care.....	14
Gender.....	14
Age group.....	14
Race.....	15
Adjudication types .....	17
Children in out-of-home care during FY2013-14.....	18
Reviews conducted .....	19
<b>II. Safety .....</b>	<b>21</b>
Safety defined .....	22
Reasons for entering out-of-home care.....	24
Parental substance abuse.....	25
Preventing abuse or neglect .....	27
Response to reports of child abuse.....	29
Caseworker contact with children.....	31
Continued need for out-of-home care .....	33
Provision of children’s health records to caregivers.....	34
Health care and dental care status of children reviewed.....	36
Placement availability, safety, and appropriateness .....	39
<b>III. Permanency .....</b>	<b>45</b>
Permanency defined.....	46
Barriers to children achieving permanency .....	47
Trial home visits .....	48
Case planning and permanency objective.....	49
What case planning entails.....	49
Safety measures in the plan.....	50
Plan completeness .....	51
Appropriateness of objective .....	52
Target date for permanency .....	54
Progress being made .....	55
Reasonable efforts to reunify .....	56
Concurrent planning.....	57
Plans of adoption require specialized support .....	58
Length of time in foster care .....	59
Caseworker changes.....	62
Visitation (parenting time).....	65
Services for parents and child.....	68

Returns to care .....	71
Paternity identification.....	74
Court and Legal System Issues .....	77
Adjudication hearing delays .....	77
GAL practices .....	79
Court hearings.....	81
12-month permanency hearings.....	81
Aggravated circumstance findings.....	82
Termination of parental rights .....	84
Reasons for exits from care.....	86
<b>IV. Well-being.....</b>	<b>87</b>
Well-being defined.....	88
Placement issues .....	89
Why the number of placements matters.....	89
Why children change placements .....	90
Number of placements .....	91
Upcoming federal changes.....	92
Documentation issues .....	93
Number of removals and placement changes .....	94
Types of placements .....	95
Relative and kinship care .....	96
Maintaining connections with siblings .....	100
Access to mental health services.....	101
Education of children in foster care .....	104
<b>V. Well-being and Special Populations.....</b>	<b>111</b>
Children age birth through five.....	112
Children nearing adulthood.....	116
Voluntary extension of services to age 21 (b2i program).....	117
Changes to the juvenile justice system .....	119
<b>Summary.....</b>	<b>121</b>
<b>Appendix A – Foster Care Review Office.....</b>	<b>123</b>
Basis for the data and information in this report.....	123
Comparison of roles.....	124
FCRO tracking process .....	125
Facility acknowledgements.....	126
Local foster care review board members .....	127
Backgrounds of local foster care review board members.....	130
Major activities during 2012.....	131
<b>Appendix B – County data .....</b>	<b>132</b>
<b>Appendix C – Barriers to permanency .....</b>	<b>135</b>
<b>Appendix D – Service areas .....</b>	<b>138</b>
<b>Appendix E – Federal IV-E funds .....</b>	<b>139</b>
<b>Appendix F – Court process .....</b>	<b>140</b>

## **IMPORTANT INFORMATION REGARDING THE STATISTICS IN THIS REPORT:**

1. **Since the mandated transfer of DHHS-OJS youth to the Office of Probation Administration, reports on youth under Probation have not been provided to the FCRO tracking system due to a conflicting interpretation of statutes.** The FCRO is working with the Office of Probation Administration and with members of the Legislature that plan to introduce a bill in the 2015 Legislative session. In the meantime, the statistics in this report do **not** include children under the Office of Probation Administration or children that have yet to transfer from DHHS-OJS.
2. Historically the FCRO's Annual Reports have presented data from the prior calendar year rather than the fiscal year. In an effort to provide more timely data, the FCRO will now be presenting data from July 1- June 30<sup>th</sup> (the state fiscal year). Because this is our transition year, we are only able to present six months of data at this time for many statistical elements (January-June 2014). The 2015 Annual Report will present a full year's worth of data regarding the status of youth in out-of-home placements.



# Foster Care Review Office Annual Report on the Status of Nebraska's Children and Youth in Foster Care

*Respectfully submitted as required under Neb. Rev. Stat. §43-1303(4)*

This report contains the Foster Care Review Office's (FCRO) independent data and analysis of the child welfare system with recommendations for system improvements. FCRO staff track children's outcomes and facilitate case file reviews. Local board members, who are community volunteers that have completed required instruction, conduct case file reviews and make required findings. In fiscal year 2013-14 (July 1, 2013-June 30, 2014), local board members conducted 4,451 reviews of the cases of 3,179 DHHS wards in out-of-home care.<sup>1,2,3</sup>

During fiscal year 2013-14, a total of 5,466 Nebraska children (not counting youth under OJS or the Office of Probation Administration) were in out-of-home care for some portion of their life.<sup>4</sup> Because prior year statistics included OJS and Probation youth in out-of-home care, meaningful comparisons to previous statistics are difficult. **On June 30, 2014, there were 3,029 children (DHHS wards) in out-of-home care in Nebraska**, most of whom had experienced a significant level of trauma prior to their removal from the parental home.

The federal *Adoption and Safe Families Act of 1997* (ASFA) clearly and unequivocally establishes three national goals for children in foster care: safety, permanency, and well-being.

- Safety is to reduce the recurrence of child abuse and/or neglect whether the child is placed at home or out-of-home.
- Permanency is to ensure that children leave out-of-home care to live in the rehabilitated parental home or, if a return to the parent is not possible, to another permanent family such as through adoption or guardianship.

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<sup>1</sup> Out-of-home care is 24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes but is not limited to foster family homes, foster homes of relatives, group homes, emergency shelters, residential treatment facilities, child-care institutions, pre-adoptive homes, detention facilities, youth rehabilitation facilities, and runaways from any of those facility types. It includes court ordered placements and non-court cases. Children placed with their parents but under the supervision of the courts or DHHS are not included as they are no longer in substitute care away from their parents. The FCRO uses the term "out-of-home care" to avoid confusion because some researchers and groups define "foster care" narrowly to be only care in foster family homes, while the term "out-of-home care" is broader.

<sup>2</sup> Children are typically reviewed once every six months for as long as they remain in out-of-home care; therefore, some children will have two reviews during a 12-month period.

<sup>3</sup> Statistics are from the FCRO's independent tracking system (computer system) unless otherwise specified.

<sup>4</sup> **Since the mandated transfer of DHHS-OJS youth to the Office of Probation Administration, reports on youth under Probation have not been provided to the FCRO tracking system due to conflicting interpretations of statutes. The FCRO is working with the Office of Probation Administration and members of the Legislature who plan to introduce a bill in the 2015 Legislative session to remedy the conflict. In the meantime, the statistics in this report do not include children under the Office of Probation Administration or children that have yet to transfer from DHHS-OJS.**

- Well-being is to ensure that the child's emotional, behavioral, educational, and social needs are being met.

**The FCRO collects data on children in out-of-home with the goal of answering two key questions:**

- 1. Are children safe while they are in out-of-home care?**
- 2. Are children and their families receiving what they need so that the children are better off when they leave out-of-home care than they were when they entered?**

Some of the key data indicators are discussed below.

### Are children safe while in out-of-home care?

When considering the trauma that children may have experienced and the service that the children and families may need there needs to first be a consideration of the reasons why children entered out-of-home. (See page 11 for more details.)

The two most prominent reasons are:

1. Neglect continues to be the most prevalent reason for children to be removed from the home.<sup>5</sup> For children on their first removal from the home, neglect was involved in 74% of the cases.
2. Parental substance abuse is next. For children on their first removal from the home, parental substance was involved in 52% of the cases.

Other considerations include:

- 9 of the children reviewed were found to be unsafe in their current placement. However, for 8% of the children's case files reviewed where children had been moved to a new placement in the last six months, it was found they were moved from their placement due to allegations of abuse or neglect from those caregivers. (See page 42).

### Are children and their families receiving what they need so that the children are better off when they leave out-of-home care than they were when they entered?

- **Case management**
  - 1 out of 4 children reviewed have spent 50% of their lives in out-of-home care. The same was true in 2012 and 2011. (See page 59)
  - Depending on the area of the state, 32-46% of the children have had 4 or more caseworkers over their lifetime. Less than 4 is preferred. (See page 62).
  - 32% of the children in out-of-home care on June 30, 2014, had been removed from their home more than once, which is a concern. (See page 71).
  - In 33% of the cases reviewed the DHHS case plan was incomplete or outdated.

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<sup>5</sup> Neglect is a broad category of parental acts of omission or commission that result in the failure to provide for a child's basic physical, medical, education, and/or emotional needs, including the failure to provide adequate supervision.

- In 97% of the cases reviewed there was documentation that caseworkers had contact with the children in the 60 days prior to the case file review. **The FCRO commends DHHS for improving the documentation of this vital safety indicator.** (See page 31).
- **Court and legal system** (page 77)
  - 27% of children reviewed did not have their case adjudicated within 90 days.
  - 46% of the cases there was no documentation regarding guardian ad litem contact.
  - 21% of the cases reviewed there were grounds for the filing of a termination of a parental rights action and that would be in the child's best interest, but it had not been filed.
  - 19% of the case files reviewed the permanency objective was found to be inappropriate given the circumstances of the case. This was 27% in 2012 (when OJS youth were included in the population). (See page 52).
  - 72% of the court-ordered case files reviewed had a complete case plan, with services, tasks, and timeframes specified. While an improvement compared to 51% in 2012, 28% of the plans were incomplete. (See page 51).
  - 40% fathers were not included in the plan by the court.
- **Children's physical health**
  - For 8% of the reviewed children's cases, there were unmet health care needs (172 children) or unmet dental needs (187 children). (See page 36).
- **Placement**
  - In 63% of the reviewed children's cases it could not be determined if the children's out-of-home caregivers had received children's health care information or the health care information was not provided. (See page 34).
  - 10% of the case files reviewed did not contain sufficient documentation to ensure that the placement was safe and appropriate. (See page 39).
  - Depending on the area of the state, between 25-37% of the children had 4 or more placements over their lifetime.
  - 88% of children are placed in a least restrictive placement type. (See page 95).
  - 47% of the children in out-of-home care June 30, 2014, were placed in relative or kinship homes. (See page 96).
- **Maintaining contact with brothers and sisters**
  - 20% of the children that have siblings did not have documentation as to whether they were receiving contact with their brothers and sisters. (See page 100).
- **Education**
  - For 53% of the school-aged children reviewed it was undocumented as to whether their caregivers were given their educational information. (See page 104).

- 51% of school-aged children reviewed were either not on target in school or the FCRO was unable to determine if they were on target. (See page 104).
- 26% of the school-aged children reviewed were enrolled in special education. (See page 104).
- **Mental Health**
  - 37% of the children reviewed had a professionally diagnosed mental health and/or trauma related condition. (See page 101).
  - 26% of the children were prescribed psychotropic medication at the time of their most recent FCRO review. (See page 101).
- **Adoption and Guardianship disruptions**
  - 44 (6%) of the reviewed children that re-entered out-of-home care had been adopted prior to re-entering out-of-home care. (See page 71).
  - 68 (10%) of the reviewed children that re-entered out-of-home care had been in a finalized guardianship prior to re-entering out-of-home care
- **Other**
  - 23% of children have been in out-of-home care for two years or longer. (See page 59).

## **RECOMMENDATIONS**

Based on the above and other factors described throughout this Annual Report, the FCRO has carefully analyzed and made recommendations for each of the components in this report. **Some of the key recommendations from this report include:**

- 1. Amend Nebraska statutes to permit the FCRO to review children during the critical first six months after being returned to the parental home.**
- 2. Amend Nebraska statutes to permit the FCRO to review all youth placed on probation that are in the out-of-home placements.**
- 3. Ensure that the rights of fathers are appropriately addressed by all stakeholders and the courts from the time of removal. There has been an increase in the identification of fathers but not in including them in the juvenile court action or as a placement for the child. Do not wait until it is clear that the mother cannot or will not safely parent before addressing the father's rights.**
- 4. Determine the feasibility of a collaborative special study on children who entered care due to neglect to obtain more detail on what this encompasses and then utilize this knowledge to develop an array of prevention services and strategies. Consider ways to develop flexible funds for use in helping parents and families to prevent removals, heal if a removal is necessary and sustain a positive reunification.**
- 5. Enact oversight mechanisms to ensure that the medical and education information is promptly and accurately included in case management documentation. This**

**information must be supplied to foster parents and other caregivers upon the child's placement to assure that a child's medical/dental/educational issues are addressed in a timely manner.**

- 6. All stakeholders including the legal system, providers and schools must be able to recognize that some problematic behaviors by children in foster care may be linked to untreated childhood traumas. All services and interventions with the children must be done through trauma-informed lens by all stakeholders.**
- 7. Conduct further analysis on children that return to out-of-home care to see if the second removal involved new issues or if there was a failure to permanently stabilize the family home. Included within this analysis should be the significant number of adoption and guardianship disruptions.**
- 8. Work with the Nebraska Children's Commission and other stakeholders to develop relevant and appropriate child well-being indicators. There needs to be the ability to assure that children are better off when they exit the child-welfare system than when they entered.**

There are many other specific recommendations found in the body of this Report, all of which support the summarized recommendations above. **The FCRO encourages everyone involved in the child welfare system to consider all policies and practices in light of: 1) whether children are safe, and 2) whether measures are in place to assist children and families so that when children leave the foster care system they have benefited from the experience.**



**CHILD WELFARE/FOSTER CARE ISSUES**

**AND**

**RECOMMENDATIONS**

**TO IMPROVE THE SYSTEM**

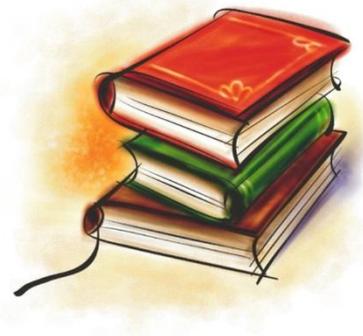
The following analysis briefly describes some of the major issues in the current child welfare (foster care) system.

The Foster Care Review Office has additional information available on each of the topics presented. Feel free to call 402-471-4420 or email [fcro.contact@nebraska.gov](mailto:fcro.contact@nebraska.gov) for further details.



**SECTION I.**

**PRIMARY INFORMATION  
ON CHILDREN AND FAMILIES  
IN THE CHILD WELFARE SYSTEM**



## **PARTIES TO THE CHILD WELFARE SYSTEM**

Child abuse and neglect is a public health issue that encompasses many embedded groups and entities that are responding to the problem. The “child welfare system” includes:

- Complex family units that are presenting one or more serious issues.<sup>6</sup>
- Responders to allegations of abuse, including staff of the Department of Health and Human Services (DHHS) and law enforcement officers from across the state.
- Child care and custody agencies, such as DHHS and the Office of Probation Administration.
- The legal system, including judges that render orders, county attorneys that file and try petitions with the court, guardians ad litem/CASA volunteers that represent the best interests of children or represent the best interests of mentally ill or cognitively impaired parents, attorneys representing the parents’ wishes, attorneys representing juveniles accused of law violations, and tribal representatives.
- Nebraska Families Collaborative (NFC), also known as a lead agency. DHHS contracts with NFC in the Omaha area to provide case management and other services as a pilot project.
- Service providers and gateways to services, including the complex mental health system (on a state and local level), child advocacy centers, other agencies that DHHS or the lead agency contracts with to support foster parents and group facilities, direct caregivers for children placed out-of-the home such as foster parents and group home staff, the education system, the medical community, and providers of other services.
- The social environment of the families, including counties, communities, and cultures.
- Child advocates.
- Internal oversight of the child welfare system, such as DHHS Continuous Quality Improvement (CQI) or the Court Improvement Project (CIP).
- External oversight of the child welfare system, such as the Foster Care Review Office, the Inspector General of Nebraska Child Welfare, and the Auditor of Public Accounts.

All of the above interact within a complex set of state and federal laws and regulations and divergent funding streams. Funding sources are complex and can include: Medicaid, federal IV-E funds, federal IV-B funds, federal Chafee funds, federal social services block grants, county, state and federal child welfare funds, state and federal court improvement funds, SSI/SSD (social security for disabled children or adults), developmental disability funds, housing assistance, TANF (cash assistance), SNAP (food assistance), private insurance, private charities and foundations, food banks, and parents. Each of these also has its own rules.

With so many complex interdependencies, efforts to solve one aspect of the problem may create unintended consequences for others within the system. Therefore, the FCRO’s recommendations for improvements provided within this Annual Report are given with these intricacies in mind.

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<sup>6</sup> See page 24 for a description of the reasons why children were removed from the home.

## TRAUMA AND HEALING

Children are placed in a foster home, group home, or a specialized facility as a temporary measure to ensure children's health and safety in cases where ongoing safety issues exist in their home of removal and/or the parents are unwilling or unable to voluntarily participate in services to prevent removal.

In the past it was thought that children were resilient and thus able in most cases to recover quickly and easily from their experiences in the abusive or neglectful home and/or from moves between caregivers while in out-of-home care. National research has disproven that theory and found instead that the effects may impact children for the rest of their life, even with the best of interventions.<sup>7</sup> Therefore, it is important to understand that the basic statistics found throughout this Report cannot adequately communicate that many children enter the system already wounded or traumatized.

These children likely experienced trauma in the form of repetitive or accumulated disparate episodes, such as an environment of domestic violence, parental drug abuse, and/or serious parental mental illness, whether or not these episodes were brought to the attention of the system. This type of trauma is termed "complex trauma" by the National Children's Traumatic Stress Network (NCTSN).<sup>8</sup>

In addition to the trauma experienced in the home of removal, children can experience trauma during foster care; for example, moves between caregivers, changes in the professionals that interact with children (such as caseworkers, service provider staff, etc.), and disappointments if parents do not visit children as scheduled.

**Early maltreatment can result in long-term behavioral changes. These in turn draw responses from those around the trauma-adapted child, responses that can either help or hinder the child's attempts at re-adaptation to the non-traumatic world.**<sup>9</sup>

According to the American Academy of Pediatrics, children that have experienced trauma:

- Are more likely to misread facial and non-verbal cues, and think there is a threat where none is intended. They also respond more quickly and forcefully than other children to anything perceived as a threat.
- Have a greater likelihood of attention deficits, emotional dysregulation, and oppositional behaviors, which may have been adaptive to the threatening environment but not appropriate in a safe environment.
- Are more likely to have developmental or educational delays.

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<sup>7</sup> An online search of "foster care alumni" will turn up hundreds of articles regarding this issue.

<sup>8</sup> NCTSN was established by Congress in 2000 as a collaboration of frontline providers, researchers, and families. Combining knowledge of child development, expertise in the full range of child traumatic experiences, and dedication to evidence-based practices, the NCTSN changes the course of children's lives by changing the course of their care.

<sup>9</sup> American Academy of Pediatrics, Helping Foster and Adoptive Families Cope With Trauma, c 2013 American Academy of Pediatrics and Dave Thomas Foundation for Adoption.

- Have a greater chance of short-term memory issues.
- Often challenge their caregiver in ways that may threaten the stability of the placement.
- May present sleep problems, food issues, toileting problems, anger, aggression, detachment, hyper-arousal, depression, or chronic medical issues.
- Do not know how to say what they are feeling.
- Lack the skills for self-regulation or for calming down once upset.
- May have issues related to adverse brain development.
- Need to be redirected or behavior may start to escalate.
- Need adults that are consistent and predictable enough to teach the lessons their developing brains need, and that understand that children's trauma response is a healthy response to an unhealthy threat rather than a personal affront.
- Can learn new means of coping with stress if given the time and the social-emotional buffering needed.<sup>10</sup>

It has been found that children that have experienced toxic loads of stress get stuck in flight or fight mode, where everything is a threat, forcing them to become more hyper vigilant. The process can remap the brain and impact development. Some lose ground cognitively, especially in their ability to learn.<sup>11</sup>

**A national study comparing teenagers matched by age, race, and gender found that adolescents in foster care:**

- Were more likely to have a diagnosed conduct disorder (21% of foster youth compared to 7% of the general population).
- Were more likely to have a major depressive disorder (19% compared to 12%).
- Were more likely to have been diagnosed with Post Traumatic Stress Disorder (13% compared to 5%).
- Were more likely to have been diagnosed with separation anxiety disorder (12% compared to 9%).<sup>12</sup>

Any of those mental health diagnoses would impact children's behaviors and, thus, the amount and type of support and training needed by their caregivers.

Beyond the consequences for the child, the impact of trauma carries high short and long-term fiscal and human costs for society. As a short term example, **Nebraska's DHHS spent \$192,639,972 on child welfare in calendar year 2013.**<sup>13</sup> Long-term, a child that cannot learn may grow up to be an adult that cannot hold a job. A child with chronic physical problems may

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<sup>10</sup> Adapted from the American Academy of Pediatrics, Helping Foster and Adoptive Families Cope With Trauma, 2013, American Academy of Pediatrics and Dave Thomas Foundation for Adoption.

<sup>11</sup> Meyers, Laurie, The Toll of Childhood Trauma, Counseling Today magazine from the American Counseling Association, June 2014.

<sup>12</sup> Pecora, Peter, Mental Health Services for Children Placed in Foster Care, 2009, National Institute of Health.

<sup>13</sup> Auditor of Public Accounts, Attestation Report of the DHHS Program 354, issued September 19, 2014.

grow up to be a chronically ill adult. A child that grows up learning to hate him or herself may become an adult with an eating disorder or substance addiction.<sup>14</sup>

Children are not the only victims of trauma. Many children in the foster care system have parents that themselves have a trauma history. **Research has shown that women with a history of suffering sexual or physical abuse during their childhood were three times more likely to have experiences of adult intimate partner violence and allegations of child abuse and neglect toward their children than women with no childhood history of abuse.**<sup>15</sup>

Many of the families involved with the child welfare system come from multi-generational poverty, which may reduce the parent's access to material and other resources needed to safely and effectively parent their children.

A compassionate, trauma-informed approach to working with these parents can provide them with opportunities to address their own trauma experiences, understand how it may affect their parenting, and make changes that strengthen their ability to provide appropriate care for their children.<sup>16</sup> Such a system could also help mitigate some of the impact of poverty on child safety and well-being.

It is the statutory charge of DHHS and the other key players of the child welfare system to reduce the impact of abuse whenever possible and to minimize the trauma of the child's removal.

This is best accomplished by providing appropriate services to the family in a timely manner, obtaining written documentation of their participation and progress (or lack of progress as the case may be), and then providing those reports to the court and legal parties so that informed decisions regarding a child's permanency and future can be timely. The goal must be to minimize a child's time in out-of-home care and help the child to heal from any past traumas.

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<sup>14</sup> National Child Traumatic Stress Network, Impact of Complex Trauma, (undated).

<sup>15</sup> IOM (Institute of Medicine) and NRC (National Research Council); New Directions in Child Abuse and Neglect Research, 2014, page 74.

<sup>16</sup> State Policy Advocacy and Reform Center (SPARC), Raising the Bar: Child Welfare's Shift Toward Well-being, July 2013. SPARC is supported by the Annie E. Casey Foundation and the Jim Casey Youth Opportunities Initiative.

## NEBRASKA CHILDREN IN OUT-OF-HOME CARE

**On June 30, 2014, there were 3,029 DHHS wards (children) in out-of-home care in Nebraska**, most of whom had experienced a significant level of trauma and abuse prior to their removal from the parental home. That number does **not** include children under DHHS-OJS or the Office of Probation Administration that may also be placed out-of-home, sometimes in the same placements as abused and neglected children, and that sometimes were victims of abuse or neglect as younger children.<sup>17</sup> In future years, the FCRO will be able to analyze each of these populations.

In comparison, there were 3,224 DHHS wards (children) in out-of-home care on December 31, 2013, and 3,500 DHHS wards in out-of-home care on December 31, 2012.<sup>18</sup> Although there have been commendable reductions in the number of children in out-of-home care, there are still many children in Nebraska experiencing abuse or neglect.

The following demographics and trend data are based on reports to the FCRO by DHHS, child placing agencies, and/or the Courts.

### GENDER

On June 30, 2014, 48% of children in out-of-home care were girls and 52% were boys. In the general population of Nebraska children, the ratio is 49% female/51% male, thus there is no statistically significant difference.<sup>19</sup>

### AGE GROUP

When considering age groups, the FCRO finds that on June 30, 2014:

- **38% of the children were infants and preschoolers (age 0-5).**
- **32% of the children were elementary school age (age 6-12).**
- **31% of the children were teens (13-18 years of age).** Legal adulthood occurs in Nebraska on the 19<sup>th</sup> birthday.

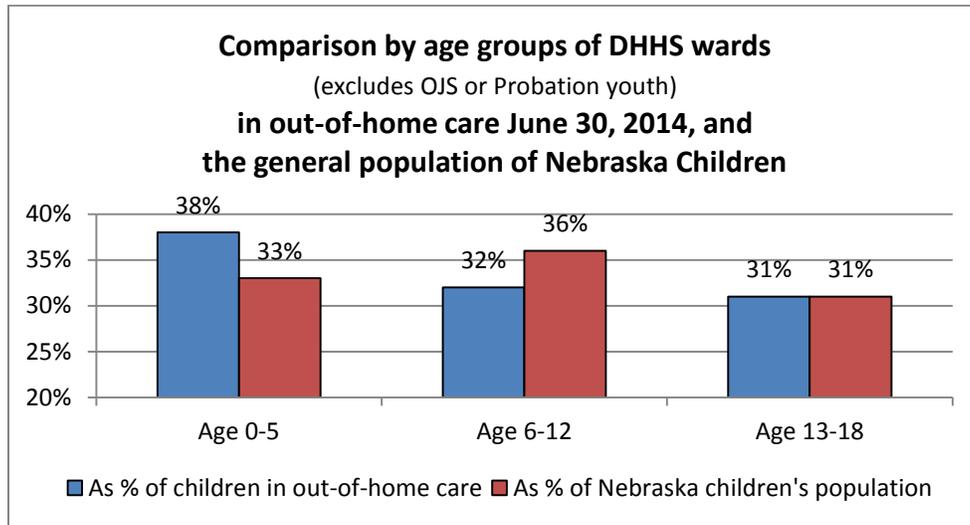
The following shows how this compares to the general population of Nebraska children. Considering the vulnerability of infants and their inability to protect themselves from parental abuse or neglect, it is not surprising that a larger percentage of children in out-of-home care are from that age range.

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<sup>17</sup> Since the mandated transfer of DHHS-OJS youth to the Office of Probation Administration, reports on youth under Probation have not been provided to the FCRO tracking system due to conflicting interpretations of statutes. The FCRO is working with the Office of Probation Administration and members of the Legislature who plan to introduce a bill in the 2015 Legislative session to remedy the conflict. In the meantime, the statistics in this report do not include children under the Office of Probation Administration or children that had yet to transfer from DHHS-OJS.

<sup>18</sup> It is difficult to determine a longer-term trend line for DHHS wards as now defined because previous statistics included the former OJS population.

<sup>19</sup> Nebr. Department of Economic Development, [www.neded.org/files/research/agesex10.html](http://www.neded.org/files/research/agesex10.html), 2010 census data.



Of further note, comparisons to past Annual Reports have been made difficult because in previous Reports, DHHS/OJS youth (status offenders and delinquents) had not been transferred to the Office of Probation Administration and were included in the out-of-home care population.<sup>20</sup>

OJS youth were primarily teenagers. For example, of the 379 OJS wards in out-of-home care on June 30, 2013, 375 were teens, and 4 were age 12. That makes the proportion of young children to older children different in past years because the population being measured included OJS youth.

In the future the FCRO hopes to be able to again report on all children in out-of-home care, including those under the Office of Probation Administration.

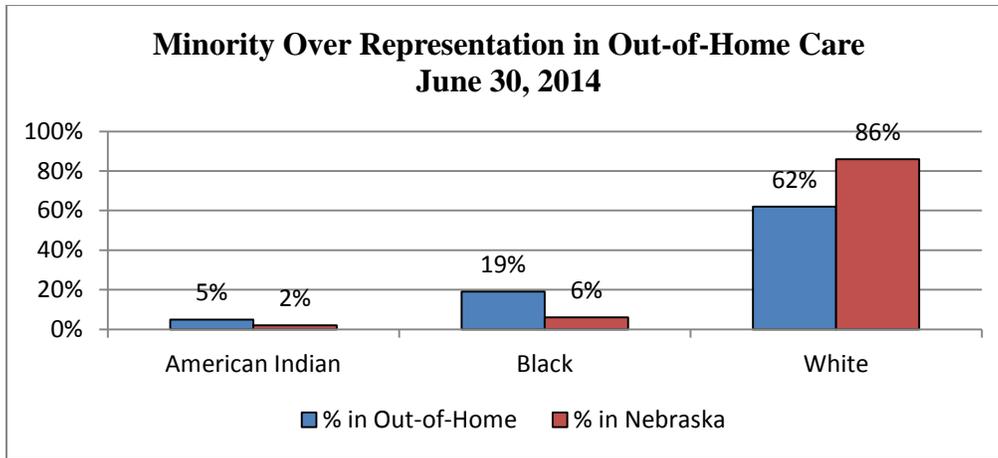
**RACE**

Minority children continue to be overrepresented in the out-of-home population as a whole, as shown in the following chart.<sup>21</sup> There are many reasons for this. One may be that nationally it is estimated that at least one in three Black, American Indian, and Hispanic children lives in a household with an income below the poverty line.<sup>22</sup> This is not to imply that only poor persons abuse their children, rather that poverty adds an additional level of stress to families.

<sup>20</sup> Since the mandated transfer of DHHS Office of Juvenile Services (OJS) youth to the Office of Probation, reports on those youth have not been provided to the FCRO tracking system due to an interpretation of conflicting statutes. The FCRO is working with the Office of Probation Administration and members of the Legislature who plan to introduce a bill in the 2015 Legislative session. In the meantime, the statistics in this report do not include children under the Office of Probation Administration or those that have yet to transfer from OJS.

<sup>21</sup> The source for the general population of children in Nebraska was [www.census.gov/popest/data/national.asrh/2012/index.html](http://www.census.gov/popest/data/national/asrh/2012/index.html).

<sup>22</sup> Annie E. Casey Foundation, Kids Count Report, 2013.



**Race of children in out-of-home care on June 30, 2014:**

The children included in the chart below are DHHS wards. The chart does **not** include children and youth under DHHS/OJS or the Office of Probation Administration.

Hispanic is designated as an ethnicity, rather than a race. However, it is possible to extract the number of children with each race from the 444 children that have a documented Hispanic ethnicity as shown below.

Race	Total by Race	By Ethnicity	
		Hispanic	Non-Hispanic
American Indian only	155 (5%)	42	113
Asian only	8 (<1%)	0	8
Black only	583 (19%)	15	568
Native Hawaiian only	2 (<1%)	2	0
Other only	103 (3%)	74	29
White only	1,870 (62%)	269	1,601
Multi-racial	216 (7%)	13	203
Unreported race/declined to ID	89 (3%)	29	60
<b>Total</b>	<b>3,026</b>	<b>444</b>	<b>2,582</b>

The multi-racial group of 216 children above, some of which have two or three races identified, includes the following:

- 44 children are partly American Indian.
- 1 child is partly Asian.
- 122 children are partly Black.
- 9 children are partly Native Hawaiian.
- 192 children are partly White.

**Trend data**

1. The percentage breakdown by race of children in out-of-home care has remained fairly consistent for the last few years.

2. **When compared to the Nebraska population, there are disproportionately more Native American and Black children in out-of-home care and disproportionately fewer White children in out-of-home care.**

### ADJUDICATION TYPES

Adjudication type refers to the section of Neb. Rev. Stat. §43-247 under which a petition is brought to the court regarding juveniles. The most common types include:

- “3a” – parental abuse, neglect, and/or abandonment, either due to the fault of the parent or no fault of the parent;
- “3b” - youth charged with behaviors such as truancy and runaway for which an adult cannot be charged;
- “3c” - mentally ill and dangerous youth;
- “1”- youth committed a misdemeanor offense other than traffic;
- “2” - youth committed a felony; and
- “8” – a juvenile relinquished to DHHS by the parents.

Children and youth can be “dual-adjudicated”, meaning they are involved in a “3a” petition, and also a petition based on their own actions. For example, the youth could be in out-of-home care due to an abuse/neglect allegation against the parents and also have a misdemeanor shoplifting offense.

On June 30, 2014, there were 3,029 children (DHHS wards) in out-of-home care in Nebraska. All of the 3,029 children had an active “3a” or “3c” adjudication type. Some were also dually adjudicated.

### Cross-over youth

Children and youth that were formerly abuse or neglect victims and now have law violations are often referred to as “cross-over youth”. Research has found that the presence of past or current maltreatment increases the likelihood of arrest for a delinquent act by up to 55%, and increases the likelihood of committing a violent offense by 96%.<sup>23</sup> As previously discussed in the trauma section on page 11, this can be the result of unsuccessfully treated complex trauma.

Given the links between the child welfare and juvenile justice systems, the FCRO is working with the Office of Probation Administration and members of the Legislature that plan to introduce a bill in the 2015 Legislative session to clarify that the Office of Probation Administration can report its out-of-home youth to the FCRO. Once that occurs, the FCRO will be looking for patterns regarding cross-over youth and reporting on their needs.

Other states find these youth have been in the child welfare system for long periods of time, have experienced numerous placement changes, are more likely to be female than the general delinquency population, and that minorities may be overrepresented.<sup>24</sup> When the FCRO is able

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<sup>23</sup> Ryan and Tests, 205; Wiig, Widom and Tuell, 2003, as quoted in Addressing the Needs of Youth Known to Both the Child Welfare and Juvenile Justice Systems, 2009.

<sup>24</sup> Case Family Programs and the Center for Juvenile Justice Reform, Crossover Youth Practice Model, 2012.

to review Nebraska cases, we will be determining if that is true for Nebraska's delinquent youth as well.

In the meantime, the statistics in this report do not include children under the Office of Probation Administration or those that had yet to transfer from OJS.

There is a group comprised of DHHS officials, Office of Probation Administration officials, the Chief Justice, the Courts, State Senators from the HHS and Judiciary Committees, the Department of Education, and the FCRO that meets monthly to collaborate on ways to comprehensively address the risks and needs of crossover youth and children in the foster care system that are at risk for delinquent behaviors.

### TOTAL NUMBER OF CHILDREN IN OUT-OF-HOME CARE DURING FY13-14

Per Neb. Rev. Stat. §43-1303(2)(b)(iv) the FCRO is to include in the annual report the number of children supervised by the foster care programs in the state. This is calculated as follows:

In out-of-home care July 1, 2013	3,447
Plus:	
Children that entered or re-entered care during fiscal year	<u>2,019</u>
Children whose cases were active anytime during fiscal year	5,466
Less:	
Children that left foster care during the fiscal year	2,266
Adjustments for delayed reports of exits or entrances	<u>171</u>
Children in out-of-home care on June 30, 2014	3,029

In comparison, for calendar year 2012, when the DHHS Office of Juvenile Services (OJS) youth in out-of-home care had yet to transfer to the Office of Probation Administration and were able to be included in the FCRO's statewide totals, there were 7,652 children in out-of-home care during the 12-month period – a difference of 2,186 children.

In the future the FCRO hopes to be able to report on state wards and probation youth in out-of-home care. This will give us a clearer picture of the issues and needs of each of these populations.

## REVIEWS CONDUCTED

As Nebraska's federal IV-E review agency, the Foster Care Review Office collects, evaluates, & disseminates data on children in out-of-home care; uses trained citizen volunteers to review children's plans, services and placements to ensure safety, security, and progress to permanent homes; disseminates findings & recommendations; legally advocates in court; visits foster care facilities; and sponsors educational programs.

**During Fiscal Year 2013-14 (July 1, 2013-June 30, 2014), the Foster Care Review Office conducted 4,451 comprehensive reviews on 3,179 individual children's cases (DHHS wards).**

### What FCRO reviews involve:

#### Staff activities prior to the local board meeting

- Thoroughly researching children's DHHS agency records (computer and those kept at DHHS local offices), gathering pertinent information and copying/summarizing this information for local board members to review.
- Clarifying, verifying and supplementing gathered information through personal contacts with the child's placement, protection and safety worker/lead agency caseworker, and additional legal and/or interested parties.
- Verifying if medical and educational records have been shared with foster parents.
- Researching to determine names and addresses of legal and interested parties for support staff to notify of upcoming reviews.
- Preparing and sending summaries of pertinent information and copies of additional pertinent information from the child's agency record to local board members prior to board meetings each year.

#### The local board meeting

- Staff facilitating 48 local review board meetings across the state where boards (4-10 members) of trained community based volunteers make 13 state and federally mandated findings for each child or youth reviewed, determine barriers to permanency, and determine what recommendations need to be made to ensure timely permanency.
- Staff recording the local board member's recommendations and concerns.
- Allowing for participation by involved parties per federal and state law (such as citizen reviewers, parents, foster parents, school personnel, counselors, day care providers, extended family members, law enforcement, legal parties) in children's reviews.
- Assuring all confidential material is returned to the staff for secure destruction (shredding).

#### Staff activities after the local board meeting

- Writing Final Recommendation Reports on children reviewed in a document that contains: the local board's top concerns in a case, a case summary, findings, specific

recommendations, and identification of the barriers to plan and to permanency for the child.

- Sending reports to legal parties to the case in most cases prior to the court's hearing. FCRO recommendation reports are to be made part of the child's court record per statute.
- Completing data forms on all children reviewed to track the conditions of children that are in out-of-home care.
- Promoting the best interests of children in foster care, which could include any of the following:
  - Pro-actively working with the Courts to address the local board's case concerns.
  - Working to ensure a child's safety, that a child's basic needs are met, and that the child or youth is moving towards permanency.
  - Following up on cases where children appear to be at risk by either their foster care placement or biological parent.
  - Contacting DHHS case managers, supervisors, legal staff, adoption workers, or administration as well as guardians ad litem, investigators, or prosecutors on behalf of an individual child's case.
  - Arranging case status meetings between the legal parties to the case on behalf of a child or children to address the concerns in a case.
  - Forwarding appropriate cases to the Attorney General's office for prosecution of crimes against children.
  - Bringing cases to LB 1184 meetings to facilitate meeting the child's needs through discussion of the case with the legal parties.
  - Working to monitor, ensure safety and appropriateness, and address concerns regarding children's placements through citizen review, and tours of child caring facilities.
  - Taking legal standing and/or attending Court to introduce the local board's recommendations, findings, and concerns, and be available for legal parties for cross-examination and testimony in cases where one or more of the following issues exist: reasonable efforts were not made to prevent a child from entering care, there is no permanency plan, the permanency plan is inappropriate, the placement is inappropriate, regular court hearings are not being held, appropriate services are not being offered, best interests of the child are not being met, or a child is in imminent danger.
- Ensuring statistical data gathered during reviews is added to the FCRO's computer system to enable systemic reporting in the Annual and Quarterly Reports and other publications.<sup>25</sup>

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<sup>25</sup> More information about the Foster Care Review Office can be found in Appendix A, on page 123.

## Section II.

# SAFETY RELATED ISSUES



## **SAFETY DEFINED**

In child welfare there are a number of different definitions of “safety” and that word can be used in ways that the average person, unfamiliar with the system, would not think about. For example, in child welfare “safety” has a different definition from “risk.” Therefore, it is important to define what the Foster Care Review Office means by “safety.” Within the context of this Report, **safety is defined as free from hurt, injury, danger, or undue hazard of loss, injury, or seriously inadequate care.**

Consideration of safety for children in out-of-home care involves a number of factors, including:

### **1. Is the child safe while in an out-of-home care placement?**

- For any type of placement,
  - What is the mix of children in the placement?
  - What are those children’s individual needs?
  - How does that impact the care for the particular child in question?
  - Is there a need for a safety plan for the child?
- If in a foster or kinship home,
  - Is there a homestudy available that indicates the foster parents are equipped to handle this individual child’s needs?
  - Are the foster parents/caregivers provided adequate supports and respite?
- If in a group home,
  - Is there adequate staff on duty 24/7/365?
  - Do they use restraints? If so, what is their restraint policy? Did all staff receive adequate training on restraint use?
  - If the child is prescribed medications or needs adaptations due to a physical or psychological condition, is the staff trained on how to care for the child’s condition?

### **2. Is the child safe during visitation?**

- Have there been any safety issues during visits? If so, how have they been addressed? How have further safety compromises been averted?

### **3. Does the child’s permanency objective facilitate the child’s future safety and stability?**

- Is there domestic violence in the home? How is that being addressed?
- What is the support system in the home? Is the family isolated from support? Is there someone the child can easily go to in an emergency?
- What is the age and ability of the child to remove him or herself from the situation?
- Is there an escape plan?

- Is there cyclical mental illness (mental illness that occurs in repeated episodes over a person's lifetime) present?
  - Are drug and alcohol issues present?
  - Does the parent have the ability to demonstrate empathy toward the child; can they put themselves in the child's place?
  - Are the children supervised before/after school?
  - Who else is in the home? Do those persons pose a hazard?
  - What is the past behavior of the parents?
  - Does the safety plan align with information on the SDM<sup>26</sup> assessments?
4. **Did the agency responsible for the child provide services** to ameliorate factors that would inhibit a parent's ability to maintain the child safely at home? Have the parents demonstrated better parenting as a result?
  5. **Are there issues with limitations to the services** available to facilitate a safe return to the home or other permanency objective?
  6. **Is the child receiving treatment needed to overcome any past traumas?**
  7. **If the child cannot safely return home, what alternatives** can provide the best permanency? How are those being facilitated?

Safety consideration also impacts children's current and future well-being and their likelihood of timely permanency, as well as the trauma that children may have endured.<sup>27</sup>

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<sup>26</sup> Structured Decision Making® is the trademarked set of tools currently being utilized by DHHS for assessments throughout the life of a case.

<sup>27</sup> See page 11 for a description of trauma and children in out-of-home care.

## REASONS FOR ENTERING OUT-OF-HOME CARE

Neglect is the most frequently cited reason for children entering out-of-home care across the nation, and this is also true in Nebraska. **Neglect is defined as the failure to provide for a child’s basic physical, medical, educational, and/or emotional needs, including the failure to provide adequate supervision.** Neglect is often seen in tandem with parental substance abuse or mental health issues. Co-occurring poverty, housing issues, physical abuse, or sexual abuse are also common.

The reasons for removal may vary, but as Dr. Brenda Joan Harden of the University of Maryland states,

“Children in foster care are particularly vulnerable to detrimental outcomes, as they often come into state care due to their exposure to maltreatment, family instability, and a number of other risk factors that compromise their healthy development...these children are predominantly from impoverished backgrounds, a situation that exacerbates the risk factors they experience.”<sup>28</sup>

The chart below provides more details on the reasons children entered care as collected during the FCRO review process in the first half of 2014. Again, this is just DHHS wards, not OJS or Probation youth. Up to five reasons may be identified for any particular child as to removal from their home, with most having 1-3 reasons identified. [On this page are reasons attributable to the parents, the next page shows reasons based on children’s needs, the top 5 are highlighted.]

Reasons for Entering Out-of-Home Care Attributable to the Parents	1st time in care		In care more than once		Total Children	
	Count	Percentage	Count	Percentage	Count	Percentage
<b>Neglect</b>	1,161	<b>74%</b>	352	<b>52%</b>	1,513	67%
<b>Parent drug use</b>	817	<b>52%</b>	205	<b>30%</b>	1,022	45%
<b>Housing substandard or unsafe</b>	502	<b>32%</b>	143	<b>21%</b>	645	29%
<b>Domestic violence</b>	348	<b>22%</b>	66	10%	414	18%
<b>Parental incarceration</b>	275	<b>18%</b>	65	10%	340	15%
Parent alcohol use	269	17%	72	<b>11%</b>	341	15%
Parent mental health diagnosis	251	16%	56	8%	307	14%
Physical abuse	231	15%	77	<b>11%</b>	308	14%
Abandonment	195	12%	49	7%	244	11%
Abuse/neglect of sibling	190	12%	15	2%	205	9%
Sexual abuse	113	7%	49	7%	162	7%
Relinquishment	42	3%	20	3%	62	3%
Parental physical illness, disability	32	2%	12	2%	44	2%
Death of parent	23	1%	6	1%	29	1%
Baby born substance effected	41	3%	2	0%	43	2%
Child's teen parent is in foster care	12	1%	31	5%	43	2%

<sup>28</sup> Brenda Joan Harden, Ph.D., Future of Children, Volume 14, Number 1.

Reasons for Entering Out-of-Home Care Attributable to Children's Needs	1st time in care		In care more than once		Total Children	
	Count	Percentage	Count	Percentage	Count	Percentage
<b>Child's behaviors</b>	200	<b>13%</b>	175	<b>26%</b>	375	17%
<b>Child's mental health</b>	71	<b>5%</b>	65	<b>10%</b>	136	6%
Child's drug use	27	2%	28	4%	55	2%
Child's disabilities	25	2%	9	1%	34	2%
Child's illness	23	1%	7	1%	30	1%
Child's alcohol use	7	0%	12	2%	19	1%
Child's suicide attempt	11	1%	7	1%	18	1%
Child's methamphetamine use	0	0%	1	<1%	1	<1%

### Important considerations:

- Neglect is a broad category of parental acts of omission or commission that result in the failure to provide for a child's basic physical, medical, educational, and/or emotional needs, including the failure to provide adequate supervision.
- Unsafe housing is often found in tandem with poverty, parental mental health, physical health, or substance abuse issues.
- One finding that often surprises people with limited child welfare experience is that physical and sexual abuse are not the most frequently cited reasons for children to be removed from the home; neglect and parental drug use are the two most frequent.
- Experts across the country are finding that rates of sexual abuse reporting have decreased. No clear explanation is available at this time.
- Children's behaviors are often a symptom of an underlying mental health issue or a response to extreme trauma.<sup>29</sup> This may be the reason that **children that have been removed from the home before are twice as likely to re-enter out-of-home care due to their own behaviors or mental health diagnosis.**

### Parental substance abuse

Parental substance abuse includes alcohol abuse, abuse of prescriptions, and abuse of street drugs. Parents frequently use more than one substance. Often the parents have struggled with substance abuse for years. Meaningful intervention for parents seems like an appropriate strategy. Many times these parents have co-occurring mental health issues. Unless those are resolved, sobriety may not be able to be achieved.

**During January-June 2014, 817 (52%) of the children reviewed who were in their first time in foster care entered care due to parental drug abuse.** This is not unexpected, considering the number of parents that were themselves victims of childhood traumas, and the correlation between substance abuse as an adult and having experienced trauma in early life.<sup>30</sup>

<sup>29</sup> This is described in greater detail in the section on mental health starting on page 101, and on trauma page 11.

<sup>30</sup> State Policy Advocacy and Reform Center (SPARC), Raising the Bar: Child Welfare' Shift Toward Well-being, July 2013. SPARC is supported by the Annie E. Casey Foundation and the Jim Casey Youth Opportunities Initiative. The impact of trauma is discussed further on page 11.

It is staff time prohibitive to try to collect data on every type of substance abused, however, the following statistics regarding the parents substance use may be of interest:

- 560 (55%) were using methamphetamines.<sup>31</sup>
- 253 (25%) were using marijuana.
- 55 (5%) were using cocaine.

### **RECOMMENDATIONS:**

- 1. Determine the feasibility of a collaborative special study on children that entered care due to neglect to obtain more detail on what this encompasses and then utilize that knowledge when developing an array of services and prevention strategies.**
- 2. Examine the service array available to address the most common reasons for children to be removed from the home, and expand the availability of such services. Increase the limited availability of community-based service capacities so that distance and location are not an issue.**
- 3. Utilize the most proven evidence-based strategies to reduce and combat drug abuse.**
- 4. Appropriately adjudicate the reasons that children enter care to ensure services can be ordered to address the root causes for abuse or neglect.**
  - a. For example, if something of significance, such as parental substance use, is identified after the child's removal, file a supplemental petition in juvenile court to allow the court to address the issue with the parent so the issue can be dealt with prior to the child's return to the home.**
- 5. Ensure that the rights of the father are appropriately addressed by stakeholders and courts from the time of removal. Do not wait until it is clear that the mother cannot or will not safely parent before addressing the father.**

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<sup>31</sup> In 1940 a pure form and reliable dosage of methamphetamine was introduced as one of the first prescription anti-depressants. Therefore, it is not surprising that parents seeking to avoid whatever trauma or psychological pain they are experiencing turn to this readily available substance.

## PREVENTING CHILD ABUSE AND NEGLECT

Child abuse and neglect is, sadly, a daily occurrence in Nebraska. Based on the 5,466 children (excluding OJS or Probation youth) reported to the FCRO as being in out-of-home care for one or more days during fiscal year 2013-14, too many Nebraska children have suffered child abuse, child neglect and/or child sexual abuse.

Unfortunately, that grim statistic represents only a small fraction of the true population of children in Nebraska that suffer abuse or neglect each year. How do we know? A recent study conducted at the University of Alberta found that 95% of sexual abuse cases are never reported to authorities.<sup>32</sup> Other researchers found that as few as 10% of all abuse cases are actually confirmed by social service agencies.<sup>33</sup>

There is a need for proven prevention and early intervention programs to lessen the number of children suffering abuse, and to reduce the numbers of children entering the system. Prevention needs to represent activities that stop a negative action/behavior, and activities to promote positive actions or behaviors. These can be a buffer to help parents that might otherwise be at risk of abusing/neglecting their children to find resources, supports, or coping strategies.

Prevention seeks to create more humane treatment of children and to reduce the substantial costs associated with abuse and neglect. **National researchers have found that the estimated average lifetime financial cost per child victim is \$210,012 in 2010 dollars**, including \$32,548 in child health care costs, \$10,530 in adult medical costs, \$144,360 in productivity losses, \$7,728 in child welfare costs, \$6,747 in criminal justice costs, and \$7,999 in special education costs.<sup>34</sup>

**If the youth later enters the juvenile justice system (cross-over youth), as is not uncommon, it can cost \$66,000-\$88,000 per typical juvenile incarceration – not including the legal and court costs involved.**<sup>35,36</sup> It was estimated in 2009 that the states spent about \$5.7 billion per year imprisoning youth.<sup>37</sup>

Prevention programs need to include:

1. Early intervention, such as home visitation.
2. Crisis intervention and access to services.
3. Intensive services over a sustained period, not cut off before the benefits can be realized.

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<sup>32</sup> Martin, E., University of Alberta news release July 11, 2013.

<sup>33</sup> Sharples, T. Study: Most Child Abuse Goes Unreported. Time. Dec. 2, 2008.

<sup>34</sup> Fang, X., Brown, D. Florence, C. and Mercy, J, The economic burden of child maltreatment in the United States and implications for prevention, Elsevier, 2012.

<sup>35</sup> American Correctional Association, as quoted in No Place for Kids, The Case for Reducing Juvenile Incarceration, by the Annie E. Casey Foundation, 2011.

<sup>36</sup> See page 17 for more information about cross-over youth.

<sup>37</sup> Justice Policy Institute, Costs of Confinement: Why Good Juvenile Justice Policies Make Good Fiscal Sense, May 2009.

4. Development of a therapeutic relationship between the visitor and parent.
5. Careful observation of the home situation.
6. Focus on parenting skills.
7. Child-centered services focusing on the needs of the child.
8. Provision of concrete services such as health care or housing.
9. Inclusion of fathers in services.
10. Ongoing review of family needs in order to determine frequency and intensity of services.<sup>38</sup>

It is reasonable to conclude that if Nebraska consistently used proven prevention services, the incidence of child maltreatment should decrease – saving children involved from harm, and freeing resources for families more resistant to change. A service network could prevent the removal of some children and, where children have already been removed, could also support children's safe return to the parents, and thus enable reunification to occur in a timely manner.

### **RECOMMENDATIONS:**

- 1. Focus the Children's Commission on whole population measures and collaboration to improve access to services. Revise current policy and practice to reflect the urgency, depth, and quality of prevention services needed if Nebraska is to reduce the amount of abuse and neglect its children experience.**
- 2. Enable better collaboration with Public Health and the Behavioral Health Regions to ensure timely access to quality mental health services.**
- 3. Work with the communities in developing strategic plans for collective impact. Through these strategic plans, communities can ensure that an array of services are available to prevent child abuse and neglect.**

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<sup>38</sup> Adopted from Leventhal, quoted by National Clearinghouse on Child Abuse and Neglect, [www.calib.com/nccanch/](http://www.calib.com/nccanch/), Aug. 2003.

## RESPONSE TO REPORTS OF CHILD ABUSE

When the FCRO conducts a file review of a child's case it is required to make a determination of whether reasonable efforts were made to prevent that child's removal from the home. In doing so it is not uncommon to find that there were a number of reports alleging abuse and neglect made over a period of time prior to the first investigation and by the time the first investigation occurred the situation had deteriorated to the point that an emergency removal was necessary.

The following is what the FCRO found regarding reasonable efforts to prevent the child's removal for children reviewed January-June 2014. **There were no statistical differences between the service areas.**<sup>39</sup>

DHHS Reasonable Efforts to Prevent Removal	Central Service Area	Eastern Service Area	Northern Service Area	Southeast Service Area	Western Service Area	Statewide total
DHHS made reasonable efforts or could not have prevented the removal due to the circumstances	187	1,098	203	534	165	2,187 (97%)
DHHS did not make reasonable efforts	0	18	0	0	2	20 (1%)
Court ruled DHHS did not have to make efforts (aggravated circumstances)	3	6	0	4	0	13 (<1%)
Insufficient documentation	<u>0</u>	<u>25</u>	<u>0</u>	<u>2</u>	<u>0</u>	<u>27 (1%)</u>
Totals	190	1,147	203	540	167	2,247

As background, Nebraska law requires all persons that have reasonable cause to believe that a child has been subjected to abuse or neglect to report the incident to DHHS or an appropriate law enforcement agency (Neb. Rev. Stat. §28-711). The current system diffuses responsibility for decision-making in response to those reports between the CPS hotline, the 65 local offices of DHHS, and the more than 300 law enforcement agencies (over 200 city law enforcement agencies, 93 sheriff's offices, and 6 offices of the State Patrol).

Most people call Child Protective Services (CPS) to report child abuse; however, under Nebraska statutes, law enforcement is the only entity that can remove a child from parental custody (Neb. Rev. Stat. §43-248) unless there is a court order to do so. Law enforcement officer training on child abuse varies widely, both between departments and within departments. Even when DHHS believes that the child is unsafe, the law enforcement officer may not agree and refuse to remove the child. In reverse, law enforcement may remove a child whom they believe to be in an unsafe situation, yet DHHS may not believe that the child needs to be removed. The number of child abuse and neglect reports received and the number of potential responders further impacts the system.

<sup>39</sup> See page 138 for a map of the counties in each service area.

Investigation timeliness and quality can literally make the difference between life and death for children, and can also dramatically impact children's quality of life and future productivity so prompt, effective response is critical.

To eliminate subjectivity in these decisions, the Department is using Structured Decision Making®, a proprietary set of assessments which has been shown to standardize response to child abuse and neglect reports in a way that addresses a child's safety and risk in an efficient and responsible manner. The FCRO commends DHHS for utilizing a proven program and encourages DHHS to ensure fidelity to the model.

### **Alternative Response**

Alternative Response<sup>40</sup> (AR) recognizes that variations in the needs and strengths of families require different approaches. Comprehensive assessment strategies utilizing Structured Decision Making help DHHS identify child and family needs and concerns and tailor its response according.

Services are provided to families whenever a need is identified, whether or not child abuse or neglect has been substantiated in the investigation phase. Alternative response invites greater participation by community agencies in supporting families that are considered low-risk, allowing child protective services (CPS) to focus on the more serious cases in which abuse and neglect have been confirmed.

The FCRO has been working with the DHHS Director's Steering Committee to provide a collaborative family focused case review process designed to provide information on how Alternative Response impacts families, communities, and systems while ensuring that children are safe.

### **RECOMMENDATIONS:**

- 1. Conduct a multi-disciplinary examination of the CPS system, looking specifically at how decisions regarding removal are made, who makes those decisions, and under what circumstances, with the ultimate goal of determining if Nebraska removes the right children in the right circumstances. This would include an examination of current policies, practices, and process of all stakeholders. The Children's Commission may be one good venue to examine this critical system.**
- 2. Ensure fidelity to Structured Decision Making® or other evidence-based methods of assessment as these assessments form the basis of removal decisions.**
- 3. Determine ways to be flexible in funding needed alternatives to removal – such as providing daycare funding if the issue is a lack of affordable before/after school supervision, or replacing a clothes washer if the costs to replace a broken washer is the reason for a hygiene issue.**

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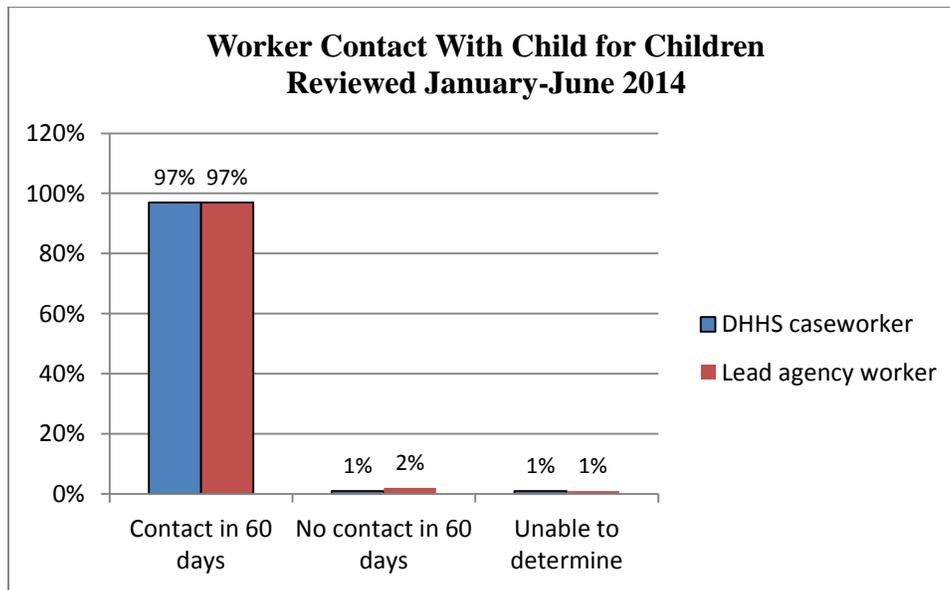
<sup>40</sup> In some parts of the country Alternative Response is termed "differential" response.

## CASEWORKER CONTACT WITH CHILDREN

By policy case workers are to have personal contact with each child every 30 days.<sup>41</sup> This is an important safeguard for children, particularly young children that may not be seen outside the foster home. Recently some states have had tragedies occur when caseworkers did not provide this vital service. As a result, some states require workers to take pictures of the children at each visit to ensure contact happened.

During the FCRO case review process, staff document whether or not the child’s case manager had contact with the child within the 60 days prior to the most recent review. The FCRO purposely chose to use a 60-day window in order to allow time for contact documentation to be completed and thus be the fairest representation of what was actually happening for children.

The following chart shows what was found from reviews conducted January-June 2014. **There has been a decided improvement in finding the documentation from previous years, showing the positive impact of standardizing where the contact information is placed in the DHHS record. The FCRO commends those that have worked to increase this important safety measure.**



<sup>41</sup> In 2012-2014, “State IV-B agencies [child welfare] must ensure that the total number of monthly caseworker visits to children in foster care is not less than 90 percent...If the state title IV-B agency fails to meet any of the applicable standards...is subject to a reduction in Federal Financial Participation of one, three or five percentage points, depending on the amount by which the agency misses the standard.” In 2015 the standard raises to 95%. (ACYF-CB-IM-11-06). Federal HHS Administration for Children and Families.

**RECOMMENDATIONS:**

- 1. As the FCRO recommended in previous years, DHHS has created a trigger mechanism on its computer to notify supervisors if a worker-child contact has not been documented. Based on the improvement in the documentation of contacts, the FCRO commends DHHS for designing this process and encourages DHHS to continue to utilize this internal CQI process.**
- 2. Develop an effective feedback loop when issues are identified with the quality of the contacts and/or the quality of the documentation.**

## CONTINUED NEED FOR OUT-OF-HOME CARE

Foster care is meant to act as a safety net for children so that they can be safe and heal from abuse and trauma while the adults in the family address the issues that led to children's removal. At the same time, it is imperative that children not remain in temporary care longer than necessary.

With these considerations in mind, statute requires the FCRO to determine if there is a continued need for out-of-home placement during every review conducted. **For the 2,247 reviews conducted January-June 2014 the FCRO found:**

Continued need to be in the foster care system	Reviews	Percent
There is a continued need for foster care	1,906	85%
No longer a need for foster placement; child should return to parents	81	4%
No longer a need for foster placement; child's adoption, guardianship or other permanency should be finalized	<u>260</u>	12%
Total	2,247	

**The percentages above are nearly identical to the findings made in 2009 through 2013.**

### **RECOMMENDATIONS:**

- 1. Ensure timely completions of adoptions and guardianships.**
- 2. If children are able to safely reunify with their families, make sure that the reunification occurs in a timely and thoughtful manner, with appropriate services in place prior to reunification in order to make the reunification successful.**
- 3. Conduct a study to look at the 16% where there is no longer a need for foster placement to determine why permanency had not been achieved for those children.**

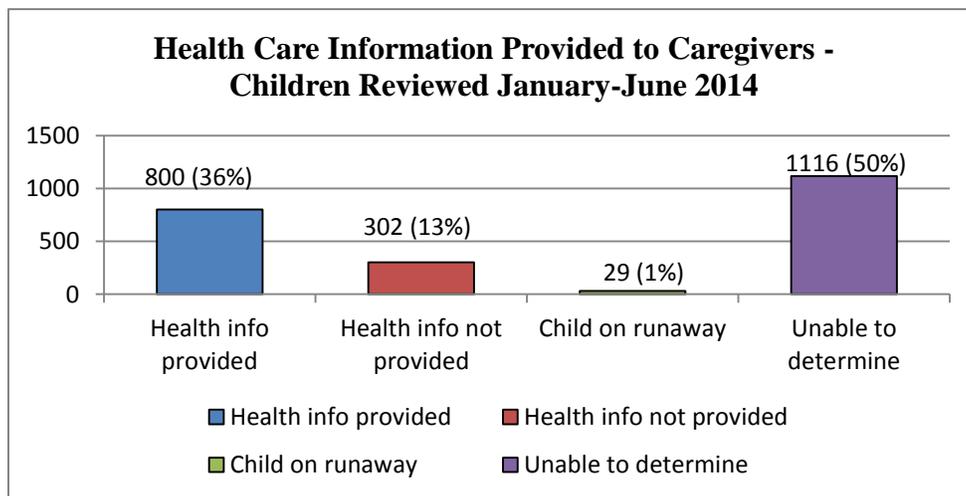
## PROVISION OF CHILDREN'S HEALTH RECORDS TO CAREGIVERS

As a result of abuse, trauma, poor prenatal care, maternal substance abuse, and erratic past medical care, many children enter out-of-home care with significant unrecognized or under-treated illnesses, immunization delays, failure to thrive, and dental caries (cavities). Many have chronic medical conditions such as asthma, allergies, diabetes, and the like.

Foster parents, group homes and other placements are charged with ensuring that children placed with them receive all necessary medical services. To do so, the caregivers need to know who the child's doctor is, currently prescribed medications (if any), and the proper course of treatment if a medical condition is present. It should be documented that this critical information was shared each time the child changes caregiver.

Due to the impact on safety and well-being, the FCRO is required under federal regulations to attempt to determine whether medical records were provided to the caregivers at the time of the placement. FCRO review specialists carefully analyze all case documentation for indication of whether this occurred.

During the FCRO's review of children's cases, attempts are made to contact the child's placement per federal requirement to determine whether the placement received medical background information on the child at the time the child was placed.<sup>42</sup> Caregivers are not required to respond to the FCRO – and many do not. Contact is attempted for all reviews and results noted for the legal parties in the local board's recommendation report. **The following are the results from the 2,247 reviews conducted in during January-June 2014.**



<sup>42</sup> Foster parents are provided the opportunity to attend the review, along with the phone number and email address for the review specialists. Foster parents are provided a questionnaire to complete if attending the review conflicts with their schedules. Review specialists also attempt to contact the placement via phone or email.

There are some notable differences when the above findings are compared to calendar year 2012:

- Documentation of health care record provision has declined, from 43% in 2012 to 36% in the first half of 2014.
- Documentation exists that health information was not provided for 13% of the children reviewed, compared to 9% in 2012.
- The “Unable to determine” percentage remained steady.

Unable to determine includes:

- The foster parents were unable to be reached and did not communicate back when messages were left.
- There is no documentation from the foster parents in the child’s file indicating whether they received information.

**It is concerning that 50% of the children’s cases reviewed did not have documentation whether children’s caregivers had been provided the child’s essential medical information.**

### **RECOMMENDATIONS:**

- 1. During provider training make sure they know it is also their responsibility to request medical information when providing care for a child.**
- 2. Enact oversight mechanisms to ensure medical information is promptly and accurately supplied to foster parents or other caregivers upon the child’s placement, and that the transfer of information is documented.**
  - a. Ensure that caseworkers have vital medical records easily accessible.**
  - b. Ensure that there is a consistent place for documentation of health records and health care records transfer on the child’s computer record so there can be proper oversight by the FCRO and DHHS internal CQI, and so that these are readily available for ongoing workers, coverage workers, and supervisors.**

## HEALTH CARE and DENTAL CARE STATUS OF CHILDREN REVIEWED

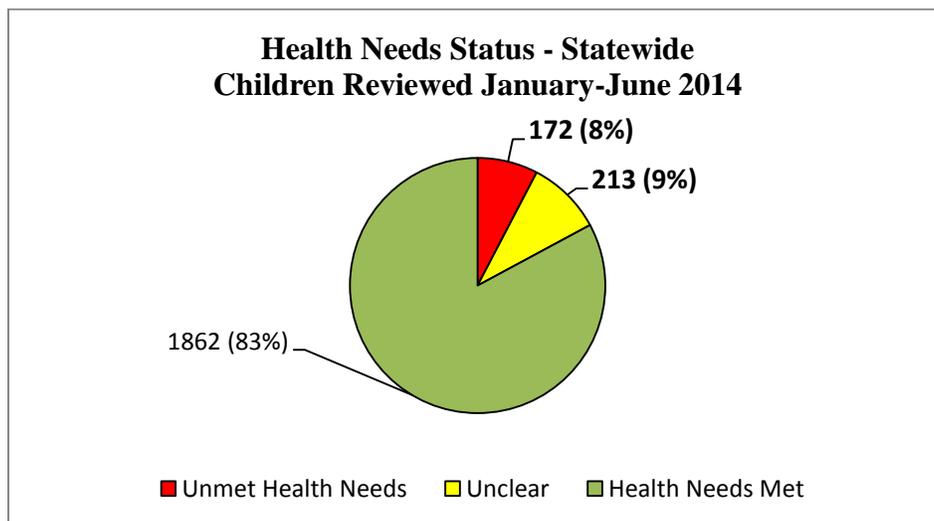
### HEALTH CARE NEEDS

Based on concerns regarding the lack of documentation that essential health information has been shared with caregivers, and national studies that have shown that 90 percent of young children entering care have physical health problems and 35 percent have significant dental and oral health problems, beginning in 2014 the FCRO has also sought to quantify whether children have unmet medical or dental needs.

The chart below indicates that there are some children in out-of-home care with unmet health needs. The chart also shows the frequency of insufficient documentation on this important safety and wellness indicator.

Reviewers report that the numbers in the “unmet” and “unclear” categories in the chart below are impacted by one or more of the following:

- Caregivers may not have made needed appointments.
- Appointments may have been made, but not in a timely manner according to professional recommendations.
- Caregivers may not have reported that appointments and needed follow-up have been scheduled, or when the appointment has occurred.
- Caregivers may not have responded to our messages.
- Caseworkers may not have recorded verbal and other updates on the DHHS computer system so there is no documentation available at review.
- The date of last physicals may not be available to know whether they are occurring at recommended frequency.



## **RECOMMENDATIONS:**

- 1. Enact oversight mechanisms to ensure medical issues for children in out-of-home care are addressed in a timely manner, and to address the documentation of receipt of needed services.**
- 2. Develop a process whereby the FCRO can immediately report to the appropriate DHHS staff when issues are identified and receive prompt feedback on whether children's medical needs have been addressed.**
- 3. Ensure consistency in where medical records are placed on the child's N-FOCUS computer record.**

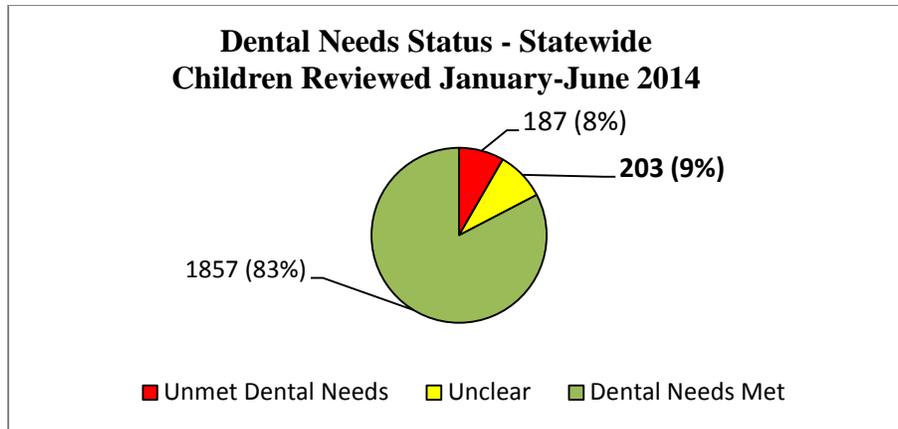
## **DENTAL CARE NEEDS**

Many children that later enter out-of-home care did not have adequate dental hygiene and/or access to a dentist when they were in the parental home. Thus some children enter the child welfare system with a variety of unmet dental needs (e.g.: cavities, gum disease, prematurely missing teeth, alignment issues) that must be addressed for the child's comfort, short and long-term health and well-being.

Reviewers report that the numbers in the "unmet" and "unclear" categories in the chart below are impacted by one or more of the following:

- Caregivers may have difficulty finding a local dental care provider that accepts Medicaid, and may have to go a great distance in order to obtain those services for the children.
- Caregivers may not have made needed appointments.
- Appointments may have been made, but not in a timely manner according to professional recommendations.
- Caregivers may not have reported that appointments and needed follow-up have been scheduled, or when the appointment has occurred.
- Caregivers may not have responded to our messages.
- Caseworkers may not have recorded verbal and other updates on the DHHS computer system so there is no documentation available at review.
- The date of last examinations or procedures may not be available to know whether they are occurring at recommended frequency.

It is reported across the state that there is a general lack of dentists willing to accept Medicaid assignment, making it more difficult to ensure children receive needed services.



### **RECOMMENDATIONS:**

- 1. Enact oversight mechanisms to ensure dental issues for children in out-of-home care are addressed in a timely manner, and that services received are consistently documented.**
- 2. Ensure consistency in where dental care records are placed on the child's N-FOCUS computer record.**
- 3. Contracted placement providers should assist foster parents in finding dentists willing to take assignment in reasonable proximity to the child's placement.**
- 4. Consider how to make dental services more accessible on a state-wide basis.**

## **PLACEMENT AVAILABILITY, SAFETY, AND APPROPRIATENESS**

All children and youth placed in the care of the State are entitled to be well cared for and to be safe. It is only rational to expect that the conditions in foster homes and group homes would be much better than those endured by the child prior to coming into care. As a result, foster homes and group homes should offer and be held to a higher standard of care than that occurring in the child's home of origin.

### **PLACEMENT ARRAY, TYPES/AVAILABILITY**

Foster parents have different skill sets and abilities to provide appropriate care for the varied needs of Nebraska's foster children.<sup>43</sup> Matching children with the care givers best suited to meet their needs is a challenge given the shortage of homes, the proximity of an "open bed" and services, training and supports available.

The FCRO thanks DHHS for providing the following information about the number and types of foster home operating as of July 7, 2014. Important points:

- The chart that follows includes only family-like settings and thus does not include group homes or specialized facilities.
- The numbers in each service area indicate the total maximum beds each facility type is allowed and does not reflect how many children are actually placed in that type of facility.<sup>44</sup>
- In all but the Western section of the state, DHHS or NFC (as lead agency) contracts with agencies for foster homes. Therefore, you will see larger numbers in the "foster home – agency based" category for those areas. In the Western part of the state, many foster homes are directly supported by DHHS; therefore, they have more in the "foster home – traditional" category.
- Licensed foster homes can provide care for unrelated children, up to the maximum number indicated on the license. Approved homes are approved only for specific children. Those are often kinship or relative homes.
- Kinship and relative homes are different. Relatives are blood relation to the child. Kinship has no blood relation, but had a pre-existing relationship with the child. For example, a teacher or a former step-parent may have a kinship license.
- Approved homes can only provide care for specific children that are relatives or that knew the caregiver prior to removal from the home.

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<sup>43</sup> More information on the challenges with Kinship and Relative care can be found on page 96.

<sup>44</sup> See page 95 for information on the number of children in different placement types.

Facility Type	Maximum Beds by Placement Location, as of July 7, 2014 <sup>45</sup>						Statewide total beds
	Central Service Area	Eastern Service Area	Northern Service Area	Southeast Service Area	Western Service Area	Out of State	
Adoptive home - approved	2	5	3	2	3	2	17
Adoptive home - licensed	19	54	20	19	37	1	150
Continuity foster care	1	1	0	0	0	0	2
DD (developmental disabilities) family home – approved	0	4	1	1	0	0	6
Emergency shelter foster home	21	0	73	0	1	1	96
Foster home – traditional	3	0	3	9	111	0	126
Foster home – agency based	161	603	191	380	22	2	1359
Kinship home - approved	15	67	26	28	27	1	164
Omaha tribal emergency home	0	0	3	0	0	0	3
Omaha tribal foster home	0	2	12	0	0	0	14
Omaha tribal kinship foster home	0	1	31	0	0	1	2
Omaha tribal relative foster home	0	3	6	2	0	1	36
Relative home – approved	60	218	79	76	78	14	252
Relative home – licensed	7	44	5	37	20	0	525
Santee Sioux tribal foster home	0	0	1	0	0	0	113
Santee Sioux relative	0	0	1	0	0	0	1
Winnebago tribal foster home	0	0	3	0	0	0	3
Winnebago kinship foster home	0	0	2	0	0	0	2
Winnebago relative foster home– licensed	0	0	2	0	0	0	2
Winnebago relative foster home– approved	0	0	19	0	0	1	20

For many years the FCRO has reported on the need to develop more placements for children with specific needs (i.e., homes that are willing to take in children with behavioral and mental health conditions, certain physical conditions, older children and teens, pregnant girls, and large sibling groups). For example, five girls reviewed January-June 2014 were pregnant at the time of review. Another 16 teens reviewed were parenting an infant or young child.

Through reviews it appears that finding placements for children with the above types of issues remains challenging.

<sup>45</sup> The information in this chart was supplied by the Department of Health and Human Services.

## SAFETY IN PLACEMENT

Most children enter care due to abuse or neglect. The system has a statutory obligation to place those children in a safe placement and provide needed services and supports to the caregivers. There is a separate section on safety, beginning on page 21, which provides the definition of safety and the types of considerations regarding safety in placements, so it will not be repeated here.

## APPROPRIATENESS OF PLACEMENT

When determining appropriateness, consideration is given as to whether this is the least restrictive placement possible for the child, and whether there is documentation that the placement is able to meet this particular child's needs.

An example of a safe, but inappropriate, placement would be placing a teenager in a home that was best suited for an infant. When a placement willing to take a teenager becomes available, then the teen will be moved. Or, the teen may end up in another inappropriate placement if the caregivers are not equipped or willing to deal with issues of an adolescent that has experienced early childhood trauma while the system looks for a more beneficial placement. Even if not specifically told about the caregiver's preference, teens and older children likely sense the caregiver's reservations regarding caring for an older child.

Relative placements may be the most appropriate for a particular child, but often sufficient relative searches do not occur, leading children to be placed with strangers rather than appropriate relative caregivers.<sup>46</sup>

## FEDERAL REQUIREMENTS ON SAFETY/ APPROPRIATENESS

Under federal regulations and state law, the FCRO is required to make findings on the safety and appropriateness of the placement of each child in foster care during each review regardless of how long the child has been in the placement.

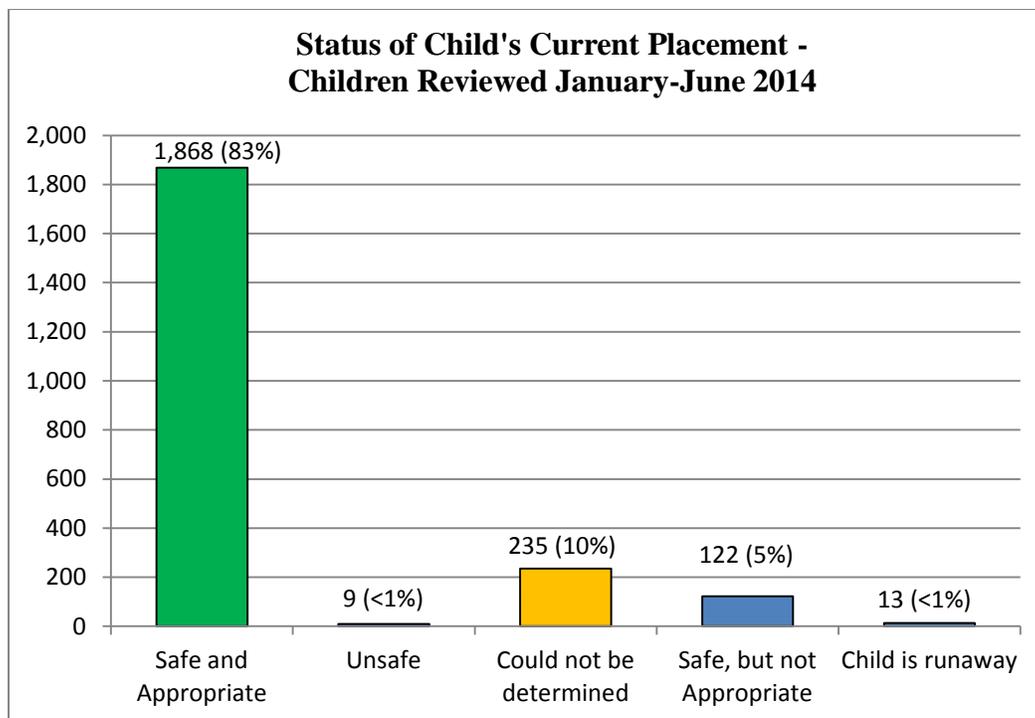
## BASIS FOR FCRO FINDINGS ON CHILDREN'S PLACEMENTS

As a basis for the finding, the FCRO's review specialists research whether any allegations have been made against the placement of children being reviewed and the system's response to those allegations. The FCRO review specialist and local board also considers the results of home studies, which measure the strengths and weaknesses of each foster family placement, and the needs of the individual children receiving care by that particular caregiver including but not limited to the child being reviewed. **The FCRO does not assume children to be safe in the absence of documentation.**

After carefully considering the available information, the FCRO found the following:

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<sup>46</sup> See page 96 for a section on relative and kinship care.



The following are some reasons that the safety and appropriateness of placement could not be determined for some children.

- There was no homestudy<sup>47</sup> available.
- The results of investigations regarding a placement were not available.
- As assessment is pending that would determine if a higher level of care is needed.
- It is unclear if the placement is willing to provide adoption or guardianship for cases where that may be a primary or concurrent goal.
- If there are recent changes, such as the foster parents separating, or an adult child returning to the home and the homestudy had not been updated.

When reviewed **10% of the children's files did not contain sufficient documentation in order to ensure the safety and appropriateness of the children's placement.** This is an improvement from 2012 when 20% of the files were missing documentation and 2011 when 24% of the files were missing such critical documentation. Nonetheless it is still unacceptably high.

The issue of there being insufficient documentation to determine the safety of a substantial number of children is an on-going one that the FCRO continues to address with DHHS and with the lead agency if it is involved in the child's case. Both DHHS and NFC have been responsive, and meetings are occurring with each on a regular basis to address documentation issues.

<sup>47</sup> A homestudy is documentation which contains critical information about the foster family's history, parenting practices, social issues (drug/alcohol use), and the physical condition of the home.

**RECOMMENDATIONS:**

- 1. Ensure there is adequate documentation regarding the safety and appropriateness of every child's placement by DHHS, NFC (where applicable), and the contractors that provide placement support.**
- 2. Identify appropriate paternal and maternal relative/kinship placements at the time of children's initial placement in foster care, and provide those placements with needed supports.**
- 3. Ensure the forms and processes developed by the Children's Commission Foster Care Rate Workgroup are being used. These should better match caregiver strengths to children's needs.**
- 4. Require all providers to incorporate trauma-informed care into their processes and policies. Support placements and ensure that children receive any needed treatments. Allow adequate time for discussion of placement needs in the meetings scheduled for 2015 that will involve DHHS, the FCRO, contractors that provide placements, and other stakeholders.**



### Section III.

## PERMANENCY RELATED ISSUES



*“Nothing matters to a kid more than where he lays his head.”*

**- Former foster child that spent many years in  
the child welfare system**

## PERMANENCY DEFINED

The term for exiting foster care is “permanency.” Permanency means children leave foster care to live in the rehabilitated home of origin or, if a return to the parent is not possible, children leave foster care through adoption, guardianship, or other means.

Ideally, children that have achieved permanency should have at least one committed adult that provides them a safe, stable, and secure parenting relationship, with love, unconditional commitment, lifelong support and a sense of belonging.

In this Annual Report, we present information about the following topics related to permanency:

1. Children’s length of time in out-of-home care.
2. The number of removals from the home experienced by many children.
3. How caseworker changes impacts permanency.
4. How case planning impacts permanency.
5. Visitation as an indicator of parental willingness and growing ability to safely parent their children.
6. Issues with services for parents and children.
7. Court and legal issues impacting timely exits from foster care.

The FCRO is one of several groups that are participating in the Barriers to Permanency Project which is analyzing the cases of children in care for three years or more to identify the barriers to permanency. A report on the Project will be issued separately from this annual report, likely in early 2015.

## BARRIERS TO CHILDREN ACHIEVING PERMANENCY

During each of the 2,247 reviews conducted January – June 2014, local boards identified the top 1-5 barriers to safety and permanency that existed for reviewed children as of the date of that review. These were the major issues that would delay or prevent children’s case plans being implemented and children achieving safe, permanent homes. Barriers could be due to the action/inaction of the parents, or could be systemic barriers.

The following charts include the primary barriers impacting children by category.<sup>48</sup>

Children Impacted	Barriers regarding Mother
612 (27%)	Lack progress on adjudicated issues that led to removal.
463 (21%)	Lack of housing.
457 (20%)	Refuses to engage in services (post-adjudication).
436 (19%)	Need time to complete services.
386 (17%)	Not attending parenting time (visitation) consistently.
379 (17%)	Lack of employment/income.
355 (16%)	Substance abuse is impeding reunification.
252 (11%)	Mental health is impeding reunification.

Children Impacted	Barriers regarding Father
259 (12%)	Father not identified and/or proven to be the parent.
250 (11%)	Whereabouts unknown.
231 (10%)	Need time to complete services.

Children Impacted	System barriers
641 (29%)	The DHHS Case plan is incomplete.
613 (27%)	Adjudication delays.
540 (24%)	No progress is being made.
422 (19%)	The Case plan objective is not appropriate.
198 (9%)	The identified (purported) father has not been legally established.

### **RECOMMENDATIONS:**

1. Continue to have collaborative, in-depth examinations of why children remain in out-of-home care for prolonged periods, especially surrounding the systemic issues of appropriately including fathers into the process, adjudication delays in the courts, and inappropriate case plans.
2. When the Barriers to Permanency Report is released, use what is learned from the study to assist the system in changing practices.
3. Ensure that the system is timely in meeting the needs of children and families.

<sup>48</sup> A more comprehensive list is available in the Appendices, on page 135.

### TRIAL HOME VISITS

Trial home visits are defined as “when a court involved youth goes from an out of home placement back to his/her custodial parent, but remains a ward of the state and continues to receive services.” Trial home visits are intended to be short-term supports to reunification. Children really have not fully experienced “permanency” until there is no longer court involvement in their family’s lives.

In many other states a trial home visit is limited to either 30 or 60 days; some allow the trial home visit to be extended to no more than six months.

In Nebraska, many children that are in the parental home remain under court-ordered DHHS supervision for extended periods of time, including a number that are in care for more than six months.

At the current time these cannot be reported to the FCRO because they are back in the parents’ care and they no longer meet the statutory definition of “foster care.” In some states, their legal definition of foster care includes the period of returning home so that case file reviews can continue.

There is a collaborative project that has been examining the cases of children that have been at home over six months without the court removing DHHS jurisdiction. The FCRO has been invited to be a part of this collaborative.

### RECOMMENDATIONS:

- 1. Change the statutes to allow the FCRO to review children during the critical first six months after children’s return to the parental home. This would permit the FCRO to advocate for the individual children reviewed and to develop statistical measures to share in future Annual and/or Quarterly Reports as to safety issues and services needed to ensure stability for children.**

## CASE PLANNING AND PERMANENCY OBJECTIVES

Helping children achieve permanency is the major goal of the entire child welfare system. In order to measure progress, case plans are produced that should include a delineation of tasks and timeframes.

DHHS is to prepare a complete plan with services, timeframes, and tasks specified, and submit this to the courts. The courts can order the plan as is, modify the plan, or order DHHS to create a new plan. The Court-ordered permanency plan lists one of several possible primary objectives. Typical objectives include reunification, adoption, guardianship, independent living (being in foster care until legal age of majority/adulthood), or another planned arrangement.

### DETAILS IN THE DHHS CASE PLAN

Case planning should detail appropriate, realistic, and timely steps toward rehabilitation of the parents (if reunification is the objective), and then effectively hold them accountable for fulfilling those steps.

The DHHS case plan must also be material to the juvenile court's jurisdiction and the measures of accountability must be fair. Otherwise, parents and children can wind up in no-win situations, which the FCRO has identified in some reviews, such as parents being forced to choose between having visitation with their children (if there is no flexibility in visitation hours) or holding a job as required to get their children back.

Sometimes the issue is not scheduling, but other expectations. Often parents do not have a basis for understanding how the system expects them to respond to their children. It may be difficult or impossible for parents that grew up in homes in which they experienced trauma (abuse or neglect, domestic violence, homelessness, incarceration, other serious family stressors) to provide their children with support and structure if the parent's own trauma remains unaddressed.

In fact, **national research has demonstrated that a parent's trauma history may increase his or her children's risk of maltreatment and impacts the parent's ability to respond in a protective manner to his or her children.**<sup>49</sup> These parents may also have a difficult time articulating what types of help they need.

Thus, in the case plan the tasks for the parents must be clear, concrete, and measurable. Parenting instruction should be concrete, direct, and relevant to the situation. The best is one-on-one instruction in which the parent can see the modeled behavior needed and then demonstrate their ability to act appropriately over a period of time without additional intervention by the instructor.

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<sup>49</sup> Tulberg, Erika, MPH, MPA, Impact of Traumatic Stress on Parents Involved in the Child Welfare System, as found in CW360 – Trauma-Informed Child Welfare Practice, Winter 2013.

Local citizen review board volunteers report that all too often they encounter case plans that are inappropriate, incomplete, unrealistic, or not timely. This is based on a series of findings that the local boards are required to make about the case plan for every child reviewed after a careful analysis of the plan and related documentation. **The individual findings for the 2,247 reviews conducted January-June 2014 are described next.**

**SAFETY MEASURES IN THE DHHS CASE PLAN**

DHHS is to evaluate the safety of the child and take necessary measures in the plan to protect the child. As part of the FCRO’s oversight mission, the FCRO determines whether this has occurred each time it conducts a review.

Safety Measures	Statewide total
Took safety measures	2,118 (94%)
Did not include safety	40 (2%)
Cannot be determined	<u>89 (4%)</u>
Total	2,247

The following are some examples of safety measures not being included in the plan:

- The plan called for unsupervised visitation when there were current safety issues around visitation.
- A child that is vulnerable due to age, size, physical condition, or developmental delays was placed in the same home with larger children that had aggressive tendencies and there was no plan for how the child’s safety could be ensured 24/7.

Whenever the FCRO finds that safety measures have not been included in the plan, the FCRO communicates this to all parties so that the deficits can be remedied as soon as possible.

**RECOMMENDATIONS:**

1. **Ensure case plans detail specific and timely measures to keep children safe so that everyone is working toward the same goal of preventing or mitigating issues involving safety.**

## **COMPLETENESS OF THE DHHS PLAN**

DHHS is to prepare a complete plan with services, timeframes, and tasks specified, and submit this to the courts. The courts can order the plan as is, modify the plan, or order DHHS to create a new plan. During reviews conducted January-June 2014 the FCRO evaluated whether the DHHS plan was complete.

<b>DHHS Plan Completeness</b>	<b>Statewide total</b>
Plan is complete	1,514 (67%)
Plan is incomplete	641 (29%)
Plan is outdated	69 (3%)
DHHS did not create a plan	<u>23 (1%)</u>
Total	2,247

Some examples of incomplete plans include the following situations:

- The plan or concurrent plan is adoption, but all the goals reflect reunification.
- The plan does not address a non-custodial parent.
- The plan does not address paternity, if not already established.
- The plan does not reflect case changes made prior to the date of the plan.
- A service to address an adjudicated issue is not included in the plan.
- The plan is missing goals, or timeframes, or tasks.
- The plan doesn't include all children that should be in the plan.

Incomplete plans are problematic because they do not provide the means to hold parents and other parts of the system accountable. It can also be frustrating for parents if they are unsure what they need to do in order to have their children returned. Thus, a partial plan can delay permanency for children.

## **RECOMMENDATIONS:**

- 1. Ensure case plans are complete, appropriate to the circumstances, timely, and clearly specify what needs to occur and what is expected of all involved with the children's case. Ensure goals are measurable so progress (or lack of progress) can be determined.**
- 2. In the case plan include a description of the efforts to search for fathers and relatives. This would be a means of assuring relative searches and paternity identification is being done and would help to keep the court and other legal parties informed.**

**COMPLETENESS OF THE COURT-ORDERED PLAN**

In February 2014, the FCRO began collecting data on whether the court-ordered plan (which could be the same as the DHHS plan, or a court-modified version) was complete. **The chart below gives the findings from reviews conducted February-June 2014.**

<b>Completeness of Court Ordered Plan</b>	<b>Statewide total</b>
Plan is complete	1,284 (72%)
Plan is incomplete	305 (17%)
No court ordered plan	64 (4%)
Not applicable*	<u>142</u> (8%)
Total	1,795

\*Not applicable above could include when the case has yet to be adjudicated or disposed.

The Court-ordered plan needs to be complete, as this is what controls the actions the various parties need to take in order for the children’s case to move forward to a timely conclusion.

**RECOMMENDATIONS:**

- 1. Ensure court orders are complete, appropriate to the circumstances, timely, and clearly specify what needs to occur and what is expected of all involved with the children’s case. Ensure goals are measurable so progress (or lack of progress) can be determined.**
- 2. Ensure all of the legal parties extend reasonable efforts to legally identify fathers and, thus, paternal relatives.**

**APPROPRIATENESS OF COURT-ORDERED OBJECTIVE**

After a thorough analysis of the available information about the child’s case, local boards determine whether or not the primary permanency objective or goal (reunification, adoption, guardianship, etc.) is the most fitting for the child being reviewed. If the goal listed does not match the circumstances then the board would find a goal inappropriate.

<b>Appropriateness of Objective</b>	<b>Statewide total</b>
Objective is appropriate	1,423 (63%)
Objective is not appropriate	422 (19%)
Pre-adjudication so no plan	127 (6%)
Unable to determine	189 (8%)
Voluntary, non-court case	72 (3%)
No objective in court order	<u>14</u> (1%)
Total	2,247

Some examples of inappropriate goals:

- The goal is reunification, but the child's been in out-of-home care for 24 months and the parent has not yet demonstrated *any* increased capacity to keep the child safe.
- The goal is adoption, but the child is 17 and *no* adoptive family has been identified.
- The goal is guardianship, which may not be permanent, and the child is very young.

“Unable to determine” may include when there are pending evaluations that could change case goals, or a lack of documentation regarding progress, or the objective was only recently ordered by the courts and services are still being arranged.

### What is the goal for children?

The following chart shows what the FCRO found regarding the primary permanency objectives for the 2,247 reviews conducted January-June 2014.

It is important to recognize that while a permanency objective may be established for a particular child, a full written permanency plan to accomplish that objective may not have been created.

Permanency Objective	Central Service Area	Eastern Service Area	Northern Service Area	Southeast Service Area	Western Service Area	Statewide total
Reunification	118 (62%)	653 (57%)	114 (56%)	305 (56%)	89 (53%)	1,279 (57%)
Adoption	37 (19%)	208 (18%)	48 (24%)	140 (27%)	56 (33%)	489 (21%)
Guardianship	12 (6%)	89 (8%)	13 (6%)	41 (8%)	11 (7%)	166 (7%)
Independent Living	8 (4%)	27 (2%)	8 (4%)	13 (2%)	2 (1%)	58 (3%)
<b>OTHER:</b>						
Either guardianship or adoption	0	1	0	1	1	3 (<1%)
Supervised Living	0	4	0	0	0	4 (<1%)
Not in category above	0	3	0	0	0	3 (<1%)
No plan, pre-disposition	<u>15</u>	<u>162</u>	<u>20</u>	<u>40</u>	<u>8</u>	<u>245 (11%)</u>
Totals	190	1,147	203	540	167	2,247

There are some differences between the areas in regard to the type of permanency objective the court has ordered. There may be many reasons for this. Some differences between areas include: the ages of children reviewed, how quickly paternity is addressed, how quickly cases are adjudicated impacting how long children are in out-of-home care before parents began to address the issues, poverty levels, access to services, and other issues discussed throughout this Report.

**RECOMMENDATIONS:**

- 1. Insist on appropriate case plan goals in the court orders to ensure that measures are in place for children to achieve an appropriate and timely permanency.**

**TARGET DATE FOR THE COURT-ORDERED PERMANENCY TO BE ACHIEVED**

The court-ordered permanency plan is also to include a target or projected date for permanency to be achieved. This requirement is in place to keep everyone’s focus on moving the case forward. The following indicates whether that target date was current or not.

<b>Target date status</b>	<b>Statewide total</b>
Is a current target date	1,729 (77%)
No target date	247 (11%)
No court ordered plan	174 (8%)
Target date, but is not current	<u>97 (4%)</u>
Total	2,247

Some times where no target date is found could include:

- If DHHS did not write a case plan for the court to adopt and the court did not order a plan on its own.
- If the case plan was written for reunification but the court ordered a plan of adoption so the target date no longer corresponds to the permanency objective.
- If the case is pre-adjudication and disposition, the first plan is not adopted by the court until the dispositional phase.<sup>50</sup>

**RECOMMENDATIONS:**

- 1. Ensure that court orders include a reasonable and achievable target date. Use that date as a place to keep everyone’s focus on moving the case forward.**
- 2. If a target date has been reached without permanency for the child, use that as an opportunity to again examine if the proposed permanency objective is reasonable and to redirect efforts toward permanency.**

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<sup>50</sup> See page 77 for a discussion of adjudication delays.

## **PROGRESS BEING MADE TOWARDS PERMANENCY**

Another finding made by local boards during case file reviews is whether or not there is progress being made towards the permanency objective.

<b>Progress Status</b>	<b>Statewide total</b>
Progress being made	761 (34%)
Partial progress	526 (23%)
No progress	540 (24%)
Cannot be determined	219 (10%)
Non-court or other issue	<u>201 (9%)</u>
Totals	2,247

Examples of no progress include:

- The parents are not engaged or participating in services and the plan is reunification.
- The plan does not reflect reality – such as the plan is still officially reunification when all efforts are being made towards adoption.
- The plan remains reunification even though the parent's whereabouts are unknown.
- The plan is adoption, but a home willing to adopt has yet to be found.

Examples of some or partial progress include:

- Parents are addressing some, but not all reasons that led to the child's removal from the home.
- Parents are inconsistent in doing what is necessary.
- The plan is adoption, the child is in a home willing to adopt, but the termination of parental rights is under appeal.

**It is unacceptable that in 24% of the cases reviewed there was no clear evidence of progress, and in another 23% only partial progress.** No progress, no permanency in sight for these children. Thus, it is no surprise that many children have long stays in out-of-home care. All parts of the child welfare system should be working towards the same goal – permanency!

## **RECOMMENDATIONS:**

- 1. Determine the reasons for a lack of progress, where applicable, and make adjustments to the services, needed actions by the professionals involved, and/or the permanency objective as necessary. Consider if a concurrent permanency plan is needed.**
- 2. If parents are addressing some, but not all reasons that led to removal, emphasize that they have a limited time period during which to demonstrate the will and/or capacity to change.**

**REASONABLE EFFORTS TO REUNIFY**

While the system must hold parents accountable, DHHS is obligated to make “reasonable efforts” to preserve and reunify the family if this is consistent with the health and safety of the child unless a statutory exception of “aggravated circumstances” is found by the juvenile court, or the juvenile court has adopted another permanency objective. Aggravated circumstances include abandonment, chronic abuse, sexual abuse, involuntary termination of parental rights to a sibling of the child, serious bodily injury or the murder of a sibling.

If the court finds that reunification of the child is not in his or her best interests, DHHS is then required by Neb. Rev. Stat. §43-283.01 to make “reasonable efforts” to ensure that the child is placed in a permanent placement and the necessary steps are in place to achieve permanency for children.

The juvenile court makes the determination of reasonable efforts on a case-by-case basis. A finding that the State has failed to provide reasonable efforts has significant consequences to DHHS, such as disqualification from eligibility of receipt of federal foster care maintenance payments for the duration of the juvenile’s placement in foster care.

There is also a federal requirement that the FCRO make a finding at each review on whether there are “reasonable efforts” being made towards achieving permanency for children. While the specifics of what constitutes “reasonable efforts” has not been defined by federal statute, the DHHS case plan must include a rehabilitative strategy that reflects the issues that led to the removal of children from the home, the services that DHHS is providing to ameliorate these concerns and the requirements (if any remain) of the parents to address the adjudication. How to effectively measure whether the efforts made by DHHS are “reasonable” has always been a challenge.

From the January-June 2014 meetings the FCRO found the following:

<b>Reasonable efforts finding</b>	<b>Statewide total</b>
DHHS made reasonable efforts	1,855 (83%)
DHHS working toward concurrent objective	41 (2%)
No reasonable efforts made	13 (1%)
Cannot be determined	138 (6%)
Non-court case	8 (<1%)
No court ordered objective	<u>192 (9%)</u>
Totals	2,247

**RECOMMENDATIONS:**

- 1. Ensure appropriate strategies are in place to ameliorate the conditions that led to removal, and that these strategies are clearly explained to the parents.**
- 2. In the case plan include a description of the efforts to search for fathers and relatives. This would be a means of assuring relative searches and paternity identification is being done and would help to keep the court and other legal parties informed.**

**CONCURRENT PLANNING/OBJECTIVES**

Statute allows the court to include a concurrent permanency objective in its plan. For example, the primary plan may be reunification, but the concurrent plan is adoption. This is optional.

Benefits of concurrent planning include:

- It can be an additional opportunity for the Court to impress upon the parents that they have only a limited time to address the issues or the goal may change to adoption or guardianship for children.
- If there is a concurrent plan in the court order, DHHS must make reasonable efforts towards this plan also. For example, if there is a concurrent plan of adoption then DHHS needs to begin/complete the process of determining if there is a potential adoptive home identified, ensuring that paternity issues have been addressed, and possibly discussing a relinquishment of parental rights with the parents. Then, should reunification no longer be a viable goal, no time is wasted in moving forward with the plan of adoption.

Beginning in January 2014, in addition to the previously described findings on the primary permanency objective the FCRO began to make findings specific to the concurrent plan, if one is in place. Here is what was found from the 2,247 reviews conducted January-June 2014.

<b>Finding on Concurrent Objective</b>	<b>Statewide total</b>
Objective is appropriate	810 (36%)
Objective is not appropriate	99 (4%)
Court did not order a concurrent objective, but board recommends one	<b>437 (19%)*</b>
Not necessary	745 (33%)
Unable to determine	14 (1%)
Voluntary case, no court order	10 (<1%)
No disposition yet	<u>132 (6%)</u>
Total	2,247

\*A typical examples in the category “did not order, but board recommends one” is the primary plan is reunification but parents are making very limited or no progress; thus, the board recommends a concurrent plan of adoption or guardianship so that there are no unnecessary delays to permanency.

**RECOMMENDATIONS:**

1. Use concurrent planning, in appropriate cases, as another tool to reduce unnecessary time in out-of-home care. Ensure that reasonable efforts are being used to meet the permanency objective of the concurrent plan.
2. If the primary plan is reunification, the presence of a concurrent goal of adoption, guardianship, etc., may be used to impress upon the parents that they have a limited time to show the willingness and ability to rehabilitate.

### **PLANS OF ADOPTION REQUIRE SPECIALIZED SUPPORT SERVICES**

The FCRO often finds there are delays to the completion of adoptions. To successfully complete an adoption of a child from foster care, there needs to be one or more workers that understand all the legal implications to facilitate the completion of adoption paperwork, including subsidies, that can support the on-going worker in charge of the case.

**During the period of January-June 2014, the FCRO reviewed 366 children's cases where the plan or concurrent plan was adoption and the child was free for adoption regarding both parents.** (This means that the parents had relinquished, had their rights terminated, or are deceased). The following shows how long those children had been free for adoption:

<b>Months Free For Adoption (both parents)</b>	<b>Age 0-5</b>	<b>Age 6-12</b>	<b>Age 13-18</b>	<b>Total</b>
1-6 months	70 (52%)	56 (34%)	13 (19%)	139 (38%)
7-12 months	30 (22%)	31 (19%)	15 (22%)	76 (21%)
13-23 months	<b>13 (10%)</b>	<b>40 (24%)</b>	14 (21%)	67 (18%)
24+ months	<b>9 (7%)</b>	<b>28 (17%)</b>	22 (33%)	59 (16%)
Unable to determine	<u>12 (9%)</u>	<u>10 (6%)</u>	<u>3 (4%)</u>	<u>25 (7%)</u>
Grand total	134 (100%)	165 (100%)	67 (100%)	366 (100%)

**A surprising number (17%) of the youngest children have not had their adoption completed, even though they have been free for adoption for over a year. Further, 41% of the children age 6-12 had been free for adoption for over a year.** Not all of that time can be blamed on the appeals process.

Of further interest:

- 73% (267) of the children were in a placement that was willing to adopt.
  - 33% (89) of those children were placed with relatives.
- 32% (118) of the children were in placements where an adoptive subsidy amount had yet to be agreed upon.

### **RECOMMENDATIONS:**

- 1. Ensure adoptions are completed by persons with expertise in this intricate area of juvenile law, and address causes for delays – such as subsidy issues.**

## LENGTH OF TIME IN FOSTER CARE

The length of stay in foster care is important for children involved because just as there are risks to leaving a child in the parental home after reports of abuse or neglect, there are risks to placing a child in foster care. As Dr. Ann Coyne of the University of Nebraska Omaha, School of Social Work so eloquently stated:

*“The decisions in child welfare are not between good and bad, they are between worse and least worse. Each decision will be harmful. What decision will do the least amount of damage? We all have a tendency to under-rate the risk to the child of being in the foster care system and over-rate the risk to the child of living in poverty in a dysfunctional family.”*

**Time in foster care is not a neutral event for children involved.** Time in foster care can impact parent/child bonds, and lead to children identifying more closely with the foster family. A trauma-informed child protection system needs to be knowledgeable about the potential short- and long-term impacts on disruptions in attachment relationships – especially for the youngest children.

Younger children especially are very sensitive to their environment. Children in out-of-home care have already had at least one major change in their environment by entering a foster care placement. Most have experienced another major event when moved to new caregivers after the initial placement. Some have experienced multiple such events. All of this is distressing for most children.

Many issues that lead to removal from the parental home are long-standing, making rehabilitation difficult. Services to address those deep-rooted issues are often not readily available or affordable. In other instances, parents may not be willing or able to parent their children and yet the plan remains reunification – so the child cannot safely go home and there can be no permanence through adoption or guardianship – so the child lingers in the system.

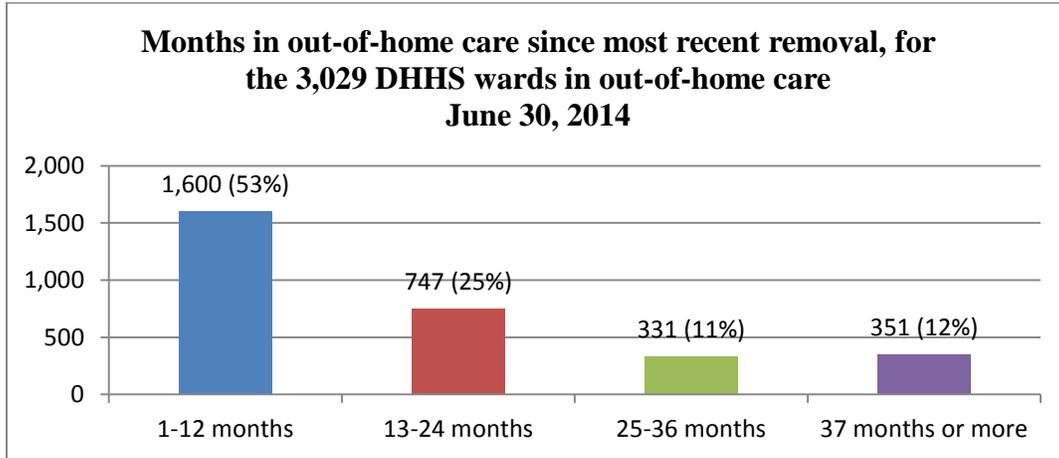
The good news is that there are practices described throughout this Report that can expedite case progression and result in timely permanency. Addressing the reasons for the length of time in foster care is imperative if Nebraska wants to improve its foster care system.

*The following are some common ways to measure the length of time in out-of-home care experience for children.*

### Months in out-of-home care

The negative effects of children living in foster care increases with the time children spend in out-of-home care. The chart that follows shows the number of months from the most recent removal from the home for the 3,029 children (DHHS wards) that were in out-of-home care on June 30, 2014. For children that have been removed from the home more than once, this does not include time in out-of-home care during past removals.

The chart below shows that many children spend a significant number of months out of the home.



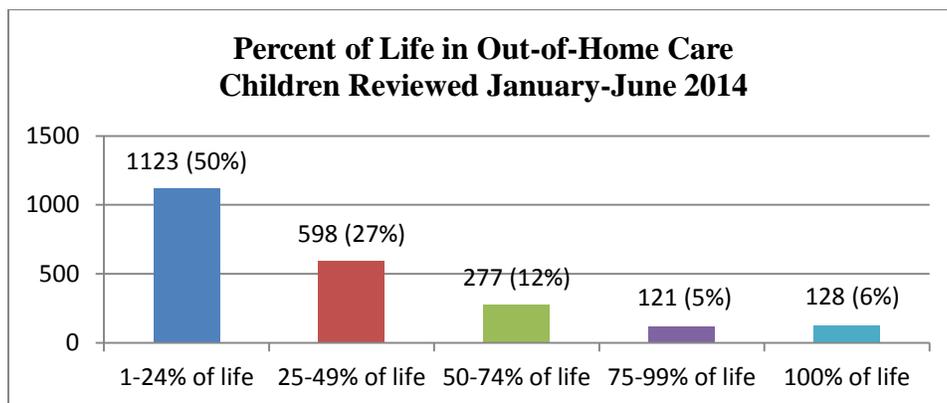
**It is particularly concerning that 23% of the children had been in out-of-home care for two years or longer. From a child’s perspective that is a very long time.**

Percent of life in care

The percentage of life in care is determined for reviewed children by dividing the lifetime number of months the child has been in out-of-home care at the time of the FCRO’s review by the child’s age, in months, at the time of the review.

For example, a 24 month old child that has been in care 6 months would have been in care 25% of his life (6 divided by 24). While 6 months, 12 months, 18 months, or more in foster care may not seem long from an adult perspective, from the child’s perspective it is a long and significant period of time.

From 2,247 reviews conducted January-June 2014 the FCRO found the following:



- The average number of months in out-of-home care over their lifetime for the 2,247 children was 24 months.

### Children leaving out-of-home care

The following facts are for the 3,625 children that left out-of-home care during FY13-14 (July 1, 2013-June 30, 2014),<sup>51</sup> and measures only their most recent episode (in other words it does not take into account any prior removals from the home):

- The average stay during that episode in out-of-home care was 416 days.
  - Some had been in care previously, and that time was not included in this measure.
- The median time in care that episode was 249 days.
- The range was 1 to 5,664 days.
  - 75 children (2%) had been in out-of-home care for 1,825 days or more, which is 5 years or more.

### **RECOMMENDATIONS:**

- 1. Recognize that children are always impacted by removal from their parents' home and work to minimize that trauma for children that must be removed in order to be safe.**
- 2. Create a continuous mechanism whereby the FCRO, DHHS, and other involved parties jointly staff the cases of children that have been in out-of-home care for two years or longer. Utilize a problem-solving approach, and document lessons learned.**
- 3. Ensure that Permanency hearings are meaningful and help to reduce the time that children spend in out-of-home care. Ensure all parties are engaged in moving the case towards timely permanency.**
- 4. Ensure that the 15-month exception hearings, which are to determine if a termination of parental rights petition needs to be filed against the parents, occurs and is delineated in a court order.**
- 5. Ensure all stakeholders, including the County Attorneys, meet the needs of children.**

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<sup>51</sup> Information on why children leave care can be found on page 86.

## **CASEWORKER CHANGES AND THEIR IMPACT ON PERMANENCY**

Local board members and staff have identified that stable case management is critical to ensuring children's safety while in out-of-home care, and is critical for children to achieve timely and appropriate permanency. A stable workforce reduces the number of times that children must discuss very private and often painful issues with a stranger. It allows workers time to ensure children's safety, and help children achieve a timely and appropriate permanency.

Caseworker changes can impact placement stability, with increased numbers of placements correlating with increased numbers of caseworkers. The number of different caseworkers assigned to a case is significant because worker changes can create situations where:

1. There are gaps in the information transfer and/or documentation, sometimes on more than one transfer. This includes maintaining an accurate history of the parent's reactions during parenting time (visitation) and the parent's utilization of services, such as therapy, and substance abuse treatment, or other actions that may be court ordered, like obtaining employment and stable housing.
2. New workers lack knowledge of the case history needed to determine service provision or make recommendations on case direction, especially when first learning new cases.
3. New workers are often unfamiliar with the quality and availability of services.
4. Case progression is slowed.
5. Supervisor time is needed to continuously recruit and train new personnel.
6. Funds that could have been used for direct services are needed to pay for repeated recruitment, training, and related costs.
7. Workers do not have physical contact with the children on their caseload and cannot ensure those children's safety.

In an attempt to reduce caseload sizes and improve caseworker retention the Nebraska Legislature passed LB 222 in 2013. The bill requires DHHS to report to the Legislature's Health and Human Services Committee on caseloads and mandates how those caseloads are to be measured.

The intentions were good, but based on numerous discussions with DHHS administration it is clear that the formula for caseloads is difficult to measure. This is due to the fact that the law specifies that if children are in out-of-home care the measurement is by child, if children are at home under DHHS supervision then the measure is by families, and when some children in a family are home but others are in an out-of-home placement the measurement is a combination. Many workers have some cases in each of the three categories. The current formula also does not fully take into account the amount of work that goes into supporting children in the family home.

An amendment is needed so that the formula used to compute caseloads is less cumbersome, making it easier for DHHS report accurate information and more reflective of the workloads between in-home and out-of-home cases.

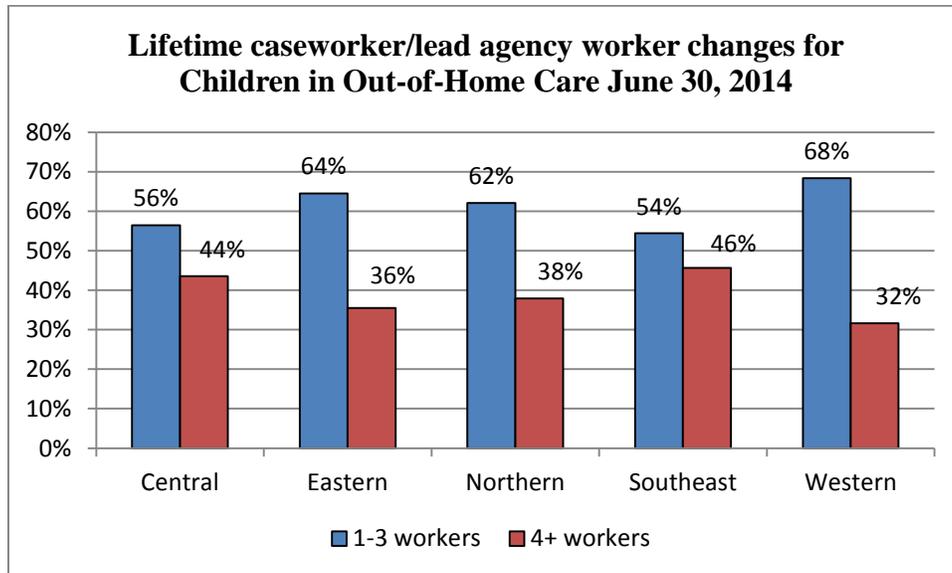
**RECOMMENDATIONS:**

1. **Review and if needed amend the caseload formula to ensure ease of implementation and to make it more reflective of the case management supports needed for children at home under DHHS supervision.**
2. **Ensure compliance with the caseload standards.**

**CASEWORKER CHANGES AS REPORTED TO THE FCRO BY DHHS**<sup>52</sup>

The FCRO gathers information about the number of workers that children have had while in out-of-home care over their lifetime as reported by DHHS. In other words, that each child had worker “A” for a period of time followed by worker “B”, etc.

FCRO data on worker changes only reflects the reported number of case workers while children are in out-of-home care, **but does not include the number of caseworkers prior to removal or if placed under DHHS supervision in the parental home** – thus the actual number of worker changes is likely higher for some children.



<sup>52</sup> The FCRO has determined that there are a number of issues with the way that DHHS reports the number of caseworker changes. Therefore, this information is issued with the caveat “as reported by DHHS.”

## **NATIONAL FINDINGS ON CASEWORKER CHANGES**

Nebraska is not alone in dealing with caseworker changes and turnover; a web search shows that state after state is dealing with this issue. One often-quoted study is from Milwaukee County, Wisconsin, that found that children that only had one caseworker achieved timely permanency in 74.5% of the cases, as compared with 17.5% of those with two workers, and 0.1% of those having six workers.<sup>53</sup> The University of Minnesota also found that caseworker turnover correlated with increased placement disruptions.<sup>54</sup> Nationally, it is found that children that have fewer workers have a greater probability of being successfully reunified with the parents.

The FCRO encourages Nebraska to consider some of the successful measures being used in other locations as it addresses this serious issue.

## **RECOMMENDATIONS:**

- 1. Develop adequate supports and mentoring for caseworkers, whether public or private.**
- 2. Better utilize exit interviews to determine measures that could impact caseworker changes.**
- 3. Stabilize the system so that workers have a realistic sense of permanency to their positions, encouraging retention.**
- 4. Consider the recommendations and observations offered by the Workforce Development Workgroup of the Children's Commission.<sup>55</sup>**
- 5. Ensure supervisors have adequate supports and training so they, in turn, can better support their staff.**
- 6. Consider the caseworker retention recommendations made by the Inspector General of Child Welfare in the Inspector General's September 2014 Report, such as:**
  - a. Create salaries that are competitive with states in the region.**
  - b. Provide incentives for workers and administrators to pursue formal education in social work.**
  - c. Increase continuing education opportunities.**
  - d. Ensure caseloads are manageable.**

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<sup>53</sup> *Review of Turnover in Milwaukee County Private Agency Child Welfare Ongoing Case Management Staff*, January 2005.

<sup>54</sup> PATH Bremer Project – University of Minnesota School of Social Work, 2008.

<sup>55</sup> The Workforce Development Workgroup is charged with fostering a consistent, stable, skilled workforce serving children and families. As part of this mission, the group is to benchmark the state with the lowest worker turnover, develop a plan for retention of frontline staff, develop a retention plan for workers, address morale and culture, address education and training, clearly define point persons and roles, conduct a comprehensive review of caseworker training and curriculum, develop a pilot project for guardians ad litem, and hire and adequately compensate well-trained professionals.

## VISITATION (PARENTING TIME)

### An important indicator of the viability of reunification as a plan

Courts order supervision of parental visitation when there is evidence that the child could be at significant risk if the parents were allowed unsupervised contact. The purpose of supervising parent/child contact is to ensure safety as the system:

- Meets the child's developmental and attachment needs;
- Assesses and improves the parent's ability to safely parent their child; and,
- Determines appropriate permanency goals and objectives.

Parents need to be prepared for the purpose of the visits, what is expected during visits, and how visits may change over time in length and frequency.<sup>56</sup> It is important to understand that there is no expectation of perfection during visitation.<sup>57</sup> Should there be a conflict between what is in the best interests of the child and what is in the best interests of the parents, the best interest and well-being of the child shall always take precedence, without using parenting time as a threat or form of discipline to the child or to control or punish the parent.<sup>58</sup>

While children are in foster care, visitation with parents is widely recognized as a vital tool for promoting timely reunification.<sup>59</sup> Visitation helps to identify and assess potentially stressful situations between parents and their children.<sup>60</sup> Visitation helps children adapt to being in care, cope with feelings of loss and abandonment, and improve overall emotion wellbeing.<sup>61</sup>

**Research shows that children that have regular, frequent contact with their family while in foster care experience a greater likelihood of reunification, shorter stays in out-of-home care, increased chances that the reunification will be lasting, and overall improved emotional well-being and positive adjustment to placement.**<sup>62</sup> Chances for reunification for children in care increase tenfold when mothers visit regularly as recommended by the court.<sup>63</sup>

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<sup>56</sup> Family Visitation in Child Welfare, Partners For Our Children, Washington State, April 2011.

<sup>57</sup> Ohio Caseload Analysis Initiative, Visitation/Family Access Guide 2005. Adapted from Olmsted County Minnesota CFS Division.

<sup>58</sup> Guidelines for Parenting Times for Children in Out of Home Care, Nebraska Supreme Court Commission on Children in the Courts, June 2009.

<sup>59</sup> Davis, Landsverk, Newton & Ganager, in Parent-Child Visiting, by Amber Weintraub, April 2008, National Resource Center for Family-Centered Practice and Permanency Planning, at the Hunter College School of Social Work, a service of the Children's Bureau/ACF.

<sup>60</sup> Ohio Caseload Analysis Initiative, Visitation/Family Access Guide 2005. Adapted from Olmsted County Minnesota CFS Division.

<sup>61</sup> Fanshel & Shinn, in Parent-Child Visiting, by Amber Weintraub, April 2008, National Resource Center for Family-Centered Practice and Permanency Planning, at the Hunter College School of Social Work, a service of the Children's Bureau/ACF.

<sup>62</sup> Partners For Our Children, Washington State, Family Visitation in Child Welfare, April 2011.

<sup>63</sup> Davis et al, in Parent-Child Visiting, by Amber Weintraub, April 2008, National Resource Center for Family-Centered Practice and Permanency Planning, at the Hunter College School of Social Work, a service of the Children's Bureau/ACF.

Best practice is to document parental interactions during visits with children because that is the biggest indicator of whether reunification can be successful. Without objective and complete visitation reports, it is not possible to determine the appropriateness of contact, if parent/child contact should increase, and if progress is occurring.

Visitation reports also allow an assessment of consistency of the personnel providing supervision, and assist in determining if there are scheduling barriers (i.e., visitation scheduled when the parent is at work, or the child is in school, or no visit occurring because there was no visitation supervisor or transportation driver available.) Further, visitation reports are evidence needed by the courts to ensure reasonable efforts are being made, to determine parental compliance and progress, and to ensure timely permanency.

### **FCRO FINDINGS ON VISITATION**

The FCRO found the following regarding parent-child visitation during 2,247 reviews conducted January-June 2014. There are clear differences in the percentages on whether there is visitation with the mother or the father.

<b>Status of Court Ordered Visitation</b>	<b>Mother</b>		<b>Father</b>	
Occurring	802	36%	400	18%
Not occurring	528	23%	290	13%
No contact order	51	2%	78	3%
Lack of documentation	95	4%	103	5%
Court has not addressed	37	2%	238	11%
Voluntary, but is occurring	26	1%	31	1%
Voluntary, and is not occurring	0	0%	8	<1%
Parental rights no longer intact (terminated or relinquished )	482	21%	423	19%
Parent is deceased	49	2%	66	3%
Parent not identified	0		100	4%
Otherwise not applicable	177	8%	510	23%

### **RECOMMENDATIONS:**

- 1. Ensure children have the maximum contact possible with the parent as appropriate to each individual child's case circumstances.**
- 2. Order parenting time to reinforce the attachments between parent and child, and promote timely reunification by measuring willingness and ability to parent.**
- 3. Improve documentation to reduce the amount of unclear instances in regard to parental visitation, both in terms of attendance and in terms of the quality of the visit.**
- 4. Ensure that applicable visitation arrangements are made.**
- 5. Ensure that issues with supervised visitation are promptly and effectively brought to the caseworker's attention, and that children are kept safe.**

**6. Improve identification of paternity and the addressing of father's rights, including visitation.**

## SERVICES FOR PARENTS AND CHILD

### A means for reducing children's trauma and addressing reasons children were removed from the home

The potential benefits of early engagement with families entering the child welfare system are many. Engagement with families whose children are in foster care helps ensure the preservation of the bond between parents and children. Sound engagement helps motivate families to work toward change.<sup>64</sup>

Motivation to change is clearly linked to the degree of hope that change is possible. The degree to which parents in child abuse and neglect cases are ready to change varies over time. By the time that an initial assessment is completed, ideally caseworkers will have moved families to the stage at which they are determined to make the changes necessary to ensure children's safety and well-being. If parents have not moved to that point, the likelihood of change is compromised.<sup>65</sup>

Delays in the delivery of court-ordered services to parents mean children often spend more time in out-of-home care pending the completion of parental work to address the reasons they entered care, or the possibility that parents may "give up" and not engage. Delays are also concerning in the wake of legislation requiring that termination of parental rights be considered in cases where a child has been out of the home for 15 of the past 22 months.<sup>66</sup>

An additional concern is that services for parents are often only available from 8 a.m-5 p.m., without the flexibility to accommodate parents whose available time does not coincide with the normal "business day" of service providers. This makes it difficult for parents to comply with case plans, especially where parents are "new hires", work in positions where taking time from work is regarded with disapproval by employers, or where time off constitutes unpaid time, further impacting families that are often already affected by poverty.

Services are not limited to parental rehabilitation. Children that have experienced abuse or neglect, and removal from the home often need services to address that trauma, sometimes over a prolonged period. Even if the plan is no longer reunification, children may need a number of services to help them mature into responsible adulthood due to past abuse, neglect, or behavioral issues.

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<sup>64</sup> Altman, Julie C., Engagement in Children, Youth, and Family Services, in Child Welfare for the 21<sup>st</sup> Century, 2005.

<sup>65</sup> U.S. Department of Health and Human Services, Child Protective Services: A Guide for Caseworkers.

<sup>66</sup> See page 77 for a description of court/legal process related issues.

### Services for Parents

The following shows the status of parental compliance with court-ordered services as identified during FCRO reviews conducted January-June 2014.

Parental Service Compliance Status	Mother	Father
Compliant with all services	324 (14%)	156 (7%)
Compliant with some services	484 (22%)	215 (10%)
Not compliant	363 (16%)	225 (10%)
Lack of documentation	158 (7%)	138 (6%)
No court ordered services	126 (6%)	134 (6%)
Parental rights terminated or relinquished	482 (21%)	423 (19%)
Parent deceased	49 (2%)	66 (3%)
Parent not identified	0	100 (4%)
Otherwise not applicable	261 (12%)	770 (34%)

Notably, many fathers are not included in the service plans.

### Services for Children

The following chart shows whether services for children were being offered.

Court ordered services offered to child	Children
All services offered	1,691 (75%)
Some services offered	398 (18%)
Services not being offered	3 (<1%)
Services do not apply (e.g., child is runaway)	18 (1%)
Lack of documentation	119 (5%)
Voluntary, non-court case	18 (1%)

Some very vulnerable children are not receiving all the needed services. For example, of the 26 children reviewed that qualified for Developmental Disabilities Services, only 21 were receiving them.

The number of children receiving all services is an improvement from calendar year 2012, when only 60% had all services in place.

### RECOMMENDATIONS:

1. Assist rural and metro communities in developing treatment and non-treatment services for children, youth, and their families through a trauma-informed lens including:
  - a. Substance abuse
  - b. Anger control and batterers' intervention programs,
  - c. Mental health treatments,
  - d. Alcohol/drug treatment,
  - e. Housing assistance,

- f. Family support workers,**
  - g. In-home nursing,**
  - h. Family and individual therapy, and**
  - i. Educational programs.**
- 2. Develop flexible funds for DHHS service areas to use to meet children's and families' needs.**
  - 3. Find ways to assist families with meeting requirements to reunify with their children that may not be possible for families in poverty, such as obtaining affordable housing, employment skills, food, day care, before and after school programs, tutoring, therapy, substance abuse or mental health aftercare, etc.**
  - 4. Provide crisis stabilization services in three key areas: 1) as early intervention to prevent a child's removal from the home, 2) when children transition home and to maintain them safely in that home, and 3) to support foster homes and reduce placement disruptions.**
  - 5. Verify through supporting evidence that parents have been provided the services and visitation opportunities needed by either DHHS or one of the private providers with which it contracts.**
  - 6. Specify in court orders that services are to be successfully completed so that services and treatments are not ended prematurely.**

## **CHILDREN'S RETURNS TO OUT-OF-HOME CARE**

Many children are in foster care, return home, and then are removed from the home again. As reported in the FCRO September 2013 Quarterly Report, some children return to care quickly, while others may be home a year or more before another removal occurs.<sup>67</sup>

### **All in out-of-home care**

On June 30, 2014, **32% (976 of 3,029) of the DHHS wards in out-of-home care had been removed from their home more than once.** In comparison, on June 30, 2013, 38% (1,301 of 3,447) of the DHHS wards in out-of-home care had been removed from their home more than once.

### **Additional information on children returning to care from FCRO reviews**

The statistics above alone do not tell the whole story. The FCRO has additional data available on the 2,247 children (DHHS wards) it reviewed January-June 2014, as shown below.

Reviewed children's number of times in out-of-home care by # of children	Central Service Area	Eastern Service Area	Northern Service Area	Southeast Service Area	Western Service Area	Statewide total
First time out-of-home care	130	788	146	375	125	1,564
Been in out-of-home care more than once	<u>60</u>	<u>359</u>	<u>57</u>	<u>165</u>	<u>42</u>	<u><b>683</b></u>
Totals	190	1,147	203	540	167	2,247

Reviewed children's number of times in out-of-home care by percentage	Central Service Area	Eastern Service Area	Northern Service Area	Southeast Service Area	Western Service Area	Statewide total
First time out-of-home care	68%	69%	72%	69%	75%	70%
Been in out-of-home care more than once	32%	31%	28%	31%	25%	30%

### **For the 683 reviewed children that had been in out-of-home care more than one time:**

- **Adoption or guardianship disruptions**
  - **44 (6%) of the children had been adopted prior to re-entering out-of-home care.**
  - **68 (10%) of the children had been in a finalized guardianship prior to re-entering out-of-home care.**<sup>68</sup>
- **Ages**
  - 131 (19%) were age 0-5.
  - 246 (36%) were age 6-12.
  - 306 (45%) were teenagers.

<sup>67</sup> FCRO September 2013 Quarterly Update to the Legislature. Available at [www.fcro.nebraska.gov](http://www.fcro.nebraska.gov).

<sup>68</sup> See page 68 for information on services to children, and see page 11 for information on trauma.

- Mental or physical challenges
  - 407 (60%) had a clinical diagnosis of a mental and/or physical disability.
    - 352 (52%) had been diagnosed with a mental health or trauma condition.
- Harmful behaviors
  - 74 (11%) had engaged in the types of sexualized behaviors frequently seen in children as a result of past traumas [not normal child development behaviors].
  - 62 (9%) had been diagnosed with a substance abuse issue [their own, not parents].
  - 41 (6%) had intentionally committed self-injury in the 6 months prior to review.
- Placement changes
  - 219 (32%) had experienced a change of placement (caregiver) within six months prior to the review.
- Issues impacting care and education
  - 278 (79%) were exhibiting difficult behaviors.
  - 130 (19%) were not on target for core classes.
  - 124 (18%) had behavioral issues regularly impeding their learning.

### Need for services

Appropriate services would help children that re-enter care due to unmet mental or behavioral health needs. The national Child Welfare Outcomes Report found that:

“Many states with a relatively high percentage of foster care reentries also had a relatively high percentage of children entering foster care that were adolescents...states with large numbers of youth in their foster care populations would benefit from developing strategies that target the needs of these youth.”<sup>69</sup>

### Minimizing the need for re-removals from the home

The FCRO recognizes that no one can accurately predict the future well-being of any child that has been returned home from foster care. However, actions can be taken to decrease the likelihood of children needing to return to foster care, including:

- Change statute to allow the FCRO to review children’s cases during the critical first six months at home to ensure that needed services and supports are in place.
- Plans need to be specific and match the reasons that the child entered care.
- Plans need to be practical and measurable.
- Parental behaviors, such as during parenting-time, or whether or not the parents are attending court ordered therapy, substance abuse treatment and support, etc., need to be accurately measured. This forms the basis of determining the safety/risk to the child when considering when, and whether, children should be reunified with their parents.
- Parents need to demonstrate sustained changes in the behaviors that led to their children’s removal.
- Children and parents need easier access to services and treatments, such as for mental health issues.
- The system needs to be better aware of the negative effects of trauma on children and parents.

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<sup>69</sup> Ibid.

With increased vigilance and focus, Nebraska can reduce the number of children returning to foster care.

### **RECOMMENDATIONS:**

- 1. Conduct further analysis on children that returned to out-of-home care to see if the second removal involved new issues or if there was a failure to permanently stabilize the family home.**
- 2. Change statute to allow the FCRO to review children's cases during the critical first six months at home to ensure that needed services and supports are in place.**
- 3. Work to eliminate service gaps and ensure that services are in place before children are placed back in the home. Children that have experienced the trauma of abuse and neglect often need services to heal, and parents need services to effectively deal with the factors that led to removal of children from their home.**
- 4. Ensure that children are not reunified with parents prematurely, before issues that led to removal of those children had been fully addressed.**
- 5. Develop better access to behavioral and mental health services for adolescents so they do not have to be in out-of-home care to access needed services.**
- 6. Determine the feasibility of a collaborative study on adoption and guardianship disruptions.**

## PATERNITY IDENTIFICATION

The federal *Fostering Connections to Success and Increasing Adoptions Act* (PL 110-351, 2008) requires that DHHS apply “due diligence” in identifying relatives within the first 30 days after a child is removed from the home. Due diligence is not defined. In spite of this requirement, for many children paternity is not identified promptly, if at all.

Whether or not the father is a suitable caregiver for the children, the father’s due process and constitutional parental rights must be addressed if the children’s well-being is to be adequately addressed.

The following paternity information is from the 2,247 reviews conducted January-June 2014.

Father’s Rights by # of Children	Central Service Area	Eastern Service Area	Northern Service Area	Southeast Service Area	Western Service Area	Statewide total
Intact	136	683	120	359	115	1,413
Terminated	5	140	22	47	20	234
Relinquished	18	70	38	60	14	200
Identified, but paternity not legally established	13	131	11	36	7	198
Not identified	11	52	7	24	6	100
Not addressed by court	0	22	0	1	0	23
Deceased	7	41	5	13	4	70
Unable to determine	<u>0</u>	<u>8</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>9</u>
Totals	190	1,147	203	540	167	2,247

Father’s Rights by Percentage for Each Area	Central Service Area	Eastern Service Area	Northern Service Area	Southeast Service Area	Western Service Area	Statewide total
Intact	72%	60%	59%	66%	69%	63%
Terminated	3%	12%	11%	9%	12%	10%
Relinquished	9%	6%	19%	11%	8%	9%
Identified, but paternity not legally established	7%	11%	5%	7%	4%	9%
Not identified	6%	5%	3%	4%	4%	4%
Not addressed by court	0%	2%	0%	<1%	0%	1%
Deceased	4%	4%	2%	2%	2%	3%
Unable to determine	0%	1%	0%	0%	1%	<1%

Statewide, paternity had been established for 1,917 children (85%) where the rights were intact, terminated, relinquished, or the father was deceased, but **paternity was not established for 330 children (15%)**. This is better than in 2012, when paternity was not established for 21% of the children reviewed; however this is still not within best practices.

Through reviews the FCRO found significant issues with the identification of fathers, with ensuring fathers were involved in their children's cases or, if unsafe, had their legal rights acted on, and with the "engagement" of the fathers. Engagement is a word used in the child welfare system to mean anything between mere contact and active participation in trying to correct the issues that led to out-of-home care and the creation of a safe, permanent home for the children.

Lack of paternity identification has been linked to excessive lengths of time in care for children. Delays in identifying paternity can also result in delays in determining if the father or any of the paternal relatives are appropriate placements for the child.

Often paternity is not addressed until after the mother's rights are relinquished or terminated instead of addressing the suitability of the father as placement earlier in the case. This can cause serious delays in children achieving permanency because the case must start from the beginning with reasonable efforts to reunify with the father. Even after fathers are legally identified, they are often not adjudicated or included in the plan for their children.

Another issue related to fathers is change of custody orders if the mother has custody and the father is a more suitable parent. For children that are involved in juvenile courts, there is a lack of clarity as to whether the juvenile court is to enact the change of custody orders or if that must be done in district court. Some children have lingered in foster care because the juvenile court case cannot be closed until custody is permanently assigned to the father; otherwise, if the mother retains legal custody she could legally take the child from placement with the father.

### National research

Some national researchers have noted: "The lack of engagement by non-resident fathers might, at least in part, reflect the fact that caseworkers do not have the same expectations for fathers as they do for mothers. Perhaps non-resident fathers are simply responding to low expectations – expectations that likely mirror those of the community and society in general."<sup>70</sup>

Other national research shows the following about non-resident fathers; that is, fathers that were not residing with the children's mother at the time that the children were removed from the home: "Children whose non-resident fathers were contacted by child welfare had shorter periods of time in the child welfare system compared to children with unknown non-resident fathers, or children whose non-resident fathers were known, but not contacted."<sup>71</sup>

Some of the structural barriers to father engagement were obvious in the first two rounds of the federal CFSRs (child welfare reviews). Policies, practices, and trainings to support and encourage father engagement were absent.

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<sup>70</sup> Malm et al (2006), as quoted in Bringing Back the Dads: Changing Practice in Child Welfare Systems, American Human Association with funding and support from the U.S. Dept. of Health of Human Services, 2011.

<sup>71</sup> Malm and Zielewski (2009), as quoted in Bringing Back the Dads: Changing Practice in Child Welfare Systems, American Human Association with funding and support from the U.S. Dept. of Health of Human Services, 2011.

**RECOMMENDATIONS:**

- 1. Ensure that there is a timely and diligent search for all family at the beginning of the case, including children's fathers.**
- 2. Ensure that rights of the father are appropriately addressed by stakeholders and courts from the time of removal. Do not wait until it is clear that the mother cannot or will not safely parent before addressing the father.**
- 3. Measure whether fathers are adjudicated on in juvenile court, and whether appropriate services are provided for fathers.**
- 4. Clarify the issue of which court is to enact a change of custody orders involving children that have experienced abuse or neglect for whom such a change is warranted.**

## COURT AND LEGAL SYSTEM ISSUES

The following describes some court and legal system issues that impact children and families.

### ADJUDICATION HEARING DELAYS

An adjudication hearing is the court hearing where facts are presented to prove the allegations in the petition alleging abuse or neglect. It is to protect the interests of the juvenile, not to punish the parents. Punitive charges would be in criminal court, a separate matter entirely. In an adjudication hearing the burden of proof is on the state, through the County Attorney. Because parents have a fundamental interest in the relationship with their children, due process must be followed. If the parents deny the allegations, then a fact-finding hearing like a trial is held, where the parents have a right to counsel.

At the hearing the finding of fact occurs, the allegations in the petition are found to be true or false, and the child is either made a state ward or not. The Court cannot order the parents to services prior to completion of the adjudication hearing. Sometimes attorneys will advise parents not to voluntarily begin services prior to adjudication as that could be interpreted as an admission of guilt, while other attorneys may encourage the parents to participate in voluntary services and evaluations to show that they are pro-active about getting their children back.

Under Neb. Rev. Stat. §43-178, the adjudication hearing must occur within 90 days of the child entering out-of-home care, unless there is a showing of good cause. This is considered a guideline rather than a mandate.

The following is what the FCRO found from 2,247 reviews conducted January-June 2014.

<b>Time to Adjudication by # of children</b>	<b>Central Service Area</b>	<b>Eastern Service Area</b>	<b>Northern Service Area</b>	<b>Southeast Service Area</b>	<b>Western Service Area</b>	<b>Statewide total</b>
Occurred prior to removal	4	37	13	50	5	109
Within 3 months	127	694	141	390	123	1,475
4-6 months	41	232	29	59	17	378
7-12 months	12	88	12	17	6	135
Adjudication not yet occurred	6	73	7	6	8	100
Unable to determine	<u>0</u>	<u>23</u>	<u>1</u>	<u>18</u>	<u>8</u>	<u>50</u>
Totals	190	1,147	203	540	167	2,247

The next chart shows this by percentage for each service area:

<b>Time to Adjudication By percentage in each area</b>	<b>Central Service Area</b>	<b>Eastern Service Area</b>	<b>Northern Service Area</b>	<b>Southeast Service Area</b>	<b>Western Service Area</b>	<b>Statewide total</b>
Occurred prior to removal	2%	3%	6%	9%	3%	5%
Within 3 months	67%	61%	69%	72%	74%	66%
4-6 months	22%	20%	14%	11%	10%	17%
7-12 months	6%	8%	6%	3%	4%	6%
Adjudication not yet occurred	3%	6%	3%	1%	5%	4%
Unable to determine	0%	2%	<1%	3%	5%	2%

There were some regional differences to note:

- The percentage with adjudication at 4-6 months varied, with the Eastern (20%) and Central (22%) areas having the largest percentages.
- The percentage with adjudication at 7-12 months varied, with the Eastern area having 8% of their cases in this category.

The FCRO finds that in practice **adjudication within 90 days (3 months) did not occur for 27% of the children** (the 4-6 month, 7-12 month, and adjudication not yet occurred at time of the review rows combined). There are a number of explanations as to why adjudications may not happen within 90 days. Here are a few of the more common reasons:

- Delays while waiting for the completion of assessments or evaluations.
- Delays due to caseworker changes.
- Delays if the court docket is full.
- Motions for continuance made to prevent admissions, testimony, and/or factual determinations made at the adjudication from being used by the state in order to enhance a pending criminal prosecution.
- Motions for continuance due to parental incarceration.
- Motions for continuance due to parental transportation issues.
- Motions for continuances due to legal parties not being adequately prepared.
- The caseworker may be waiting to see if the parents will resolve the issue(s) promptly so the case can be dismissed.

While some of these may be “good cause,” both parents and child are entitled to a prompt adjudication hearing. Motions for continuations may be particularly problematic in areas with heavy court dockets or where courts only meet as juvenile courts on specific days during the month. Courts need to weigh motions for continuation carefully to avoid prolonged delays.

### **RECOMMENDATIONS:**

- 1. Weigh motions for continuation against the need for a prompt adjudication. If a continuation must occur, do so for the shortest time possible.**
- 2. Provide adequate judicial resources to ensure timely adjudication and case progression.**

### **3. Ensure timely adjudications so that parents can begin services to correct the reasons why children were placed into out-of-home care.**

#### **GUARDIAN AD LITEM PRACTICES**

Many guardians ad litem are doing exemplary work that greatly benefits the children they represent. The issue described here in no way minimizes their efforts, and we consider them vital partners in the work to ensure children's best interests are met.

Unfortunately, there are indications that throughout the State many guardians ad litem could play a more substantial role in assuring children's safety. According to Neb. Rev. Stat. §43-272.01 the guardian ad litem is to "*stand in lieu of a parent or a protected juvenile who is the subject of a juvenile court petition...*" and "*shall make every reasonable effort to become familiar with the needs of the protected juvenile which shall include...consultation with the juvenile.*"

An informed, involved guardian ad litem is the best advocate for the child's legal rights and best interests. Each child has rights that are guaranteed under the U.S. Constitution, Nebraska statutes and case law. The guardian ad litem is charged with the legal duty of assuring that the best interest and the legal rights of the child are effectively represented and protected in juvenile court proceedings.

The FCRO respectfully requests that judges inquire of guardians ad litem whether they have seen the children they represent, and under what circumstances. The FCRO also requests that judges continue the progress made holding guardians ad litem accountable for the quality of their representation of children. This can be done by ensuring that, per the Supreme Court's guidelines, the guardian ad litem:

- Submits a report to the court at the disposition hearing and dispositional review hearings, based on their independent research and judgment and consultation with the child. This report shall include when they visited the children and with whom else they have consulted.
- Consults with the juveniles they represent within two weeks of appointment and at least once every six months thereafter, including visiting the children's placements.
- Interviews the foster parents, other custodians, and current DHHS case workers, and interviews others involved in the case such as parents, teachers, physicians, etc.
- Attends all hearings regarding the child, unless excused by the Court.
- Makes every effort to become familiar with the needs of the children they represent, including determining whether the children's placement is safe and appropriate.

For each review, the FCRO obtains information on whether the GAL has contacted children within the 180 days prior to review as this can be an important safeguard for children, particularly young children that may not often be seen outside the foster home. Per Supreme Court guidelines, guardians ad litem are to visit the children they represent at least once every six months.

The FCRO attempts to derive this information from a variety of sources, including:

- Inquiry about the case made directly to the child’s GAL. This includes inquiry with the notice of upcoming review sent to the GAL approximately 12 days in advance of the board meeting.
  - The notice includes the FCRO Review Specialist’s phone and email contact information, and offers the GAL the opportunity to simply share their most recent GAL report for the court if that is easier and answers the question.
- Documentation/updates from the child’s placement, or for older youth from the youth themselves.
- Documentation in the child’s DHHS file.

After these attempts, the following is what the FCRO found from 2,247 reviews conducted January-June 2014.

GAL Contact with Child Documented by # of children	Central Service Area	Eastern Service Area	Northern Service Area	Southeast Service Area	Western Service Area	Statewide total
Contact confirmed	97	510	104	214	79	1,004
Documented no contact	20	29	42	13	19	123
Child has been on runaway, contact not possible	0	3	0	1	0	4
Unable to determine	73	605	57	312	69	1,116
Totals	190	1,147	203	540	167	2,247

GAL Contact with Child Documented by percentage in each area	Central Service Area	Eastern Service Area	Northern Service Area	Southeast Service Area	Western Service Area	Statewide total
Contact confirmed	51%	44%	51%	40%	47%	45%
Documented no contact	11%	3%	21%	2%	11%	5%
Child has been on runaway, contact not possible	0%	1%	0%	<1%	0%	<1%
Unable to determine	38%	52%	28%	64%	42%	50%

**In both the Eastern and Southeast service areas GAL contact was unable to be determined for 50% of the children reviewed. In the other areas of the state this varied from 26% (Northern) to 31% (Central), to 37% (Western).**

Regardless of area, the above chart indicates that the number for which there was no documentation regarding GAL contacts is significant. To gain better access to needed information, the FCRO is working with the JUSTICE system (the case management computer system used by the Courts) to obtain reports the GAL for the child being reviewed had submitted to the court.

**The FCRO supports the Children’s Commission which has created a Taskforce to examine what statutory changes are necessary to improve GAL representation.**

### CASA volunteers

In some areas of the State courts have CASA programs (Court Appointed Special Advocates). These are non-attorney volunteers that work with a Guardian Ad Litem and the Court by continually gathering information on a single family directly from the parents, relatives, foster parents, children, teachers, medical professionals, attorneys, social workers and others involved in the cases. Since there is a shortage of CASA volunteers, most courts assign them to the more intensive cases or cases where children may be extremely vulnerable – such as a child with an incapacitating medical condition.

**The FCRO finds that CASA volunteers can be a wealth of information on children's cases. There were CASA volunteers assigned to 501 (22%) of the 2,247 children reviewed January-June 2014.** The 501 children were by age group were 41% age 0-5, 37% age 6-12, and 22% age 13-18.

### RECOMMENDATIONS:

- 1. Ensure that guardians ad litem are following the Supreme Court's guidelines by conducting independent determination as to the juvenile's best interests, and consulting with the juvenile at least once in the placement (an important safety provision). Failure to provide sufficient consultations should be addressed by the judge.**
- 2. Upon appointment, the court should provide the guardian ad litem a job description and a list of items that need to be completed and included in the guardian ad litem report. This job description and list should include, at a minimum, all of the authorities and duties of the guardian ad litem set forth in Neb. Rev. Stat. §43-272 and 43-272.01, and the Supreme Court Guidelines.**
- 3. Ensure that Guardian ad Litem reports are filed and shared with the FCRO as the courts are required to do by statute. Continue work with JUSTICE (the Court's computer system) regarding granting the FCRO access to GAL reports.**
- 4. Allow the Children's Commission Legal Parties Taskforce to examine what statutory changes are necessary to improve GAL representation.**

### COURT HEARINGS

#### 12 month permanency hearings

Under Neb. Rev. Stat. §43-1312(3), courts shall have a permanency hearing no later than 12 months after the date the child enters foster care and annually thereafter. The 12-month permanency hearing is a pivotal point in each child's case during which the court should determine whether the pursuit of reunification remains a viable option, or whether alternative permanency for the child should be pursued. To make this determination, adequate evidence is needed, as well as a clear focus on the purpose of these special hearings.

Whenever possible this hearing should be the moment where case direction is decided. Even if there are good reasons for waiting before making the final decisions, such as a brief wait for

parents or child to complete a particular service or have a particular evaluation, the permanency hearing can and must serve a useful function. In those cases the hearing should reinforce that the only delays to permanency the court will tolerate are those that are in the child's best interests, and that children not only deserve permanency, it is a basic developmental need.

It is reported to the FCRO that some courts that are setting the dates for this hearing at the beginning of the case, informing parents of the need for timely compliance, and using the hearings to set case direction – and that those courts are seeing an improvement in timely permanency.

**The FCRO reviewed 1,346 children's cases from January-June 2014 in which the children had been in out-of-home care for 12 months or longer at the time of review. From these the FCRO found:**

- 1,108 (82%) had a documented permanency hearing.
- 113 (8%) had not yet had a permanency hearing.
- 125 (9%) lacked documentation of whether a permanency hearing had occurred.

#### Aggravated circumstance findings

In cases where the parent has subjected a juvenile to “aggravated circumstances,” prosecutors (county attorneys) can request a finding from the court that will excuse the State from its duty to make reasonable efforts to preserve and unify the family, if it can be shown that this would be in the child's best interests.

The phrase “aggravated circumstances” has been judicially interpreted to mean that the nature of the abuse or neglect is so severe or so repetitive (e.g., involvement in the murder of a sibling, parental rights to a sibling have been involuntarily terminated for a similar condition, felonious assault of the child or a sibling, some forms of sexual abuse, etc.) that reunification with the child's parents jeopardizes and compromises the child's safety and well-being.

This was put into law so that children do not unnecessarily linger in foster care while efforts are made to rehabilitate parents whose past actions have indicated will likely never be able to safely parent their children. Efforts to reunify in these types of cases can expose children to further trauma, particularly when forced to spend time with the offending parent(s) or to contemplate a potential return to their care.

When the court grants an exception, the prosecutor can begin the process for a termination of parental rights trial, and DHHS can create a plan of adoption or guardianship. This finding does not circumvent the parent's due process rights, and a termination of parental rights trial is still necessary before children can be placed for adoption. Parents still have a right to appeal a termination finding.

**Only 13 (<1%) of the 2,247 children reviewed January-June 2014 had a court ruling that aggravated circumstances were present and that DHHS could immediately proceed to alternate permanency.**

The FCRO recommends that all involved in children's cases, especially caseworkers and supervisors, recognize and advocate for appropriate action in cases where aggravated circumstances apply.

### **Other hearings**

Other court hearings and activities can also have an impact on children's cases. A description of the following can be found in Appendix **F**:

- Pre-hearing conferences.
- 6-month dispositional reviews.
- Exception hearings.

### **RECOMMENDATIONS:**

- 1. Ensure that all FCRO Recommendation and Finding Reports are entered in evidence by the courts as required by Neb. Rev. Stat. 43-285(7). The use of the FCRO Recommendation and Finding Report identify the major issues in each case and offer recommendations to alleviating those issue in order to achieve permanency.**
- 2. Ensure that courts are following best practices in order that children's' well-being is central to every decision including:**
  - a. Reviewing the reasons for continuances of court hearings and other continuing are necessary;**
  - b. Consistent evaluation of the appellate process so that cases are resolved expeditiously;**
  - c. Timely court reviews when cases are on appeal;**
  - d. Requiring all courts to issue their orders within 30 days of the completion of a hearing;**
  - e. Improving documentation regarding the court-ordered findings after a permanency hearing and 15-month exception hearing; and**
  - f. Studying ways to improve the use of pre-hearing conferences especially in the area of father's rights and family finding.**
- 3. Ensure that all of the legal parties involved in the court system are trained in best practices within juvenile court and meet their statutory and ethical obligations including county attorneys, parent's attorneys and guardian ad litem. FCRO supports the Legal Parties Task Force of the Nebraska Children's Commission as it evaluates these needed changes both in legal practice and in statutes.**

## TERMINATION OF PARENTAL RIGHTS

Parents have a fundamental right to the care, custody, and control of their children – but that right must be balanced with children’s critical need for safety, stability, and permanency. Termination of parental rights is the most extreme remedy for parental deficiencies. With a termination, the parents have lost all rights, privileges, and duties regarding their children and the child’s legal ties to the parent are permanently severed. To ensure due process and that parental rights are not unduly severed, the level or degree of evidence needed is higher than in other parts of abuse or neglect cases. There are also different provisions for children that fall under the Indian Child Welfare Act (ICWA).

Severing parental ties can be extremely hard on children, who in effect become legal orphans; therefore, in addition to proving parental unfitness under Neb. Rev. Stat. §43-292 the prosecution must also prove that the action is in children’s best interests.

The FCRO is required (Neb. Rev. Stat. §43-1308) to make two findings regarding termination of parental rights for each child reviewed: 1) if grounds appear to exist, and 2) if a return to the parents is unlikely what should be the permanency goal.

In the report that is issued after each review and provided to all legal parties of record, whenever the local board finds that grounds appear to exist, the specific sections of statute that appear to have been met are cited.

Grounds for termination of parental rights per §43-1308(1)(b)	Reviews	Percent
Appear to exist and would be in the best interests of the child.	484	21%
Grounds for TPR do not appear to exist.	1,117	50%
Grounds for TPR appear to exist, but TPR is not in the child’s best interests.	149	7%
Not applicable because the parents are deceased or the rights have already been relinquished or terminated.	<u>497</u>	<u>22%</u>
Total	2,247	100%

**These findings have remained consistent since calendar year 2011.**

The next chart gives the recommended plan if a return home is unlikely for children reviewed January-June 2014. **The percentages on this finding have remained constant since 2011.**

Recommended plan if children’s return to parents is unlikely	Reviews	Percent
Adoption	875	71%
Guardianship	232	19%
Placement with a relative without adoption or guardianship	3	<1%
A planned, permanent living arrangement other than adoption, guardianship, or placement with a relative	<u>110</u>	<u>9%</u>
Total	1,220*	100%

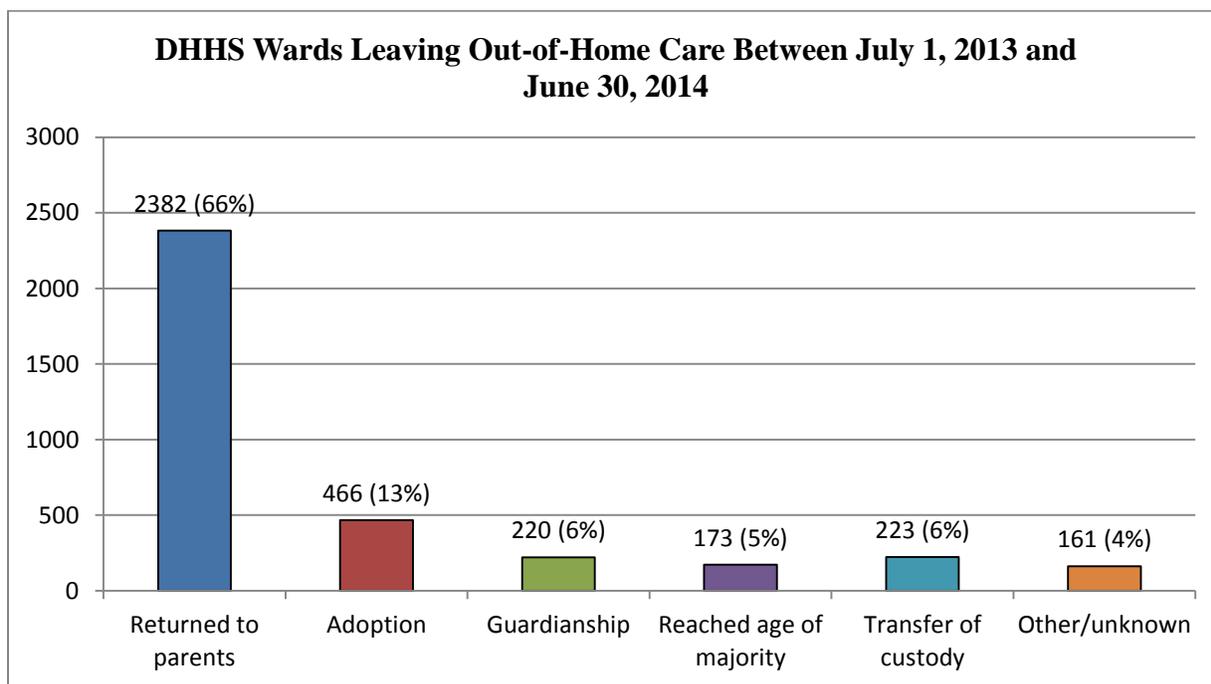
\*For 1,027 reviews the return of the parents was likely.

**RECOMMENDATIONS:**

- 1. Require mandatory yearly training on juvenile law, including abuse/neglect and termination of parental rights for all county attorneys or deputy county attorneys.**
- 2. File against fathers from the onset if fathers are unsuitable as immediate placements for their children.**
- 3. Pursue guardian ad litem filing for termination of parental rights petitions.**
- 4. Amend Nebraska statutes to allow DHHS attorneys to file termination petitions.**

## REASONS FOR EXITS FROM CARE

Most (66%) Nebraska children that leave the foster care system return to their parents. Others are adopted, reach the legal age of majority (adulthood), have a legal guardianship finalized, or a custody transfer (to another state or a tribe). The following chart shows exits by numbers and percent of children.



### Comparison to national statistics

The following chart compares Nebraska percentages with national percentages for three of the categories, as those are the only comparable categories for which national data is available.<sup>72</sup>

<u>Reason for Exit</u>	<u>Nebraska</u>	<u>National</u>
Reunification	66%	51%
Adoption	13%	21%
Guardianship	6%	7%

There are clear differences, although the reasons for these differences need further research. One possibility is that some other states include juvenile justice youth under their child welfare agency – thus the groups being compared may be different. Another possibility is that in other states fewer children may be removed in order to access mental health and other services, thus affecting the percentage reunified.

<sup>72</sup> Sciamanna, John, Reunification of Foster Children with their Families, the First Permanency Outcome, SPARC (State Policy Advocacy and Reform Center), October 2013.

## Section IV.

### ISSUES RELATED TO WELL-BEING



## WELL-BEING DEFINED

There are three outcome categories in child welfare: safety, permanency, and well-being. Well-being is probably the least concrete and the hardest to measure. It means the healthy functioning of children across a broad range of domains that allows each to be successful throughout childhood and into adulthood.

Well-being can be thought of as having the internal resources to successfully deal with the challenges of day-to-day life. Therefore, well-being includes but is not limited to:

1. Preserving beneficial connections and providing for building or continuity of beneficial relationships for children.
2. Increasing the capacity of families to provide for their children's needs, and connecting families to appropriate mental health and other service providers.
3. Ensuring that children receive quality services to meet:
  - a. Physical, dental, and eye care needs.
  - b. Mental health needs.
  - c. Educational, cognitive, and developmental needs.
  - d. Emotional, spiritual, and social functioning needs.
  - e. The need for understanding of racial, ethnic, gender, and regional identities.
4. Enabling children to heal as best as possible from prior traumas, toxic stress, abuse and neglect.
5. Minimizing further trauma.
6. Ensuring that children in the child welfare system get access to "normal" developmental opportunities.
7. Providing opportunities for children to thrive and go on to become productive adults.

### Action steps that can be taken to promote positive development for children in child welfare include:

- Identify and address developmental needs.
- Promote improved health outcomes.
- Provide supplemental developmental supports when needed.
- Promote positive educational outcomes for children and youth in foster care.
- Support bonding and attachment during out-of-home placement.
- Tailor supports to meet each child's particular needs.
- Provide opportunities to thrive.
- Provide access to "normal" developmental opportunities.
- Develop plans, backed by data, for promoting the well-being of children, including subpopulations that are at greatest risk for poor outcomes.
- Advocate for multi-agency responses to meeting children's needs.
- Support opportunities for court personnel training.<sup>73</sup>

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<sup>73</sup> Raising the Bar: Child Welfare's Shift Toward Well-Being, State Policy Advocacy and Reform Center (SPARC), July 2013.

## PLACEMENT ISSUES

### WHY THE NUMBER OF PLACEMENTS MATTER

Nothing is more important for a child than where and with whom he or she lives. In child welfare this is known as the child's "placement." Most would agree that disrupting a child's home environment by taking that child from one set of caregivers and placing him or her with another is harmful to the child, even if the change is necessary. National research indicates that children experiencing four or more placements over their lifetime are likely to be permanently damaged by the instability and trauma of broken attachments.<sup>74</sup> However, **children that have experienced consistent, stable, and loving caregivers are more likely to develop resilience to the effects of prior abuse and neglect, and more likely to have better long-term outcomes.**

As Dr. Peter Pecora found:

"Children entering out-of-home care undergo enormous changes. Apart from being separated from their family, many of these children are not able to maintain relationships with friends and community members... Changing homes because of placement disruption compounds the immeasurable sense of loss these children must face by leaving behind relationships again and again..."

And, "While many child welfare staff and some new state laws try to minimize school change when a placement changes, in too many situations the child is forced to change schools. School mobility has been implicated as a clear risk for dropout."<sup>75</sup>

The American Academy of Pediatrics in a November 2000 policy statement affirmed, "...children need continuity, consistency, and predictability from their caregiver. Multiple foster home placements can be injurious."

Another prestigious research organization found that:

"Numerous studies have shown an association between frequent placement disruptions and adverse child outcomes, including poor academic performance, school truancy, and social or emotional adjustment difficulties such as aggression, withdrawal, and poor social interaction with peers and teachers. Emerging research has shown that a child's risk of these negative outcomes increases following multiple placement disruptions regardless of the child's history of maltreatment or prior behavioral problems... Placement instability is often dismissed as a consequence of the behavioral problems children have upon

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<sup>74</sup> Some examples include: Hartnett, Falconnier, Leathers & Tests, 1999; Webster, Barth & Needell, 2000.

<sup>75</sup> Dr. Peter Pecora, Senior Director of Research Services with Casey Family Programs and Professor at the School of Social Work at the University of Washington, in The Foster Care Alumni Studies – Why Should the Child Welfare Field Focus on Minimizing Placement Change (2007)

care...Policy Lab researchers published new evidence...that debunked this common misconception about placement instability.”<sup>76</sup>

The type of placement and the stability of that placement influence child outcomes. It is incumbent upon the child welfare system to provide children with supportive microsystems, that is, direct relationships with caring adults.<sup>77</sup>

In a recent publication Judith Cohen, MD, and Anthony Mannarino, PhD, described an adolescent suffering from trauma that refuses to discuss his long history of physical and verbal abuse and neglect, witnessing of domestic violence, and being bullied at school. The boy reacts to his foster parents with angry, aggressive behavior and refuses to obey the rules. He is hyper vigilant and complains that his foster parents disrespect him. The foster parent reacts by becoming stricter and giving him commands in loud voices – not realizing that these actions are actually triggering more trauma reminders for the youth. “*The adults in his life do not understand this, they see him as a kid with bad behaviors who needs discipline.*” Unfortunately, this type of reaction by the adults to youth that have experienced significant trauma is all too common.<sup>78</sup>

## WHY CHILDREN CHANGE PLACEMENTS

The following summarizes some of the reasons children move from one foster home or group home to another.

1. It can be challenging to be the caregiver of a traumatized child, and to manage the traumatized child’s reactive behaviors. The American Academy of Pediatrics suggests that pediatricians “assume that all children who have been adopted or fostered have experienced trauma.” Behaviors that were adaptive and protective in the home of origin where there were threatening situations may be maladaptive when children are in a safe environment. Without an understanding of the effects of past traumas, behaviors can be misinterpreted as pathologic.<sup>79</sup>
2. There may not be an appropriate placement available that is equipped to meet that child's particular needs when the child needs to be removed, so inevitably those children end up being moved, sometimes multiple times.
3. Sometimes the mixture of children in a placement is inappropriate, leading to moves. For example, an aggressive older child in the same home as a vulnerable child confined to a wheelchair or an infant, or children that are sexually acting out with other children.
4. Some foster parents have been overcrowded (too many foster children at one time), making it difficult to provide each child with the care needed to heal from their past abuse or neglect experiences.

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<sup>76</sup> Children’s Hospital of Philadelphia Research Institute Policy Lab, Evidence to Action, Fall 2009.

<sup>77</sup> Brenda Jones Harden, Safety and Stability for Foster Children; a Developmental Perspective, Future of Children, vol. 14, Number 1.

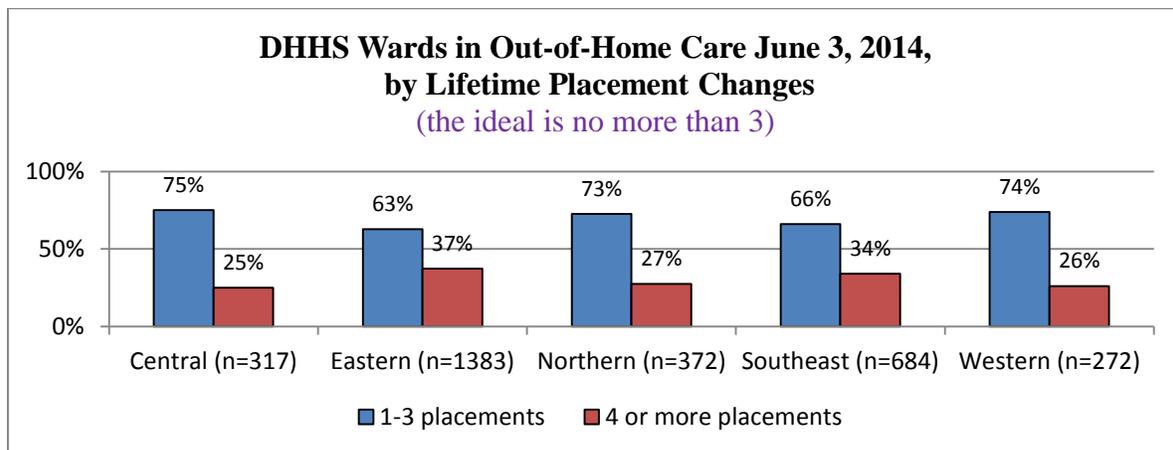
<sup>78</sup> Trauma-Focused Cognitive Behavioral Therapy for Youth in Child Welfare, CW360 – Trauma-Informed Child Welfare Practice – Winter 2013.

<sup>79</sup> Helping Foster and Adoptive Families Cope with Trauma, the American Academy of Pediatrics.

5. Some children are moved because after months in care a relative has been identified. The children may, or may not, have a relationship with this person.
6. Some relative placements have not been given explicit information about whether, or to what extent, parents can have contact with their children while under the relative’s supervision, or on how to deal with other common inter-familial issues. This has led to some children being moved from the relative’s care.
7. Sometimes there are delays in making permanency decisions. This increases the probability that the child will experience more transitions to different placements. “Placement drift” has detrimental effects to children’s sense of stability, to their educational progress, and to their mental and physical health. Therefore, any delay to decision-making needs to be purposeful and temporary.
8. There may be issues with getting approvals for children to be in higher level and thus more expensive, treatment placements.
9. Some youth with law breaking behaviors may move back and forth between detention and home several times.
10. Some are transitions from higher levels of care into lower levels of care as children’s behaviors or needs are successfully addressed.
11. Some foster parents give notice due to frustrations with DHHS over not providing needed information when children are placed and/or not providing needed supports.
12. Licensing and reimbursement changes may result in some group facilities no longer providing foster care, thus children must be moved.

**HOW DO NEBRASKA’S CHILDREN IN FOSTER CARE FARE?**

Consider the chart below. It shows the number of lifetime placements for the 3,029 children in out-of-home care on June 30, 2014, as independently tracked by the FCRO. Placement changes included in the lifetime count do not include brief hospitalizations, respite care, or returns to the parental home. It shows that **33% have been documented to exceed the optimum 1-3 placements range.**



From reviews, the FCRO found that 574 (26%) of the 2,447 children reviewed had been moved in the six months prior to the review. Reasons for the most recent move varied. Here are some key findings:

- Safety
  - **45 (8%) of the 574 children were moved due to allegations of abuse or neglect in the placement.**
  - 9 (2%) children ran away from a placement.
- Behaviors
  - 145 (25%) children were moved at the request of the caregiver. Often this is related to the child's behaviors.
- Relatives
  - 82 (14%) children were moved to a relative, after having been in a non-relative placement.
  - 11 (2%) children were moved to be with siblings.
- Changes in level of care
  - 39 (7%) children were moved to a higher level of treatment.
  - 38 (7%) children were moved to a lower level of treatment.
  - 32 (6%) children (DHHS wards) were moved to a Youth Rehabilitation and Treatment Center or Detention facility.
  - 19 (3%) children were moved to a hospital setting.
- Preparing for permanency
  - 15 (3%) children were moved to a pre-adoptive placement.
  - 2 (<1%) children were moved to a pre-guardianship placement.
- Other
  - 41 (7%) children were moved due to a worker initiated change.
- The remaining children moved for other reasons or the reason for the move was unclear.

### UPCOMING FEDERAL STANDARDS

CFSR reviews, or Children and Family Services Reviews, are federal audits of the states' performance in regard to children in out-of-home care. They are being done over a period of five years, with Nebraska's currently scheduled for 2017. Federal officials have been revising the measures used during the reviews from those used in the past.

Federal officials have now confirmed the standard they will be using regarding placement stability. They will ask states to compute this measure by adding the total moves children in care on a particular day have experienced, divided by the total days those children have been in out-of-care, multiplied by 1,000. The maximum that states should experience is 4.12 placement moves per 1,000 days in care. The federal measure may be for moves over a 12-month period.

If the federal measure were based on a child's lifetime, then it appears Nebraska may have a hard time meeting this soon to be implemented standard. The FCRO considered how the 2,247 children reviewed by the FCRO January-June 2014 have fared. This group did not include OJS/Probation youth, so should not be skewed by their high number of placement moves.

From this the FCRO found:

- The reviewed children had a cumulative total of 8,846 placement moves over their lifetime. That averages 4 moves per child.
- The reviewed children had been out-of-home a cumulative total of 1,620,715 days throughout their lifetime. That averages over 700 days per child.
- The calculation for the reviewed children renders an answer of 5.45, which is significantly more than the 4.12 maximum allowed under the standard.
- The group measured during the CFSR will include children in care for a short time, which may render a calculation that is slightly less than what we found for children reviewed. However, it is unlikely that the calculation will be impacted enough to be under the maximum.

In order to see improvements in this measure Nebraska will need to address both time in out-of-home care and the number of placement moves.

### **RECOMMENDATIONS:**

- 1. Determine the reasons for a change in placement and what services are needed to stabilize placements.**
- 2. Develop and implement a more individualized approach to foster care recruitment.**
- 3. Identify appropriate relative and kinship placements at the time of the children's initial placement in foster care, and provide those placements with needed supports.**
- 4. Provide relative and kinship caregivers explicit information on whether, or to what extent, parents can be in contact with their children and on how to deal with inter-familial issues.**
- 5. Ensure that necessary moves between placements are conducted in such a way as to minimize the trauma to children.**

### **PLACEMENT CHANGE DOCUMENTATION ISSUES**

DHHS is required to report to the FCRO's tracking system every time a child is moved to an out-of-home placement, between out-of-home placements, and when the child exits out-of-home care. The reports to the FCRO are initiated when a DHHS worker, or lead agency worker in the pilot area, correctly enters new placement information onto the DHHS N-FOCUS system.

There are documentation issues. For 501 (22%) of the 2,247 children reviewed from January-June 2014, there were placement changes that had not been reported or were inaccurately reported. A number of reasons for this have been identified, including:

- The entry on N-FOCUS incorrectly identified the placement as a temporary “respite” placement, which does not generate a report to the FCRO.
  - FCRO and DHHS define a respite placement as “a time-limited temporary care of a child in order to provide foster parents relief or the ability to take classes, attend their own medical appointments, attend funerals, etc.” Respite care is to be for two weeks or less. Instead some placements of several months errantly have been identified on N-FOCUS as respite.
- N-FOCUS did not get caseworker changes or transfers updated during the period.
- Some placement changes have been noted in the narratives (caseworker notes and logs that are recorded on N-FOCUS), which does not then translate into reports or appear on the DHHS official log of children’s placements (N-FOCUS placement history).
- Sometimes there are other errors, such as the worker accidentally selecting from the list of placement the “X family” of Western Nebraska instead of the “X family” of Eastern Nebraska, or common typos.

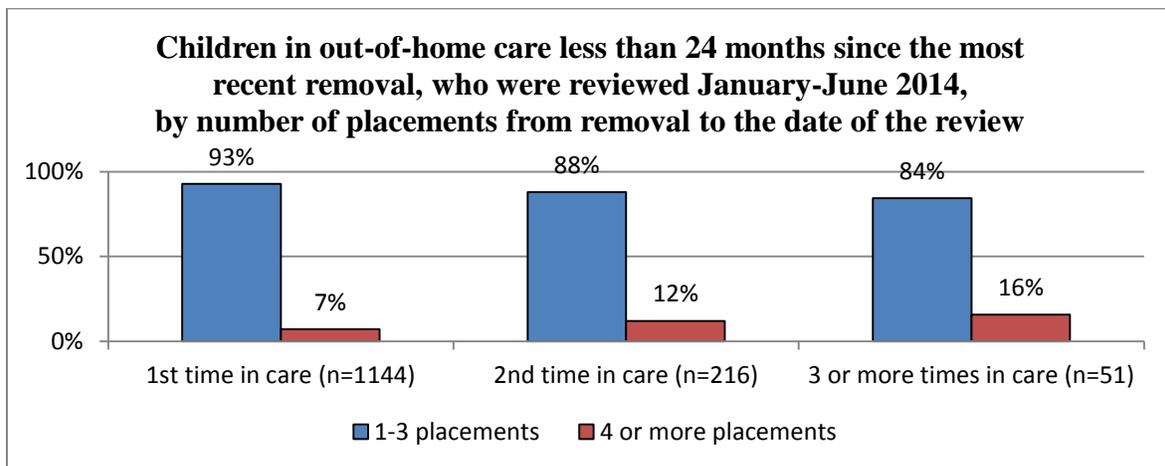
The FCRO will be working collaboratively with the DHHS Service Area Administrators, Lead Agency Administrators, and/or Data Administrators to address this situation as it negatively impacts both the FCRO and DHHS by not providing a true measure of placement stability/instability.

**RECOMMENDATIONS:**

1. **Develop reports that list children that have been in a placement identified as respite for over two weeks, and develop a process to ensure those inaccurate entries are corrected.**

**PLACEMENT CHANGES VARY BY TIMES IN OUT-OF-HOME CARE**

The chart below considers only children reviewed in the first half of 2014 that had been in out-of-home care for less than 24 months during their current removal.



During the same time period (under 24 months since most recent removal from the home), children with multiple removals had a greater likelihood of experiencing multiple placement changes:

- 7% of the children on their first removal had been moved to 4 or more placements by the time of their FCRO review.
- 12% of the children on their second removal had 4 or more placements.
- 16% of the children removed three or more times had 4 or more placements.

This may be due to children’s behaviors and/or mental health needs that are common in children that have experienced multiple traumas.<sup>80</sup>

**PLACEMENT TYPES**

If children cannot safely live at home, then they need to live in the least restrictive, most home-like temporary placement possible in order for them to grow and thrive.

The following chart shows the restrictiveness of placements for the 3,029 DHHS wards in out-of-home care on June 30, 2014. As previously noted, it does not include youth under OJS or the Office of Probation as were included in past years.

<u>Type</u>	<u>June 30, 2014</u>
Least restrictive *	2,681 (88%)
Moderately restrictive **	158 (5%)
Most restrictive ***	149 (5%)
Runaway	26 (1%)
Other	<u>15 (&lt;1%)</u>
Total	3,029

- \* Least restrictive includes relative placements, foster family homes, agency-based foster homes, developmental disability homes, and supervised independent living.
- \*\* Moderately restrictive includes group homes and boarding schools.
- \*\*\* Most restrictive includes medical facilities, psychiatric residential treatment facilities, youth rehabilitation and treatment centers at Geneva and Kearney, youth detention centers, and emergency shelters.

**Nearly half (47%), or 1,268 of the 2,681 children in the least restrictive placements were placed with relatives or kinship/child-specific placements.<sup>81</sup>**

**RECOMMENDATIONS:**

- 1. Continue the positive work in placing children in the least restrictive possible environment consistent with their needs.**

<sup>80</sup> See page 11 for more information about trauma.

<sup>81</sup> More information on relative/kinship placements can be found on page 96.

## RELATIVE OR KINSHIP CARE

Some children in foster care instead of receiving their daily care from non-family foster parents receive day-to-day care from relatives, in a practice known in Nebraska as relative care. Others receive care from persons that are like a family member, such as a coach, a teacher, a person that was legally their aunt or uncle until a divorce, etc. In Nebraska that is called kinship care.<sup>82</sup>

Whether relative or kinship care, this type was put in place to allow children to keep intact existing and appropriate relationships and bonds with appropriate family members, and to lessen the trauma of separation from the parents. If a maternal or paternal relative or family friend is an appropriate placement, children suffer less disruption and are able to remain placed with persons they already know that make them feel safe and secure. Thus, relative care can be especially beneficial when children have a pre-existing positive relationship with a particular relative.

*The Nebraska Family Policy Act (Neb. Rev. Stat. §43-533) states that when a child cannot remain with their parent, preference shall be given to relatives as a placement resource.*

*It also requires that the number of placement changes that a child experiences shall be minimized and that all placements and placement changes shall be in the child's best interest.*

Relative/kinship placements are not appropriate in the following circumstances:

- If the relative cannot establish appropriate boundaries with the parent.
- If the relative is in competition with the parents for children's affection.
- If there is any indication that the relative has abused other children, was abusive to the child's parents, or allowed the child's abuse.

### National research has shown:

1. Demographics of relative caregivers:
  - a. Significantly poorer than non-kin foster parents.
  - b. Have less formal education than non-kin foster parents.
  - c. More likely to be single.
  - d. Tend to be older, with a sizable number over 60 years of age.
  - e. Tend to have more health issues than non-kin foster parents.
2. Relative caregivers willingness to provide care:
  - a. More likely to accept large sibling groups into their homes.
  - b. Often report that care giving is a very meaningful and rewarding role for them.
3. Potential benefits of a relative placement:
  - a. Placement stability is greater for children in a relative home.
  - b. Children in relative care have a lower probability of returns to foster care.
  - c. Relative placements can enhance child well-being by keeping connections with siblings, the broader family, and the community intact.

<sup>82</sup> To avoid confusion it is important to recognize that in some other states all relative care may be called kinship, and in others kinship includes both relatives and non-relatives. National research sometimes uses the terms interchangeably. Nebraska differentiates between the two categories.

- d. A study by Children’s Hospital of Philadelphia found three years after placement with relatives, children have significantly fewer behavior problems.
4. Permanency issues:
  - a. Children in relative care are less likely to be reunified with their parents.
  - b. In some cultures, adoption has little relevance or meaning, so the relative caregivers are less likely to push for that to occur.
  - c. Children in relative placements tend to remain in foster care longer.
5. System issues impacting relative caregivers:
  - a. Relative caregivers often were given no time to prepare for their new roles.
  - b. More children in relative homes were removed due to neglect than for physical abuse.
  - c. Relative caregivers and children in their care receive fewer services.
6. National research is limited, and made more difficult by different jurisdictions defining and tracking kinship care arrangements in different ways.<sup>83,84,85,86,87</sup>

### Nebraska

Nebraska has been increasingly utilizing relative/kinship placements.

- **47% (1,268 of the 3,029) children in out-of-home care (DHHS wards) on June 30, 2014, were placed in relatives/kinship homes.**
- In comparison, 29% (962 of 3,347) of the DHHS wards in out-of-home care on June 30, 2013, were placed with a relative.

### Delayed identification of relatives

Although DHHS policy is to quickly identify parents and relatives and determine their suitability as a placement, through reviews it appears that is not consistent in practice. The father’s and the paternal relative’s suitability as a placement for the child cannot be considered until paternity is identified. Family finding should be utilized to help locate relatives so their suitability as a potential caregiver can be addressed.

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<sup>83</sup> Urban.org, Kinship Foster Care An Ongoing, Yet Largely Uninformed Debate, Rob Green.

<sup>84</sup> Science Daily, Kinship Care More Beneficial Than Foster Care, Study Finds, June 2008.

<sup>85</sup> Annie E. Casey Foundation, Kinship Care: Supporting Those who Raise Our Children. 2005.

<sup>86</sup> Center for Law and Social Policy, Is Kinship Good for Kids, March 2007.

<sup>87</sup> School of Social Work, Colorado State University, Kinship Care in the United States: A Systematic Review of Evidence-Based Research, July 2005.

The following chart shows what was found from 2,247 reviews conducted January-June 2014.

<b>Family search documentation status</b>	<b>Maternal</b>	<b>Paternal</b>
Documentation family search occurred	1,659 (74%)	1,189 (53%)
No documentation regarding family searches	452 (20%)	737 (33%)
Not applicable (ex. – no living relatives or parent not identified so no family search possible)	<u>136 (6%)</u>	<u>321 (14%)</u>
Total	2,247	2,247

In addition to issues with documenting family searches, the following issues have also been identified:

- Sometimes there are delays in identifying relatives.
- Sometimes there are delays in assessing relatives as potential placements.
- Sometimes relatives that appear to be suitable placements are not utilized without explanation.
- Sometimes children are placed with persons not yet proven to be relatives.
- Sometimes children are placed with relatives that appear to not meet minimal standards for care giving.
- Sometimes there is no follow-up of relatives temporarily unable to provide care. Examples:
  - An aunt had just had surgery when the niece came into care and needed time for recovery before she could do the physical lifting necessary to care for a toddler.
  - An uncle that was in the military overseas that would have been able to care for the child in a few months when his tour of duty was completed.

### Specific information relative caregivers need

Relative placements have specific training needs. They need the type of training that other foster parents receive on the workings of the foster care system and on the types of behaviors that abused and neglected children can exhibit. In addition, many relatives have requested training on dealing with the intra-familial issues present in relative care that are not present in non-family care situations.

## **RECOMMENDATIONS:**

- 1. Ensure that a relative/kinship placement is not selected simply because of biological connections, but rather because it is a safe, appropriate placement that is in the child's best interest.**
- 2. Identify and recruit relatives, kin and non-custodial parents within the first 60 days of a child's placement. Assess their previous relationship with the children and ability to safely care for the children, so that delayed identification of these prospective placements does not result in unnecessary moves.**
- 3. Identify paternity in a timely manner so the father and paternal relatives can be considered.**

- 4. Develop a training curriculum for relative and kinship caregivers. Include information on the child welfare system and information on the intra-familial issues specific to relative care.**
- 5. Provide relatives and kinship caregivers explicit information on whether, or to what extent, parents can be in contact with their children and on how to deal with inter-familial issues.**
- 6. Provide relative and kinship caregivers access to round-the-clock immediate and effective support when issues arise, and provide them with health and educational records on a timely basis.**
- 7. Clarify that a step-parent or parent to a child's partial sibling is considered a relative for purposes of foster care licensing.**
- 8. Develop a mechanism to increase the licensing of relative and kinship homes, which would then beneficially impact the ability of the state to draw down federal IV-E funds as children who are not in a licensed placement do not qualify for IV-E funds.<sup>88</sup>**

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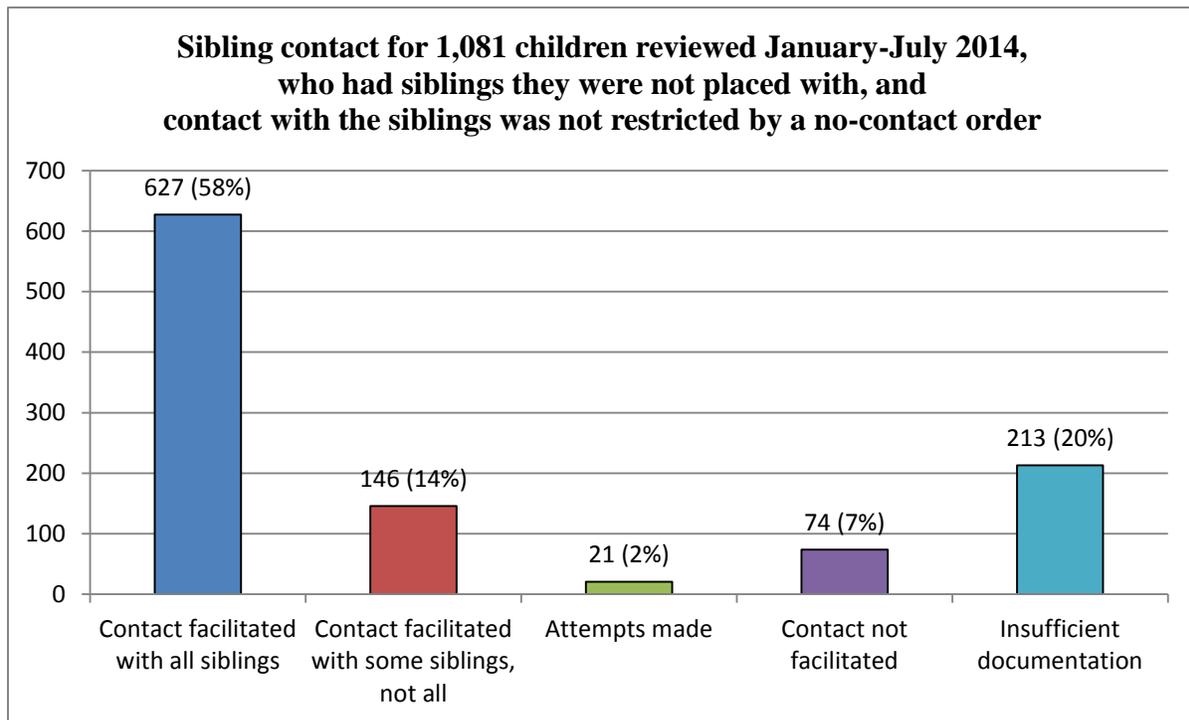
<sup>88</sup> See page 139 for a description of federal IV-E funds.

## MAINTAINING CONNECTIONS WITH SIBLINGS

Children that have experienced abuse or neglect may have formed their strongest bonds with siblings. If bonds exist it is important to keep them intact, or children can grow up without essential family and suffer from that loss.

It can be difficult for the state to find placements willing to take large sibling groups, especially if one or more of children have significant behavioral issues. In the absence of being placed together, sibling bonds can be kept intact through sibling visitation.

Due to the importance of maintaining sibling connections, local board members are required to make a finding during reviews regarding sibling contacts. The chart below shows whether or not sibling visitation was occurring for reviewed children that have siblings they are not placed with, and where there is not a no-contact order in place.



### **RECOMMENDATIONS:**

- 1. Improve oversight and support for placements with sibling groups, including relative and kinship homes.**
- 2. Ensure siblings that are unable to be placed together can maintain appropriate and consistent contact with each other.**
- 3. Work with DHHS and providers to document the consistency and quality of sibling visitation.**

## ACCESS TO MENTAL HEALTH SERVICES

During 2,247 reviews conducted January-June 2014, the FCRO found that **832 (37%) children had a diagnosed mental health or trauma related condition** which indicates that a significant number of children are impacted by the managed care system.

Some additional statistics of note:

- Professional interventions
  - 846 (38%) children were court-ordered to be in therapy.
  - 575 (26%) children were currently prescribed psychotropic medication(s).
  - 115 (5%) children had been diagnosed with having their own substance abuse issue (not their parents' issue).
- Behaviors
  - 614 (27%) children were currently exhibiting difficult behaviors that could impact their placement stability. (see list of some of these behaviors below)
  - 224 (10%) of the children, which does not include OJS/Probation youth, had their own law violation issues.
  - 128 (6%) children were engaging in concerning sexualized behaviors in the six months prior to the review. This does not include the normal behaviors of children instead this is abnormal behaviors that can be common in abused children.
  - 91 (4%) children had intentionally committed self-injury in the six months prior to the review.

### Children's behaviors that could be an indication of an underlying mental health condition

- A sudden drop in school performance. Difficulty concentrating. Skipping school.
- Loss of interest or pleasure in activities once enjoyed. Thoughts of suicide or death.
- Excessive expressions of fear or anxiety.
- Aggression, refusal to cooperate, antisocial behavior, law violations.
- Use of alcohol or other drugs.
- Constant complaints of aching arms, legs, or stomach with no apparent cause.
- Difficulty getting along with peers or teachers.
- Fire setting.
- Displaying cruelty to animals or humans.
- Forcing others into sexual activity.
- Dramatic changes in sleeping and/or eating habits. Nightmares.
- Social withdrawal.
- Delusions or hallucinations.<sup>89</sup>

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<sup>89</sup> Adapted from the websites of the National Institute for Mental Health, the American Psychiatric Association, and Mental Health America.

Through reviews it appears that getting needed services, especially for behavioral issues, is chronically difficult. Much of the treatment for children with mental health needs is paid for through a managed care contractor as a means to control the costs of treatment and psychiatric placements. Nebraska contracts with Magellan Behavioral Health to determine what and whether Medicaid will pay for mental health treatment, because these are often expensive services. Nebraska uses the regional behavioral health network for those not qualified for Medicaid. The regions should provide access or assistance to those individuals.

Behavioral issues can be an anticipated consequence of a child having been abused or neglected and/or from the trauma of removal from his or her home and family. Other children enter the system with behavioral issues.

Children's behavioral disorders do not routinely receive needed treatment because they are not deemed by the managed care contractor to meet the Medicaid criteria for "medically necessary" services that it requires before it will pay for services. When found to not be "medically necessary" by the managed care provider, there appears to be little or no alternative source of payment for these much-needed services. The service, if provided, must be paid for by DHHS or the Lead Agency; otherwise the child goes without. DHHS often requires the court to order services if denied by Magellan, which delays the receipt of needed services since it could be several months until the child's next court hearing.

Children may be prematurely moved from treatment placements based on whether the managed care contractor will continue to approve payments, rather than based on children's needs. Therapeutic services are frequently limited to a specific number of sessions. Delays to therapy can occur while appealing for additional sessions, if needed.

#### **Treatment not accessible to some specific populations**

There can be many reasons for children not receiving services, such as: their needs not being properly identified, a lack of treatment providers or facilities in the children's area of the state, a lack of facilities equipped to handle an individual child's specific issues, or a lack of funding for needed services.

Some children have additional issues that make finding treatment for behavioral/mental health needs even more complicated, even if funding was not a factor. Some examples include: children with serious physical conditions, pregnant teens, and children with language barriers, sight or hearing impairments, or developmental delays.

Sometimes the only treatment facility available to meet a particular child's needs is out of state, which makes maintaining the family bonds during treatment very difficult. Waiting lists can also be problematic. The situation is compounded by the number of treatment facilities lost in our state since 2009. Oversight of children's care and ability of parents to maintain contact or participate in family therapy would be enhanced if children remained in Nebraska at a facility that could meet their needs.

**Lack of services can increase the length of time in foster care**

Children that do not receive needed services often remain in foster care for extended periods of time. Their behaviors can put themselves and those around them at risk. Parents may be unable to cope with these children's needs or behaviors. It may be difficult to find families willing to make the financial commitment necessary to adopt such children and provide for their specialized needs.

**RECOMMENDATIONS:**

- 1. Acknowledge and mitigate as best possible the impact of trauma on children.**
- 2. Ensure there are appropriate services provided based on children's assessments.**
- 3. Ensure payment sources are available for children and youth with a wide array of behavioral problems, regardless of managed-care/Medicaid denials.**
- 4. Provide continual evaluations of the quality of services received.**
- 5. Ensure that reports from the service provider are received prior to making payment.**
- 6. Increase access to community-based services.**
- 7. Ensure that some of the funds to the Regions are earmarked for helping children, particularly children that have experienced trauma.**
- 8. Consider the use of braided or blended funding alternatives so that funding does not keep children from receiving needed help.**

## EDUCATION OF CHILDREN IN FOSTER CARE

Most children in foster care have lived in chaotic, stressful environments prior to their removal from the home. Some have had pre-natal and/or post-natal exposure to alcohol and/or drugs. Some moved often, even during the school year. Some did not get the early childhood stimulation needed to grow and thrive – such as parents reading to children or teaching concepts like colors, letters, and numbers. Some, even in early elementary school, had parents that did not ensure their regular school attendance. These children often begin their formal education at a significant disadvantage.<sup>90</sup>

Further, children that are experiencing separation from their parents, adjusting to a new living environment, and often adjusting to a new school, can experience too much stress to properly concentrate on their education. This is very similar to that situation in which a person that has just lost a spouse realizes that his or her ability to make sound decisions will be impaired during active grief. The grief effects are exacerbated each time a child is moved to a new placement and a new educational setting.

National research shows that frequent school changes are associated with an increased risk of failing a grade in school and of repeated behavior problems.<sup>91</sup>

In June 2012 the Nebraska Department of Education issued a *State Ward Statistical Snapshot*.<sup>92</sup> This report was an eye-opener. The following are some of the key findings:

- 43.7% of state wards in 12<sup>th</sup> grade graduated high school, compared to 87.4% of the non-wards.
- 25.2% of state wards were found to be highly mobile – that is, in two or more public schools during a calendar year. This compares to 4.2% of non-wards.
- Wards missed an average 15.94 days during the school year compared to 7.76 days for non-wards.
- 36.2% of state wards qualified for special education, compared to 16.6% of non-wards.
- 7.9% of state wards had a verified behavioral disorder disability, compared to 0.6% of non-wards.
- In the 4<sup>th</sup> grade math test scores, wards averaged 88.26 compared to non-wards that averaged scores of 102.96. For 11<sup>th</sup> graders wards average 50.61 compared to non-wards at 96.36.

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<sup>90</sup> The Nebraska Department of Education found in school year 2011-12 that fourth grade students who were absent less than 10 days averaged a score of 108/200 in their standardized math test, while children who were absent over 20 days averaged 83/200. Similarly in reading children absent less than 10 days scored 113/200 while students absent over 20 days averaged 91/200. By grade 8 the differences are even more pronounced.

<sup>91</sup> Wood, D., Halfon, N. Scarlata, D., Newacheck, P., & Nessim, S., Impact of family relocation on children's growth, development, school function, and behavior, Journal of the American Medical Association, (1993) as quoted in the Legal Center for Foster Care and Education Fact Sheet on Educational Stability, [www.abanet.org](http://www.abanet.org).

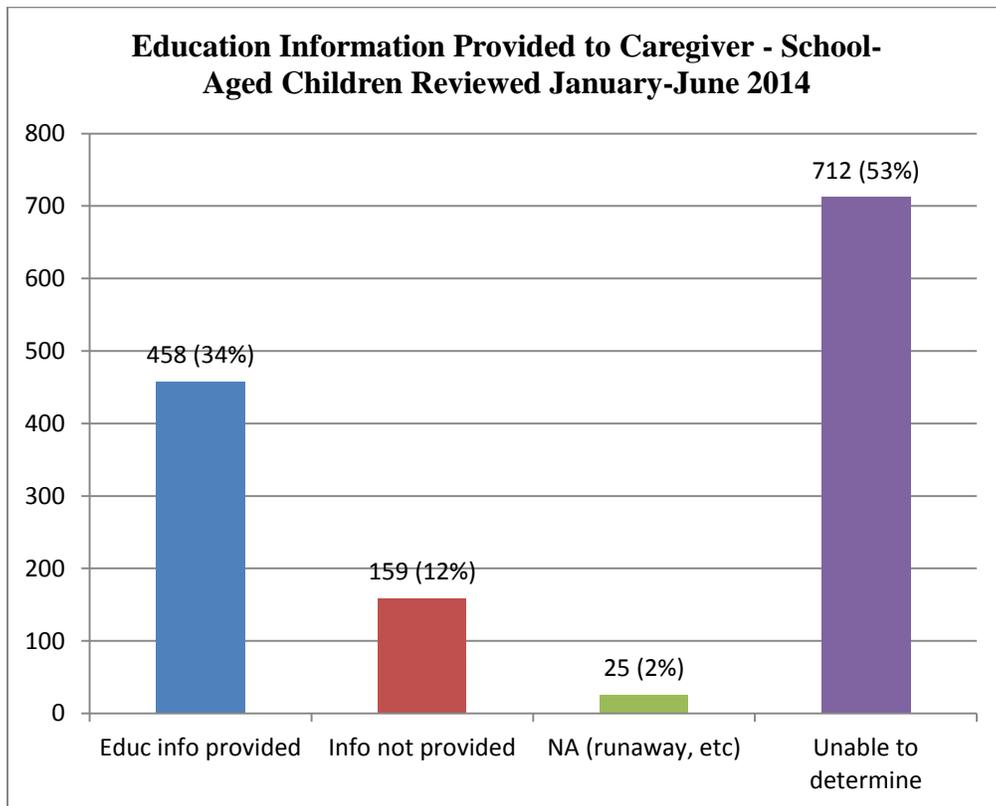
<sup>92</sup> Benjamin Baumfalk & Eva Shepherd, State Ward Statistical Snapshot Project, Nebraska Department of Education, June 29, 2012.

- In the 4<sup>th</sup> grade reading tests, wards averaged a score of 94.35 compared to 109.28 for non-wards.

An updated statistical snapshot is due to be released by the end of 2014, but was not available for this Report.

**EDUCATION RECORDS SHARED WITH CAREGIVER**

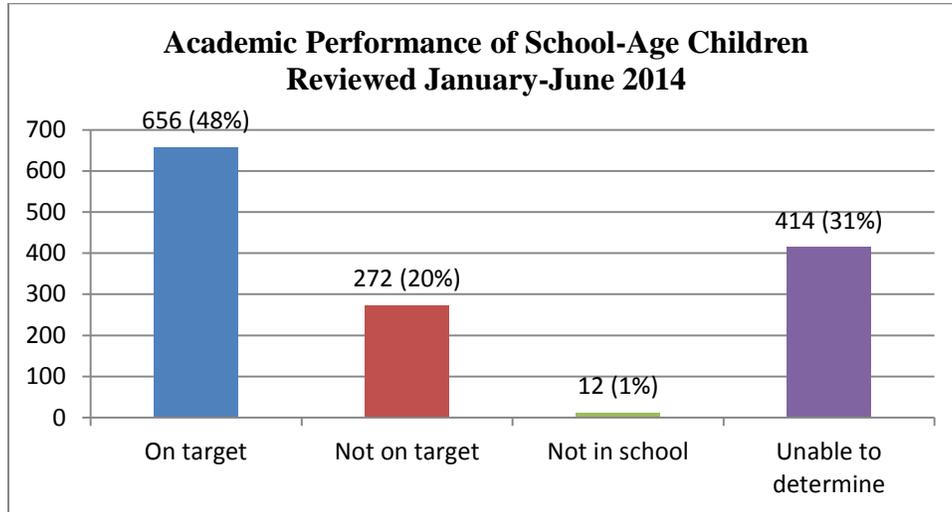
Foster parents, group homes and other placements are charged with ensuring that children placed with them receive all necessary educational services. Educational information is essential for this to occur. During the FCRO’s review of children’s cases, attempts are made to contact the child’s placement per federal requirement to determine whether the placement had received educational background information on the child at the time the child was placed.<sup>93</sup> Placements are not mandated to respond to the request for information and many do not.



<sup>93</sup> Foster parents are provided the opportunity to attend the review, along with the phone number and email address for the review specialists. Foster parents are provided a questionnaire to complete if attending the review conflicts with their schedules. Review specialists also attempt to contact the placement via phone or email.

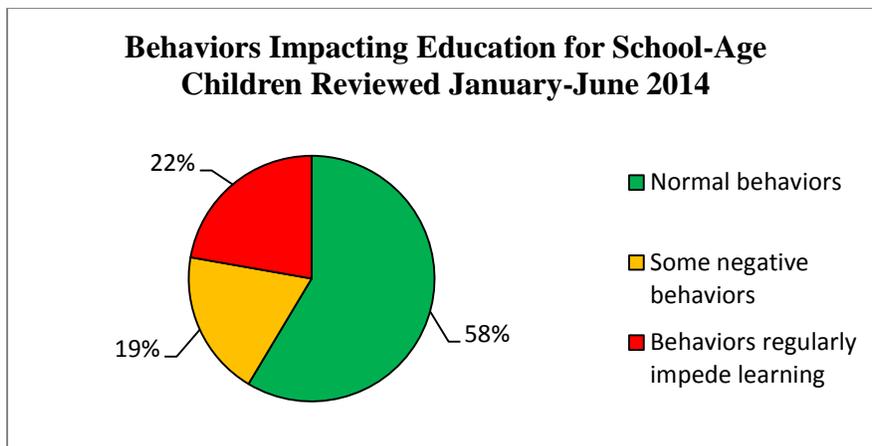
## SCHOOL PERFORMANCE

During the FCRO’s review of school-aged children’s cases, reviewers consider whether the children being reviewed are on target for core classes. This is the finding:



**Nearly one-third of those children’s files did not contain sufficient information to determine if they were academically on target, or whether services were needed in this vital area that will impact the child’s entire life.**

As discussed elsewhere in this Report, children in out-of-home care can display some very challenging behaviors as a result of the cumulative traumas that they have experienced. These behaviors may be displayed in the child’s placement, during visitation, and during the school day. The following chart shows how many children have behaviors that are negatively impacting their education.



## SCHOOL CHANGES

The FCRO found that 409 school aged children reviewed January-June 2014, had been moved to a new placement in the six months prior to the review. Often a change in the foster home or other caregiver can result in a school change. The FCRO recorded whether there was documentation that the 409 children that changed caregivers also changed schools. [Changes here did not include the normal transitions from elementary to middle school, or middle school to high school.]

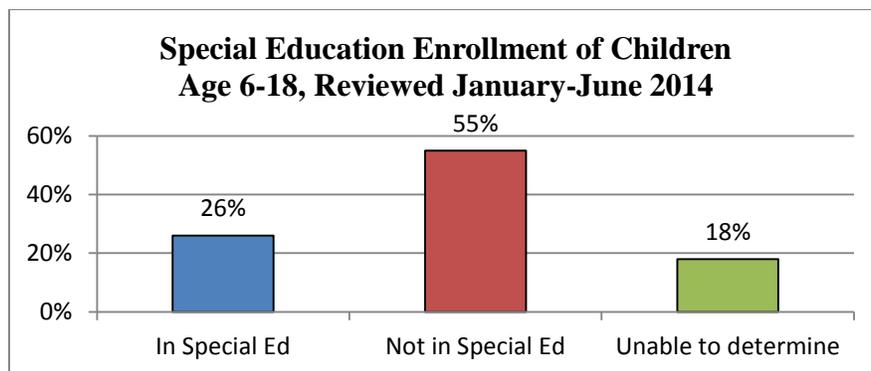
- A school change occurred for 129 (32%).
- There was no school change for 107 (26%).
- It was unclear if there was a change for 173 (42%).

**It is unacceptable that the official records did not document whether a change of placement also resulted in a school disruption for the children.**

How do rates for wards compare to non-wards? The Department of Education defines a highly mobile student as “Any student who enrolls in two or more public schools during an academic year.” In the 2012 Statistical Snapshot it found that 4% of non-Wards were highly mobile compared to 25% of Wards.<sup>94</sup>

## SPECIAL EDUCATION

Nationally about 9% of the general population of school children received special education.<sup>95</sup> As the following chart shows, at least 26% of the school-aged children were enrolled in special education. **In 18% of the files there was insufficient information to determine the child’s special education status.**



<sup>94</sup> Benjamin Baumfalk & Eva Shepherd, State Ward Statistical Snapshot Project, Nebraska Department of Education, June 29, 2012.

<sup>95</sup> US Dept. of Education, The Condition of Education, 2009.

## EARLY DEVELOPMENT NETWORK

A child is eligible for Early Development Network services if he or she is not developing typically, or has been diagnosed with a health condition that will impact his or her development. Parents must consent to an Early Development Network referral for children age birth through three years of age. Often parents of children in out-of-home care refuse to provide their consent. The FCRO found that for 4% of the children age 0-3 reviewed January-June 2014, there was no EDN referral made, and **for 15% of children in this age range there was no documentation regarding an EDN referral.**

## OTHER EDUCATION-RELATED ISSUES

During reviews foster parents also reported issues with:

- the lack of coordination among the education, child welfare, health, mental health, and judicial systems;
- a lack of coordinated transition planning;
- insufficient attention to mental health and behavioral needs; and
- a lack of appreciation for the effects on children of the trauma of abuse or neglect and of the trauma of removal from the home and subsequent moves while in foster care, all of which all impact a child's ability to learn.

In addition to children's placements, schools may also be contacted during the FCRO's review of a child's case. Educators have sometimes reported that they have not been advised that children were in foster care, thus lacking the proper context within which to assess and respond to behavioral and educational issues. Little communication from one school district to another regarding the services a child had been receiving at the previous school triggers the need for subjecting the child to further educational testing as a prerequisite to receiving services at the new school.

Although children are placed in out-of-home care, in Nebraska their parents retain legal rights to determine aspects of their children's education. This causes delays in a child's receiving special education services, especially if the child does not remain in the same school system. Parents that are upset with the system may refuse to authorize educational testing or services, especially if they suspect it was an educator that reported the abuse that led to the child's removal. While a surrogate parent can be appointed to represent the child, this involves delays.

### National studies

National surveys of former foster children have found that the foster system also did not encourage high expectations for their education.<sup>96</sup> Numerous sources show that youth transitioning from foster care to adulthood often have significant educational deficits. These are the youth most likely to become homeless and face employment challenges.

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<sup>96</sup> Trudy Festinger, *No One Ever Asked Us*, New York: Columbia University, 1984 cited in Patrick A. Curtis, Grady Dale Jr. and Joshua C. Kendall, eds, *The Foster Care Crisis: Translating Research into Policy and Practice*, Lincoln, Neb.: University of Nebraska, 1999, p. 109.

### Federal requirements

The federal *Fostering Connections to Success and Increasing Adoptions Act of 2008* included a requirement that child welfare agencies must include a plan for ensuring the educational stability of the child while in foster care as a part of every child's case plan. As part of this plan, the agency must include assurances that the placement of the child in foster care takes into account the appropriateness of the current education setting and the proximity to the school in which the child was enrolled at the time of placement, and the child welfare agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement unless remaining in that school is not in the child's best interest.<sup>97</sup>

The definition of children eligible under the federal McKinney-Vento Homeless Assistance Act includes children that lack a "fixed, regular, and adequate nighttime residence." Since foster care by definition is temporary, many children in foster care have placements that may not be fixed or regular. The Act entitles students to remain in their original school even when they move to a foster placement in a different school district, to the extent feasible, unless it is against the parent or guardian's wishes. The Act requires schools to enroll eligible school students immediately, even if they do not have required documents. The Act requires each school to designate an appropriate staff person as a liaison for eligible students. Children eligible under the Act are also eligible for Title I benefits, without needing to qualify based on their current academic performance.

Regulations under the federal Individuals with Disabilities Education Act (IDEA) provide that a foster parent may act as a child's educational "parent" under the act under certain conditions.

These federal provisions were put in place to improve educational outcomes for children in out-of-home care. The FCRO encourages everyone that works with children in foster care to be aware of these provisions and apply them whenever appropriate.

### **RECOMMENDATIONS:**

- 1. Ensure that appropriate educational records are shared with caregivers.**
- 2. Continue to address school stability and discourage moves that would create a change of school during a school term.**
- 3. Continue collaborative efforts between local schools districts, DHHS, foster parents, guardians ad litem, and other interested parties to reduce communication gaps and encourage school engagement by children, youth, and their caregivers. Consider a pilot to increase communication and school engagement.**
- 4. Ensure that any foster child that qualifies for special education services receives that service, regardless of where he or she is attending school.**

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<sup>97</sup> National Foster Care Coalition, *Fostering Connections to Success and Increasing Adoption Act, Frequently Asked Questions*, 2009.



## Section V.

# WELL BEING AND SPECIAL POPULATIONS



## CHILDREN AGE BIRTH THROUGH FIVE

**On June 30, 2014, 1,143 (38%) of the 3,029 DHHS wards in out-of-home were children under six years of age,** the period during which brain functionality is being formed. Focusing upon children birth through age five provides a long-range solution to the number of young children in foster care, while simultaneously protecting a group of children most vulnerable to abuse and neglect.

### National research

The first five years of a child's life are crucial for successful and healthy development. Providing the right conditions for early childhood development is far more effective than trying to fix problems later in life. Unfortunately many children do not have this type of healthy environment.

“The largest problem we have in terms of vulnerability of children is low-income, highly stressed environments. Environments where the impact of daily stress, particularly if compounded by exposure to violence, or mental illness in the family, particularly maternal depression or substance abuse, that level of stress, that kind of toxic stress in the environment of a young child is actually interfering with the development of the brain.”

-Dr. Jack Shonkoff, Founding Director  
Center on the Developing Child, Harvard University

Research has shown that when young children must cope with prolonged or multiple stressors vital connections can fail to form properly, resulting in temporary or permanent changes in children's ability to think, to develop positive inter-personal relationships, and to process future stressors. High levels of stress hormones occurring during the period of ages newborn through three have been found to create life-long problems with impulse control, anxiety, hyperactivity, and learning disorders.<sup>98</sup>

**Instability in foster care can further exacerbate such problems.** The American Academy of Pediatrics has found that paramount in the lives of children in foster care is children's need for continuity with their primary attachment figures and the sense of permanence that is enhanced when placement is stable.<sup>99</sup>

When a child is removed from the family home due to abuse or neglect, he or she is often not clear as to why this essential bond has been interrupted or broken, and why he or she is placed in the care of strangers. This disruption is especially harmful for younger children, layering additional levels of confusion and anger on top of the trauma of initially experiencing abuse and/or neglect in the toxic home environment.

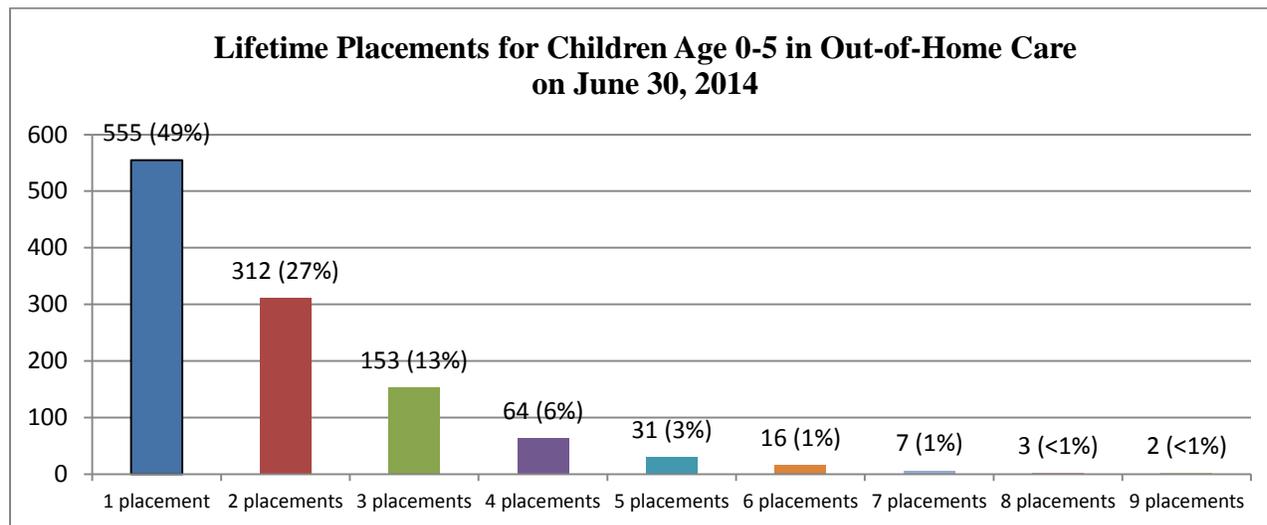
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<sup>98</sup> Sources include Ghosts From the Nursery, Robin Karr-Morse and Meredith S. Wiley c. 1997.

<sup>99</sup> Rosenfeld, Pilowsky, Fine, et al as quoted in the American Academy of Pediatrics Policy Statement on Developmental Issues for Young Children in Foster Care, November 2000.

## PLACEMENT AND OTHER CHANGES

After children are removed from the home, many experience multiple placements and/or failed reunification attempts with their parents, and thus have a lack of the ongoing nurturing relationships and attachments required for them to grow and thrive. The following statistics indicate the prevalence of this issue. The next chart shows lifetime placements (moves from foster home to foster home).



### Transition planning

If it is imperative that children be moved from one foster home to another, research has shown that there are a number of ways of conducting the transition that will help the child better cope with the new situation. Transition plans should be carried out in the most child-friendly manner possible. Young children, especially, need a predictable routine and to be with someone that they know and trust at all times.

Effective transition planning can also contribute to a reduction of children re-entering out-of-home care, and decrease total time in out-of-home care. The following are some of the things to be considered when planning for young children:

#### **A Checklist for the Healthy Development of Infants in Foster Care**<sup>100</sup>

1. What are the medical needs of this infant?
2. What are the developmental needs of this infant?
3. What are the attachment and emotional needs of this infant?
4. What challenges does this caregiver face that could impact his or her capacity to parent this infant?
5. What resources are available to enhance this infant's health development and prospects for permanency?

<sup>100</sup> Dicker, Sheryl and Gordon, Elysa, Ensuring the Healthy Development of Infants in Foster Care: A Guide for Judges, Advocates and Child Welfare Professionals, January 2004.

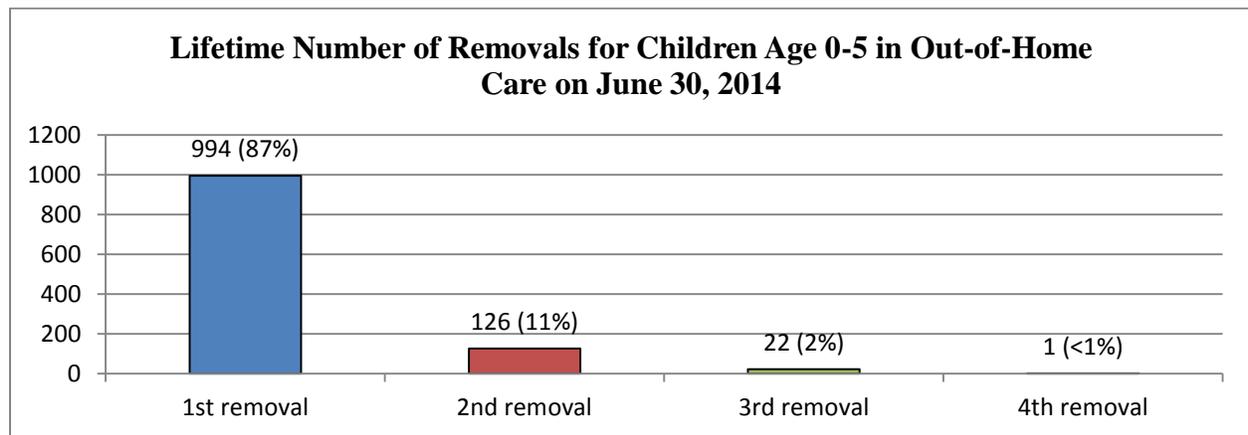
**Other caregiver changes**

Related to the issue of placement changes is the number of young children in out-of-home care that attend daycare. Even children from healthy, intact homes can be adversely impacted by changes in their daycare providers. For children that have experienced removal from the parents and possibly several changes in foster parents, it can be one set of revolving strangers caring for them during the day and another set overnight. Of course, this can be traumatic for young children.

While the FCRO was not able to determine the number of changes in daycare providers, the FCRO was able to determine that **76% of children reviewed in this age group are in daycare.**

**Lifetime removals from the parental home**

This chart shows the number of removals from the parental home. Again, each removal and return home is a transition that can be very hard on children, especially infants and young children.



**Medical decisions**

Informed medical decisions and preventive care are critical to healthy development in the earliest years. The American Academy of Pediatrics recommends that all children in foster care have a “medical home” – an approach to providing comprehensive primary care that facilitates partnerships between patients and their personal physicians. The Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and the Early Intervention Program (Part C of IDEA) are the strongest medical, developmental and mental health entitlements to services for eligible children in the earliest years.

**RECOMMENDATIONS:**

- 1. Minimize placement disruptions by recruiting and working with foster care families for infants, toddlers and preschool children, by promptly identifying appropriate relative placements (e.g. aunt, grandmother) and by attaining all appropriate health and development entitlements as early as possible in the child’s case.**

- 2. Offer intensive services to parents at the onset of the case, with the intent to assess their long-term willingness and ability to parent. Ensure that every assessment of the parent's on-going progress measures not only the parent's technical compliance with court orders but also true behavioral changes.**
- 3. Caseworkers, foster parents, agencies responsible for contracted foster homes, guardians ad litem, therapists, courts, and other concerned parties should do everything possible to encourage a well-thought-out transition plan for any child that must move, especially if the child is pre-school age or developmentally delayed. The plan must be based on children's age, developmental stage, needs, and attachments.**
- 4. Ensure children are safe in their placements and while receiving services, such as supervised visitation with the parent(s).**

## CHILDREN NEARING ADULTHOOD

From January-June 2014, the FCRO reviewed the cases of 304 children age 16-18. These children are to be receiving services designed to help prepare them for impending legal adulthood. As the statistics below show, this is not being done consistently.

### Ansell-Casey

The Ansell-Casey assessment is to be done yearly age 16 through leaving out-of-home care. It assesses key independent living skills and provides a framework to determine skills the youth has yet to acquire, so that services can be individually tailored to meet their needs. For the 304 youth, the FCRO found:

- 102 (34%) had completed the assessment
- **91 (30%) had not completed the assessment**
- **111 (37%) did not have documentation on whether the assessment had been completed.**

### Independent Living Plan

An independent living plan is to be developed with the youth and kept current. **For the 304 youth, the FCRO found:**

- 239 (79%) had a plan.
- **25 (8%) did not have a plan developed.**
- **40 (13%) did not have documentation as to whether a plan had been started or completed.**

## RECOMMENDATIONS:

1. **Ensure that effective planning for adulthood begins early for youth that are nearing emancipation.**
2. **Ensure assessments and plans are well documented.**

## VOLUNTARY EXTENSION OF CERTAIN FOSTER CARE SERVICES TO AGE 21

### The b2i Program/Bridge to Independence

The transition from childhood to adulthood can be rough for many adolescents, but for young persons that have experienced abuse and neglect, mental health issues, or seriously dysfunctional families it becomes even more of a challenge.

- Some of these young people have been hampered by educational gaps, thus some have not yet received a high school diploma at age 19, which is the current age of majority (adulthood) in Nebraska.
- Some lack the basics on how to get and keep a job.
- Some lack knowledge of financial management, such as leases, credit, taxes, and car payments.
- Many do not have the first and last month's rent required as a deposit on an apartment, and many will not have references that may be needed to obtain an apartment.
- Some do not have access to the basics needed for apartment living, such as towels, bedding, kitchen ware, furniture etc.
- Many lose their source of medical insurance when they "age out."
- Some may not know how to drive or have access to car or reliable transportation.
- Some need assistance with obtaining further education.
- Many will not have a relationship with a responsible adult that is willing to provide advice and counsel when issues arise or have a place to come to on the holidays.
- Some have been dropped off at a homeless shelter on their 19<sup>th</sup> birthday as they could no longer stay in their foster placement once they become a legal adult.

Recognizing this pattern across the nation, the federal Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351) was signed into law on October 7, 2008. The Act's requirements were intended to achieve better outcomes for children. Some of its many provisions were aimed at older youth that were about to "age out" of the system – that is, to reach the legal age of majority while still in out-of-home care.

These include:

- Allowing states to extend federally funded foster care, adoption and guardianship assistance to age 21 for Title IV-E eligible young adults enrolled in school, employed, or unable to participate in employment or education due to documented medical condition.
- Mandating the development of a transition plan for youth about to age out of foster care (must be done no later than 90 days prior to aging out).
- Extending resources for Education and Training Vouchers.

- Extending Independent Living services.
- Providing federal grants for programs to help children and youth maintain connections with their families.
- Expanding the use of federal Title IV-E training funds.<sup>101</sup>

In 2013, the Legislature passed LB 216 which would allow youth as they approach the age of majority to enter into a voluntary foster care agreement with DHHS for extended services up to the age of 21. Services may include Medicaid health coverage, postsecondary education assistance, foster care payments, and/or continued case management services.

To qualify the young adult must be employed 80 hours per month, or be enrolled in a recognized educational program, or be incapable of meeting these requirements due to a medical condition. The program could not start until there was federal approval to use title IV-E funds. That approval has been received, and the program began in October 2014.

**Beginning in 2015, the FCRO will be conducting reviews of young adults in the program that are in out-of-home care.**

### **RECOMMENDATIONS:**

- 1. Develop, monitor, and assess the processes by which foster care services are extended to age 21 for those young adults that want or need such services.**
- 2. Ensure that children age 13-18 and their families receive needed and age-appropriate services to include independent living skills.**

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<sup>101</sup> Sources include: Casey Family Programs, 2009; Center for Law and Social Policy 2009; CWLA, 2009; and National Foster Care Coalition, 2009.

## CHANGES TO THE NEBRASKA JUVENILE JUSTICE SYSTEM

There were significant changes to the Nebraska Juvenile Justice system brought about by LB 561 in 2013. Many of the provisions of that legislation took effect in October 2013. One of the key changes was transferring youth from the DHHS Office of Juvenile Services (OJS) to the Office of Probation.

Since the mandated transfer of DHHS-OJS youth to the Office of Probation Administration, reports on youth under Probation have not been provided to the FCRO tracking system due to an interpretation of conflicting statutes. The FCRO is working with the Office of Probation Administration and members of the Legislature that plan to introduce a bill in the 2015 Legislative session designed to resolve that issue. In the meantime, the statistics in this report do not include children under the Office of Probation Administration or children that have yet to transfer from DHHS-OJS.

Some key provisions of LB 561 include:

- Expansion of the Nebraska Juvenile Services Delivery Project – The Project will be expanded statewide in a three-step process starting July 1, 2013. State Probation will be expanded to include community supervision, evaluations and the reentry function for youth leaving the YRTCs, with all new cases being supervised by probation beginning October 1, 2013.
- Intensive Supervised Probation is created for cases in which all levels of probation supervision and options for community-based services have been exhausted and the commitment of the juvenile to OJS for placement at a YRTC is necessary for the protection of the juvenile and the public.
- Strikes OJS authority for community supervision, parole and evaluations after October 31, 2013.
- Imposes limitations on sending juveniles to secure detention or YRTC – a juvenile cannot be sent unless it is a matter of immediate and urgent necessity for the protection of the juvenile or the person or property of another or the juvenile is likely to flee the jurisdiction of the court.
- Adds funding to the County Juvenile Services Aid Program annually and renames it the Community-based Juvenile Services Aid Program to promote the development of community based care across the state. The grants would remain in the Crime Commission and a Director position would be created to oversee meaningful, effective management and disbursement of aid dollars to expand and encourage the use of diversion and community-based services to treat youth on the front end of the system.
- Creates the position of the Director of Juvenile Diversion Programs in the Crime Commission to assist in the creation and maintenance of juvenile pre-trial diversion programs to keep more youth out of the judicial system and in community-based services.

- Require additional recommendations from the Children's Commission OJS Sub-Committee regarding the role of the YRTCs in juvenile justice system and the need for mental and behavioral health services for juvenile in Nebraska.
- Creates a Community and Family Reentry Process for juveniles leaving a YRTC to more effectively reenter their communities with the involvement of their families. The program will be implemented by the Office of Probation Administration in cooperation with the Office of Juvenile Services.

A separate and distinct data form has been created so that once reporting on children occurs, FCRO reviews can be scheduled. During FCRO reviews data elements specific to this population can be captured. A new format for the post-review report from the FCRO to the legal parties has been developed that will better capture the information needed for good decision-making regarding this population. It is hoped that reporting issues can be addressed so reviews can begin sometime in 2015.

### **RECOMMENDATIONS:**

- 1. Ensure that the law is updated to make it clear that the Office of Probation must report on its juveniles in out-of-home care to the FCRO.**
- 2. Continue work to provide youth needed treatment and services in the least restrictive environment meets their therapeutic needs.**
- 3. Ensure that transfers to and from the YRTCs and Office of Probation Administration are as seamless as possible.**

## SUMMARY

Nebraska clearly has work to be done to ensure that all children in foster care are safe and have an appropriate caregiver that receives needed supports and oversight, and to ensure that children and families receive needed services so cases can appropriately close in a timely manner.

That said, the state has entered a very promising time for some real positive changes in its child welfare system. Now, more than ever there is dialogue and problem-solving discussions between different parts of the system and increased collaboration between stakeholder, policy-makers, and advocates. Creative and pragmatic solutions are being sought.

The Foster Care Review Office will continue to play its part in these important deliberations. The FCRO will continue to track children and their outcomes, analyze and report on the data, point to deficits in the system and make well-reasoned recommendations for system improvement.



## **APPENDICES**

## APPENDIX A1 - BASIS FOR DATA/INFORMATION IN THIS REPORT

The FCRO's recommendations in this Annual Report are based on the following:

- An analysis of the data for children that were in out-of-home care during the time period as input on the FCRO's tracking system.
- Information staff collected from the reviews conducted during the time period.
  - Data collected during the review process, including the local volunteer board's findings on key indicators, are recorded on the FCRO's independent tracking system, along with basic information about each child that enters or leaves foster care.
  - Data is also updated each time there is a change for the child while in foster care, such as if there is a change of placement or caseworker.
- An analysis of trends from past data.

The Foster Care Review Office's (FCRO) role under the Foster Care Review Act is to independently track children in out-of-home care, review children's cases, collect and analyze data related to children, and make recommendations on conditions and outcomes for Nebraska's children in out-of-home care, including any needed corrective actions.

Per Neb. Rev. Statute §43-1303 DHHS (whether by direct staff or contractors), courts, and child-placing agencies are required to report to the FCRO any child's foster care placement, as well as changes in the child's status (for example, placement changes and worker changes). By comparing information from many sources, the FCRO determines discrepancies. When case files of children are reviewed, this previously received information is verified and updated, and additional information is gathered. Prior to individual case review reports being issued, additional quality control steps are taken.

Through the above quality control steps the FCRO is aware that there are some caseworker and placement changes that are not reported as mandated under §43-1303, so the number of such changes is most likely under-reported. The FCRO continues to report these instances to the Department of Health and Human Services (DHHS) for correction.

Per the Family Policy Act (Neb. Rev. Stat. §43-533), it is the state's policy that the health and safety of the child are of paramount concern; therefore, children's health and safety are the focus of the FCRO's recommendations and this Annual Report.

## APPENDIX A2 - COMPARISON OF THE ROLE OF THE FOSTER CARE REVIEW OFFICE, DHHS, AND THE COURTS

### Role of Citizen Review

#### **Federal and State Mandated Review System**

- Local Boards conduct reviews that meet state and federal mandates, and that focus on children’s best interests

#### **Review Function**

- Focus on child’s best interest per statute ‘to determine the physical, psychological, and sociological circumstances of such foster child’
- Review all documents in the placement agency’s file and seek additional information from other concerned parties
- Analyze plan based on variety of backgrounds and expertise available through multi-disciplinary boards
- Make recommendations to be shared with all legal parties based on knowledge of community services, clearly listing main concerns
- Seek legal intervention when the case review indicates a child is in danger
- Tour facilities per mandate and report concerns to appropriate authorities
- Gather information through reviewing children from all placement agencies and provide a statewide picture of all children in out-of-home care

#### **Tracking Function**

- Track all children in out-of-home care per statute (FCRO Tracking System)
- Provide statewide picture of all children in out-of-home care on a quarterly basis

### Role of DHHS

#### **Risk Assessment**

- If not an emergency removal, assesses family to determine child’s risk if allowed to remain in the home

#### **Case Management and Planning**

- Ensures case management
- Develops the child’s case plan, and presents the plan to the courts, updating the plan at least every 6 months
- Initiates action toward termination of parental rights, if in child’s best interests
- Facilitates court orders

#### **Places Children**

- Places children in a foster home, relative’s home, or group home that is to meet the child’s needs or places the child with the parent(s)
- Provides oversight of the placement and services for the child

#### **Provides Assessments & Services**

- Assesses the child and family in order to determine needed services to support family reunification
- Provides for services for children in out-of-home care, such as counseling, medical, dental, and treatment services
- Provides for services to children and families where children are able to remain in the home of origin with HHS supervision
- Informs the courts of services offered and accepted

#### **Reports to the FCRO**

- Informs the FCRO of child’s removals from the home, placement or case management changes, and case closings, per statute (using DHHS N-FOCUS)

### Role of the Court

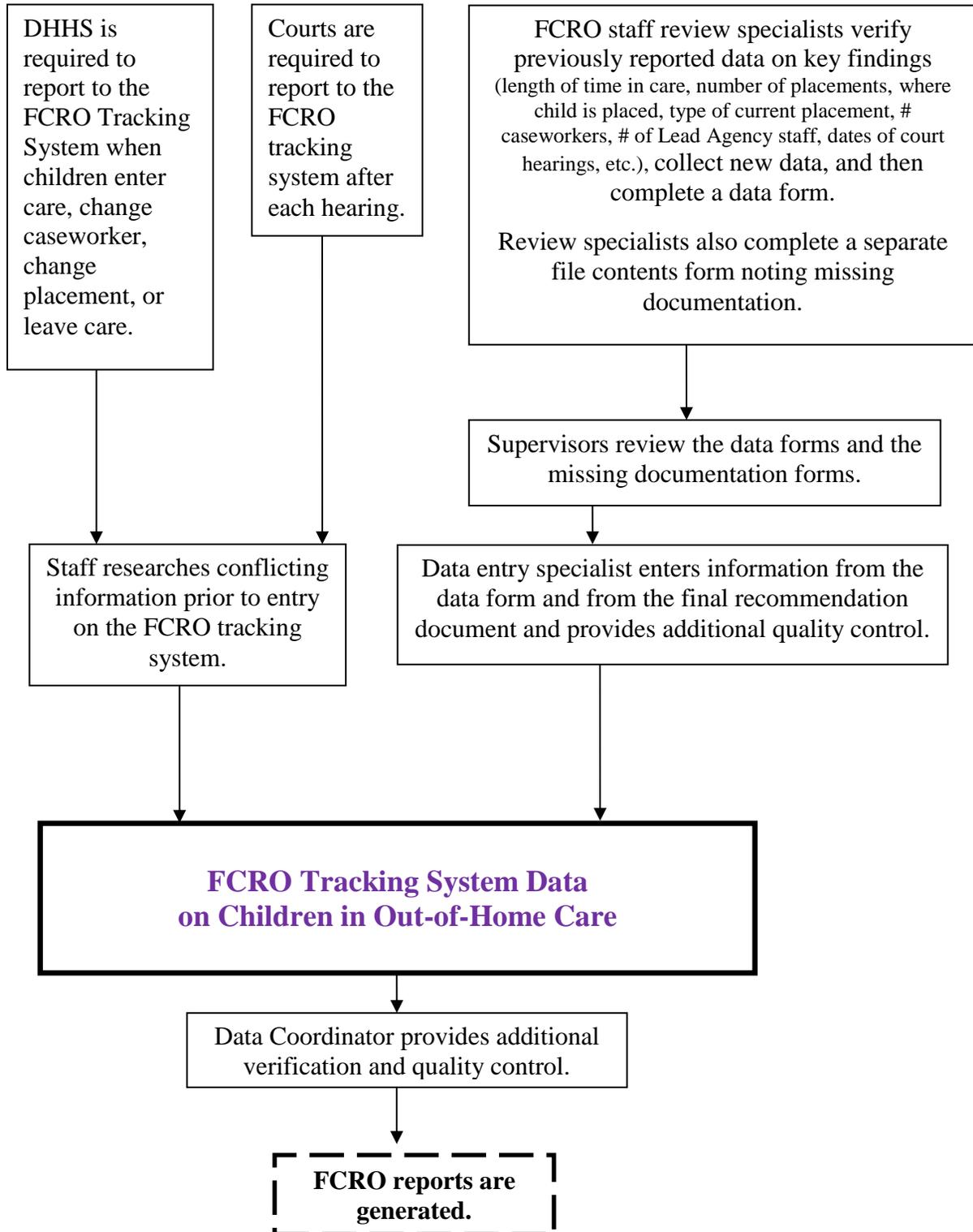
#### **Due Process**

- Ensure due process rights are protected
- Ensure all parties are present and have legal advice

#### **Fact Finding and Decision Making**

- Act as fact finder
- Provide adjudication and disposition of case
- Monitor parental compliance
- Order services based on facts presented as evidence
- Makes judicial record for permanency plan if child is not able to return home
- Makes review that is on record and may be appealed
- Acts as ultimate decision-maker on family reunification, adoption, independent living, termination of parental rights

**APPENDIX A3 - THE FCRO TRACKING PROCESS**



## APPENDIX A4 – FACILITY ACKNOWLEDGEMENTS

The staff and volunteers that serve on local boards would like to acknowledge the achievements and efforts of the following: Public Libraries, Hospitals, Police Departments, Fire Stations, Facilities, and Churches across the State for allowing the FCRO to use their facilities at no cost for local board meetings and educational programs. This partnership has helped extend the work of the FCRO by allowing the FCRO's budget resources to be stretched farther.

As of June 30, 2014, these included:

Bergan Mercy Hospital, Omaha  
Calvary United Methodist Church, Lincoln  
Christ United Methodist, Lincoln  
Columbus Library, Columbus  
Countryside Community Church, Omaha  
Durham Outpatient Care Center, Omaha  
First Lutheran Church, South Sioux City  
First United Methodist Church, Omaha  
Fremont Presbyterian Church, Fremont  
Grand Generation Center, Grand Island  
Grand Island Fire Station 1, Grand Island  
LaVista Community Center, LaVista  
Law Enforcement Center, Kearney  
Lexington Library, Lexington  
Lifelong Learning Center, Norfolk  
Life Spring Church, Bellevue  
Lutheran Church of the Masters, Omaha  
Madonna Rehabilitation Center, Omaha  
North Platte Community College, North Platte  
Pacific Hills Lutheran, Omaha  
Regional West Medical Center, Scottsbluff  
St. Andrew's Episcopal Church, Omaha  
St. Elizabeth Ann Seton Catholic Church, Omaha  
St. John's Lutheran Church, Tecumseh  
State Office Building, Omaha  
Swanson Library, Omaha  
Sump Library, Papillion  
United Lutheran Church, Lincoln  
VerMeer Center, St. Mark's Church, Lincoln  
York General Hospital, York

## APPENDIX A5 - LOCAL FOSTER CARE REVIEW BOARD MEMBERS

The Foster Care Review Office gratefully acknowledges the perseverance and dedication of each local board member citizen reviewer. The following persons served on a local board on June 30, 2014:

Ables-Athy, Susan	Burr, Barbara	Elkins, Concepcion (Connie)
Adams, Virginia	Burton, Julie	Engdahl, Vera
Aerni, Mike	Butler, Yvette	Evans, Georgie
Aksamit, Donna	Cajka, Elizabeth	Finke, Anthony
Aksamit, Matt	Calahan, Jennifer	Footte, Jeffrey
Albrecht, Connie	Campbell, Aldo	Fouraker, Marcia
Ambrose, Mary	Campbell, Candace	Fraber, Glenda
Amos, Jill	Candy, Patricia	Frederick, Susan
Andersen, Dawn	Carlson, Heidi	Freeman, Bryan
Anderson, Eddie	Carnahan, Bess	Freouf, Judith
Anderson, Jacqueline	Christensen, Cassandra	Fricke, Margaret
Anderson, Rosalee	Cirone, Sharon	Galbraith, Chantalle
Armsbury, Kathleen	Clark, Trisha	Gallardo, Mary
Arroyo-Herrera, Adriana	Clark, April	Gault, Martha
Baker, Bruce	Clark, LuEtta	Gay, Hobart
Barnes, Rebecca	Cluck, Lisa	Gentle, Jennifer
Barney, Robert	Collamer, William	Goecke, Polly
Bartek, JoAnn	Coltrane, Donna	Goldner, Kay
Bartle, Margaret	Combs, Judy	Gonnella, Laura
Bednarz, Angel	Connealy, Margaret	Goodwin, Teia
Bencker, Judith	Crimmins, Megan	Graeve, Theresa
Benjamin, Linda	Currie, Alexander	Graeve, Theresa
Benson, Denise	Davis, Jodi	Gust, Mary
Bergman, Maycee	Davis-Yoakum, Joanna	Halpine, Kristen
Bernthal, Marilyn	DeFreece, Donna	Hanson, Patricia
Bharwani, Sara	Dethlefs, Katie	Harder, Mary
Bizzarri, Joseph	Dieckmann, Stacey	Hare, Thomas
Bohac, Cassidy	Digeronimo, Justine	Hargens, Staci
Bolte, Janice	Dixon, Jaunita	Harig, Sheryl
Bottger, Connie	Donegan, Jo	Harrington, Curtis
Boyer, Brook	Downs, Yvonne	Hatcher, Mandy
Bratt, Katheryn	Dryburgh, Jeanne	Haunton, C. Jeffrey
Broderick, Linda	Dupell, Ronald	Hawk, Traci
Brown, Dianne	Dvorak, Lynette	Hazelrigg, Paula
Brown, James	Dykes, Tina	Hegarty, Marylou
Brown, Monica	Ediger, Gladys	Hegemann, Gena
Brune, Nancy	Edwards, Jolaine	Heldenbrand, Jessie
Buethe, Evelyn	Ehegartner, Cara	Henjes, Katherine
Buller, Barbara	Eledge, Margaret	Herrera, Lori
Bunner, Nancy	Eley, Linda	Hibbs, Janet

Hibler, Hope	Lausterer, Diane	O'Brien (Owens), Debra
Higgins, Joy	Lausterer, Kris	Parde, Molly
Hilbert, Jessica	LeClair, Denise	Parsons, Gerald
Hinrichs, Valarie	LeGrow, Kara	Patrick, Carole
Hinrichsen, Mary Jane	Lembke, Colleen	Patterson, Megan
Hinrikus, Patricia	Lemburg, Priscilla	Peck Todd, Nancy
Hoffman, Patricia	Lindmier, Catherine	Pemberton, Erin
Hoover, Lola	Linscott, Cathryn	Petersen, Noelle
Hopkins, Deborah	Lipska, Janet	Peterson, Nancy
Hughes, Linda	Lockhart, Barbara	Peterson, Nicole
Hunter, Kathleen	Loehring, Adrien	Pfaff, Patricia
Hurlburt, Daniel	Losole, Diane	Pham, Laura
Hurlburt, Heather	Lozos, Christine	Pluhacek, Jeannie
Hynes, Michelle	Lusk, Anna	Polak, Jacquelyn
Irvine, Jennifer	Lydick, Diane	Ponce, Georgina
Jamison, Wilma	Magni, Patricia	Porter, Judith
Janssen, Charolett	Martinez, Anthony	Prado, Ramon
Jensen, Marie	Mauch, Desiree	Quathammer, Sandra
Johnson, Brandy	May, Mary	Ramirez, Alfredo
Johnson, Ida	Mays, Jareldine	Rannells, Julie
Johnson, Pamela	Mazankowski, Amy	Redwing, Julie
Jones, Kainette	McChargue, Tracey	Rein, Greg
Kaiser, Kathleene	McGinn, Joellen	Richard, Wilma
Katskee, Patricia	McIntosh, Barbara	Richardson, LaVonne
Kephart, Jennifer	McKesson, Nicole	Rips, Sara
King, Catherine	McMeen, Katherine	Rogers, Janet
King, Patricia	Medina, Ernesto	Root, Pamela
Kline, Jeanine	Mendlick, Sharon	Rupp, Elizabeth
Knerr, Sabrina	Meter, Judy	Rupprecht, Catherine
Knorr, Shirley	Meyers, Marie	Ruth, Patricia
Kohles, Susan	Meza, Angela	Samland, Kathleen
Kohles, Robert	Miller, Sharon	Sasser, Minnie
Koller, Rebecca	Mimick, Dana	Schenken, Charlotte
Kollmar, Ruthie	Minske, Loey	Schmid, Myrna
Komenda, Laura	Mollner, Mary	Schraeder, Catherine
Kopp, Rainer	Moore, Kimberly	Schroeder, Dave
Korth, Meghan	Moore, Sherilyn	Schulze, Mark
Kotchian, Sarah	Mosier, Margie	Scott - Mordhorst, Tina
Kracht, Rosemary	Mueller, Kurtiss	Seka, Paulette
Kroon, Sandra	Mullins, Iola	Seyfarth, John
Kruback, Sandra	Nepper, Mindy	Shaffer, Peggy
Kruse, Ruth	Newman, Mary	Shasserre, Joshua
Kuskie, Jackie	Nider, Tom	Sheehan, Lori
Lake, Ruth	Nipp, Mary Patricia	Sherer, Nicole
Larson, Teresa	O'Brien, Amy	Sherer, Scott
Larson, Theresa	O'Brien, Sandra	Sramek, Karen

Sim, Patricia  
Sims, Linda  
Sinclair, Gwen  
Sinclair, Tom  
Smith, Lisa  
Snyder, Jennifer  
Snyder, Lindsay  
Sobeski (Farho), Linda  
Somershiser, Rhonda  
Stafford, Tara  
Stiverson, Mary  
Stranglen, Joyce  
Suing, Mark  
Taylor, Lori  
Taylor-Riley, Kimberly  
Tegeler, Nancy

Thomas, Marge  
Timm, Craig  
Titkemeier, Beverly  
Todd, Lisa  
Trigg, Sue  
Urbanek, Greg  
Valenti, Dedrie  
Vana, Roberta  
Vandewege, Jerene  
VanLaningham, Jody  
Victor, Kendra  
Walker, Lisa  
Warwick, Wauneta  
Watchorn Newbrey, Robyn  
Watson, Christine  
Webb, Mark

Weber, Bridget  
Weihsing, Debra  
Wilhelm, Roberta  
Williams, Sarah  
Wilson, Billie  
Wilson, Monica  
Wolfe, Beverly  
Wombacher, Claudia  
Woody, Roberta  
Woolley, Alton  
Worden, Joan  
Wright, Denise  
Wright, Shanna  
Young, Kimberly  
Zetterman, Emily

## **APPENDIX A6 - LOCAL FOSTER CARE REVIEW BOARD MEMBER BACKGROUNDS**

FCRO governing statutes state, “In order to develop a strong, well-balanced local board membership the members of the local board shall reasonably represent the various social, economic, racial, and ethnic groups of the county or counties from which its members may be appointed.”

Statute also states that “no one employed by a child welfare agency may be appointed to a local board. Court personnel, agency personnel, and persons employed by a child placement agency are not eligible to serve on local boards or the Advisory Committee.”

The Foster Care Review Office makes every effort to recruit volunteers from different socio-economic levels, as well as a variety of ethnic and occupational backgrounds that reflect the makeup of the community as a whole.

The members serving on June 30, 2014, represent the following background categories (some in multiple categories).

Education / Library Sciences	85
Social Work / CASA	48
Business / Self-employed	39
Medical / Pharmacy	28
Legal / Law enforcement	19
Counselor / Therapist	19
Volunteer / Retired / Homemaker	18
Other	19

## **APPENDIX A7 - FOSTER CARE REVIEW OFFICE**

### **Major Activities During FY2013-14**

#### **Tracking:**

- Tracked 5,466 children who were in foster care during the period as reported to the FCRO by DHHS, the Courts, and private agencies (but not Probation).
- Entered comprehensive data gathered during 4,451 reviews.
- Updated the data tool used during reviews in order to collect more data elements reflective of the current child welfare system.
- Completed the first phase (when caseworkers change) of the electronic data transfer of reports from DHHS to the FCRO tracking system.

#### **Disseminate Information:**

- Provided information on children in out-of-home care for the Through the Eyes of the Child teams, the Kids Count Report, the United Way, and CASA officials.
- The annual report and quarterly reports were disseminated.
- Participated in numerous collaborative groups.
- The FCRO Director became a member of the Children's Commission.

#### **Reviews:**

- Assigned over 4,700 children for review by citizen review boards across the state, (including alternates in case an assigned child had left care.)
- Completed 4,451 reviews on 3,179 children.
  - Made nearly 8,000 collateral contacts as part of the review process.
  - For each of the reviews conducted, a report with case-specific recommendations was issued to the legal parties in the case, such as the courts, agencies (e.g., DHHS), parental attorneys, guardians ad litem, county attorneys, and other legal parties. This resulted in a total of approximately 31,175 reports being issued.
- Jointly staffed children's cases (met to find solutions to serious issues) with DHHS/Lead agencies.
- Facilitated local board members volunteering over 35,000 hours of service.
- Began creating internet videos on select topics for staff and local board member training.

## APPENDIX B - COUNTY DATA

The following is a sample of some of the county level data the FCRO has available. In this case it is for DHHS wards in out-of-home care on June 30, 2014. **Please contact the FCRO if you would like any additional information.**

	Children	Age 0-5	Age 6-12	Age 13-15	In Out-of-Home More Than Once	Children with 4 or more Lifetime Placements	4 or more lifetime workers (DHHS or lead agency)	% range of Children in Poverty Per Nebr. Dept. of Labor
Adams	57	24	21	12	19	11	27	15-19%
Antelope	10	1	4	5	5	4	3	15-19%
Arthur	1			1	1	1		<10%
Banner	0							20%+
Blaine	0							20%+
Boone	11	4	4	3	1	1	1	<10%
Box Butte	6	4	1	1	3	2	3	20%+
Boyd	1		1		1	1	1	<10%
Brown	0							<10%
Buffalo	117	54	40	23	26	22	39	10-14%
Burt	9	2	2	5	3	1	4	<10%
Butler	12	1	5	6	6	5	5	10-14%
Cass	23	2	9	12	15	14	14	<10%
Cedar	0							<10%
Chase	8	4	1	3	4	3	4	20%+
Cherry	3		3				3	<10%
Cheyenne	8	2	4	2	2	1	2	15-19%
Clay	8	2	2	4	2	3	6	10-14%
Colfax	11	4	4	3	3	3	4	15-19%
Cuming	3		2	1	1	3	3	10-14%
Custer	2			2			2	10-14%
Dakota	15	6	5	4	3	5	7	20%+
Dawes	0							20%+
Dawson	43	19	10	14	10	8	5	15-19%
Deuel	1	1						20%+
Dixon	4	1	2	1			1	15-19%
Dodge	101	31	40	30	35	26	45	15-19%
Douglas	1203	429	408	363	385	464	453	15-19%
Dundy	2		2		2	2	2	10-14%
Fillmore	5			5	2	3	3	<10%
Franklin	9	1	2	6	3	4	5	20%+
Frontier	1			1	1			15-19%

	Children	Age 0-5	Age 6-12	Age 13-15	In Out-of-Home More Than Once	Children with 4 or more Lifetime Placements	4 or more lifetime workers (DHHS or lead agency)	% range of Children in Poverty Per Nebr. Dept. of Labor
Furnas	5	3	1	1			1	20%+
Gage	19	6	5	8	1	1	3	15-19%
Garden	1			1		1		15-19%
Garfield	0							20%+
Gosper	1		1		1	1	1	10-14%
Grant	0							20%+
Greeley	6	3	3					15-19%
Hall	78	32	23	23	30	27	35	15-19%
Hamilton	3	2		1	1	1	2	10-14%
Harlan	6		1	5	2	2	2	15-19%
Hayes	0							10-14%
Hitchcock	1			1	1	1	1	20%+
Holt	8	2	3	3	4	4	4	10-14%
Hooker	0							20%+
Howard	1		1					10-14%
Jefferson	4		1	3		2	3	15-19%
Johnson	6	4		2	5	5	4	15-19%
Kearney	25	6	13	6	11	6	15	<10%
Keith	12	7	3	2	2	2	3	10-14%
Keya Paha	0							20%+
Kimball	6	2	2	2	2	2	3	10-14%
Knox	0							20%+
Lancaster	527	225	146	156	162	183	239	15-19%
Lincoln	83	40	21	22	25	24	23	10-14%
Logan	0						1	<10%
Loup	1			1	1	1		20%+
Madison	57	31	15	11	15	15	12	15-19%
McPherson	0							10-14%
Merrick	6	2	3	1	1	1	1	10-14%
Morrill	3	1		2		2	2	20%+
Nance	10	6	1	3	5	3	4	10-14%
Nemaha	10	4	4	2	4		6	<10%
Nuckolls	1			1	1	1	1	20%+
Otoe	34	7	16	11	15	8	16	15-19%
Pawnee	6	3	3					15-19%
Perkins	3		1	2	1	1	1	<10%
Phelps	9	1	4	4	3	3	6	10-14%

	Children	Age 0-5	Age 6-12	Age 13-15	In Out-of-Home More Than Once	Children with 4 or more Lifetime Placements	4 or more lifetime workers (DHHS or lead agency)	% range of Children in Poverty Per Nebr. Dept. of Labor
Pierce	8	1	3	4	6	6	6	<10%
Platte	43	25	13	5	7	4	14	10-14%
Polk	4	1	1	2	3	3	3	<10%
Red Willow	14	4	6	4	7	1	1	15-19%
Richardson	9	2	2	5	4	3	3	20%+
Rock	0							10-14%
Saline	24	3	7	14	14	10	17	20%+
Sarpy	170	61	39	70	62	47	76	<10%
Saunders	22	12	5	5	4	4	8	10-14%
Scotts Bluff	63	28	18	17	21	20	32	20%+
Seward	11	4	4	3	3	1	3	<10%
Sheridan	3	2	1					20%+
Sherman	0							20%+
Sioux	0							10-14%
Stanton	4	4			1	1	1	15-19%
Thayer	4	2	1	1	2	2	1	10-14%
Thomas	0							<10%
Thurston	3	1	2				3	20%+
Valley	2			2	2	2	2	<10%
Washington	9	5	3	1	4	4	5	<10%
Wayne	7	3	2	2	1		1	20%+
Webster	1			1	1	1	1	15-19%
Wheeler	0							10-14%
York	22	6	8	8	8	8	8	<10%
<b>Totals</b>	<b>3026</b>	<b>1143</b>	<b>958</b>	<b>925</b>	<b>976</b>	<b>1001</b>	<b>1216</b>	

## APPENDIX C - BARRIERS TO PERMANENCY IDENTIFIED DURING REVIEWS CONDUCTED JANUARY-JUNE 2014

The following chart categorizes the barriers and lists the number of children impacted.

<b>Children Impacted</b>	<b>Barriers regarding Mother</b>
612 (27%)	Lack progress on adjudicated issues that led to removal
463 (21%)	Lack of housing
457 (20%)	Refuses to engage in services (post-adjudication)
436 (19%)	Need time to complete services
386 (17%)	Not attending parenting time (visitation) consistently
379	Lack of employment/income
355	Substance abuse current issue impeding reunification
252	Mental health current issue impeding reunification
117	Whereabouts unknown
112	Parent unable to deal with child's behaviors
94	Incarceration that may/will impede reunification
88	Continuing domestic violence impeding reunification
60	Other issue regarding mother
54	Pending criminal charges may/will impede reunif.
45	Low functioning parent
20	Communication barriers (language, culture)
19	Physical health of parent impedes parenting
13	Aggravated circumstances
6	Medicaid after permanency concerns
1	Not identified and/or proven to be the parent
1	Parent not notified child in care

<b>Children Impacted</b>	<b>Barriers regarding Father</b>
259 (12%)	Not identified and/or proven to be the parent as a barrier to permanency
250	Whereabouts unknown
231	Need time to complete services
207	Incarceration that may/will impede reunification
200	Not attending parenting time (visitation) consistently
199	Refuses to engage in services (post-adjudication)
197	Lack progress on adjudicated issues that led to removal
176	Lack of housing
124	Substance abuse current issue impeding reunif.
106	Lack of employment/income
58	Mental health current issue impeding reunification
49	Continuing domestic violence impeding reunification
39	Pending criminal charges may/will impede reunif.
37	Other issue regarding father
30	Parent unable to deal with child's behaviors

23	Low functioning parent
22	Aggravated circumstances
12	Communication barriers (language, culture)
12	Physical health of parent impedes parenting
4	Parent not notified child in care
0	Medicaid after permanency concerns

<b>Children Impacted</b>	<b>Barriers regarding Case Management</b>
168 (7%)	Lack info on whether there is progress or a lack of progress
140	Adoption paperwork incomplete
46	Guardianship paperwork incomplete
44	Worker changes
36	Need family finding/relative ID
35	Services not provided/arranged
19	Other issue re HHS
18	Independent living skills not provided
17	Non-custodial parent not located
15	Info doesn't match case plan
6	No services to address cultural/language barriers
5	Parent on waiting list for services
2	ICWA notification not made

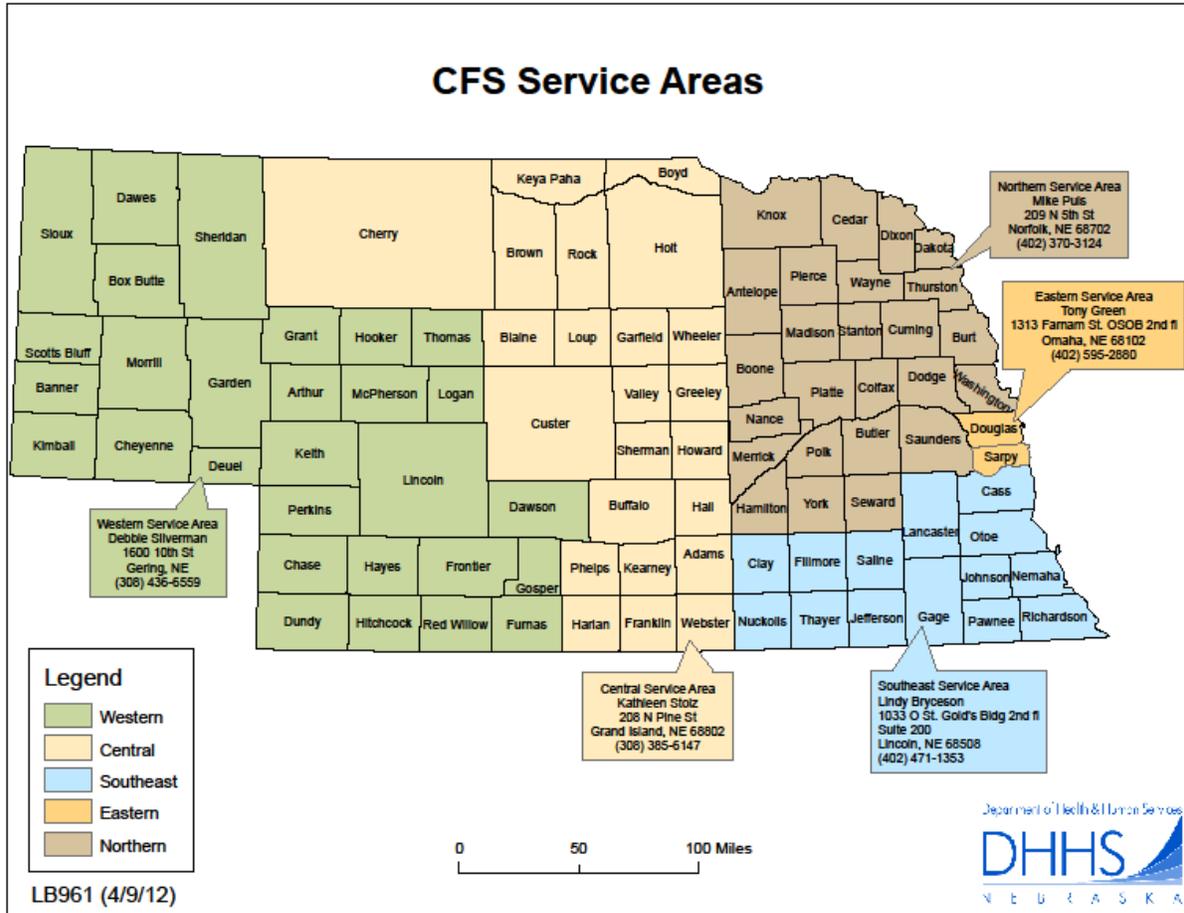
<b>Children Impacted</b>	<b>Barriers regarding Court and/or the Legal System</b>
105	Need supplemental petition
105	TPR hearing is pending
95	GAL contact issues
87	Appropriate plan not adopted
83	Court delays/continuances
54	Waiting TPR appeal
47	Request to file TPR not sent to County Attorney
31	Other issue re legal system
27	Non-custodial parent to be legally established
24	ICWA issues
20	Appeal (other than TPR)
19	Immigration issues
16	County Attorney or GAL refuses file TPR
14	ICPC issues
11	Legal parties disagree
9	Custody issues

<b>Children Impacted</b>	<b>Barriers about the Placement</b>
107	Other issue re placement
104	Not in pre-adoptive placement
60	Not in pre guardian placement
52	Not 6 months in pre-adoptive placement
23	Distance to parents
0	Distance to school

<b>Children Impacted</b>	<b>Barriers Regarding Policy and/or System Issues</b>
32	Adoption subsidy issues
17	Issue with transfer to/from Probation
13	Guardianship subsidy issues
6	Other policy issue
1	Exception to guardianship for a young child not made
0	Issues with who pays for services

## APPENDIX D - SERVICE AREAS

The map below showing the Service Areas is courtesy of the Department of Health and Human Services. When the Foster Care Review Office refers to a “service area” it is using the same definition as DHHS.



## APPENDIX E - FEDERAL IV-E FUNDS

The Title IV-E (pronounced 4E) Foster Care program provides funds to States to assist with: the costs of foster care maintenance for eligible children; administrative costs to manage the program; and training for staff, for foster parents and for private agency staff. These funds are part of the Social Security Act. The purpose of the program is to help states provide proper care for children that need placement outside their homes, in a foster family home or an institution and that have not only experienced abuse or neglect, but also family income deprivation. In 2012, Nebraska collected a total of \$29,952,711 in federal IV-E funds.<sup>102</sup>

In Public Law (PL) 96-272, it states that part of this large federal grant should be made available to entities conducting the periodic review of IV-E eligible children in out-of-home care.

When LB 642 was put in place on July 1996, the FCRO became Nebraska's IV-E Federal Review Agency. The FCRO is responsible for the periodic review of IV-E children in out-of-home care pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272. As a result, the FCRO receives some federal money to use toward conducting its reviews of children deemed eligible.

### WHAT DOES IV-E ELIGIBLE MEAN?

A child is IV-E eligible when the following are all in place: a child or a child's caregiver is determined to have been eligible to receive federal assistance such as ADC, Social Security, etc., at the time the child was removed (using 1996 income rates), the original court order contained correct language, and the child is placed in certain types of facilities (a licensed foster home qualifies, a youth detention facility does not).

DHHS Income Maintenance Workers, in conjunction with the DHHS Protection and Safety Case Worker, obtain the financial and other information and make the determination, which the federal government will periodically review. Children's IV-E status is reported to the FCRO via N-FOCUS (the DHHS computer system).

### HOW MANY ARE ELIGIBLE?

**On June 30, 2014, 1,227 (41%) of the 3,029 DHHS wards in out-of-home care were qualified for IV-E funding.**

This is a lower penetration rate than most other states, primarily because the economic threshold for qualifying for Nebraska ADC in 1996 was so much more stringent than most other states.

### HOW DOES THE FCRO ASSIST IN DETERMINING IV-E ELIGIBILITY?

The FCRO assists in determining IV-E eligibility by reviewing the IV-E status of children being reviewed, participating with a multi-disciplinary team overseeing systemic efforts to ensure children's IV-E eligibility, and communicating issues concerning children's IV-E eligibility to relevant parties.

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<sup>102</sup> 2012 Casey Child Welfare Financing Survey.

## APPENDIX F - COURT HEARINGS

REPORT & INVESTIGATION -- A Case enters Juvenile court when a report of child abuse and/or neglect has been received by law enforcement, investigated, and substantiated. If the case is not diverted through voluntary services, law enforcement gives the evidence to the County Attorney.



PETITION -- The County Attorney decides whether to file a petition. For abuse/neglect a petition would be filed under §43-247(3a). At this time the allegations of the problem/crime are stated. Nothing is determined, found, or ordered at this point. A petition must be filed within 48 hours of a child being removed or the child goes home.



DETENTION HEARING -- Finds if probable cause exists to warrant the continuance of court action or the child remaining in out of home care. The case is either set for an adjudication hearing or the child is returned home and charges dropped. If set for adjudication, a Guardian ad Litem, also known as a GAL, [attorney representing the child's best interests] should be appointed at this time.



PRE-HEARING CONFERENCE -- According to the Through the Eyes of a Child website, <http://www.throughtheeyes.org/>, a pre-hearing conference is an informal, facilitated meeting prior to appearing in court.<sup>103</sup> The purpose of the Pre-Hearing conference is three-fold: (1) to gather information about the family at the beginning of the court process, (2) to include the parents in decision-making process and improve their buy-in, and (3) to identify and initiate necessary services as soon as possible.



ADJUDICATION HEARING -- By law this must occur within 90 days of the child entering out of home care. In practice the 90 day rule is not always adhered to. An adjudication hearing can be either contested or non-contested. Contested means that the parents deny the allegations and full trial with evidence ensues. At this hearing the finding of fact occurs, the allegations of the petition are found to be either true or false, and the child is either made a state ward or not.



DISPOSITIONAL HEARING -- At this time a plan is ordered which addresses the reasons why the court action began. A rehabilitation plan for the parents is ordered.



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<sup>103</sup> Through the Eyes of a Child is an initiative of the Supreme Court.

**DISPOSITIONAL REVIEW HEARINGS** -- Under Neb. Rev. Stat. §43-1313, when a child is placed in foster care, the court having jurisdiction must review on the record the dispositional order for the child at least once every six months. At that hearing the court is required to determine whether the physical, psychological, and sociological needs of the child are being met. The court may reaffirm the prior dispositional order, or order another disposition for the child.

Court reviews are to continue for as long as the child remains under the court's jurisdiction, even if an aspect of the case (such as a termination of parental rights) is under appeal.

The FCRO makes every attempt to schedule its review of the child's case to occur just prior to the court's six month review so that the court and all the legal parties have current, relevant information from the reviews to use when making the required determinations. The FCRO has an internal quality control practice in place whereby it can assess how effectively the scheduling of FCRO reviews coordinates with court reviews and make practice changes as warranted.



**12 MONTH PERMANENCY HEARINGS** -- Under Neb. Rev. Stat. §43-1312(3), courts shall have a permanency hearing no later than 12 months after the date the child enters foster care and annually thereafter. The 12-month permanency hearing is a pivotal point in each child's case at which the court should determine whether the pursuit of reunification remains a viable option, or whether alternative permanency for the child should be pursued. To make this determination, adequate evidence is needed, as well as a clear focus on the purpose of these special hearings.

Whenever possible this hearing should be the moment where case direction is decided. Even if there are good reasons for waiting before making the final decisions, such as a brief wait for parents or child to complete a particular service or have a particular evaluation, the permanency hearing can and must serve a useful function. In those cases the hearing should reinforce that the only delays to permanency the court will tolerate are those that are in the child's best interests, and that children not only deserve permanency, it is a basic developmental need.

Some courts are setting the dates for this hearing at the beginning of the case, informing parents of the need for timely compliance, and using the hearings to set case direction.



**EXCEPTION HEARINGS** -- If children have been in out-of-home care for 15 of the past 22 months, the Courts are required to have a hearing to determine if a termination of parental rights should be filed. These hearings need to be effectively documented.

Also,

**AGGRAVATED CIRCUMSTANCE HEARINGS** – In cases where the parent has subjected a juvenile to “aggravated circumstances,” prosecutors (county attorneys) can request a finding from the court that will excuse the State from its duty to make reasonable efforts to preserve and unify the family, if it can be shown that this would be in the child’s best interests.

The phrase “aggravated circumstances” has been judicially interpreted to mean that the nature of the abuse or neglect is so severe or so repetitive (e.g., involvement in the murder of a sibling, parental rights to a sibling have been involuntarily terminated for a similar condition, felonious assault of the child or a sibling, some forms of sexual abuse, etc.) that reunification with the child’s parents jeopardizes and compromises the child’s safety and well-being.

This was put into the law so that children do not unnecessarily linger in foster care while efforts are made to rehabilitate parents whose past actions have indicated will likely never be able to safely parent their children. Efforts to reunify in these types of cases can expose children to further trauma, particularly when forced to spend time with the offending parent(s) or to contemplate a potential return to their care.

When the court grants an exception, the prosecutor can begin the process for a termination of parental rights trial, and DHHS can create a plan of adoption or guardianship. This finding does not circumvent the parent’s due process rights, and a termination of parental rights trial is still necessary before children can be placed for adoption. Parents still have a right to appeal a termination finding.



**The Foster Care Review Office can be reached at:**

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402.471.4420**

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