



# State of Nebraska Foster Care Review Office

ANNUAL REPORT  
2018-2019

Issued September 1, 2019

Pursuant to Neb. Rev. Stat. 43-1303(4)

LB1078 (2018) effective July 19, 2018  
changed the due date of the FCRO annual  
report from December 1 to September 1  
of each year.

***This Annual Report is dedicated to the 325+ Foster Care Review Office local board members that meet each month to review children’s cases; the 28 FCRO staff members 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 each day to improve conditions for children in out-of-home care.***

### **Advisory Committee Members**

(All Volunteers)

<b><u>Member</u></b>	<b><u>Represents</u></b>	<b><u>Term Expires</u></b>
Michael Aerni, Fremont	Local Board	March 1, 2021
Michele Marsh, MD, Omaha	At Large	March 1, 2021
Noelle Peterson, Lincoln (vice-chair)	Local Board	March 1, 2021
Timothy Robinson, PhD, JD, Omaha	Data Analysis	March 1, 2020
Peggy Snurr, Beatrice (chair)	Local Board	March 1, 2020

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# 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)*

## Executive Summary

In fiscal year 2018-19 (July 1, 2018-June 30, 2019), the FCRO tracked information regarding the experiences of **7,321 children who were removed from their home** and put in to state custody or care through the child welfare or juvenile probation systems.

Tracking is facilitated by the FCRO's independent data system, through collaboration with our partners at NDHHS and the Administrative Office of Probation. Every episode in care, placement change, and worker change is tracked; relevant court information for each child is gathered and monitored; and data relevant to the children reviewed is gathered and entered into the data system by FCRO staff. This allows us to analyze large scale system changes and select children for citizen review based on their time in care and the date of those children's upcoming court hearings.

Once a child is selected for review, FCRO System Oversight Specialists track children's outcomes and facilitate citizen reviews. Local board members, who are community volunteers that have successfully completed required instruction, conduct case file reviews and make required findings. In fiscal year 2018-19, local board members:

- Conducted **4,223 reviews of cases involving 3,277 NDHHS wards**<sup>1</sup> in out-of-home care<sup>2</sup> or trial home visit placement,<sup>3</sup> and
- Conducted **280 reviews of 276 youth in out-of-home care supervised by the Office of Probation Administration** that had no simultaneous child welfare system involvement.
- Conducted **14 reviews of 14 youth placed at the YRTC** that had no simultaneous child welfare system involvement.

The oversight role of the FCRO is two-fold. During each case file review, the needs of each specific child are reviewed, and if the system is not meeting those needs, the FCRO will

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<sup>1</sup> Children are typically reviewed once every six months for as long as they remain in out-of-home care or trial home visit; therefore, some children will have two reviews during a 12-month period.

<sup>2</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. These are court ordered placements.

<sup>3</sup> Neb. Rev. Stat. §43-1301(11) defines a trial home visit as "Trial home visit means a placement of a court-involved juvenile who goes from a foster care placement back to his or her legal parent or parents or guardian but remains as a ward of the state." This applies only to NDHHS wards, not to youth who are only under Probation supervision.

advocate for the best interest of the individual child. Simultaneously, the data collected from every case file review is used to provide a system-wide view of changes, successes, and challenges of the complicated worlds of child welfare and juvenile justice.

Our role is to push those systems to best meet the needs of all children, and to ensure that children are better off when they leave out-of-home care than when they entered. The recommendations in this report are based on the careful analysis of the FCRO data that follows.

From the required yearly analysis and over 4,000 reviews of children's cases, **the FCRO finds that many problems in child welfare and juvenile justice remain to be addressed and some new issues have arisen.** In summary,

- Nebraska families continue to struggle with substance use, domestic violence, and access to mental health treatment.
- Child welfare has not yet made significant improvements to several persistent issues. This includes, but is not limited to, too many caseworker changes, children with multiple removals from their homes, adjudication delays, courts inconsistently holding required exception hearings, courts often not making required federal SFA findings, and older children infrequently attending court hearings that will impact their future.
- Juvenile Probation continues to have challenges across the state providing community-based services needed to prevent removals from the home, and creating transition plans for youth returning to their communities.
- For the second year in a row there was a decrease in the number of state wards, mainly due to more families being served via in-home, non-court services. However, it is unclear if those families are faring better because the FCRO does not have authority to provide oversight to the front-end of the child welfare system, there is no court involvement, and there is no other independent oversight to that part of the system.
- FCRO strongly encourages stakeholders to act upon the FCRO's recommendations from fiscal year 2017-18, most of which were not addressed this past year. Until needed improvements are made it is unlikely that Nebraska will see significant positive changes in outcome measures for children in its custody or care.

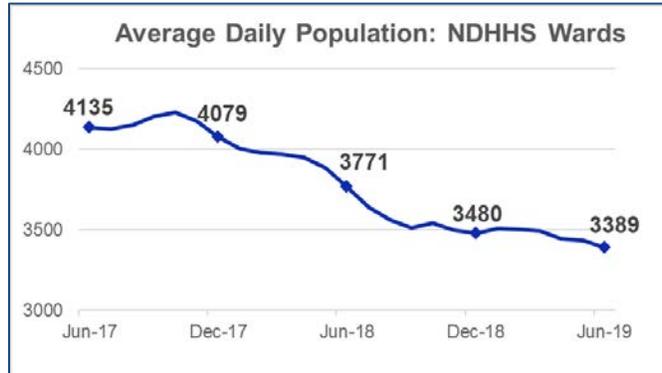
**The FCRO will continue to tenaciously make recommendations, and to repeat unaddressed recommendations as applicable, until Nebraska's child welfare and juvenile justice systems have a stable, well-supported workforce that is strongly encouraged to utilize best practices and has access to a broad range of proven, effective services in all areas of the state.**

We look forward to the opportunity to work with our system partners to improve the lives of Nebraska's most vulnerable citizens.

## Child Welfare

### Decrease in state wards in out-of-home or trial home visit placement

The most significant finding about the child welfare population is the decline in the number of children out-of-home. From June of 2018 to June of 2019, there has been an **10.1% decrease in the number of NDHHS state wards in care** (page 2), following an 8.8% decrease in the previous fiscal year. While all areas of the state have seen a decrease in the number of children in care, the decline is most substantial for the Northern (-20.3%) and Southeast (-16.0%) service areas.



This population decrease is explained by fewer children entering foster care, beginning in the fall of 2017. NDHHS CQI data indicates that during the same time period, a lower percentage of CPS intakes were accepted for assessment and a higher number of families were served through in-home, non-court services.<sup>4</sup> The FCRO does not, however, provide oversight to the front-end of the child welfare system, and therefore cannot fully assess how and if these changes better serve children and families.

The changes in how children and families are served by the child welfare system shifted the landscape of child welfare, and many Nebraska stakeholders, the FCRO included, expressed frustration over the initial lack of collaboration and transparency. The FCRO firmly believes that children and families are best served in their homes when it is safe to do so, and that only children whose safety cannot be assured should be placed in temporary foster care. The FCRO also believes that systematic external oversight is essential to ensuring safety for Nebraska's most vulnerable children.

The federal Family First Prevention Services Act (FFPSA) will once again change the landscape of child welfare in Nebraska and the nation as a whole. These changes will begin to impact practice in FY2019-20. NDHHS has been keeping stakeholders advised as they have learned of finalization of federal regulations of the different components of the FFPSA.<sup>5</sup>

### Children and their experiences in care

- Children continue to be placed in family-like settings at high rates (**96.9%**), which are the least restrictive settings (page 14). As has been the trend for the past few years, over half (**53.0%**) of all children placed in a family like setting are placed with relatives or kin.

<sup>4</sup> Nebraska Department of Health and Human Services. "Nebraska Continuous Quality Improvement (CQI): Child Protection & Safety." June 2019. Available at: <http://dhhs.ne.gov/CFS%20CQI%20Quarterly%20Metrics/June%202019%20Continuous%20Quality%20Improvement%20Metrics.pdf>

<sup>5</sup> <http://dhhs.ne.gov/Pages/Family-First.aspx>

- While the FCRO is encouraged that children are often placed with persons known to them, thus reducing the trauma of removal, we recommend licensing for relative and kin placements. This will provide a standardized training for these caregivers, increase knowledge of available supports, reduce placement changes, and increase the amount of Federal Title IV-E funds accessed by the State.
- Caseworker changes remain all too frequent for children in foster care, with **18.5% of children out-of-home or in trial home visit having 5 or more caseworkers this episode** (*page 18*).
  - The Eastern Service Area, which during this fiscal year was served by the private contractor PromiseShip, has the second highest proportion of children with 5 or more caseworkers (**20.2%**).
    - In early July 2019, NDHHS announced that St. Francis Ministries will assume the ESA contract for case management beginning December 2019. The contract change should have no effect on the data presented here, as this data is from before the announced change, and is similar to data on the ESA caseworker changes for the past several years.
  - The Northern Service Area, which historically had the most stable caseworker population, now has the highest proportion of children with 5 or more caseworkers (**21.2%**) for the second year in a row.
    - The Northern Service Area also had a lower rate of caseworker contact with children every 60 days (**91.2%** compared to a state average of **98.3%**).
- Far too many children have multiple episodes in foster care (**23.6%**), including **10.8% of children 5 or younger** (*page 19*).
- Almost half (**44.8%**) of children reviewed had a mental health diagnosis at the time of review (*page 46-47*). Additionally, many children reviewed in out-of-home care had one or more chronic cognitive or physical health impairments.
- Of all children reviewed, **5.4%** qualified for developmental disability services (*page 49*). **Almost 2/3 (61.4%) of the children who qualified for disability services were not receiving those services through the NDHHS Division of Disability Services.**
- Both school performance and negative behaviors at school vary by gender (*page 51*). For children reviewed, **13.7% of girls and 21.2% of boys were not on target to graduate.** Boys were more likely than girls to have occasional and consistent behavior problems at school.

### Parents of Children in Care

- The most common reason children were removed from their homes was parental neglect (**66.7%**). Neglect is often a symptom of an underlying condition, most commonly drug use, violence in the home, and parental mental health condition. These underlying conditions must be addressed before children can safely return home.

- **About one-fourth** of children's parents court-ordered to have visitation were not consistently visiting their children (*page 30*).

### The Child Welfare System

- The FCRO was unable to determine if **5.9%** of children reviewed were safe in their current placement (*page 25*). This was frequently due to a lack of critical documentation about the placement, often due to a lack of a completed home study.
- Nearly **17%** of children reviewed changed placements within the prior six months (*page 26*). Most concerning, **27.7% of placement moves were due to provider request**, up from 24.4% in the prior fiscal year. Additionally, **5.4% of placement changes were due to allegations of abuse/neglect in the foster home**.
- Children in a trial home visit at the time of review were less likely than children placed out-of-home to have safety measures in their case plan (**89.6% and 94.4%, respectively**). Given that children in a trial home visit are returning to a setting that was at one point deemed unsafe and that trial home visits are less likely to be monitored by outside contractors for safety, it is especially critical that safety measures are well-thought out and documented for this population (*page 32*).
- **For over half of the children in out-of-home care reviewed, cases were stagnating and permanency is still far away** (*pages 34-35*). For **27.4%** of children out-of-home, there was no progress toward the primary permanency goal, and for an additional **25.2%** progress was minimal. Furthermore, **5.7% of 14 to 18 year olds with a permanency objective of reunification did not want to return home** (*page 34*).
- ICWA cultural plans had been developed for only **56.0%** of ICWA qualified children reviewed during the fiscal year (*page 40*).
- In FY 2018-19, **143 youth left the child welfare system on the day they reached legal adulthood having never reached permanency** (*page 5 and page 52*). Improvement is needed in preparing older children for adult lives, given that **29.8%** of those required to have a completed independent living assessment did not, **only 45.8%** of older youth identified their required transition team, and a significant number of older children were either not obtaining skills for adulthood (**16.0%**) or the FCRO could not determine if they were (**23.6%**).
- Approximately **1 in 4** children reviewed had a court-ordered concurrent permanency objective. And, in over **50%** of cases in which there was a concurrent objective, either partial or no progress was being made (*pages 35-36*).

### Courts

- For approximately **1 in 3 children (30.7%)** reviewed, adjudication occurred more than 3 months after removal (*page 38*).
- Exception hearings should be held for all children in care 15 of the past 22 months, but for **28.2% of those children reviewed the exception hearing had not occurred**

(page 39). The FCRO was unable to determine if the exception hearing had occurred for an additional **17.1%** of children.

- The FCRO is adamant that children’s voices need to be heard throughout the entirety of a case, especially older children. **Yet, during FY 2018-19 just 14.6% of children aged 10-18 attended court hearings** (page 40). Furthermore, the court is to inquire if children 14-18 were involved in developing the case plan, however the FCRO could confirm this occurred in **only 42.7% of cases**, which was a significant increase from the 14.6% the previous year.
- Only **1/3 of court orders contained the required Strengthening Families Act (SFA) findings** (pages 40-41).

## Youth in Out-of-Home Care Supervised by the Office of Probation Administration

### Increase in the population of Probation supervised youth in out-of-home care

From June 2017 to June 2018, the population of Probation supervised youth in out-of-home care has increased by **2.5%** (page 6). This slight increase in the population occurred after a significant decrease (-14.4%) in the previous fiscal year. Last year’s population decrease was driven by large decreases in the use of out-of-home care in Lancaster and Douglas counties. During FY2018-19, Lancaster county’s out-of-home population was stable throughout the year and Douglas county’s out-of-home population increased (page 7). The peak average daily population of youth in out-of-home care occurred in April 2019 (**950**), and steadily decreased in the last two months of the fiscal year.



- Districts 1, 6, 7, and 10 have seen decreases in the number of youth in out-of-home care throughout FY2018-19.
- In addition to District 4J (Douglas county), Districts 2, 5, 8, 9, 11, and 12 have seen increases in the number of youth in out-of-home care throughout FY2018-19.

### Probation Supervised Youth in Out-of-Home Care

- Racial disproportionality in the juvenile justice population continues to be a concern (pages 56-57). Youth who are Non-Hispanic Black or African American make up 5.6% of Nebraska’s population, but **24.2%** of the Probation supervised youth in out-of-home care. Non-Hispanic American Indian youth are 1.1% of Nebraska’s youth population, but **5.6%** of the out-of-home population.
- The majority (**59.8%**) of Probation supervised youth in out-of-home care are in a non-treatment congregate (group) care facility (page 57). Considering **89.8%** of reviewed

Probation supervised youth have a professionally identified mental health condition (*page 67*) and **45.1%** have a substance use issue (*pages 67-68*), treatment-centered facilities are vital to meeting the needs of the population.

- While it is not surprising that the most common barrier for returning home is a youth needing time to complete services or treatment (**65.6%**), it is concerning that for **18.7%** of youth reviewed, their parents' inability to manage the youth's behaviors was a barrier to returning home (*page 66*). For **7.3% of the youth** their parents were unwilling to take them home. These issues are beyond the control of the individual youth, and it is important that the juvenile justice system identify concrete action steps when parents' issues prevent youth from returning home.
- **Roughly one-third (36.8%) of the Probation supervised youth reviewed had a previous out-of-home care episode with NDHHS-CFS** (*page 67*).

### The Juvenile Probation System

- A significant number of Probation supervised youth out-of-home (**53.4%**) did not receive community-based services prior to initial placement out-of-home (*page 60*).
- Youth in the 4J and 3J Probation Districts (Douglas and Lancaster counties, respectively) were much more likely to have a written transition plan available for review than all other Probation Districts; **91.8% compared to 60.8%** (*page 62*).
- **For 29.3% of probation youth reviewed, their risk to re-offend as measured by the evidence-based YLS tool, increased while out-of-home.** For an additional **46.8%**, there was no change in YLS score from adjudication to FCRO review (*page 64-65*).
- Local boards were consistently unable to determine important findings because of a lack of appropriate documentation and FCRO staff made corrections to the placement history of **22.5%** of the reviewed youth (*page 61*). Improved documentation is not only beneficial to the FCRO, but improves internal consistency and reduction of duplicative work if probation officer changes are necessary.

### Courts

- **12 probation youth reviewed by the FCRO were placed in out-of-home care and had no legal representation** (*page 70*).

## **ACTION ON LAST YEAR’S RECOMMENDATIONS**

The FCRO carefully analyzes and makes recommendations each year as required by statute based on factors described through each annual report. Recommendations described yearly are important changes that must occur in order to effectuate positive outcomes for children and their families.

**The chart in this section describes the progress or lack thereof on many of the FCRO’s major recommendations from last year. As a result many of these recommendations will be re-issued this year.**

<b>FY2017-18 Recommendation</b>	<b>Status as of 6/2019</b>
<p>Conduct a legislative study examining changes needed to the juvenile court jurisdiction statute found at Neb. Rev. Stat. §43-247 and ways to improve the prosecutorial model used in Nebraska to effectively address the needs of children and families. This study must include the following: a) the scope of the legal ability of the court in delinquency actions to require parents to participate in services; b) the legal definitions regarding a no-fault abuse/neglect filing and a status offender filing; c) the legal definitions regarding a juvenile mental health commitment filing; and d) ways to achieve consistency in the filing of juvenile court actions.</p>	<p><b>No progress.</b>  <b>The FCRO continues to advocate for this recommendation.</b></p>
<p>Conduct a legislative study to assist in developing an external oversight system for non-court child welfare families, which would include compliance with NDHHS-CFS policy and Nebraska statutes and the need and availability of services statewide to ensure children remain safe and their best interests remain at the forefront.</p>	<p><b>Progress.</b>  <b>LR105 and LR160 are set for hearing this fall before the HHS Committee. Based upon the results of the hearing, discussions are set to occur to determine any needed next steps.</b></p>

FY2017-18 Recommendation	Status as of 6/2019
<p>Enact legislation requiring that all children/youth involved in the child welfare and juvenile justice system must attend every court hearing after adjudication unless the court waives their presence after a court hearing. By keeping the child/youth at the forefront, this requires all parties to be trauma-informed and sensitive to their needs.</p>	<p><b>No progress.</b>  <b>The FCRO continues to advocate for this recommendation.</b></p>
<p>Enact legislation requiring that all relative and kinship placements must obtain a child-specific foster care license within 120 days of placement. This legislation must include the requirement that NDHHS, through its regulations, create the process for obtaining a child-specific foster care license.</p>	<p><b>No progress.</b>  <b>The FCRO continues to advocate for this recommendation.</b></p>
<p>Enact legislation ensuring that all youth involved in the juvenile justice system have access to court-appointed legal counsel unless waived by the youth.</p>	<p><b>Some Progress.</b>  <b>LB231 remains before the Unicameral. The FCRO strongly supports enactment of this legislation.</b></p>
<p>Enact legislation amending the Nebraska statutes regarding the legal basis for the termination of parental rights and the process for the filing of these legal actions.</p>	<p><b>Progress.</b>  <b>LB388 remains before the Unicameral. The FCRO strongly supports enactment of this legislation.</b></p>
<p>Require that all guardians ad litem must receive a copy of the home study prior to placement of a child in a home or within 60 days if the placement is the first placement of a child.</p>	<p><b>No progress.</b>  <b>The FCRO continues to advocate for this recommendation.</b></p>
<p>Ensure compliance with the Supreme Courts' Progression Standards for juvenile court.</p>	<p><b>Significant progress.</b>  <b>The Nebraska Supreme Court has consistently moved forward in creating and implementing these standards for all judges.</b>   <b>The FCRO commends the Supreme Court on their progress.</b></p>

FY2017-18 Recommendation	Status as of 6/2019
Explore the feasibility and impact of court review hearings held every three months instead of every six months to increase accountability across the system.	<b>No progress.</b> The FCRO continues to advocate for this recommendation.
Ensure that the child/youth’s voice is integrated into all legal proceedings including appearance at court hearings and involvement in all aspects of case planning.	<b>No progress.</b> The FCRO continues to advocate for this recommendation.
Establish clear and concise policy and procedures with regard to effective safety planning to include clear expectations for the families and mechanisms to ensure compliance with the safety plan. This is true whether the safety plan involves a court-involved case or non-court case or out-of-home placement.	<b>Some progress.</b> There continues to be the need for clear and concise policies and procedures with regard to safety planning. NDHHS is implementing safety organized practice that should assist with proactive steps forward.
Determine the feasibility of replicating the Robert F Kennedy National Resource Center for Juvenile Justice System’s Assessment in District 4J (Douglas County)	<b>Some progress.</b> Discussions have just begun on this recommendation.
Creation of concrete action steps when parents’ issues prevent a youth from returning home in collaboration with all juvenile justice stakeholders	<b>Some progress.</b> NDHHS and the Office of Probation have begun work on this issue but currently no formal action steps have been developed.
Complete a collaborative study on how children move from the child welfare system to the juvenile justice system to the adult correctional system	<b>No progress.</b> The FCRO continues to advocate for this recommendation.

FY2017-18 Recommendation	Status as of 6/2019
<p>Establish an effective, evidence-supported, goal driven, out-come based service array throughout the State to meet the needs of children and families involved in the child welfare system to include the following:</p> <ol style="list-style-type: none"> <li>a. Preventative services for neglect and substance use in collaboration with NDHHS Behavioral Health;</li> <li>b. Out-of-home services such a family support and parenting time services that have the least traumatic impact on children.</li> <li>c. Stabilization of placements and recruitment of foster parents based upon the needs of the child/youth in collaboration with foster care providers;</li> <li>d. Creation of treatment foster care services which actively engage families and would meet the needs of older youth;</li> <li>e. In-home supports for foster parents especially relative/kin placements;</li> <li>f. Mental and behavioral services for children/youth in collaborations with NDHHS Behavioral Health;</li> <li>g. Developmental disability services for children/youth in collaboration with NDHHS Developmental Disabilities; and</li> <li>h. Enhanced services and case management for older youth.</li> </ol>	<p><b>Some progress.</b></p> <ul style="list-style-type: none"> <li>• <b>With the passage of the Federal Families First Prevention Act, NDHHS has been working on the creation and implementation of evidence-supported prevention and in-home services.</b></li> <li>• <b>The Nebraska Supreme Court Commission on Children in the Courts has been working on ensuring these services are available state-wide, especially in the rural areas.</b></li> <li>• <b>The Nebraska Children’s Commission workgroup has been working on treatment foster care, but there remains impediments to implementation within NDHHS Medicaid.</b></li> <li>• <b>The NDHHS System of Care workgroups have been working on the creation and implementation of mental health crisis stabilization services state-wide.</b></li> <li>• <b>The Nebraska Coalition for Juvenile Justice and the Juvenile Services Committee of the Nebraska Children’s Commission have been working on educational resources regarding juvenile suicides and continue to work on information of needed processes and services for those youth.</b></li> <li>• <b>There has been no progress or decision regarding the need for developmental disability services for child welfare children.</b></li> </ul>

FY2017-18 Recommendation	Status as of 6/2019
<p>Establish an effective, evidence-supported, goal driven, out-come based service array throughout the State to meet the needs of youth involved in the juvenile justice system to include the following:</p> <ul style="list-style-type: none"> <li>a. Community based services prior to being placed out-of-home.</li> <li>b. Recruitment and retention of foster homes to meet the needs of probation youth.</li> <li>c. Creation of services for parents to assist in managing the behaviors of their youth.</li> </ul>	<p><b>Some progress.</b>  <b>The Supreme Court Commission on Children in the Courts has created a workgroup that has diligently been working on increasing the needed services in the rural areas.</b></p>
<p>Complete a collaborative study regarding creation of a systemic response when a child or family is in crisis. This must be based on the needs of the child and not just on the fastest or easiest way to access services. Too often, the child welfare system is the quickest way to access services but not always the most appropriate and even sometimes can do the most harm to the child. This study should include ways to break down silos within NDHHS to ensure that the most appropriate NDHHS division is meeting the short-term and long-term needs of the child and family. This study must also include an evaluation of the various State and federal funding sources for each of these divisions and re-appropriation of funds between NDHHS divisions as needed.</p>	<p><b>No progress.</b>  <b>The FCRO continues to advocate for this recommendation. The Nebraska Children’s Commission, with its multi-disciplinary makeup, could spearhead this effort.</b></p>

## CURRENT (FY2018-19) RECOMMENDATIONS

As an independent oversight entity, the FCRO is able to make recommendations that reflect a comprehensive, statewide perspective based on the following:

- Annual completion of over 4,000 individual case file reviews on children in out-of-home care by multi-disciplinary local boards located statewide and staffed by FCRO System Oversight Specialists,
- The FCRO's research, collection, and analysis of critical data on children in the child welfare and juvenile justice systems.

The FCRO takes the responsibility to make our statutorily mandated recommendations on systemic improvements seriously. Recommendations, like all other work of the FCRO, are made with a focus on meeting children's best interests. Many of our recommendations have not changed since the publication of the FCRO's 2018 Annual Report because the issues have yet to be adequately addressed.

### Legislative:

1. Conduct a legislative study examining changes needed to the juvenile court jurisdiction statute found at Neb. Rev. Stat. §43-247 and ways to improve the prosecutorial model used in Nebraska to effectively address the needs of children and families. This study must include the following: a) the scope of the legal ability of the court in delinquency actions to require parents to participate in services; b) the legal definitions regarding a no-fault abuse/neglect filing and a status offender filing; c) the legal definitions regarding a juvenile mental health commitment filing; and d) ways to achieve consistency in the filing of juvenile court actions. (Reissued from 2018 Annual Report)
2. Conduct a legislative study to assist in developing an external oversight system for non-court child welfare families, which would include compliance with NDHHS-CFS policy and Nebraska statutes and the need and availability of services statewide to ensure children remain safe and their best interests remain at the forefront. (Reissued from 2018 Annual Report)
3. Enact legislation requiring that all children/youth involved in the child welfare and juvenile justice system must attend every court hearing after adjudication unless the court waives their presence after a court hearing. By keeping the child/youth at the forefront, this requires all parties to be trauma-informed and sensitive to their needs. (Reissued from 2018 Annual Report)
4. Enact legislation requiring that all relative and kinship placements must obtain a child-specific foster care license within 120 days of placement. This legislation must include the requirement that NDHHS, through its regulations, create the process for obtaining a child-specific foster care license. (Reissued from 2018 Annual Report)

5. Enact legislation ensuring that all youth involved in the juvenile justice system have access to court-appointed legal counsel unless waived by the youth. (Reissued from 2018 Annual Report)
6. Enact legislation amending the Nebraska statutes regarding the legal basis for the termination of parental rights and the process for the filing of these legal actions. (Reissued from 2018 Annual Report)

### **NDHHS:**

1. Establish an effective, evidence-supported, goal driven, out-come based service array throughout the State to meet the needs of children and families involved in the child welfare system to include the following:
  - a. Preventative services for neglect and substance use in collaboration with NDHHS Behavioral Health;
  - b. Out-of-home services such a family support and parenting time services that have the least traumatic impact on children.
  - c. Stabilization of placements and recruitment of foster parents based upon the needs of the child/youth in collaboration with foster care providers;
  - d. Creation of treatment foster care services which actively engage families and would meet the needs of older youth;
  - e. In-home supports for foster parents especially relative/kin placements;
  - f. Mental and behavioral services for children/youth in collaborations with NDHHS Behavioral Health;
  - g. Developmental disability services for children/youth in collaboration with NDHHS Developmental Disabilities; and
  - h. Enhanced services and case management for older youth.

(Reissued from 2018 Annual Report)
2. Establish clear and concise policy and procedures with regard to effective safety planning to include clear expectations for the families and mechanisms to ensure compliance with the safety plan. This is true whether the safety plan involves a court-involved case or non-court case or out-of-home placement. (Reissued from 2018 Annual Report)

### **Judicial System:**

1. Require that all guardians ad litem must receive a copy of the home study prior to placement of a child in a home or within 60 days if the placement is the first placement of a child. (Reissued from 2018 Annual Report)
2. Ensure compliance with the Supreme Courts' Progression Standards for juvenile court. (Reissued from 2018 Annual Report)

3. Ensure that the child/youth's voice is integrated into all legal proceedings including appearance at court hearings and involvement in all aspects of case planning. (Reissued from 2018 Annual Report)

### Juvenile Probation:

1. Create concrete action steps when parents' issues prevent a youth from returning home in collaboration with all juvenile justice stakeholders. (Reissued from 2018 Annual Report)
2. Consistently create and use individual transition plans as a guide for readying youth to return to his or her community.
3. Determine why for so many youth the YLS score of risk to re-offend remains constant or even increases after six months or more of Probation out-of-home care.

### Multi-System Stakeholders:

1. Utilize the Nebraska Children's Commission to complete a collaborative study regarding creation of a systemic response when a child or family is in crisis. This must be based on the needs of the child and not just on the fastest or easiest way to access services. Too often, the child welfare system is the quickest way to access services but not always the most appropriate and even sometimes can do the most harm to the child. This study should include ways to break down silos within NDHHS to ensure that the most appropriate NDHHS division is meeting the short-term and long-term needs of the child and family. This study must also include an evaluation of the various State and federal funding sources for each of these divisions and re-appropriation of funds between NDHHS divisions as needed. (Reissued from 2018 Annual Report)

**Every child in the child welfare system should be better off when leaving out-of-home care than when initially entering care. Past traumas should be healed. Relationships with safe and supportive adults should be built or enhanced,** whether that is with the family of origin that has gained the necessary skills to cope with life's challenges, adoptive or guardianship families, or other adults committed to be there for the child now and in the future.

That can best happen if the entire child welfare system considers every policy and practice from a variety of perspectives, and if each component within the larger system has administration and staff that are united, equipped, and supported in achieving the best possible for the children.

**Similarly, the FCRO encourages all involved with youth in juvenile justice who are placed out-of-home to consider policies and practices to safely reduce risk and improve youth's futures while maintaining more youth in the familial home.**

**Further information is available.**

The FCRO has further data and information available on its website, [www.fcro.nebraska.gov](http://www.fcro.nebraska.gov), or through the contact information on the last page of this Annual Report.

# SECTION 1

## ALL NEBRASKA CHILDREN IN OUT-OF-HOME CARE

### CHILDREN AND YOUTH UNDER STATE CUSTODY DURING FY 2018-19<sup>6</sup>

“State custody” as defined here includes children and youth<sup>7</sup> served by one or both of the two major programs (child welfare/foster care and juvenile justice) that have children placed out-of-home.

The population described consists of:

- NDHHS<sup>8</sup> child welfare wards in out-of-home care or trial home visit, in court-ordered placements.
- Office of Probation Administration supervised youth in out-of-home care.
- NDHHS Office of Juvenile Services [OJS] youth in out-of-home care (primarily at the Kearney and Geneva Youth Rehabilitation and Treatment Centers).

This report does not include any children placed out-of-home through the Developmental Disabilities program unless there is simultaneous child welfare involvement.

Per Neb. Rev. Stat. §43-1303(2)(b)(iv), the FCRO is to include in each Annual Report the number of children supervised by the foster care programs in the state annually.

- **7,321** individual (non-duplicated) Nebraska children or youth were in out-of-home care through a state system for one or more days during FY2018-19.
- **462 (6.3%)** of the 7,321 children left care and returned to care during that same 12-month fiscal year.

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<sup>6</sup> The State of Nebraska’s fiscal year is July 1-June 30<sup>th</sup>.

<sup>7</sup> In Nebraska a “child” becomes a legal adult on their 19<sup>th</sup> birthday. The majority involved in the juvenile justice system are age 14-18, therefore in deference to their developmental stage, we generally refer to them as “youth” rather than “children.”

<sup>8</sup> The Nebraska Department of Health and Human Services, Children and Family Services Division.

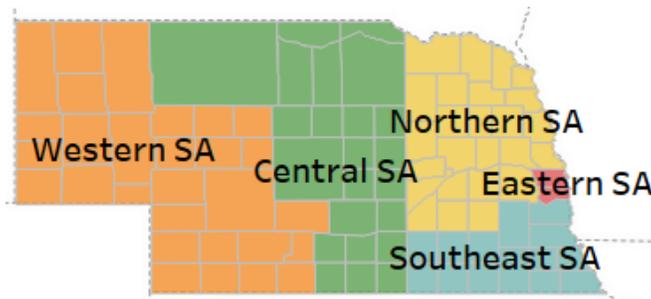
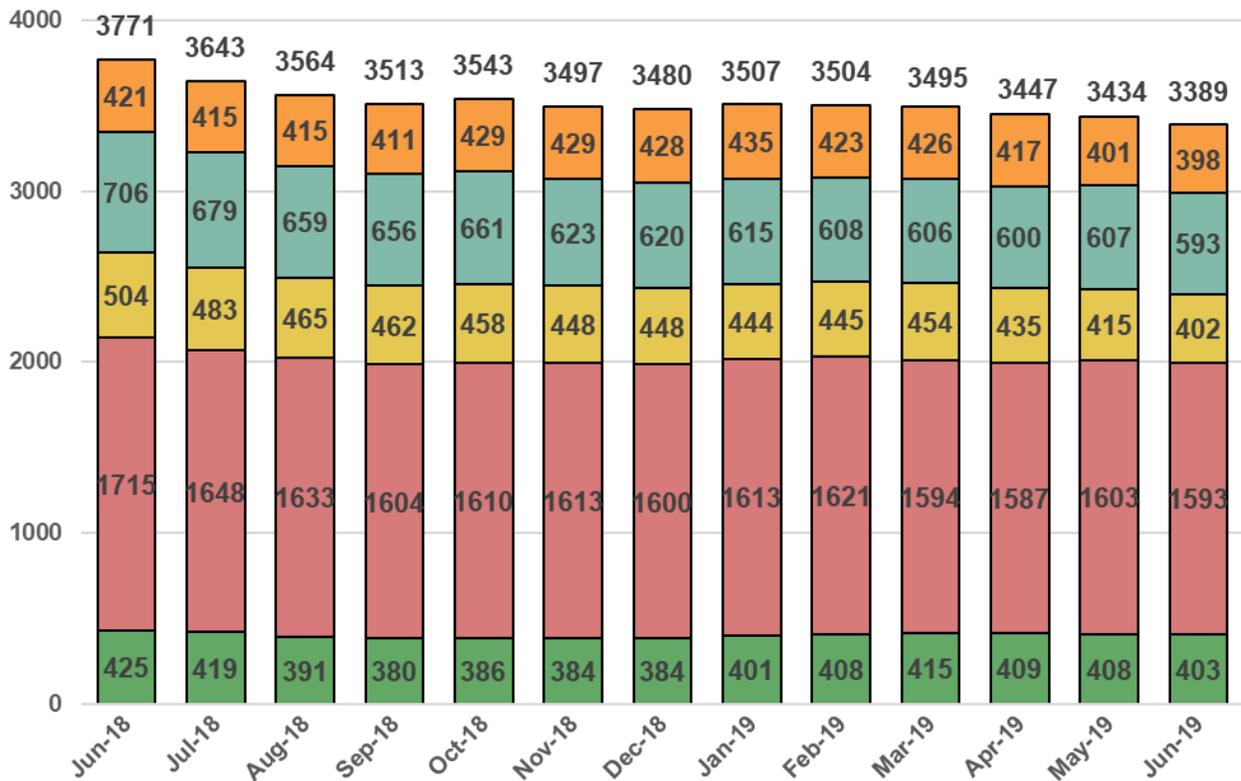
# TRENDS BY SYSTEM

## CHILD WELFARE TRENDS

**Figure 1 below** shows the average daily population (ADP) per month of all NDHHS involved children in out-of-home care or trial home visit (including those simultaneously served by the Office of Probation which is approximately 4% of the NDHHS population) during from June 2018 to June 2019.

**Overall, there has been a 10.1% decrease in state wards** in out of home care when comparing June 2018 to June 2019.

**Figure 1: Average Daily Population of NDHHS Wards**



**Figure 2** demonstrates that all areas of the state saw a decrease in the number of NDHHS wards, though at different rates.<sup>9</sup> After having the largest decrease in children in care during the previous fiscal year, the Central Service Area had the smallest rate of decrease (-5.1%) in FY 2018-19. The Northern Service Area had the largest decrease (-20.3%).

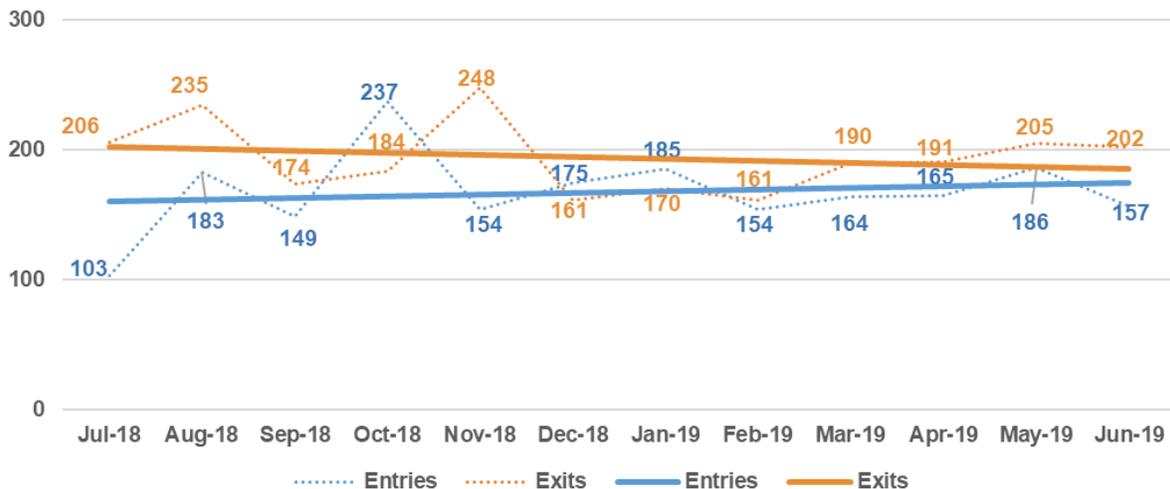
**Figure 2: Percent Change in Average Daily Population of NDHHS Wards by Service Area, June 2018 to June 2019**

	Jun-18	Jun-19	% Change
Central SA	425	403	-5.1%
Eastern SA	1,715	1,593	-7.1%
Northern SA	504	402	-20.3%
Southeast SA	706	593	-16.0%
Western SA	421	398	-5.5%
<b>State</b>	<b>3,771</b>	<b>3,389</b>	<b>-10.1%</b>

The reduction in the population of children in out-of-home and trial home visit can be influenced by many factors, including a decrease in the number of children entering the system, an increase in the number exiting the system, and a decrease in the amount of time a child spends in the system.

Statewide, the number of exits from the foster care system surpassed the number of entries into the foster care system for most months in the period (**Figure 3**).

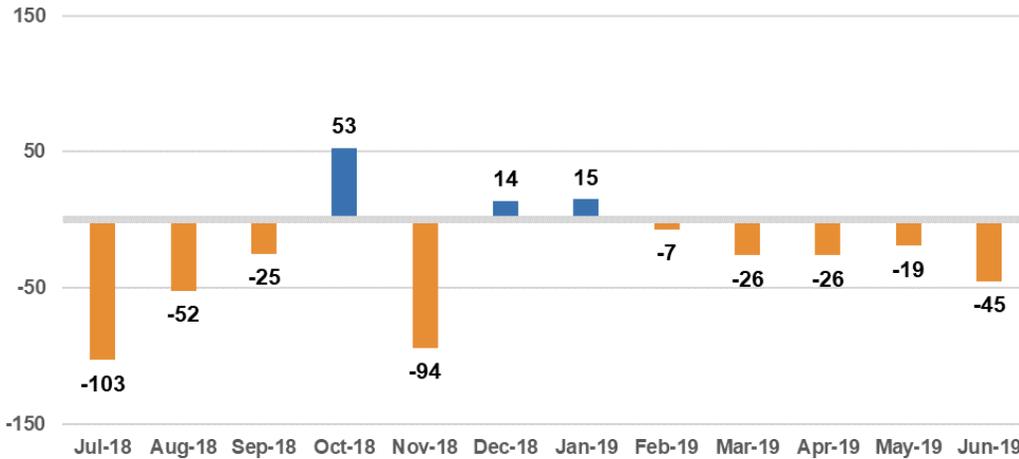
**Figure 3: Monthly Entries and Exits of NDHHS Population, FY2018-19**



<sup>9</sup> See Appendix A (page 80) for a complete list of counties and corresponding NDHHS-CFS Service Areas and Judicial Districts.

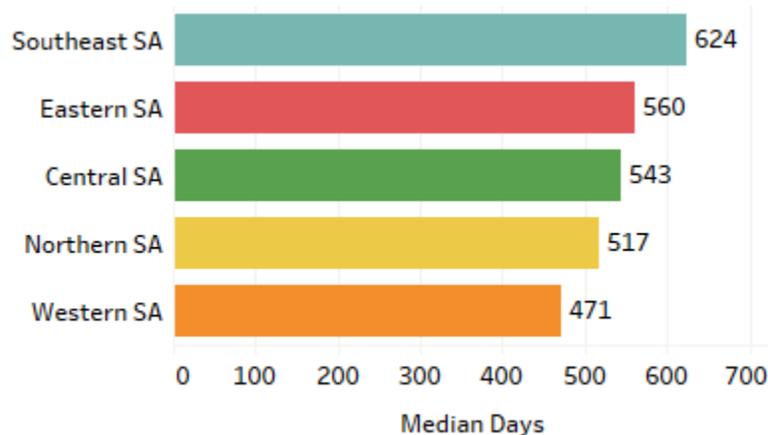
As shown in **Figure 4**, the pattern of more children exiting the foster care system than entering the foster care system leads to the decrease in the overall population.

**Figure 4: Net Monthly Changes in the NDHHS Ward Population, FY2018-19**



The amount of time children spend in care also affects the overall population of children in care. An analysis of all children who left care during the 2018-19 Fiscal Year shows that the median number of days a child spends in care in Nebraska is **546**. This varies by region, from a low of **471** days in the Western Service Area to a high of **624** days in the Southeast Service area (**Figure 5**).

**Figure 5: Median Days in Care for NDHHS Children Exiting FY 2018-19, n=2,327**

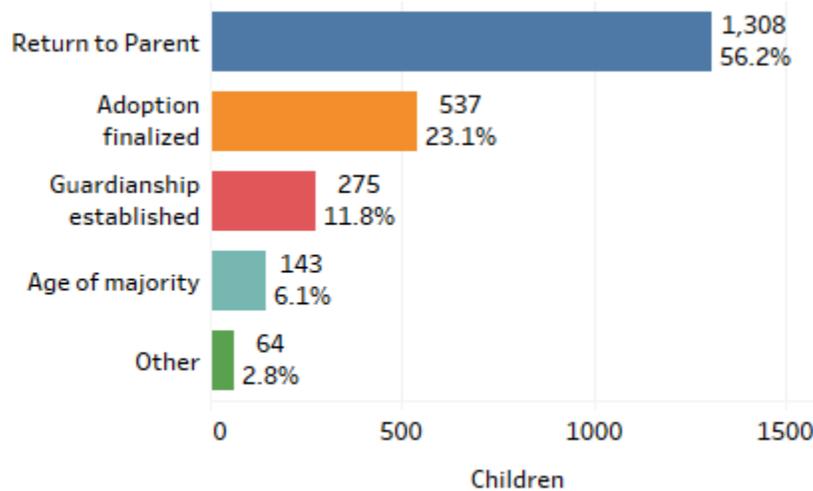


Analysis of the exiting population does not indicate that the decrease in the population of state wards is due to a shortening of the days children spend in care. In fact, the median days figure for the past three years is increasing.

- Median days, fiscal year 2018-19, was 546.
- Median days, fiscal year 2017-18, was 508.
- Median days, fiscal year 2016-17, was 488.

The reason children exit the system has not changed significantly over the past three fiscal years. Approximately **56%** of the children who leave foster care return to a parent, **23%** are adopted, **12%** enter into a guardianship, and **6%** reach the age of majority without a permanent family structure in place (**Figure 6**).

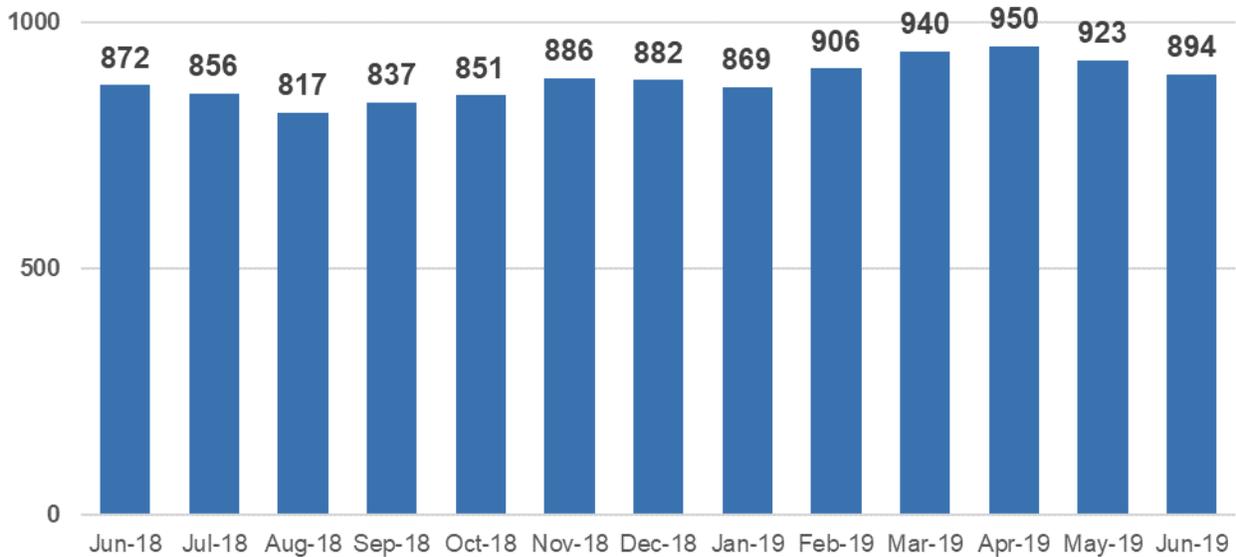
**Figure 6: Exit Reason for NDHHS Children Exiting FY 2018-19, n=2,327**



**PROBATION TRENDS**

**Figure 7** shows the monthly fluctuations in the population of Probation supervised youth in out-of-home care throughout FY2018-19 (including those with simultaneous involvement with NDHHS, which is roughly 15% of the Probation supervised population, and those placed at the YRTC, which is roughly 14%). The average daily population of Probation youth in out-of-home care decreased most significantly in August 2018.

**Figure 7: Probation Average Daily Population in Out-of-Home Care, FY2018-19**



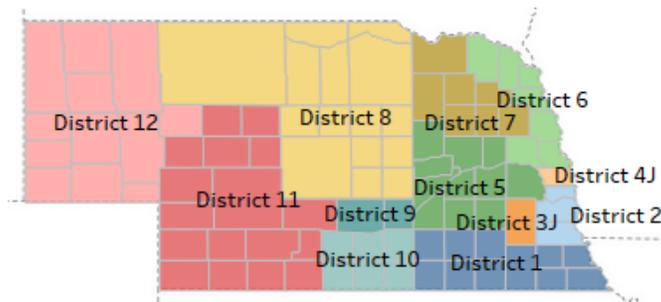
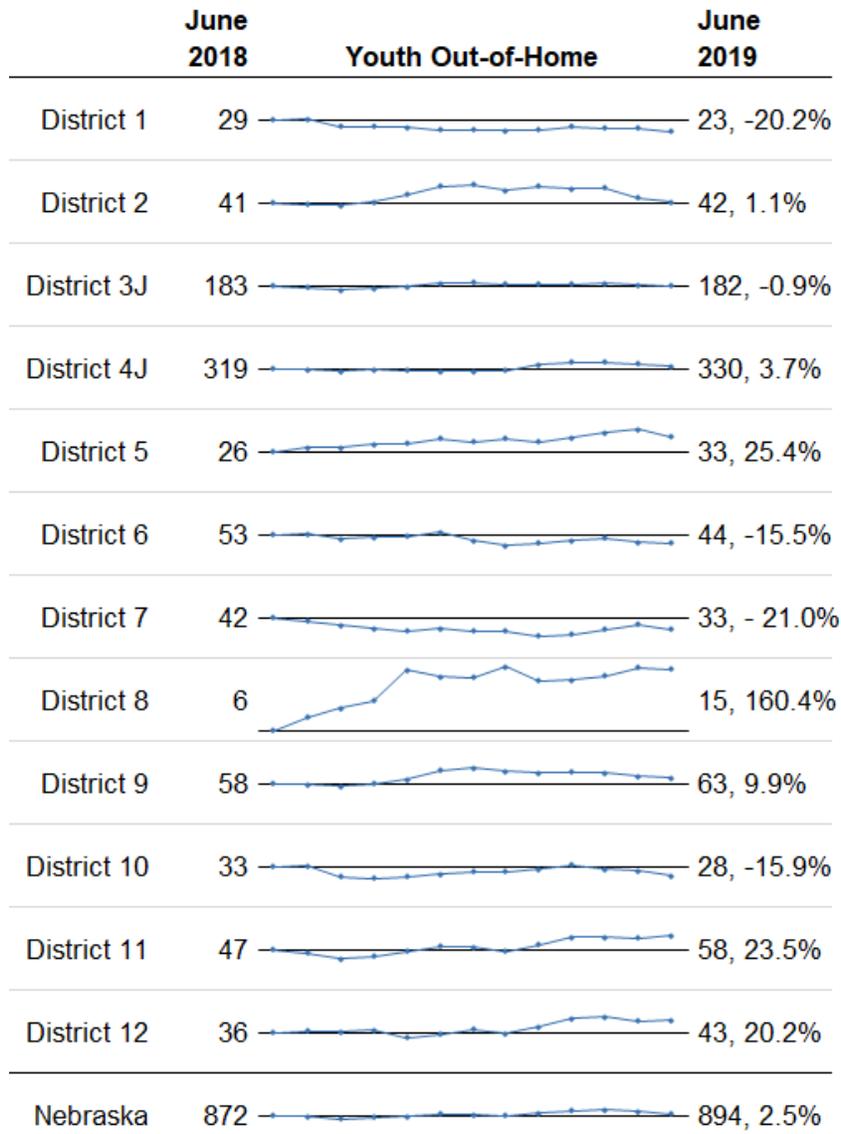
When comparing June 2018 to June 2019, the population of Probation supervised youth in out-of-home care has increased by 2.5%.

As shown in **Figure 8**, the change in the out-of-home population varies throughout the state.<sup>10</sup>

- District 3J (Lancaster County) had a stable number of youth out-of-home during the fiscal year after a significant reduction (-26.8%) in the previous fiscal year.
- Districts 1, 6, 7, and 10 have seen decreases in the number of youth in out-of-home throughout FY2018-19.
- Districts 2, 4J, 5, 8, 9, 11, and 12 have seen increases in the number of youth in out-of-home.

<sup>10</sup> See Appendix A (page 80) for a complete list of counties and corresponding NDHHS-CFS Service Areas and Judicial Districts.

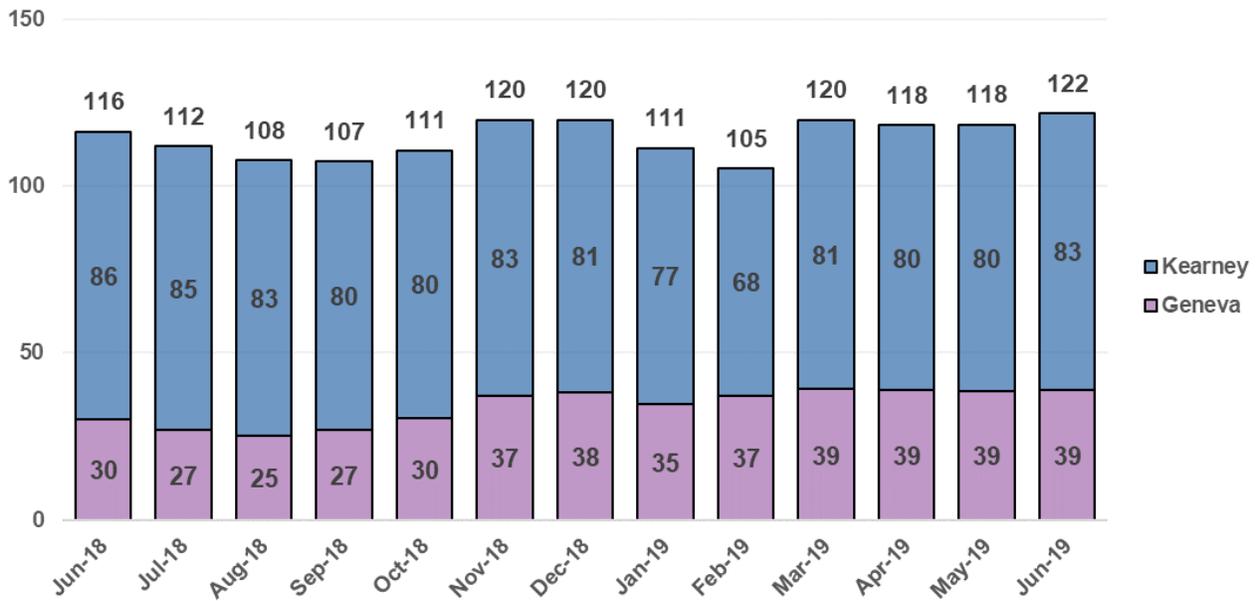
**Figure 8: Percent Change in Average Daily Population of Probation Youth in Out-of-Home Care by Judicial District, June 2018 to June 2019**



**YRTC TRENDS**<sup>11</sup>

**Figure 9** shows the average daily population of OJS wards at each of the Youth Rehabilitation Treatment Centers (YRTC) for FY 2018-19.

**Figure 9: Average Daily Population of OJS Wards Placed at a Youth Rehabilitation and Treatment Center, FY2018-19**



There have been as many as 122 youth placed at a YRTC and as few as 105 youth. The annual trend for the Kearney (boys) YRTC has decreased, and the annual trend for girls at the Geneva YRTC shows a significant increase (**Figure 10**).

**Figure 10: Percent Change in Average Daily Population Youth at the YRTCs, June 2018-June 2019**

	Jun-18	Jun-19	% Change
Geneva	30	39	29.3%
Kearney	86	83	-3.8%
<b>State</b>	<b>116</b>	<b>122</b>	<b>4.8%</b>

<sup>11</sup> Per Neb. Rev. Stat. 43-186 "...When it is alleged that the juvenile has exhausted all levels of Probation supervision and options for community-based services and section 43-251.01 has been satisfied, a motion for commitment to a youth rehabilitation and treatment center may be filed and proceedings held...." Youth placed at the Youth Rehabilitation and Treatment Centers (YRTCs) are in the care and custody of the Office of Juvenile Services (OJS) of the Department of Health and Human Services.



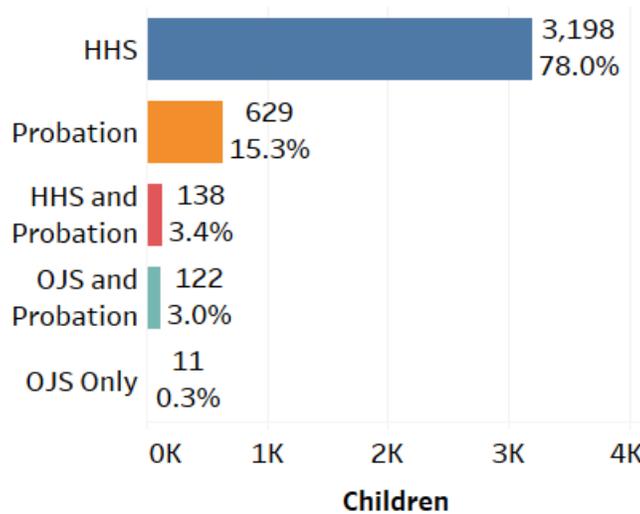
**AGENCY**

Analysis of snapshot, or point in time, data on children can be helpful in several ways. Every day, children and youth move in and out of Nebraska’s out-of-home care structure. By pulling information on all children in care on a single day, we are able to provide a basic demographic breakdown of who is in the system on a given day, which types of out-of-home care are being utilized on a given day, and what is the distribution of children and youth between the different stakeholders (Child Welfare, Juvenile Probation, Office of Juvenile Services, or any combination thereof).

It is also important that snapshot data is from a point in time that occurred far enough in the past to provide stakeholders ample opportunity to input and report the required information for all children in care on that day.

For this reason, **Figure 12** provides a breakdown of all children in care on June 30, 2019, the last day of FY2018-19, starting with which agency or agencies were responsible for the children in out-of-home or trial home visit care.

**Figure 12: Agency Count on June 30, 2019, n=4,098**



Further details about the above agencies will be provided in the appropriate sections of this report.

## **SECTION 2 – CHILDREN IN CARE THROUGH THE CHILD WELFARE SYSTEM (NDHHS – STATE WARDS)**

This section describes Nebraska Department of Health and Human Services (NDHHS) wards (children) in out-of-home care<sup>12</sup> or in a trial home visit.<sup>13</sup> The data points are separated by population-wide data and additional data gathered during FCRO case file review research.

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<sup>12</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.

<sup>13</sup> Neb. Rev. Stat. §43-1301(11) defines a trial home visit as “Trial home visit means a placement of a court-involved juvenile who goes from a foster care placement back to his or her legal parent or parents or guardian but remains as a ward of the state.”

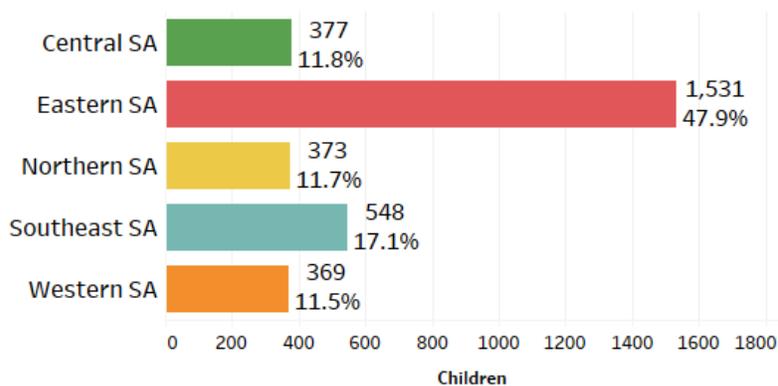
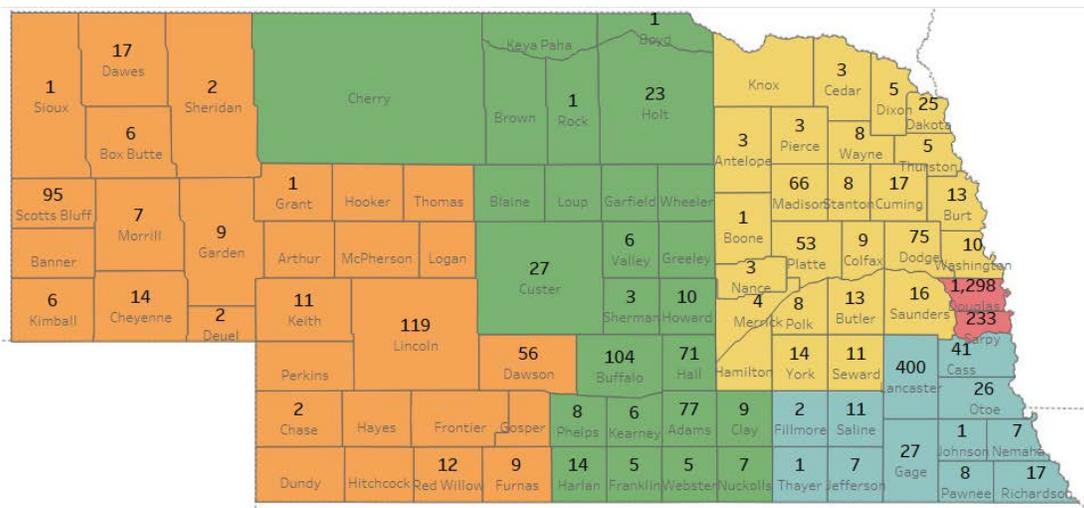
# DATA ON NDHHS WARDS IN OUT-OF-HOME OR TRIAL HOME VISIT PLACEMENTS ON JUNE 30, 2019

On June 30, 2019, 3,198 NDHHS wards (children), were in out-of-home care or trial home visit in Nebraska. This does not include those dually-served by NDHHS and Probation (138 youth, page 76) and youth placed at a YRTC (127 youth, page 73). Most of the NDHHS wards experienced a significant level of trauma and abuse prior to their removal from the parental home.

## DEMOGRAPHICS

**County.** Figure 13 shows the location of origin for those 3,198 children and also serves to illustrate the counties included in each statutorily defined NDHHS Service Area (SA). No area of the state is immune from child abuse and neglect.

**Figure 13: Location of NDHHS Wards in Out-of-home Care on 6/30/2019, n=3,198**



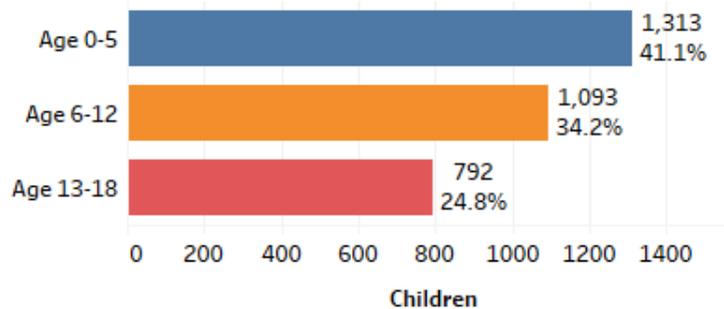
**Rates in out-of-home care compared to general population.** Figure 14 shows the 10 counties with the highest rate of wards when compared to the number of children in that county. The counties listed below are mainly rural counties.

**Figure 14: Top 10 Counties by Rate of NDHHS Wards in Care on 6/30/2019**

County	Children in Care	Total Age 0-19 <sup>14</sup>	Rate per 1,000
Garden	9	404	22.3
Harlan	14	797	17.6
Lincoln	119	9062	13.1
Pawnee	8	617	13.0
Custer	27	2803	9.6
Scotts Bluff	95	9895	9.6
Richardson	17	1849	9.2
Adams	77	8567	9.0
Holt	23	2759	8.3
Burt	13	1582	8.2

**Age.** Figure 15 shows where children fall across the age spectrum. The increased prevalence of children in the 0-5 age group is likely due to their vulnerability and inability to protect themselves from parental abuse or neglect. The percentages in each age group have remained fairly consistent for at least the last five years.

**Figure 15: Age Group of NDHHS Wards in Care on 6/30/2019, n=3,198**



**Gender.** There is a nearly equal number of **boys (1,564)** and **girls (1,634)** in care. That ratio has been constant for at least the last five years.

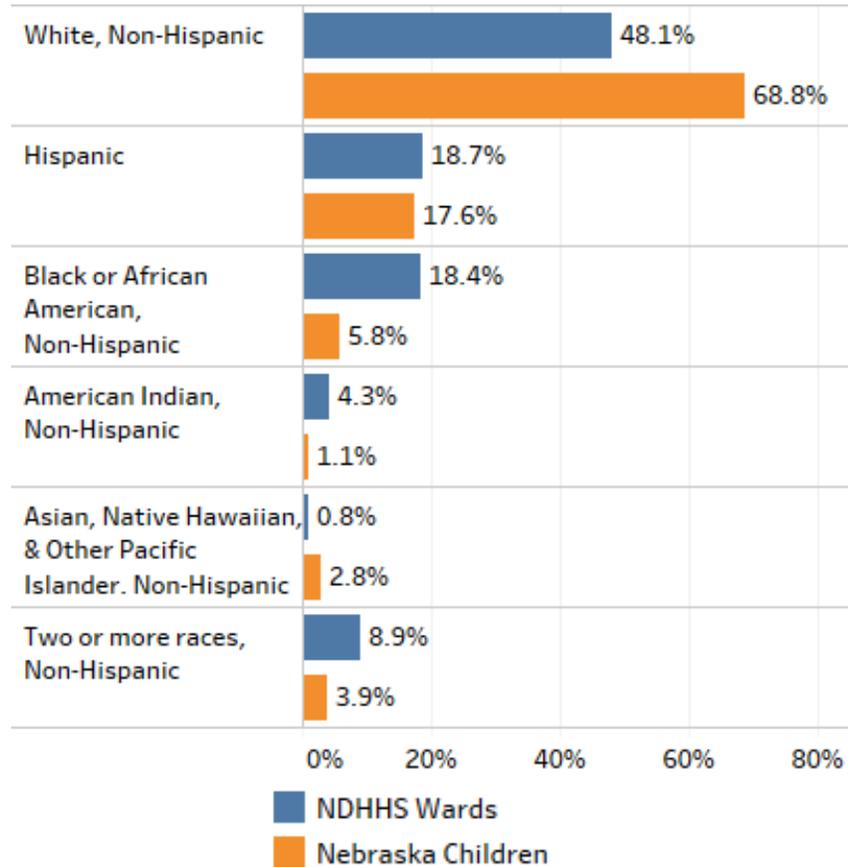
**Race and Ethnicity.** Figure 16 compares the racial and ethnic categories of children in out-of-home placement to the number of children in the state of Nebraska.<sup>15</sup> Minority

<sup>14</sup> U.S. Census Bureau, Population Division, County Characteristics Datasets: Annual County Resident Population Estimates by Age, Sex, Race, and Hispanic Origin: July 1, 2018.

<sup>15</sup> Ibid

children continue to be overrepresented in the out-of-home population, whether illustrated in the groups below or as grouped in the previous Annual Report when race and ethnicity were presented separately.

**Figure 16: Race and Ethnicity of NDHHS wards in Out-of-Home Care on 6/30/2019 Compared to Census, n=3,198**



**PLACEMENTS**

**Placement Restrictiveness.** It is without question that “children grow best in families.” So while temporarily in foster care, children need to live in the least restrictive, most home-like placement possible in order for them to grow and thrive. Thus, placement “type” matters.

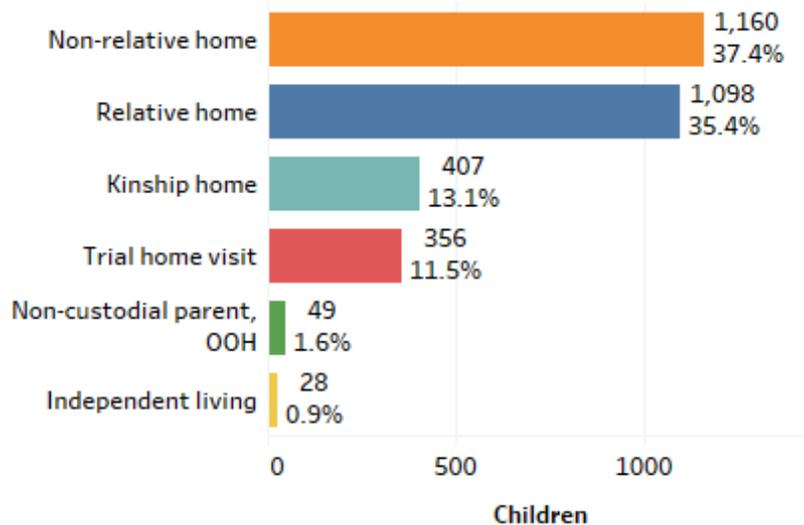
The least restrictive placements are home-like settings, the moderate restrictiveness level includes non-treatment group facilities, and the most restrictive are the facilities that specialize in psychiatric, medical, or juvenile justice related issues and group emergency placements. The vast majority of NDHHS state wards (**96.9%**) were placed in the least restrictive placement (the same as the previous fiscal year), well above the national average of 87%<sup>16</sup>. Only **0.9%** were in moderately restrictive placements, and **1.8%** in the most restrictive settings.

<sup>16</sup> Child Welfare Information Gateway. March 2019. Foster Care Statistics 2017. Available at: <https://www.childwelfare.gov/pubPDFs/foster.pdf>

On June 30, 2019, 15 children (0.5%) were missing from care which is always a serious safety issue deserving of special attention even if the number impacted seems small. This was tragically clear when a state ward, missing at the time, died in a car accident in April 2019.

On June 30, 2019, of the 3,098 children placed in family-like settings **53.0% (1,505)** were in a relative or kinship placement.<sup>17</sup> **Figure 17** provides additional detail on the different types of least restrictive placements.

**Figure 17: Least Restrictive Placement Type for NDHHS Wards in Care on 6/30/2019, n=3,098**



Relative and kinship care was put in place to allow children to keep existing and appropriate relationships and bonds with family members or similarly important adults, thus lessening 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.

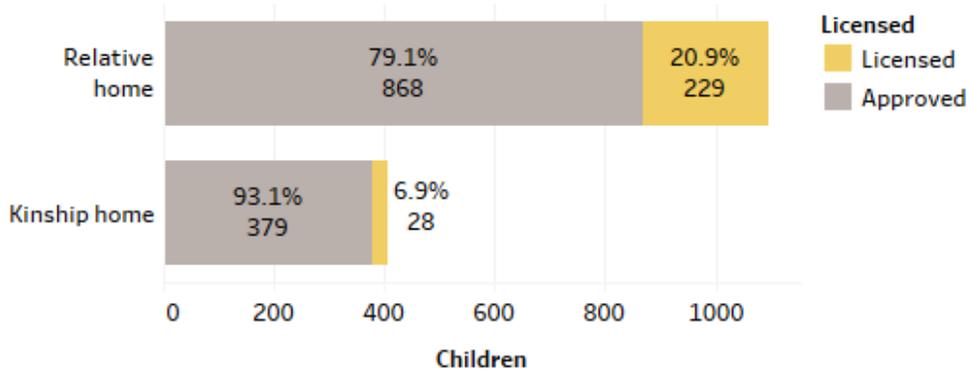
**Licensing of Relative or Kinship Homes.** As shown in **Figure 18**, nearly all relative or kin homes are approved, rather than licensed.<sup>18</sup> No standardized training is required in an approved home, so most relative caregivers do not receive specific and needed information on the workings of the foster care system, coping with the types of behaviors that abused or neglected children can exhibit, or the intra-familial issues present in relative care that are not present in non-family situations.

<sup>17</sup> In Nebraska, relative care is placement with a relative through blood, marriage or adoption. Kinship is with a fictive relative, someone with whom the child has had a significant relationship with prior to removal from the home. Other states may use different definitions of kin, making comparisons difficult.

<sup>18</sup> LB1078 (2018), required NDHHS to report the license status of relative and kinship placements to the FCRO effective July 2018.

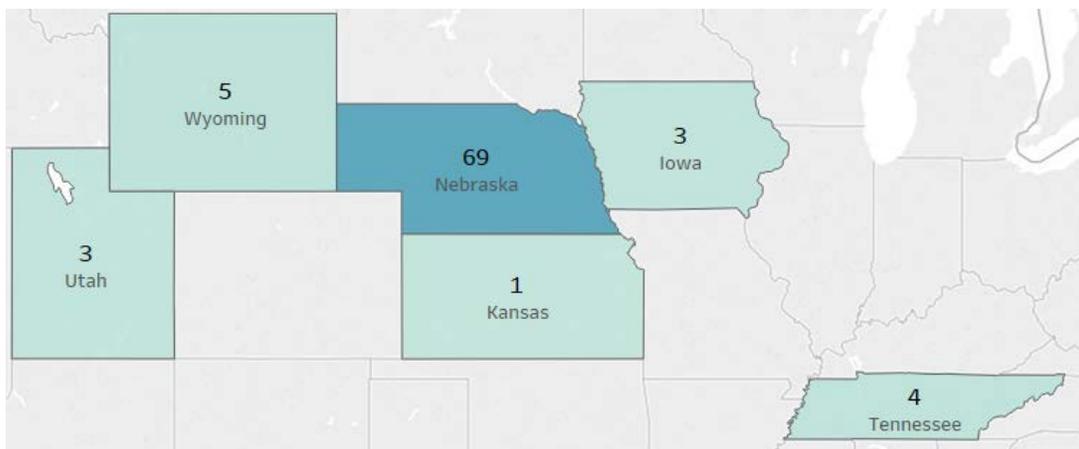
Of additional concern, at the present time, under federal law, **Federal Title IV-E funding for otherwise eligible children is not available if the child is in a non-licensed facility/home.** With the Nebraska Title IV-E waiver expiring in Fall 2019, state funds must be used for a variety of expenses that would be fully or partially covered with federal funds if the caregiver’s home was licensed. The failure to require adequate training, and therefore the lessening of licensing options, is unwise both in terms of children’s outcomes and the state’s financial situation.

**Figure 18: Licensing Status of Relative and Kinship Placements 6/30/2019, n=1,504**



**Congregate Care.** The majority (81.1%) of Nebraska wards in congregate care<sup>19</sup> facilities are placed in Nebraska (Figure 19). While NDHHS reduced the number in congregate care (85 compared to 97 last year), more children are placed outside Nebraska (16 compared to 13 last year), both an increase in number and in percentage.

**Figure 19: NDHHS Wards in Congregate Care on 6/30/2019, by State of Placement, n=85**



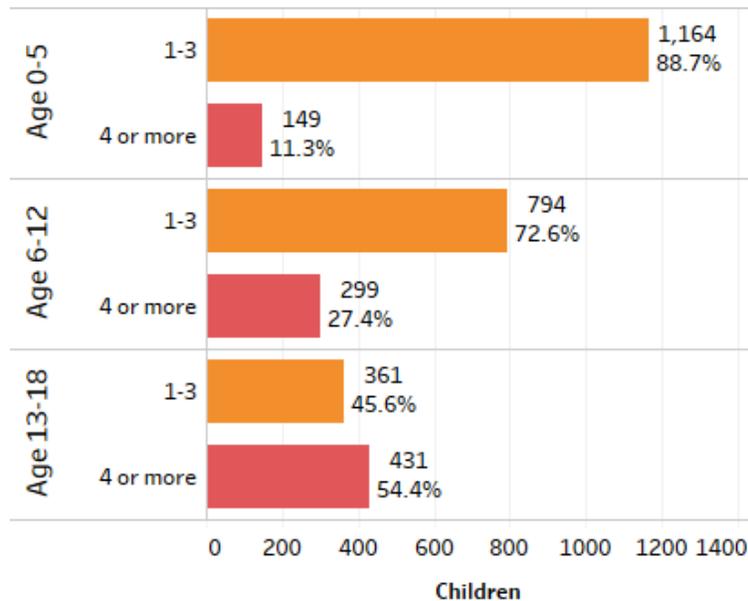
<sup>19</sup>Congregate care includes non-treatment group facilities, group facilities that specialize in psychiatric, medical, or juvenile justice related issues, and group emergency placements.

**Placement Changes.** Placement changes in this section refer to moves between foster caregivers, not removals from the family home which is described elsewhere.

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>20</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.**<sup>21</sup>

**Figure 20** shows the number of lifetime placements for NDHHS wards by age group. It is unacceptable that **11.3%** of children ages 0-5, and **27.4%** of children ages 6-12 have been moved between caregivers so often. This has implications for children’s health and safety at the time of review and throughout their lifetime. By the time children reach their teen years, over half (**54.4%**) have exceeded the recommended maximum lifetime placements.

**Figure 20: Lifetime Placements for NDHHS Wards in Care 6/30/2019, n=3,198**



**CASEWORKER CHANGES**

Caseworkers are charged with ensuring children’s safety while in out-of-home care, and they are critical for children to achieve timely and appropriate permanency. The number of different caseworkers assigned to a case is significant because worker changes can create situations where there are gaps in the information and client relationships must be rebuilt. It is also significant to the child welfare system because funding is directed to training new workers instead of serving families.

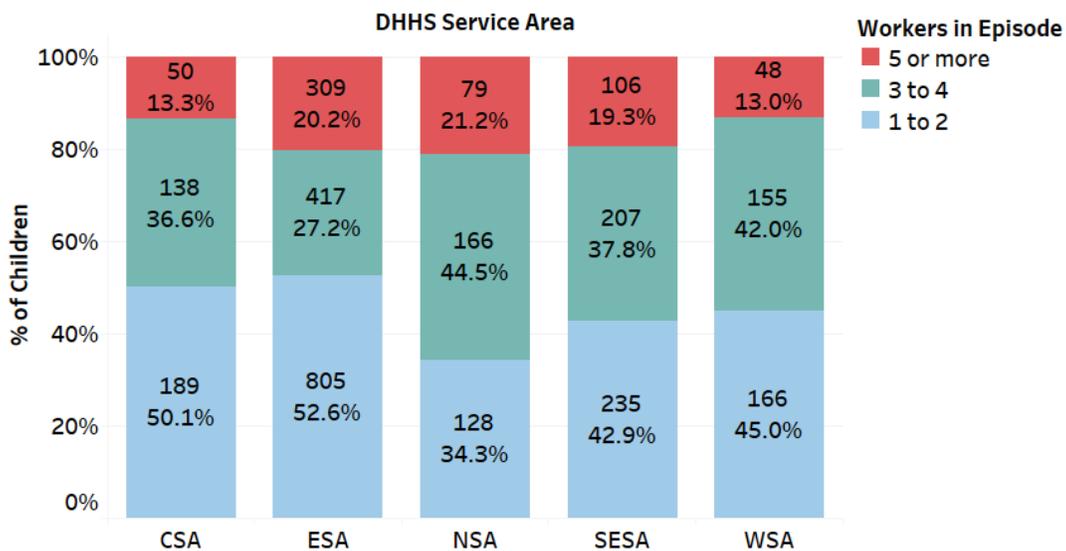
<sup>20</sup> Examples include: Hartnett, Falconnier, Leathers & Tests, 1999; Webster, Barth & Needell, 2000.

<sup>21</sup> Ibid.

An often-quoted study from Milwaukee County, Wisconsin, 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>22</sup> The University of Minnesota also found that caseworker turnover/changes correlated with increased placement disruptions.<sup>23</sup>

The FCRO receives information from NDHHS about the number of caseworkers children have had while in out-of-home or trial home visit during their current episode.<sup>24</sup> For children who reside in the Eastern Service Area and were served by the lead agency, the data in **Figure 21** represent the number of Family Permanency Specialists (or FPS) assigned to the case. For children who resided outside of the Eastern Service Area, the data represent the number of NDHHS Case Managers assigned to a case.

**Figure 21: Number of Caseworkers This Episode for NDHHS Wards in Care 6/30/2019, n=3,198**



**About one-fifth (18.5%) of the children served by NDHHS have had 5 or more caseworkers during their current episode in care.**<sup>25</sup> For the second year in a row, the Northern Service Area has the highest percentage of children with 5 or more caseworkers (21.2%). Additionally, the Eastern Service Area, which is served by a private contractor,<sup>26</sup> has a higher percentage children with 5 or more caseworkers than the state average

<sup>22</sup> Review of Turnover in Milwaukee County Private Agency Child Welfare Ongoing Case Management Staff, January 2005.

<sup>23</sup> PATH Bremer Project – University of Minnesota School of Social Work, 2008.

<sup>24</sup> The FCRO has determined that there are a number of issues with the way that NDHHS reports the number of caseworker changes. Therefore, this information is issued with the caveat “as reported by NDHHS.”

<sup>25</sup> This data is based on caseworker changes for children in care on June 30, 2019.

<sup>26</sup> On June 30, 2019, the ESA contractor was PromiseShip. In early July 2019, NDHHS announced that St. Francis Ministries will assume the ESA contract for case management beginning December 2019. The contract change should have no effect on the data presented here, as this data is from before the announced change, and is similar to data on the ESA caseworker changes for the past several years.

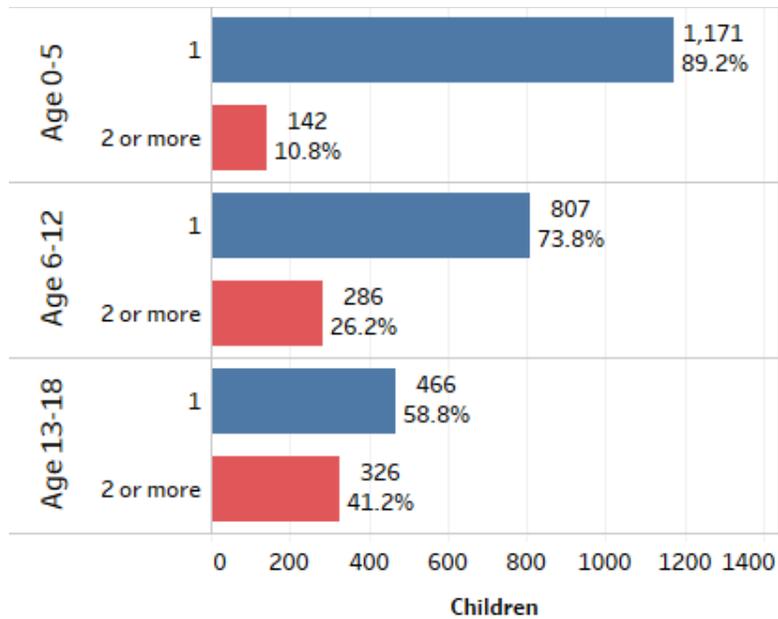
(20.2%). For many of the children in care, they may have worked with additional caseworkers during a previous episode in out-of-home care or a voluntary case (see re-entries section that follows). These instances are not included in the data above.

**RE-ENTRIES**

Many children enter foster care go home to biological parents, adoptive parents, or legal guardians with the expectation that it will be permanent, and then must be removed from home again. Repeat removals from home can be damaging to children for many reasons. Prior to a re-entry, children may have experienced another episode of abuse or neglect or they were at serious risk. Children that re-enter care may have unmet needs (such as treatment for trauma).

Statewide **23.6%** of NDHHS wards in care on June 30, 2019, which has not changed over the last year (**Figure 22**). However, the percentage of children age 0-5 with previous episodes in care has increased from 9.2% last year to **10.8%**.

**Figure 22: Times in Care (Episodes) for NDHHS Wards, n=3,198**



Children’s past traumas as manifested in behaviors or mental health issues are consistently a more frequent reason for a second removal than for a first.<sup>27</sup>

<sup>27</sup> See page 21 for more information about reasons for removal.

## NDHHS WARD DATA GATHERED FROM FCRO REVIEWS CONDUCTED DURING FY2018-19

The Foster Care Review Office (FCRO) **conducted 4,223 case file reviews on 3,277 children** in out-of-home care or trial home visit under NDHHS custody during FY2018-19.<sup>28,29</sup> Youth dually involved with NDHHS and probation are reviewed as child welfare cases with a lens on permanency. A substantial amount of critical data is gathered during each review. Due to the number of children's cases reviewed each year, the aggregate data can inform the child welfare system and the public about current conditions for NDHHS wards and about the wards' outcomes.

The data described in the remainder of this analysis is arranged according to the three main missions of child welfare:

1. Child safety.
2. Establishing a timely permanent living situation for the children (called "permanency").
3. Ensuring child well-being, both while in care and after leaving the system.

These are the same broad categories that federal officials use when measuring every state's effectiveness on certain statistical measures for state wards.<sup>30</sup>

### SAFETY

There is a predictable intersection of the child welfare system's core responsibilities of safety, permanency, and well-being. Thus, while the data points discussed in this section have much to do with safety, there are also ties to permanency and well-being.

**Providing for safety is the core mission of all stakeholders in the child welfare system.** Children deserve to live in a safe home whether with their own families or with others. Safety needs to be continually assessed throughout all phases of the child welfare case.

### REASONS CHILDREN ARE REMOVED FROM PARENT(S)

Children's on-going safety, well-being, and plans for their future are all impacted by the reason(s) for which they were removed from the parental home. Knowing why children enter out-of-home care is essential to case planning, rehabilitation of parents, and providing

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<sup>28</sup> Children are typically reviewed every six months while in out-of-home care.

<sup>29</sup> For information on reviews of youth in out-of-home care through the Office of Probation see page 59.

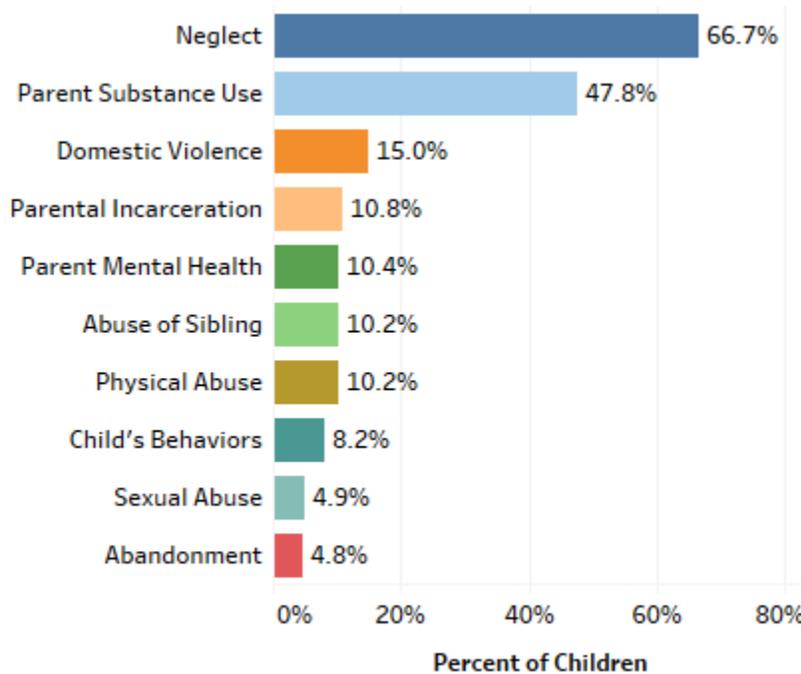
<sup>30</sup> Federal Administration for Children and Families Executive Summary Data Indicators and National Standards for Child and Family Services Reviews, amended May 13, 2015.

services to address children’s trauma. This data can also assist in the development of appropriate prevention programs.

**Adjudicated Reasons for Removal.** Adjudication is the process whereby a court establishes its jurisdiction for continued intervention in the family’s situation. Issues found to be true during the court’s adjudication hearing are to subsequently be addressed and form the basis for case planning throughout the remainder of the case. Factors adjudicated by the court also play a role in a termination of parental rights proceeding should that become necessary.

**Figure 23** shows the adjudicated reasons for removal of 3,277 children under NDHHS custody in FY2018-19, as identified through the 4,223 reviews on their cases conducted by the FCRO. For children reviewed more than once the data reflects their most recent review. There may be multiple reasons identified for each child.

**Figure 23: Most Common Adjudicated Reasons for Removal from the Home by Major Category, n=3,277 (Multiple Reasons May Be Identified for Each Child)**



Based on an analysis of data, the following relevant facts emerged:

- **66.7% of children removed from the home enter out-of-home care due to a court adjudication on the basis of parental neglect.**<sup>31</sup> Last year it was 63.5%. Neglect is often a symptom of an underlying condition, most commonly drug use, violence in the

<sup>31</sup> Neglect is a broad category of serious parental acts of omission or commission resulting in the failure to provide for a child’s basic physical, medical, educational, and/or emotional needs. This could include a failure to provide minimally adequate supervision.

home, and parent mental health.<sup>32</sup> Neglect has been the most common reason for children's removal from the home for over thirty years.

- **Parental substance use is an adjudicated reason for removal for 47.8% of children reviewed.** The most common illegal drug affecting Nebraska's children and families is meth. It may also be a non-adjudicated reason behind neglect.
- **Domestic violence is an adjudicated reason for removal for 15.0% of children reviewed, and physical abuse is an adjudicated reason for removal for 10.2% of children reviewed.**

***Non-Adjudicated Reasons for Removal.*** There may be reasons to remove a child from the home that are not adjudicated in court, but that greatly impact a successful parental reunification plan.<sup>33</sup> FCRO reviews of children's cases identify which, if any, additional issues contributed to the decision to remove a child from their home.

The most common non-adjudicated reasons children were in care were:

- parental substance (**27.6%**),
- domestic violence (**22.6%**),
- parental mental health issues (**16.7%**), and
- sexual abuse (**9.9%**).

In particular, sexual abuse is more likely to be a non-adjudicated reason a child enters care than it is an adjudicated reason for entering care (9.8% and 4.9%, respectively). If the true issues behind a removal are not adequately addressed, it may be unsafe for the child to return home and his or her trauma may not be healed.

## **PRIOR NON-COURT INVOLVEMENT WITH NDHHS**

Identified reasons for children's removal from the home and early traumatic experiences as related to the children's current court-involved case were discussed in the last section. For some children and families, non-court interventions by NDHHS occurred prior to the current court action.

***Background information.*** NDHHS is increasingly providing services for children and families without a formal court intervention. The stated purpose for doing so is to avoid formal court involvement in cases without an imminent safety issue but for whom services are needed to improve family functioning. This practice could reduce the number of removals from the home and thus reduce trauma caused by separation from the parents.

***Data on children reviewed by the FCRO.*** In early 2018, FCRO System Oversight Specialists identified that increased numbers of court-involved, reviewed families had been receiving non-court services prior to the current removal, and often for the same concerns. A data instrument was created, and by fall 2018, the FCRO began to gather data about non-

<sup>32</sup> Data on additional adjudicated and non-adjudicated reasons for removal for neglected children is available upon request from the FCRO.

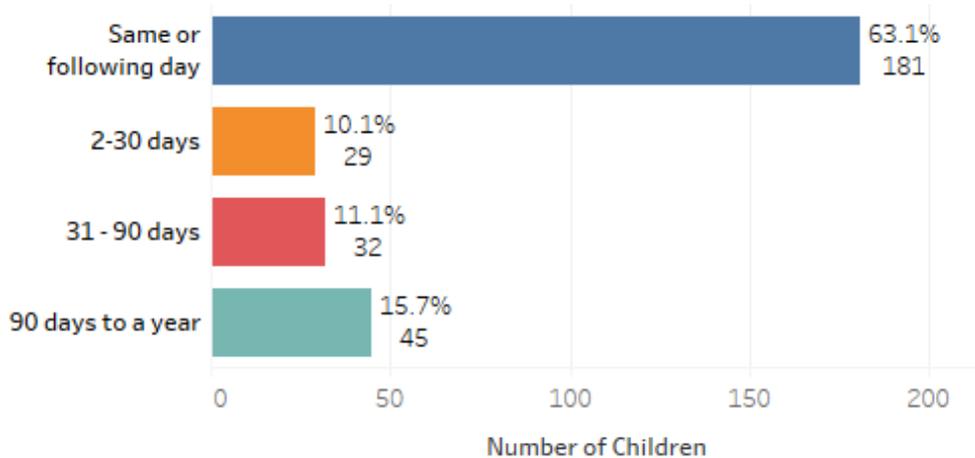
<sup>33</sup> Plea bargains, insufficient evidence, or other legal considerations may result in an issue not being adjudicated.

court services received in the year prior to entering out-of-home care. The FCRO does not have the statutory authority to review cases while children are receiving in-home, non-court services, so the data presented below is only for children with a subsequent removal with court involvement.

- **290 of 2,716 (10.7%) children reviewed mid-October 2018-June 2019 had been in one or more non-court cases within one year of the start of their current court-involved case.**
- **91.3% (265) of the 290 children entered the court system due to the same reasons that had originally led to non-court intervention.**
- Non-court cases should have a written plan, outlining safety considerations and efforts toward progress. Written plans were documented for **65.2%** of the non-court cases.

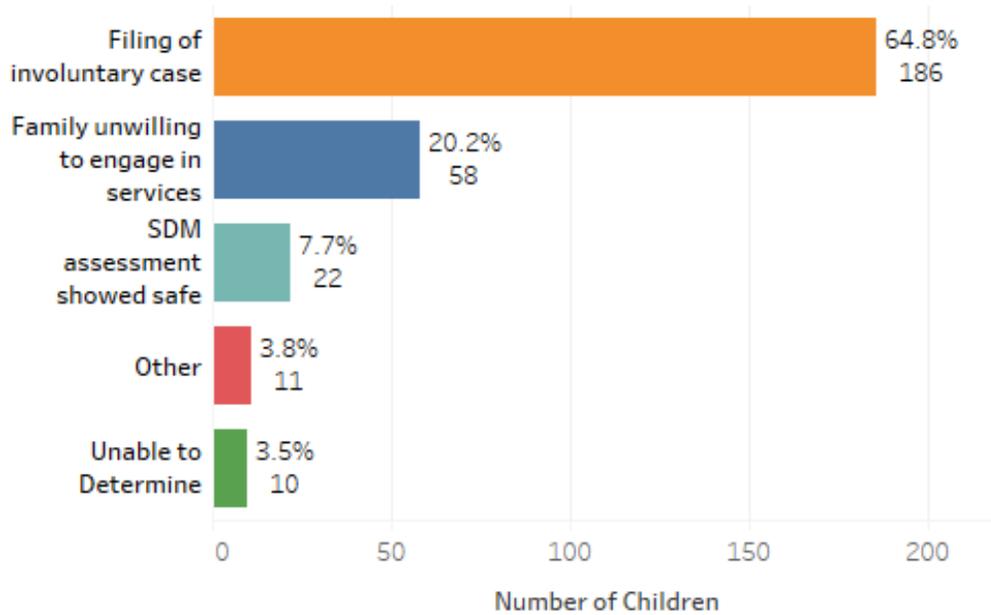
**Figure 24** shows that **63.1%** became court-involved the same day or the day following the non-court services ending.

**Figure 24: Days Between Non-Court Services Ending and Court-Involved Services Beginning  
(If the Dates Were Available), n=287**



**Figure 25** shows the documented reason for the most recent non-court case to close. It is concerning that **20.2%** of voluntary cases were closed because the family was unwilling to engage in services.

**Figure 25: Reason Prior Non-Court Case Closed (where known), n=287**



In order to create a safe and acceptable non-court system, there must a clear and concise definition of which issues are “non-safety”, how those are measured, and thus how families are selected for voluntary services, a clearly stated procedure for next steps if the family refuses to engage, and active external oversight of how NDHHS determines which families qualify for non-court intervention, for how long, and how child safety is monitored through the process.

**CASEWORKER CONTACT WITH CHILDREN**

According to NDHHS policy, caseworkers, whether NDHHS or lead agency employees are required to, at a minimum, have personal face-to-face contact with each child every month.<sup>34,35</sup> This is an important safeguard for children, particularly children under age six that may not be visible in the community.

During the FCRO case review process, staff document whether or not the child’s caseworker had contact with the child within 60 days prior to the most recent review. The FCRO purposely elected to use a 60-day window in order to allow time for contact documentation to be completed. By doing so it is the fairest representation of what was actually happening for children and not merely a reflection of the documentation at a point in time.

<sup>34</sup> 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 95 percent (ACYF-CB-IM-11-06). Federal HHS Administration for Children and Families. NDHHS reports it is achieving that goal.

<sup>35</sup> Per NDHHS Policy Memo 28-17, frequency is based on risk levels, with low-moderate risk having at least one contact per month, and high or very high risk having at least two contacts per month.

The FCRO found that for reviews conducted in FY2018-2019:

- Worker-child contact was documented as occurring within 60 days of the review for **98.3% of children reviewed across the state** (the same as last year).
  - **Worker-child contact within the last 60 days was less frequent in the Northern Service Area,<sup>36</sup> where contact occurred in 91.2% of cases, down from 93.9% last year.**

## **PLACEMENTS (LIVING ARRANGEMENTS)**

***Safety and Appropriateness.*** The State's primary responsibility is to ensure every child in custody is safe. Under both 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 case file review.

Documentation of safety must be readily available to other workers, supervisors, and oversight entities. In order to assess safety, the FCRO's System Oversight Specialists research whether any abuse allegations have been made against the child's placement and the system's response to those allegations. This information, along with a summary of the results from the home study, where applicable,<sup>37</sup> is utilized by the local review boards to make the finding regarding safety. In order to determine appropriateness, consideration is given to the match between caregiver or facility strengths and the needs of the child being reviewed.

**The FCRO does not assume children to be safe in the absence of documentation.** If documentation does not exist, the "unable to determine" category is utilized. For those placements determined to be unsafe, the FCRO **immediately** advocates for a change in placement. A child that is missing from care is automatically deemed unsafe, and the FCRO responds accordingly.

- In FY2018-19, **93.0% of the children were in a safe placement, 1.1% were in an unsafe placement, and for 5.9% safety could not be determined, often due to a lack of critical documentation.** This is similar to last year.
- **Of the children who were determined safe, 93.7% were in an appropriate placement, 4.2% were inappropriate, and 2.0% could not be determined.** Appropriateness includes if the child is in the least restrictive placement possible and that the placement can meet the child's needs.

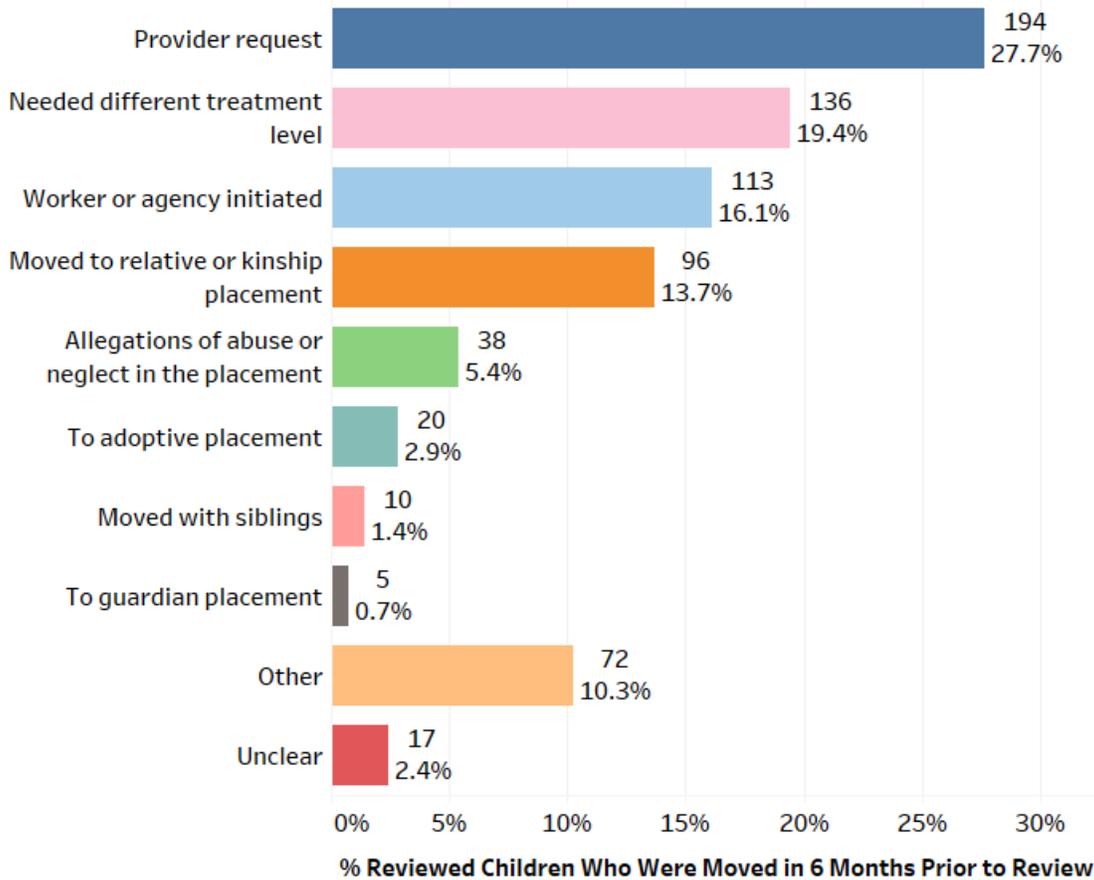
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<sup>36</sup> See page 2 for a map of the Service Areas.

<sup>37</sup> A home study measures the suitability of each foster family placement.

**Placement Stability.** Of the 4,223 reviews, **701** children had changed placements within 6 months of the review and had a documented reason for doing so. **Provider requests were the most frequent reason for changes (27.7%) (Figure 26).**

**Figure 26: Reason for Most Recent Placement Change If One Occurred Within the Six Months Prior to Review, n=701**



Child behaviors can be a contributing factor to provider requests for placement change; **37.6%** of children age 10-18 that were moved were exhibiting difficult behaviors. Such behaviors can stem from untreated past traumas, mental health challenges, the disruptive nature of multiple moves, or anger and frustration with their current situation.

Foster parents have different skill sets and abilities just as children have different abilities and needs. Children should be placed with those caregivers best suited to meet their needs, but matching children and caregivers prior to placement can be challenging. However, suitability of placement impacts both children’s safety and well-being and thus must be a consideration. Matching needs to go beyond availability.

Of note, 5.4% of placement changes were due to allegations of abuse/neglect in the foster home. While allegations does not always mean that abuse was later found to have occurred,

some children are abused by the persons that should be well-equipped to help them recover from past traumas.

### **CONTINUED NEED FOR CARE**

Foster care is meant to act as a safety net for children so that they can be safe and have all their basic needs met while 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 (foster care) longer than necessary.

Statute requires the FCRO to determine if there is a continued need for state oversight at every review conducted.

- In **85.8%** of reviews of children placed out-of-home at time of review, such care was still needed. This is the same as during the last fiscal year.
- In **70.9%** of reviews of children on a trial home visit, continued court oversight was needed. This compares to 76.3% in the prior fiscal year.

## **PERMANENCY**

Permanency is a term used in child welfare to describe the safe and successful exit from the foster care system. There are different ways this can be achieved, primarily through reunification with parents, legal adoption, or legal guardianship.

Ideally, children that achieve permanency have at least one committed adult that provides a safe and stable home which includes a sense of belonging. While the data points discussed in this section have much to do with permanency, there are also ties to safety and well-being.

### **BARRIERS TO PERMANENCY RELATED TO PARENTS AND CAREGIVERS**

Prior to discussing parental issues that are current barriers to permanency, it is helpful to look at who children were living with prior to removal from the home as this can impact steps to achieve permanency.

Most children were removed from the mother (**59.3%**), while **29.0%** were removed from the home of both mother and father, **7.2%** were removed from the home of the father, and the remainder of children were removed from other caregivers.

At the time of the most recent review for the 3,277 children reviewed during FY2018-19:

- **2,396 (73.1%)** children's mother had intact parental rights, and
- **2,133 (65.1%)** children's father had intact parental rights.

**Parental Mental Health.** A professionally diagnosed mental health issue was present for:

- **1,085 (45.2%)** of the 2,396 children’s mothers.
  - For **702 (64.7%) children**, mother’s mental health issue continued to impact the ability to safely parent.
- **379 (17.7%)** of the 2,133 children’s fathers.
  - For **244 (11.4%) children**, father’s mental health issue continued to impact the ability to safely parent.

**Parental Substance Use.** When parents frequently use drugs or alcohol, their children’s lives may become chaotic and unpredictable, often leading to children’s basic needs going unmet.<sup>38</sup> Frequent substance use rarely occurs in a vacuum, typically other problems are present, like mental illness and domestic violence – also discussed in this report.

During FY2018-19 reviews, similar to the prior fiscal year, the FCRO found that:

- **1,182 (49.3%)** of the 2,396 children had mothers with intact parental rights and a documented substance use issue.
  - For **796 (67.3%) of those children, mothers’ substance use continued to impact parenting.** This is about the same rate as in FY2017-18.
- **562 (26.3%)** of the 2,133 children had fathers with intact parental rights and a documented substance use issue.
  - For **355 (63.1%) of those children, fathers substance use continued to impact parenting** This is about the same rate as in FY2017-18.

**Parental Domestic Violence Issues.** Based on the research, in addition to the immediate risk of physical or emotional harm, there can be long-term consequences from domestic violence exposure.<sup>39,40</sup> For children whose parents had intact rights:

- Domestic violence is an issue that continued to impact parenting for **327 (13.6%) of children’s mothers** and **254 (12.0%) of children’s fathers.** In the previous fiscal year, it was found to impact 11.0% of the children’s mothers and 8.7% of the children’s fathers. It is unclear if the difference is due to the number of incidences or to better documentation.

**Parental Intellectual Disabilities.** For 2018-19 reviews:

- **121 (5.0%) children** whose mothers had intact rights and **49 (2.2%) children** whose fathers had intact rights experienced some level of parental intellectual disability that

<sup>38</sup> Parental Substance Use, Child Welfare Information Gateway. <https://www.childwelfare.gov/pubPDFs/parentalsubabuse.pdf>.

<sup>39</sup> Domestic Violence, National Child Traumatic Stress Network, <https://www.nctsn.org/what-is-child-trauma/trauma-types/domestic-violence>.

<sup>40</sup> *Connecting the Dots: An Overview of the Links Among Multiple Forms of Violence*, Centers for Disease Control and Prevention. [https://www.cdc.gov/violenceprevention/pdf/connecting\\_the\\_dots-a.pdf](https://www.cdc.gov/violenceprevention/pdf/connecting_the_dots-a.pdf)

continued to impact the ability to parent. That was consistent with the prior fiscal year.

**Other Parental Issues.** Additional issues facing parents that may impact a child's permanency include cultural issues, language barriers, and chronic physical health issues.

- The number of **children whose mothers (28) and fathers (23)** are impacted by cultural issues may be small, but for those parents and their children, cultural advisors can assist in helping the parents understand American expectations.
- Slightly more are impacted by language barriers (**35 children's mothers and 58 children's fathers**). Ensuring these parents have access to interpreters for all services, not only in court, is important if children and parents are to be reunited.
- In FY2018-19, **42 children's mothers and 14 children's fathers** had identified one or more chronic physical health issues that impeded safe parenting.<sup>41</sup>

## PARENTAL ENGAGEMENT WITH VISITATION

One of the clearest indicators of parental improvement and engagement is whether or not they are visiting their children and the quality of those interactions.

Research shows 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 reunification will be long-term, and overall improved emotional well-being and positive adjustment to placement.<sup>42</sup> National research found that the likelihood of reunification for children in care increased tenfold when mothers visit regularly as recommended by the court.<sup>43</sup> Presumably, there would also be a benefit from visitation with fathers. Visitation helps to identify and assess potentially stressful situations between parents and their children.<sup>44</sup>

In order to best facilitate family visitation, there needs to be a well-trained workforce that is knowledgeable regarding parenting practices and child development. Additionally, all referrals to service providers by caseworkers need to contain specific visitation goals that can be measured. This ensures both parents and their visitation supervisors know what is expected of them and enables the determination of progress levels.

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<sup>41</sup> When reviewing such a case some of the things that local FCRO boards consider include: what physical limitations are occurring as a result of the disease/injury, what is the expected trajectory of the disease/injury, is the condition fatal, are there supports that could keep the family intact, are such supports available, what type of safety planning would there need to be, and do the children/parent need some assistance with coping with the disease/injury and its impact on the family.

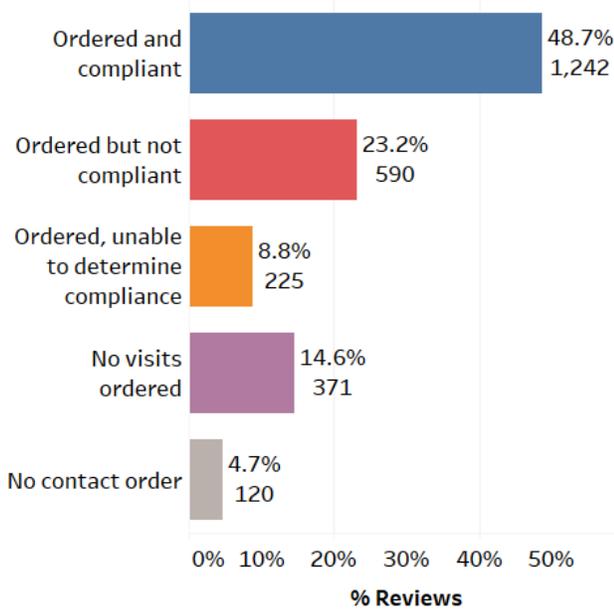
<sup>42</sup> Family Visitation in Child Welfare, Partners For Our Children, Washington State, April 2011.

<sup>43</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.

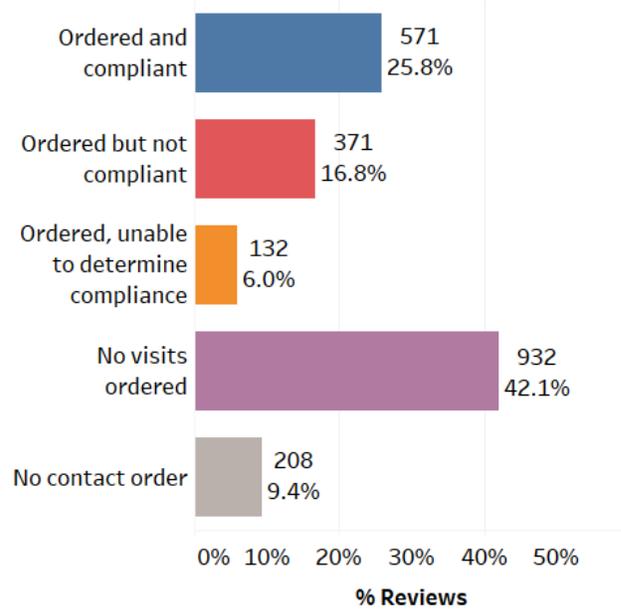
<sup>44</sup> Ohio Caseload Analysis Initiative, Visitation/Family Access Guide 2005. Adapted from Olmsted County Minnesota CFS Division.

**Figures 27 and 28** show children’s parents by whether ordered to visitation and, if so, compliance with the court order to maintain visitation status at time of review. **More than 1 in 4 of children’s parents court-ordered to have visitation were NOT consistently visiting their children.**<sup>45</sup> This is consistent with last year.

**Figure 27: Children’s Mother’s Compliance with Court-Ordered Visitation (mothers with intact rights, by status at time of FCRO review), n=2,548**



**Figure 28: Children’s Father’s Compliance with Court-Ordered Visitation (fathers with intact rights, by status at time of FCRO review), n=2,214**



**For the majority of children, when their parents were not complaint with visitation there was no particular reasons cited (76.9% for mothers, 72.5% for fathers).**

Whenever parents are not consistently visiting their children, the system needs to determine whether there is a barrier to the visits that needs correction (e.g., parents needing help to obtain transportation or visitation being scheduled during the parent’s work hours) or whether underlying issues regarding the parents need to be addressed. If no such barrier exists, then the system needs to seriously consider other permanency objectives or concurrent objectives. As reported in the June 2017 FCRO Quarterly Report, lack of visitation with mother has a statistically significant impact on the amount of time a child spends in care.<sup>46</sup>

<sup>45</sup> See pages 34-35 for additional information on progress towards permanency.

<sup>46</sup> Available at <http://www.fcro.nebraska.gov/pdf/FCRO-Reports/2017-q2-quarterly-report-2.pdf>.

## PARENTAL INCARCERATION AND/OR PENDING CRIMINAL CHARGES

When parents are incarcerated, children need to be placed with a relative, kin, or non-family foster caregivers during the incarceration period. After release, the parent may lack access to legal income and housing and may need access to on-going treatment for mental health, substance use, domestic violence, or other issues.

During FY2018-19 reviews, the FCRO found:

- **114 (4.8%)** of the 2,396 children's mothers with intact rights were incarcerated at the time of review.
- **351 (15.9%)** of the 2,213 children's fathers with intact rights were incarcerated at the time of review.

Another condition impacting permanency is when parents face pending criminal charges, which may involve potential incarceration, sometimes for a considerable period of time.

- **245 (10.2%)** of the 2,396 children's mothers had pending charges, and
- **250 (11.3%)** of the 2,213 children's fathers had pending charges.

## CASE PLANNING

After adjudication NDHHS is to prepare and submit to the court a complete dispositional plan with services, timeframes, and tasks. Courts can order the plan as is, modify it, or order NDHHS to create a new plan.

Case planning should detail appropriate, realistic, and timely steps toward the rehabilitation of parents (if reunification is the objective) based on reasons for court involvement. This should always be based upon findings of evidence-based tools utilized by NDHHS, currently the Structured Decision Making (SDM) assessments, and in conjunction with continuous interactions with the parents.<sup>47</sup>

Case plans and services provided must work towards these outcomes:

1. Strengthen core life skills;
2. Develop responsive relationships; and
3. Reduce external sources of stress.

A completed case plan with thorough documentation of parents' progress toward rehabilitation is a critical tool for courts and legal parties to ensure parental accountability and direct the next steps in the case. Case plans are updated at each court review hearing.

***The NDHHS Case Plan.*** At each review the FCRO assesses two main aspects of the NDHHS plan submitted to the court: safety measures and completeness of the plan. In addition to safety measures, a complete plan includes services, timeframes, and tasks specified. The FCRO determines whether appropriate safety planning has occurred, either through the NDHHS case plan or in a separate more specific safety plan.

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<sup>47</sup> Structured Decision Making is a proprietary set of evidence-based assessments that NDHHS uses.

**If the FCRO finds that safety measures have not been included in the plan, the FCRO immediately communicates this to all parties so that deficits can be promptly remedied.**

- Safety measures were in place for **94.4%** (3,461 of 3,666) of out-of-home children and **89.6%** (499 of 558) of children on trial home visit at time of review.
  - It is concerning that children who are on a trial home visit are more likely than children placed out-of-home to have a missing or incomplete safety plan. Further, trial home visits are less likely to be monitored by outside contractors for safety.
- Plans were complete in **94.7%** (3,998 of 4,223) of cases. There was no variation between children out-of-home and children on trial home visit.
  - This is a slight improvement from the last fiscal year, wherein 92.8% of cases had a complete plan, and year before that when 87% had a complete plan.

***The Court-Ordered Plan.*** Once a NDHHS case plan is submitted to the courts, the court is to order a rehabilitative plan. Even if the NDHHS plan is incomplete, the court-ordered plan needs to be complete, as this is what controls the actions various parties need to take in order for children's cases to move forward to a timely conclusion. Local boards determine if courts have effectively ordered services to meet the permanency objective and made sure plans are complete.

- The court plans were complete for **94.1%** of children.<sup>48</sup> Last year 97.3% had a complete plan.

## **COURT-ORDERED PERMANENCY OBJECTIVES**

***Primary Permanency Objective.*** The court-ordered permanency plan contains one of several possible primary objectives and the means to achieve it. Typical objectives include reunification, adoption, guardianship, or APPLA (another planned permanent living arrangement). Courts have the authority to order two different permanency objectives – a primary permanency objective and an optional concurrent objective.

**Figure 29<sup>49</sup>** shows the primary objective ordered by the court for children at the time of review. The majority of children reviewed had a plan of reunification with one or both parents (**59.3%**, down from 65.6% in FY2017-18), followed by adoption (**22.7%**, up from 17.0% in FY2017-18) and guardianship (**10.4%**, up from 8.0% in FY2017-18).

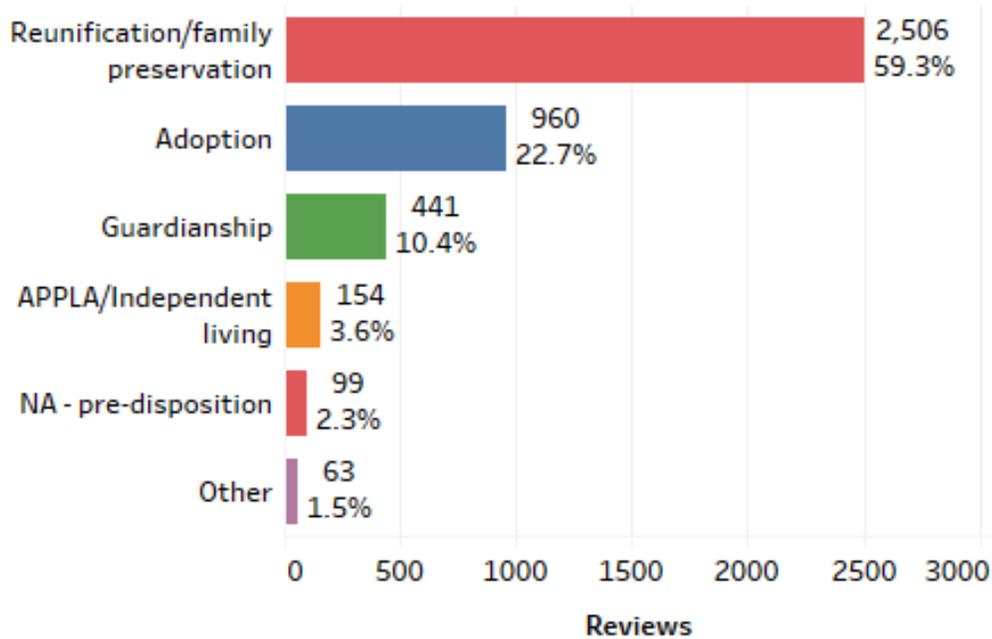
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<sup>48</sup> Excludes children whose cases had not yet reached disposition, which is the first hearing in which a case plan is ordered. It is then updated and approved by the court at each subsequent review hearing.

<sup>49</sup> The category of "Other" includes children with complicated legal issues (including appeals, deportations, etc.) delaying the adoption of a plan and children with developmental impairment with a plan of self-sufficiency.

This is simply a measure of which written objective exists, not the appropriateness of that objective.

**Figure 29: Primary Plan Objective in Existence at Time of Review, n=4,223**

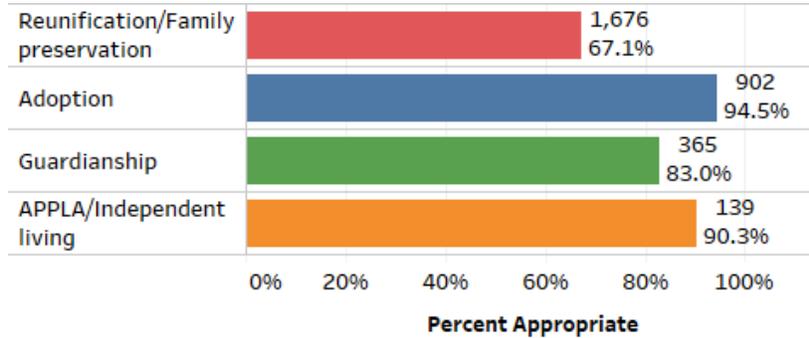


**Appropriateness of Primary Permanency Objective.** Courts are to determine the appropriate permanency objective at each and every review hearing. After a thorough analysis of available information about the child’s case, local boards determine whether or not the primary permanency objective (reunification, adoption, guardianship, etc.) is the most fitting for the individual child being reviewed and should be continued as shown in **Figure 30**.<sup>50</sup>

If the objective in effect at the time of review does not match the circumstances of the case then the board would find that objective inappropriate to continue. Since reviews are timed to occur before court hearings, this finding is made to assist the legal parties in determining future case direction.

<sup>50</sup> Unable to be determined 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.

**Figure 30: Appropriate to Continue the Primary Plan Objective in Effect at Time of Review, n=3,082 (excludes cases without a primary plan)**



For cases with a plan of reunification a key piece of data considered during reviews is whether the child wants to return home. If he or she does not, it can be an important indication of unresolved issues with the parents or past trauma that has yet to be healed, and thus impacts recommendations made upon that youth’s behalf.

- In FY 2018-19, (20.1%, or 181 of 902) youth reviewed who were age 14-18 and whose plan was to reunify with parents did not want to return home. This is consistent with the prior fiscal year.

**FCRO staff actively advocate with all stakeholders involved in cases where a local board feels a permanency objective is not appropriate in order to ensure that the best interests of children are being met.**

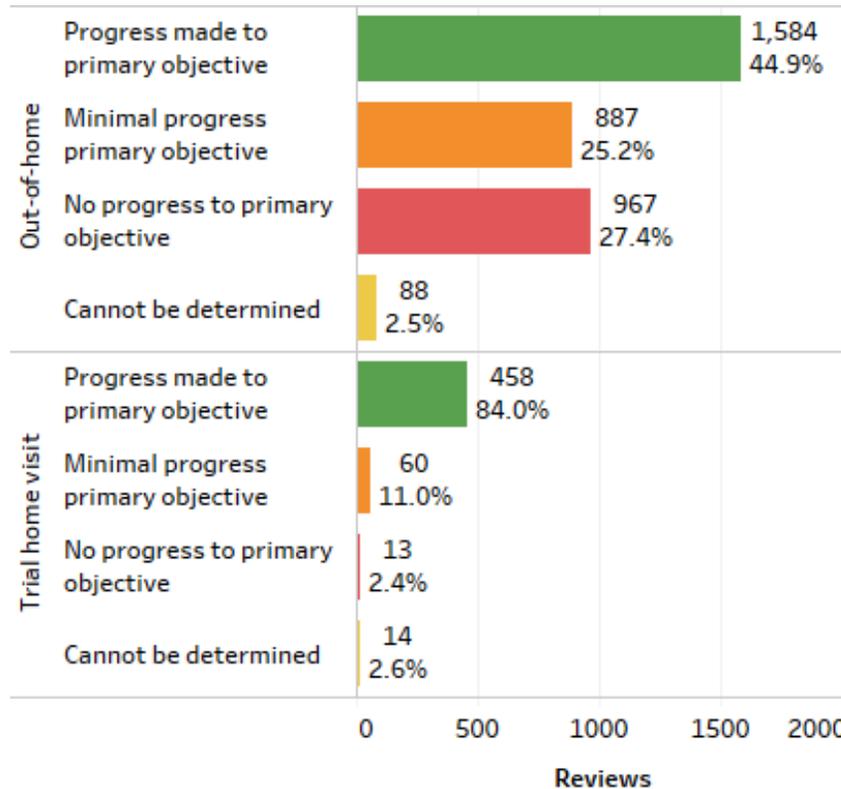
**Progress to Primary Permanency Objective.** Another finding (Figure 31) made by local boards during case file reviews is whether or not progress is being made towards achieving the permanency objective. This finding is made after considering all the available documentation and stakeholder information.

**It is unacceptable that for 967 cases (27.4%) of children in out-of-home care clearly no progress was being made, and for another 887 (25.2%) only the most minimal progress is being achieved.** There was no improvement since the last fiscal year when 29.2% had no progress and 24.3% had minimal progress.

In other words, **for over half of the children in out-of-home care reviewed, cases are stagnating and permanency is still far away.** This could be due to a lack of parental engagement or necessary services not being provided. Thus, it is no surprise that many children have long stays in out-of-home care. Better progress is seen by the time the children are in a trial home visit, as would be expected.

**All parts of the child welfare system should be working towards the same goal – permanency.**

**Figure 31: Progress Toward Primary Permanency Objective, n= 4,071 (excludes children with no primary permanency objective)**



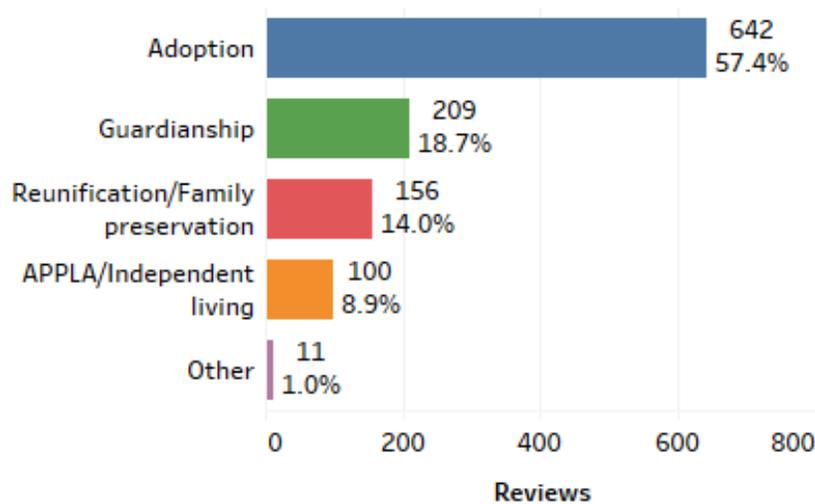
**Court-Ordered Concurrent Permanency Objective.** The purpose of concurrent planning is to shorten children’s stay in care by allowing the system to work on two permanent solutions simultaneously. To be successful there needs to be a focus on clear goals and timeframes related to the concurrent objective as well as the primary objective. Ideally, it should begin with initial contacts and continue throughout the case. Throughout the case there needs to be continued reassessments of whether the primary objective is still in the best interests of the child.

Nebraska statute permits but does not require courts to include a concurrent permanency objective in its court-ordered plan. There were concurrent plans in place for **1,118 (26.5%)** of the 4,423 reviews conducted (**Figure 32**).

When there is a concurrent objective in the court order, NDHHS must make reasonable efforts towards this objective as well as the primary objective. For example, if there is a concurrent objective of adoption then NDHHS needs to begin or complete the process of determining if there is a potential adoptive home identified, ensuring that paternity issues have been addressed, and possibly discuss a relinquishment of parental rights with parents.

By doing so, if reunification is no longer a viable objective, then no time is wasted in shifting to a plan of adoption.<sup>51</sup>

**Figure 32: Concurrent Plan Objective in Effect at Time of Review, if One Had Been Ordered, n=1,118**



**Progress to Concurrent Permanency Objective.** Too often the concurrent objective is in name only, with insufficient action being taken toward that goal.

- **In over 50% of cases in which there was a concurrent objective, either partial or no progress was being made.**

### NDHHS REASONABLE EFFORTS TO ACHIEVE PERMANENCY

NDHHS is obligated to make reasonable efforts to preserve and reunify families if this is consistent with the health and safety of the child.<sup>52</sup> If the court finds that reunification of the child is not in his or her best interests, NDHHS is then required to make reasonable efforts to ensure that necessary steps are in place to achieve permanency for that child.

Juvenile courts make determinations of reasonable efforts on a case-by-case basis. A finding that the State failed to provide reasonable efforts has significant consequences to NDHHS, such as disqualification from eligibility of receipt of federal foster care maintenance payments for the duration of the juvenile's placement in foster care.

The FCRO makes an independent finding at each review on whether "reasonable efforts" are being made towards achieving permanency.

- **NDHHS was making reasonable efforts in 97.7% of all the cases where the FCRO was able to make the determination.** This is about the same as last year.

<sup>51</sup> *Concurrent Planning for Timely Permanence*, Children's Bureau, July 2018. [https://www.childwelfare.gov/pubPDFs/concurrent\\_planning.pdf](https://www.childwelfare.gov/pubPDFs/concurrent_planning.pdf).

<sup>52</sup>Required unless a statutory exception of "aggravated circumstances" is found by the juvenile court, or the juvenile court has adopted another permanency objective.

NDHHS reasonable efforts should not be expected to always translate into progress being made. For example, NDHHS may be offering appropriate services, doing appropriate assessments, and the like, but parents may still be disengaged. Progress being made is wider than just consideration of NDHHS reasonable efforts.

## RELATIVE IDENTIFICATION

***Paternity (Father) Identification.*** The federal *Fostering Connections to Success and Increasing Adoptions Act* (PL 110-351, 2008) requires that NDHHS apply “due diligence” in identifying relatives within the first 30 days after a child is removed from the home.

In spite of the federal requirement and the common sense need, for many children paternity is not identified promptly, if at all.

- Of the 3,277 children reviewed in FY2018-19, 343 (**10.5%**) **did not have paternity identified** even though the vast majority (**95.0%**) had been a state ward for six months or longer.

Whether or not the father is a suitable caregiver for his child, the father’s due process and constitutional parental rights must be addressed. Research shows that identifying fathers can lead to shortened time in care for children.<sup>53</sup> It is unfair to children and fathers when paternity is not appropriately determined and it potentially causes delays to all forms of permanency.

***Delayed Identification of Relatives.*** Although NDHHS policy is to quickly identify parents and relatives and determine their suitability as a placement, it appears through reviews that it is not consistent in practice. The father’s and paternal relative’s suitability as a placement for the child cannot be considered until paternity is identified as previously described.

- **Searches were documented for 87.8% of maternal relatives and 68.1% of paternal relatives.**

## COURT AND LEGAL SYSTEM ISSUES

***Timeliness of Adjudication.*** The adjudication hearing is the court hearing at which the judge determines if the allegations regarding the parent or youth in the petition brought forth by the county attorney are true. If found true, the case then proceeds to the disposition hearing. Under Neb. Rev. Stat. §43-278, the adjudication hearing must occur within 90 days of the child entering out-of-home care, unless there is a showing of good cause. Best practice for adjudication hearings is 60 days<sup>54</sup> and Nebraska Supreme Court Rule §6-104 was amended to reflect this best practice as a case progression standard for adjudication hearings in juvenile court.

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<sup>53</sup> Malm and Zielewski (2009), as quoted in Bringing Back the Dads: Changing Practice in Child Welfare Systems, American Humane Association with funding and support from the U.S. Dept. of Health of Human Services, 2011. Page 31.

<sup>54</sup> Gatowski, S., Miller, N., Rubin, S., Escher, P. & Maze, C. (2016) Enhanced resource guidelines: Improving court practice in child abuse and neglect cases. Reno, NV: National Council of Juvenile and Family Court Judges.

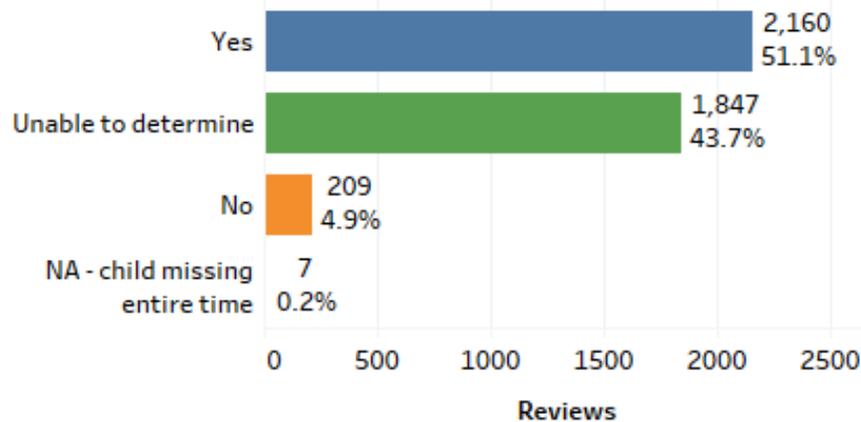
Based upon the case file review process, the FCRO finds that in practice:

- **Adjudication within 90 days (3 months) occurred for 69.3% of children** reviewed in FY2018-19. That is an improvement from FY2017-18, when it was 65.3%.
- For **21.5%** of children adjudication occurred 4-6 months after removal, and
- In **6.2%** of cases it took more than 7 months.
- The remainder were not yet adjudicated at time of review.

**Guardian Ad Litem (GAL) Practice.** 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.” Per Nebraska statutes, GALs are to visit children they represent at least once every six months in their placement.

FCRO staff review court documents and reach out directly to every GAL, however, **GAL-child contact was unable to be determined for about half of children reviewed**, as shown in **Figure 33**.

**Figure 33: GAL Contact with Child, n=4,223**



**CASA Volunteers.** In some areas of the State, courts have CASA (Court Appointed Special Advocates) programs. 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 parents, relatives, foster parents, children, teachers, medical professionals, attorneys, social workers and others involved in the cases. CASA volunteers can be a wealth of information on children’s cases. However, there are not enough CASA volunteers for all children who could benefit from their service.

Child Welfare

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. At the time of review:

- **27.8% of children reviewed had a CASA appointed.**

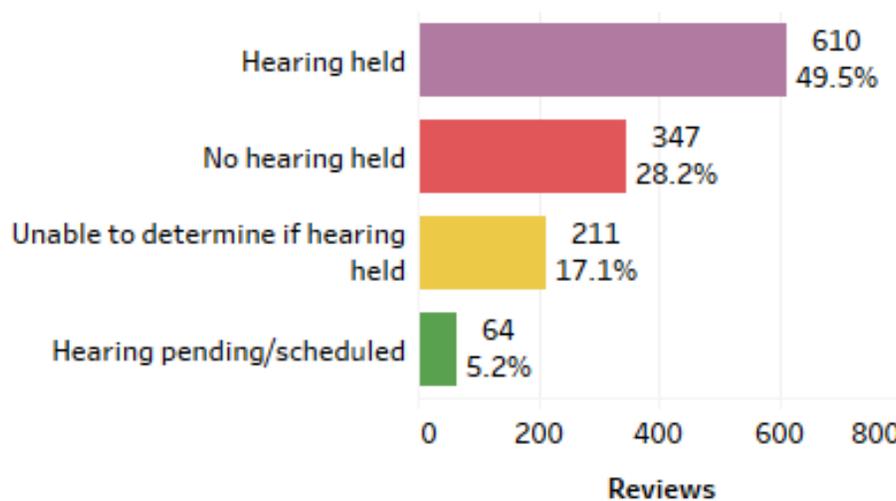
**Permanency Hearings.** Under Neb. Rev. Stat. §43-1312(3), courts shall have a permanency hearing no later than 12 months after the date the child enters foster care and annually thereafter. The permanency hearing is a pivotal point in each child’s case during which the court should determine whether 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.

- In the **majority (94.9%)** of cases reviewed of children in care at least 12 months, a permanency hearing had occurred.

**Exception Hearings.** Exception hearings are to occur if the child has been in care for 15 of the past 22 months. This hearing is called “exception” because the court is to determine at that point if there is a verified, legally allowable exception toward the required motion for termination of parental rights by either the prosecutor or the guardian ad litem.

In FY2018-19, the FCRO conducted 1,232 reviews of children who were in out-of-home care for 15 months or longer where parental rights were still intact. **For 45.3% of those children, the required exception hearing had not occurred or the FCRO was unable to determine that it had occurred (Figure 34).** While this is still too many, it is a substantial improvement over the prior year when supporting documentation could not be located for 24.5% of applicable cases.

**Figure 34: Exception Hearings, Children in Care for 15 Months or Longer, n=1,232**



**ICWA.** ICWA is the federal Indian Child Welfare Act, put in place to ensure that children of American Indian heritage were not unnecessarily removed from their extended family.<sup>55</sup>

- The FCRO found that ICWA applied to 182 state wards reviewed.
  - For the 182 children, **102 (56.0%)** had a cultural plan written by NDHHS to preserve the child's cultural bonds as required under ICWA.

**Child Involved in Case Planning.** There is a federal expectation regarding child involvement in their case plan. DHHS is to start seeking the child's input at age 10. Courts are to inquire at disposition and review hearings if the child was involved in the plan for all children who have reached their 14<sup>th</sup> birthday. The court's inquiry should be documented.

- **42.7%** of cases of child age 14-18 had documentation the court inquired if the child was involved in the plan. **This is a significant improvement from the 14.5% in the last fiscal year, but clearly there is room for improvement.**

**Children Attending Court Hearings.** It can be very important for older children and youth to feel heard by the court that is making decisions about their future.

- Yet, in 1,731 FCRO reviews of children aged 10-18 during FY2018-19, **only 14.6% were documented as having attended their court hearings.**

**Required SFA Findings Made by the Court.** The federal Strengthening Families Act has a requirement for certain findings to be made by the courts. As of July 2017, Courts are required under the Nebraska Strengthening Families Act (SFA) at every dispositional, review, or permanency planning hearing:

1. To make a determination regarding steps DHHS is taking to ensure the reasonable and prudent parenting standard.
2. To make a determination regarding whether the child has regular opportunities to engage in developmentally appropriate activities.
3. To consult with the child in an age/developmentally appropriate manner about such activities.
4. Make a finding on whether any youth age 14 and older were involved in the case plan, and make a finding as to the appropriateness of programs and services designed to help the youth transition to successful adulthood.
5. Make a finding for youth 16 and older (regardless of permanency plan) as to whether the youth has received documents as required in 43-1311.03(9), and if not whether the DHHS plan for the provision of such documents is adequate.
6. Make a determination for youth 16 and older with a plan of APPLA that it is in the best interests of the youth and list the compelling reasons that other permanency objectives are not possible for that youth.

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<sup>55</sup> Children under tribal court jurisdiction are not tracked or reviewed by the Foster Care Review Office. The numbers quoted here are for State Wards with ICWA qualification.

During FY2018-19:

- **For the second year in a row, less than one-third of the court orders reviewed contained the required findings**, so clearly there is a need for improvement in this area.

**TERMINATION OF PARENTAL RIGHTS**

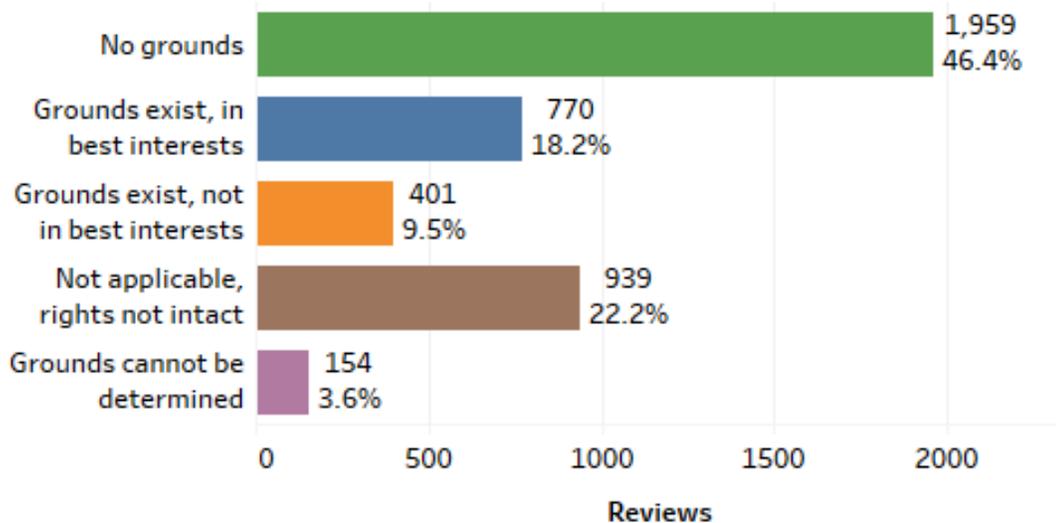
Parents have a fundamental right to the care, custody, and control of their children – but that right must be balanced with children’s critical need for safety, stability, and permanency.

Termination of parental rights (TPR) is the most extreme remedy for parental deficiencies. With a TPR, parents have lost all rights, privileges, and duties regarding their children and children’s legal ties to the parent are permanently severed. Severing parental ties can be extremely hard on children, who in effect become legal orphans; therefore, in addition to proving parental unfitness, Neb. Rev. Stat. §43-292 requires proof that the action is in children’s best interests.

**Grounds for TPR and Best Interest of the Child.** The FCRO is required by Neb. Rev. Stat. §43-1308 to make findings regarding termination of parental rights for each child reviewed: 1) if grounds appear to exist, 2) if a return to parents is likely, and 3) if a return to parents is unlikely what should be the permanency goal.

**Figure 35** illustrates the findings, starting with the status of apparent grounds for termination of parental rights. In about **18.2%** (770 of 4,223) of children’s cases, **grounds for a termination of rights, including best interests, appears to exist.**

**Figure 35: Existence of TPR Grounds and Best Interests, n=4,223**



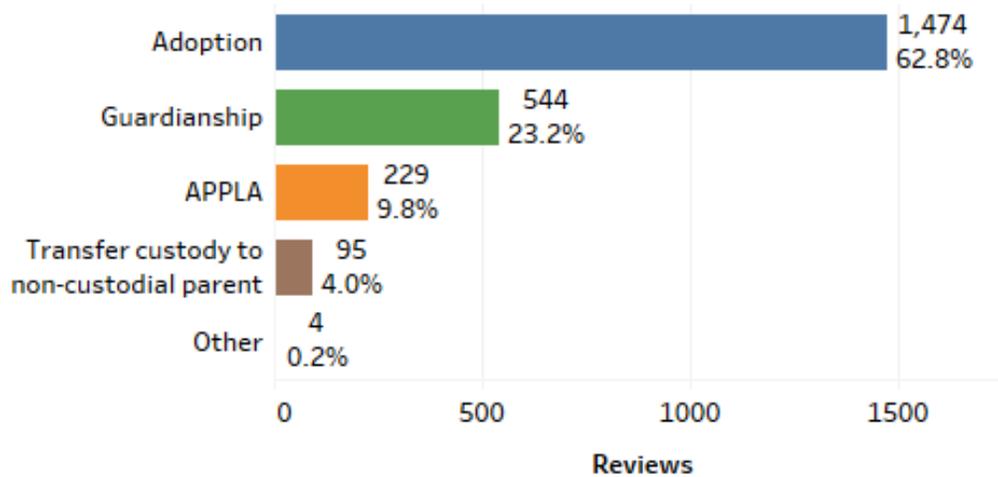
**Alternative Permanency if Return to Parent Unlikely.** For **1,877 children**, at the time of their review, it was either likely they would return home to their parents or they had already returned home, under court and NDHHS supervision, through a trial home visit. For the

remaining **2,346 children**, the board found that returning to the home from which they were removed was unlikely. As shown in **Figure 36**, when children are unlikely to return home, local review boards most frequently recommend a permanent family through adoption.

In some cases, such as where children do not want to completely sever ties to the parents, guardianship may be the best option. The “APPLA” category could include preparing for adult living for youth age 16 or older that are near adulthood and will exit the system without a permanent family in place (either via reunification, adoption, or guardianship).

Whether or not return to the parents is likely, the FCRO works to ensure that children do not linger unnecessarily in out-of-home care.

**Figure 36: Alternative Permanency Objective  
if Return to Parents Unlikely, n=2,346**



## PERMANENCY PLANS OF ADOPTION

**Children Free for Adoption.** Adoption cannot be finalized until the rights of both parents have been addressed. This can happen if the parents voluntarily relinquish their rights, if their rights are terminated by a court, if it is proven the parent is deceased, or through a procedure for advising an absent parent of the pending termination court action via publication.

- During FY2018-19, the FCRO reviewed the cases of **775 children whose primary plan was adoption**; **495 (63.9%)** of them were free for adoption regarding both parents.

**Children Placed in Pre-Adoptive Homes.** The FCRO also considers some facts about the potential pre-adoptive homes:

- **553 (71.4%)** of the 775 children were in a pre-adoptive home.

Ability to Meet Child's Needs. The primary consideration is whether those potential adoptive parents will be able to meet the children's needs:

- **501 (90.5%)** of the 553 children's foster parents appeared able to do so.

Time with Pre-Adoptive Family. By law prior to finalization of adoption children must have lived with the pre-adoptive parents for at least six months. That requirement was enacted to ensure that the potential adoptive parent is prepared to be the ongoing parent and can meet the needs of the legally orphaned child.

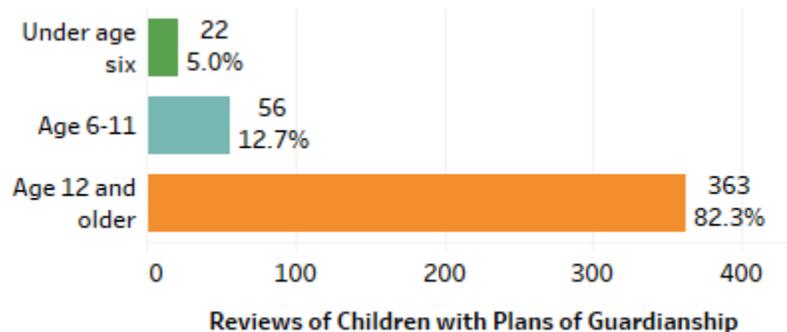
- The FCRO found **536 (96.9%)** of the 553 children in a pre-adoptive home had been in the foster home for six months or longer at the time of review.

## PERMANENCY PLANS OF GUARDIANSHIP

**Children with a Permanency Plan of Guardianship.** During FY2018-19 the FCRO reviewed the cases of **441 children whose primary plan was guardianship.** This compares to 355 during FY2017-18.

Age. The majority of the children, **82.3% (363)**, with a primary permanency plan of guardianship were 12 – 18 years old (**Figure 37**). It is concerning, however, when guardianship is the primary permanency plan for younger children instead of adoption, as is the case with **22 children age 0 to 5 and 56 children age 6 to 11.**

**Figure 37: Age Group of Children with Primary Permanency Plan of Guardianship, n=441**



Willingness of Potential Guardian. Delays can occur when the potential guardian is unwilling or undecided, however at the same time children deserve caregivers who are committed to them and who have considered the financial ramifications of the guardianship decision. At the time of FCRO review:

- **243 (55.1%)** of the 441 children's potential guardian was willing,
- **132 (29.9%)** were not willing,
- **And, for 66 (15.0%)** willingness could not be determined.

Relationship to Child. Relative and kin may need ongoing support to deal with the unique situations that can arise from raising family member's or friend's children. The FCRO found that of the 243 that were willing to assume guardianship:

- **116 (47.7%)** were relatives,
- **45 (18.5%)** were kin, and
- **82 (33.7%)** were neither relative nor kin.

Prior Disrupted Guardianships. Children who have experienced a prior disrupted guardianship may be wary of the long-term commitment of the foster parent to that child. That needs to be addressed before entering into discussions about a subsequent guardianship.

- There were **16 (6.6%)** of the 243 children that had a prior guardianship.

## WELL-BEING

While the data points discussed in this section have much to do with child well-being, there are also ties to safety and permanency.

Child well-being can be difficult to articulate but at a high-level well-being means a child has the internal resources to successfully deal with the challenges of day-to-day life.

In this subsection on well-being, the Foster Care Review Office details specific well-being measures and outcomes such as access to mental and physical health services, educational outcomes, and maintaining positive connections to family and supportive adults. For older children, this also includes obtaining skills needed for successful adult living.

### MAINTAINING SIBLING CONNECTIONS

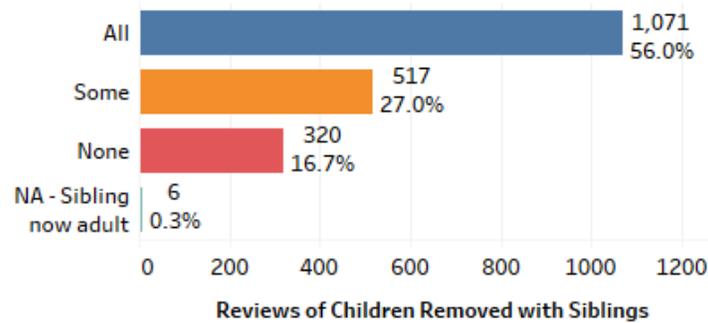
Children that have experienced abuse or neglect may have formed their strongest bonds with siblings.<sup>56</sup> It is important to keep these bonds intact, or children can grow up without essential family and suffer from that loss. Ideally, when children with siblings are removed from their home, they will be placed with those siblings.

Unfortunately, as shown in **Figure 38**, only **56.0%** of children removed with their siblings were still placed with all of those siblings at time of review. The figure does not include reviewed children that had no siblings. Children who are in care for extended periods of time are more likely to have minimal or disrupted contact with their siblings.<sup>57</sup>

<sup>56</sup> *Sibling Issues in Foster Care and Adoption*, <https://www.childwelfare.gov/pubs/siblingissues/index.cfm>

<sup>57</sup> The Nebraska Foster Care Review Office Quarterly Report, June 2017. Available at: <http://fcro.nebraska.gov/pdf/FCRO-Reports/2017-q2-quarterly-report-2.pdf>.

**Figure 38: Children Removed with Siblings, by Whether Still Placed with Those Siblings, n=1,914**



## CHILDREN'S HEALTH

**Physical Health.** The American Academy of Pediatrics (AAP) notes that many children in foster care have “received only fragmentary and sporadic health care” and may enter the system with undiagnosed or under-treated medical problems. Some health conditions may be exacerbated during times of distress, like being removed from the home or transitioned from one foster placement to another. According to the AAP, approximately 50% of children entering foster care have chronic physical problems, 10% are medically fragile or complex, and many were exposed to substances prenatally.<sup>58</sup>

**Caregivers Received Records.** Per federal requirement, the FCRO must attempt to contact the child's placement to determine whether the placement received medical background information on the child at the time the child was placed.<sup>59</sup> Caregivers are not required to respond to the FCRO – and many do not.

- In **79.8%** of the cases reviewed, the foster parents/caregivers were given medical educational information regarding the child,
- In **15.3%** of the cases it was unable to be determined, and
- In **4.9%** of the cases, the foster parents had *not* been given the information.

**Meeting Children's Health and Dental Care Needs.** Similar to last year and the year before that, in FY2018-19 the FCRO found:

- About **90% of children** had their health and dental needs met, but it is concerning that **10% either had unmet health or dental needs or documentation was lacking from which to make a determination.**

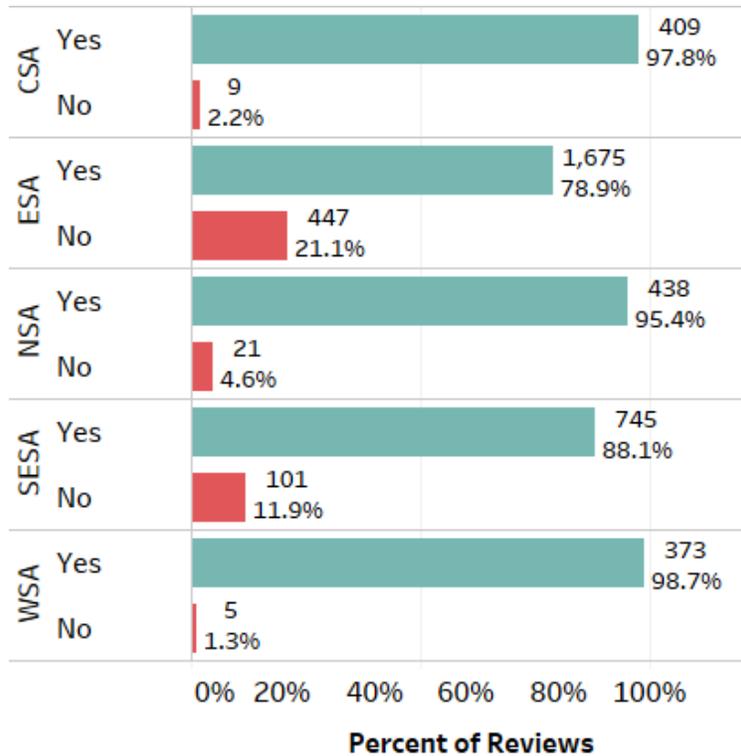
<sup>58</sup>American Academy of Pediatrics. <https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/healthy-foster-care-america/Pages/Physical-Health.aspx>

<sup>59</sup> Foster parents are provided the opportunity to attend the FCRO review, along with the phone number and email address for the System Oversight Specialists. Foster parents can complete a questionnaire, which is sent to each of them or available online. System Oversight Specialists also attempt to contact the placement via phone or email prior to the local board meeting.

**Health Record Availability.** The FCRO gathers statistics during reviews on whether children’s health records were readily accessible on the NDHHS computer system, N-FOCUS. Statewide, 56.9% of children’s health records were fully available on the NDHHS system of record, and in 29.3% of the files, it was partially available. **That means that in 43.1% of the cases statewide reviewers had to go to other sources for all or some children’s health information.**

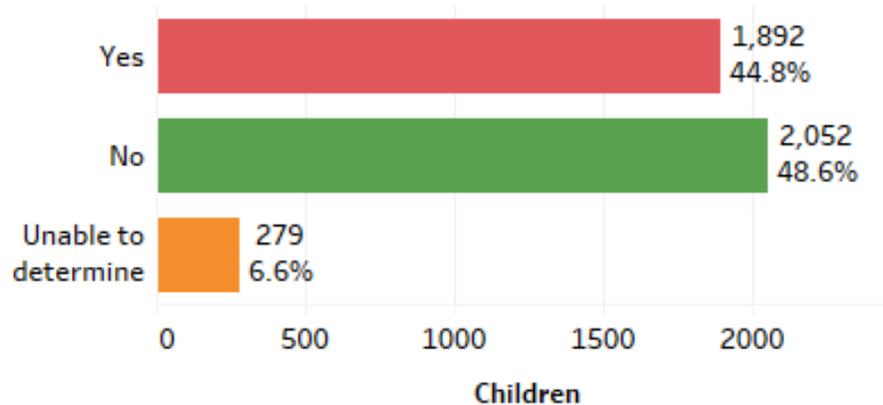
There were significant differences in the availability based on the DHHS Service Area. Notably, in both the Eastern and Southeast (Omaha and Lincoln respectively) there was a significant number of files (**21.1% and 11.9%**) that did not contain the child’s medical information. **Figure 39** illustrates those differences.

**Figure 39: Whether DHHS File Contained Medical Records at Time of Review, n=4,223**



This situation needs to improve in order to ensure caseworkers and their supervisors have instantaneous access to this critical information should emergencies arise (such as the widespread flooding that occurred this fiscal year and necessitated some emergency moves), or if a case must transfer to different personnel.

**Children’s Mental Health.** The FCRO considers whether children reviewed had a professionally diagnosed mental health or trauma-related condition. As shown by the following, **a significant number of children (1,892) are impacted by the managed care and behavioral health systems (Figure 40).**

**Figure 40: Verified Mental Health Condition at Time of Review, n=4,223**

While less common, during the 4,223 reviews the FCRO found a significant number of boys and girls were affected by the following mental and behavioral health issues:

- Therapy information was inadequate for more than half (**55.1%**) of the children court-ordered to therapy. **14.2%** of boys and **14.0%** of girls reviewed were court ordered to therapy at the time of review.
- **26.6%** of boys and **19.4%** of girls reviewed were currently prescribed at least one psychotropic medication at the time of review. If prescribed, 54.9% of girls and 58.9% of boys were currently prescribed more than one such medication.
- **9.4%** of the boys and **7.2%** of the girls of children reviewed were displaying behaviors that make caregiving difficult.
- **4.6%** of the boys and **5.5%** of the girls reviewed had sexualized behaviors in the six months prior to review (this does not include developmentally appropriate behaviors of a sexual nature).
- **3.4%** of the boys and **4.4%** of the girls reviewed had a critical incident in their foster placement in the six months prior to review. Critical incidents normally involve inappropriate or unsafe behaviors or mental health-related activities.
- **3.3%** of the teenage boys and **7.6%** of the teenage girls reviewed had committed intentional self-injury in the six months prior to review.
- **>1%** (26) of children reviewed had a documented or suspected victimization due to sex trafficking.

**All stakeholders must ensure that appropriate and timely mental health services are available statewide.**

**Children with Chronic Impairments.** Many children (39.9%) in the child welfare system have one or more verified chronic impairments<sup>60</sup> (Figure 41). There is a significant difference in the proportion of children in out-of-home care with a verified diagnosis (41.7%) and those in a trial home visit (29.8%). Specialized services are needed for all children with a chronic impairment, especially supports for parents when reunification is the goal. In particular, children with a mental health or cognitive impairment are in out-of-home care at a higher rate than in a trial home visit, an indication that perhaps the parents may not yet be equipped to provide adequate care and supervision of children with such often challenging needs.

**Figure 41: Impairment Diagnosis for Children Reviewed During FY2017-18, n=3,277**

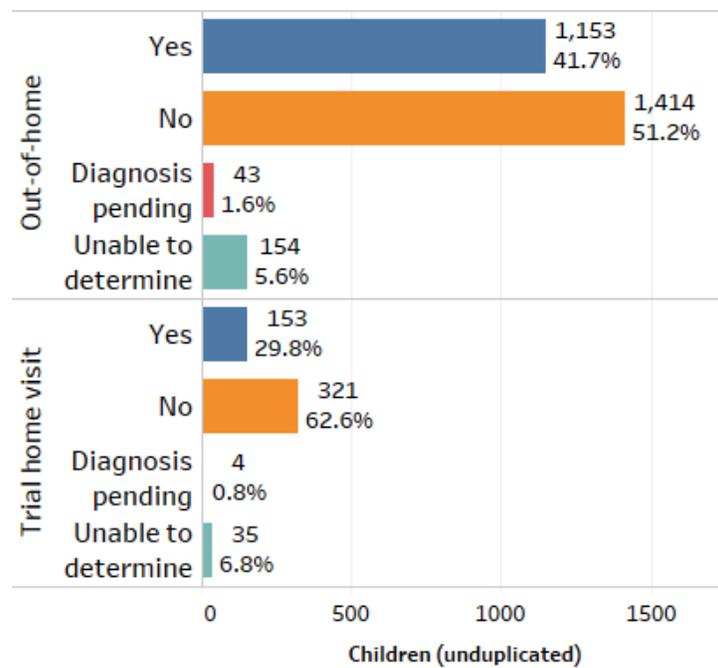
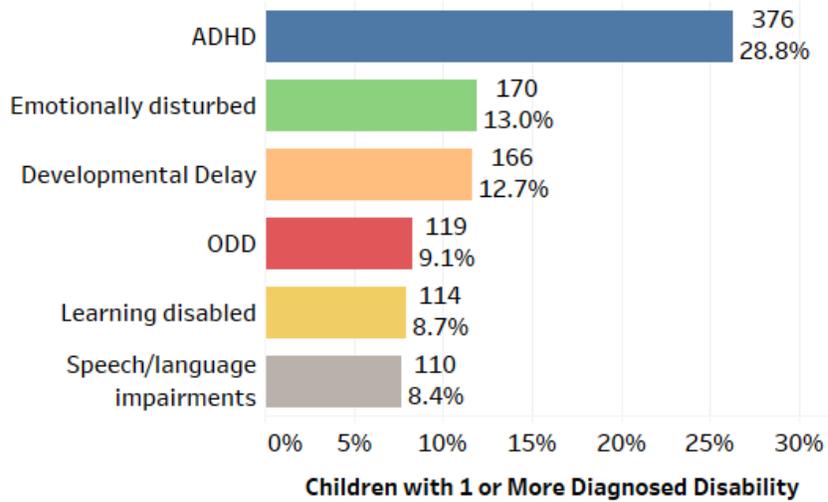


Figure 42 shows the most frequent types of impairments for the 1,306 reviewed children with a diagnosis. Specialized services are needed to appropriately meet the needs of these children.

<sup>60</sup> Impairments can be to physical health, mental health, orthopedic, or a combination. Some impairments have both a bio-chemical and a mental health component.

**Figure 42: Most Frequent Impairment Type(s) for Children with a Verified Impairment  
n=1,306  
(multiple allowed)**



**CHILDREN WITH DEVELOPMENTAL DISABILITIES**

Among the most vulnerable children who experienced abuse and neglect are those that also meet the strict criteria for qualification for Developmental Disabilities Services through NDHHS. Those criteria were met by **119 (3.6%) children that were reviewed**, a similar number to last year.

**Only 38.7% (46 of 119 children) that were qualified were documented as receiving services through developmental disabilities specialists. This means a significant percentage are not receiving the needed disability services through the NDHHS Division of Disability Services.** NDHHS Division of Disability Services are the experts in meeting the needs of youth with developmental disabilities, and are better suited to do so than the Division of Child and Family Services. Disability Services is best equipped to provide on-going support to these children as they transition to adulthood.

**YOUNG CHILDREN IN THE CHILD WELFARE SYSTEM**

**Early Development Network.** A child is eligible for Early Development Network (EDN) services if he or she is not developing typically, has been diagnosed with or suspected of having a health condition that will impact his or her development, or was born testing positive for the presence of drugs. 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 for a variety of reasons.

- **The FCRO found that EDN referrals were made for 87.8% of children age birth-three, and 89.6% of those referred had an EDN assessment completed.**

## EDUCATION

Children's education can be positively or negatively impacted by early experiences. Children in foster care may begin their formal education at a significant disadvantage. For example:

- Many children in foster care lived in a chaotic, stressful environment prior to their removal from the home.
- Some had pre-natal and/or post-natal exposure to alcohol and/or drugs.
- Some moved often and unpredictably, 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.<sup>61</sup>
- Some have been impacted by multiple removals from the parental home.

Further, children experiencing separation from their parents (and possibly also from brothers and sisters), adjusting to a new living environment, and adjusting to a new school, can be coping with too much stress to properly concentrate on their education. Grief effects are compounded each time a child is moved. Not only do the children often have serious educational deficits, they may be displaying trauma-related behaviors that negatively impact their education.

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>62</sup> On a local level, in 2015 the Nebraska Department of Education issued a *State Ward Statistical Snapshot* that describes many of the educational deficits faced by Nebraska's state wards.<sup>63</sup> The FCRO encourages all to examine or re-examine that 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. Having critical educational information about each child in their care 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>64</sup>

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<sup>61</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>62</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>63</sup> Benjamin Baumfalk & Eva Shepherd, State Ward Statistical Snapshot Project, Nebraska Department of Education, June 29, 2012, and Nebraska Department of Education 2015.

<sup>64</sup> Foster parents are provided the opportunity to attend the review, along with the phone number and email address for the System Oversight Specialists. Foster parents are provided a questionnaire to complete if

Even young children can be receiving Special Education or EDN services through the schools, so every foster caregiver should be given the education status of the children being placed in their homes. For children of mandatory age for school enrollment this is especially relevant.

- While 67.0% of caregivers of school-age children did receive educational information, **it is concerning that it was unclear whether 28.6% of the caregivers had received educational information** (not documented), **and that another 4.3% indicated they had not received it.**

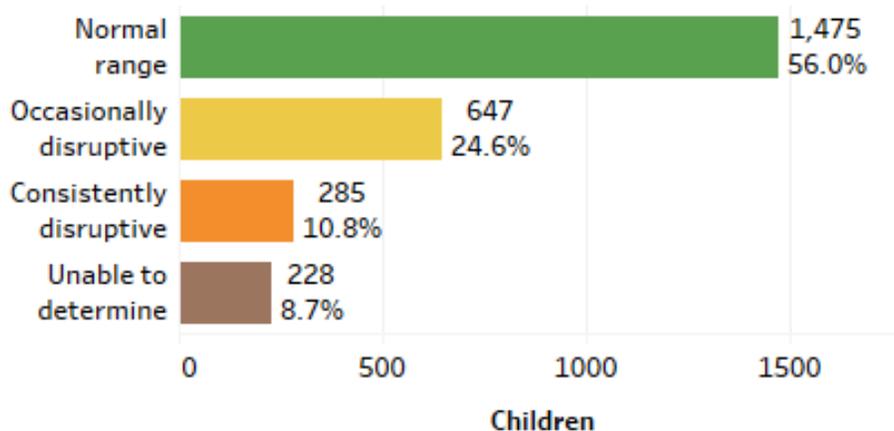
**School Performance.** For children that are of Nebraska’s mandatory age for school attendance, FCRO reviewers consider whether they are on target for core classes. With the transient lifestyle and trauma many have experienced, being on target can be difficult to achieve.

- **The FCRO thanks the educators that have helped the 76.5% of girls and 65.0% of boys reviewed that were academically on target.**
  - However, **13.7% of girls and 21.2% of boys were not on target**, which has the potential to impact the child’s entire life, and for the remainder (**9.4% of girls and 13.2% of boys**), there was **insufficient documentation** to make a determination.

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.

But, many children in foster care respond well to the structure and discipline that occurs in school. **Figure 43** illustrates this by showing that for most children (**80.6%**) their school behaviors are in the normal range or only occasionally disruptive.

**Figure 43: Behavior at School for School-Age Children, n=2,635**




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attending the review conflicts with their schedules, which can be done online at any time prior to the review. System Oversight Specialists also attempt to contact the placement via phone or email.

Also related to school performance:

- In **89.5% (2,287)** of the reviews, the child was regularly attending school.
- In **7.4% (190)** of the reviews, the child had been suspended in the six months prior.
- In **2.3% (55)** of the reviews, the child did not speak English as their primary language.
- In **1.9% (48)** of the reviews, the child had been expelled in the six months prior to review.

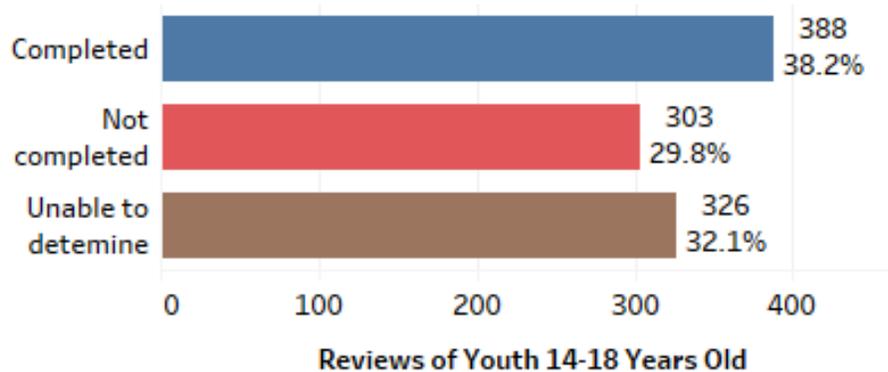
**OLDER YOUTH: PREPARATION FOR ADULT LIFE**

Nationally there is growing concern for the number of young adults who aged out of the foster care system and found themselves ill-prepared for adult life. Research shows that these youth are “more likely than their peers to drop out of school, be unemployed or homeless, experience health and mental health problems and not have health insurance, become teen parents, use illegal drugs, and have encounters with the criminal justice system.”<sup>65</sup>

**In FY2018-19, 143 (6.1%) left the child welfare system on the day they reached legal adulthood having never reached permanency.** Whether able to return to their families or not, older youth need to begin the process of gaining skills needed as a young adult.

**Independent Living Assessment.** All youth age 14-18 are to take an assessment to determine which skills for adulthood are still in need of work.<sup>66</sup> It was completed for **38.2%** of youth this fiscal year (**Figure 44**), which is no change from last year.

**Figure 44: Independent Living Assessment Completed, Youth Age 14-18, n=1,017**



**Transitional Living Plan.** The completed Independent Living Assessment is to drive the creation of the Transitional Living Plan (Independent Living Plan). This plan must be developed for a state ward 14 years of age or older and be designed to empower youth in achieving successful adulthood.<sup>67</sup> It needs to be periodically updated as situations dictate.

<sup>65</sup> Child Welfare Information Gateway. April 2013. “Helping Youth Transition to Adulthood.” Children’s Bureau/ACYF/ACF/HHS. [https://www.childwelfare.gov/pubPDFs/youth\\_transition.pdf](https://www.childwelfare.gov/pubPDFs/youth_transition.pdf).

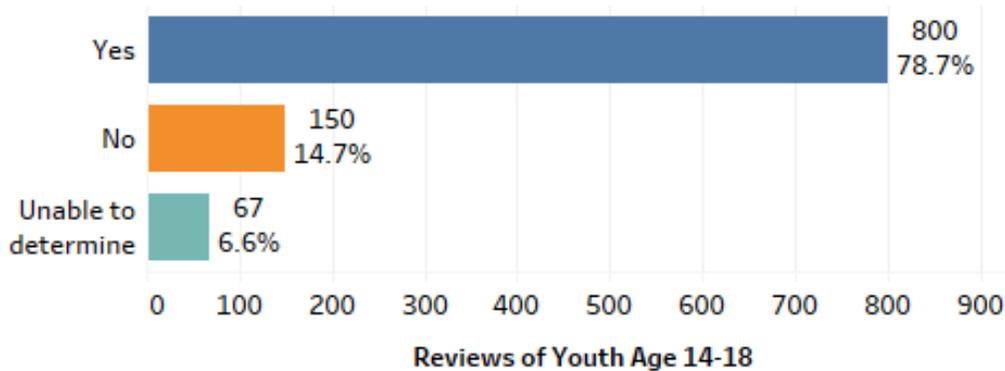
<sup>66</sup> Transitional Living Planning Procedure 30-2015-NDHHS.

<sup>67</sup> Transitional Living Planning Policy Memo 30-2015, Nebraska Department of Health and Human Services.

- In **73.8% (751 of 1,017)** of the reviews the plan had been created, but in 13.3% it had not.
- **Only 45.8% (466 of 1,017)** of youth aged 14-18 had an identified transition team.

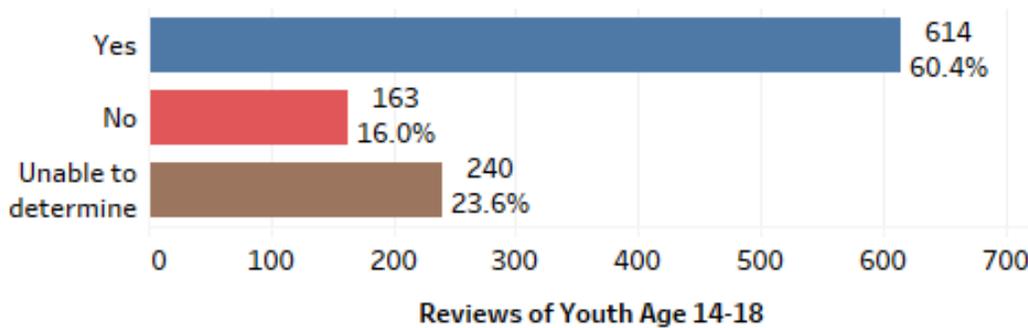
**Relationships with Positive Adults.** All youth need to have at least one positive adult, whether family or friend, that can assist them not only as minors but also as they transition into adulthood. **Figure 45** indicates if such an adult mentor has been identified for the youth reviewed.

**Figure 45: Positive Adult Mentor Identified, Youth 14-18, n=1,017**



As part of the file review process, FCRO staff assess if the youth is being provided with the skills needed for adulthood. **For 23.6% of youth, however, there is not enough information provided to make this determination (Figure 46).**

**Figure 46: Obtaining Skills for Adulthood, Youth 14-18, n=1,017**



**SECTION 3 -  
YOUTH IN OUT-OF-HOME CARE  
SUPERVISED BY THE OFFICE OF  
PROBATION ADMINISTRATION  
(PROBATION SUPERVISED YOUTH)**

This section describes youth placed out-of-home who are supervised by the Administrative Office of Probation – Juvenile Division. The data points are separated by population-wide data and additional data gathered during FCRO case file review research.

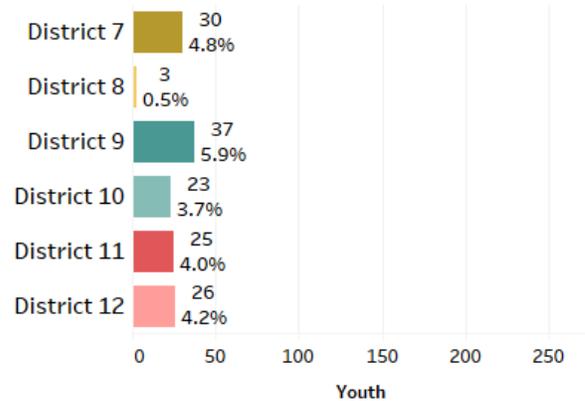
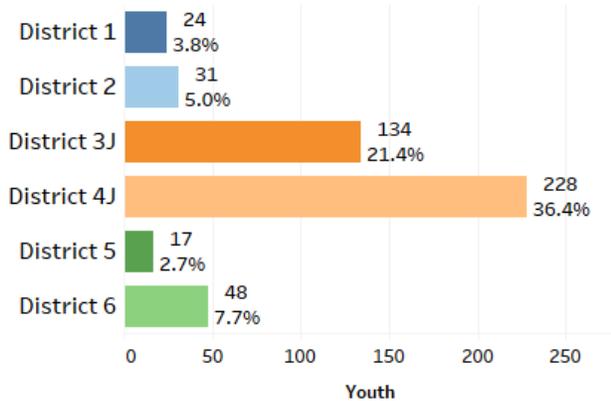
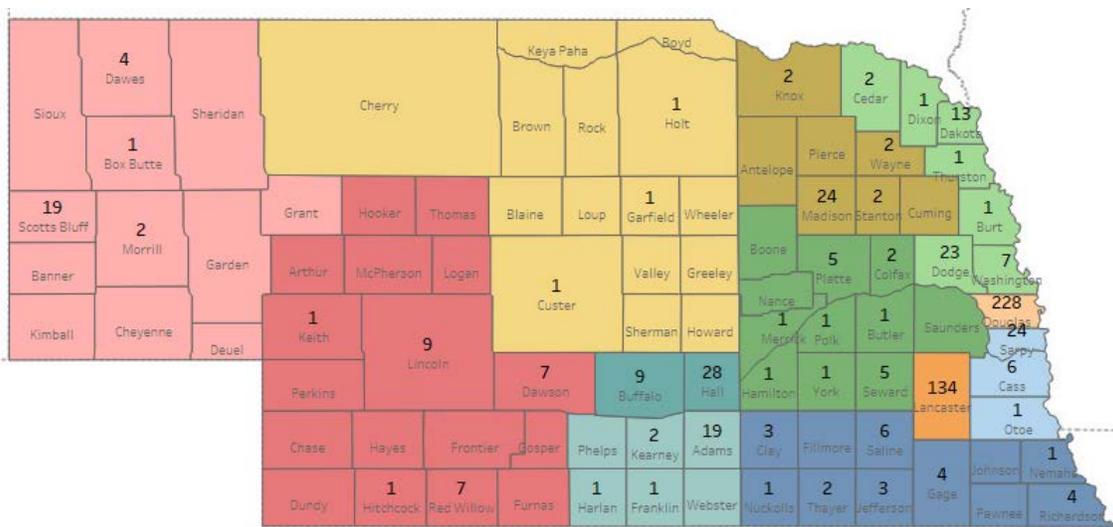
# DATA ON PROBATION SUPERVISED YOUTH IN OUT-OF-HOME CARE ON JUNE 30, 2018

On June 30, 2019, there were **629 youth supervised by the Office of Juvenile Probation in Out-of-Home Care**, excluding youth dually involved with NDHHS and Juvenile Probation and youth placed at a YRTC. The following is some snapshot (point-in-time) data about these youth.

## DEMOGRAPHICS

**County.** Figure 47 shows the county of origin of Probation supervised youth in out-of-home care on June 30, 2019, based on the Judicial District. (See Appendix A for a list of counties and their respective district).

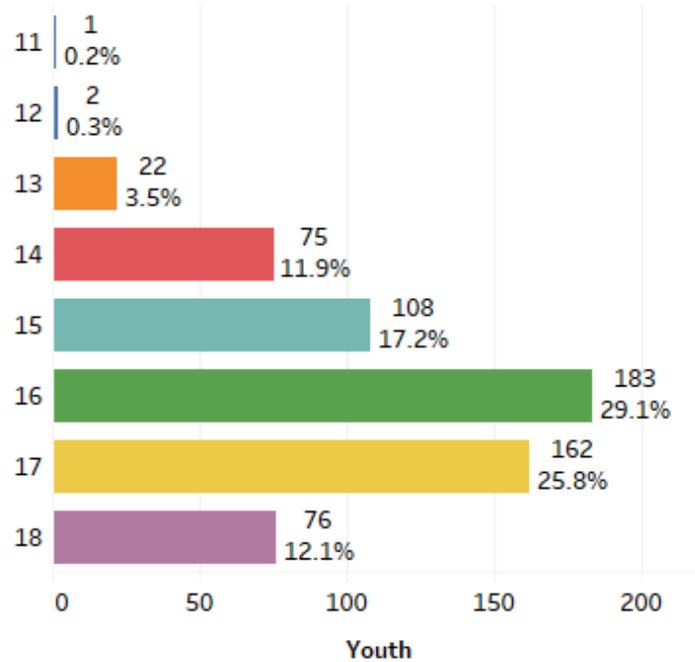
**Figure 47: Youth in Out-of-Home Care on 6/30/2019 Served by Probation, n=629**



**Age.** Figure 48 shows the ages of youth in out-of-home care supervised by Probation on June 30, 2019. While most are in their upper teen years, there is a sizeable group of

youth placed outside the parental home (208 of 629, or 33.1%) that are under 16 years of age.

**Figure 48: Probation Supervised Youth in Out-of-Home Care on 6/30/2019 by Age, n=629**

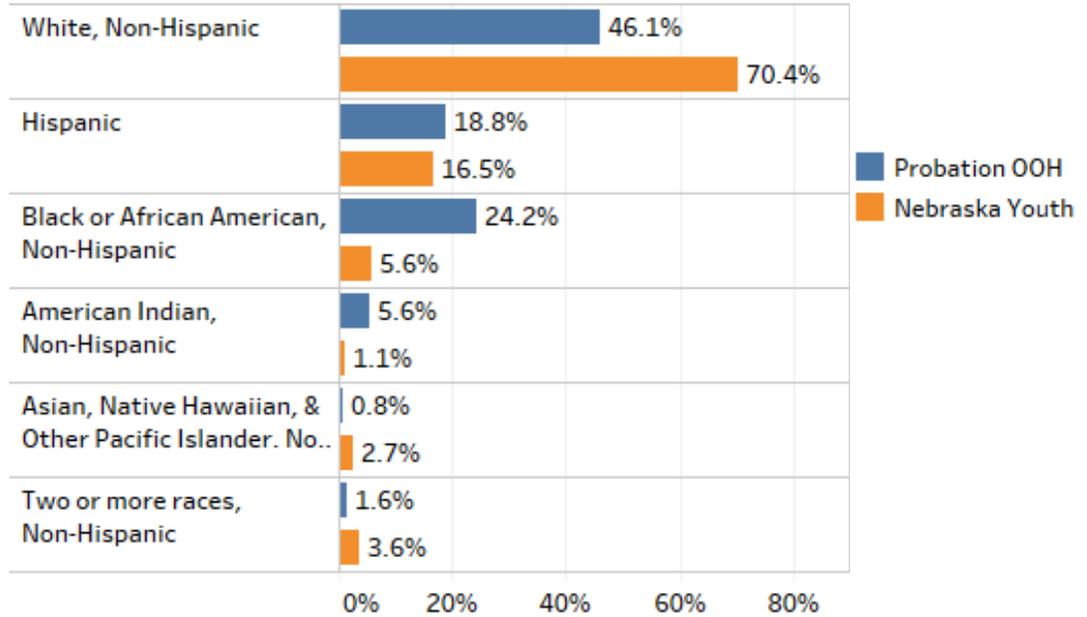


**Gender.** Boys make up approximately **2/3 (421)** of the population of Probation supervised youth in out-of-home care.

**Race.** Racial disproportionality is more striking in the Probation supervised out-of-home population than the Child Welfare population, as shown in **Figure 49**. Youth who are Black or African American, Non-Hispanic make up 5.6% of Nebraska’s population, but **24.2%** of the Probation supervised youth in out-of-home care. American Indian, Non-Hispanic youth, who are 1.1% of Nebraska’s youth population, are **5.6%** of the out-of-home population.<sup>68</sup>

<sup>68</sup> U.S. Census Bureau, Population Division, County Characteristics Datasets: Annual County Resident Population Estimates by Age, Sex, Race, and Hispanic Origin: July 1, 2018.

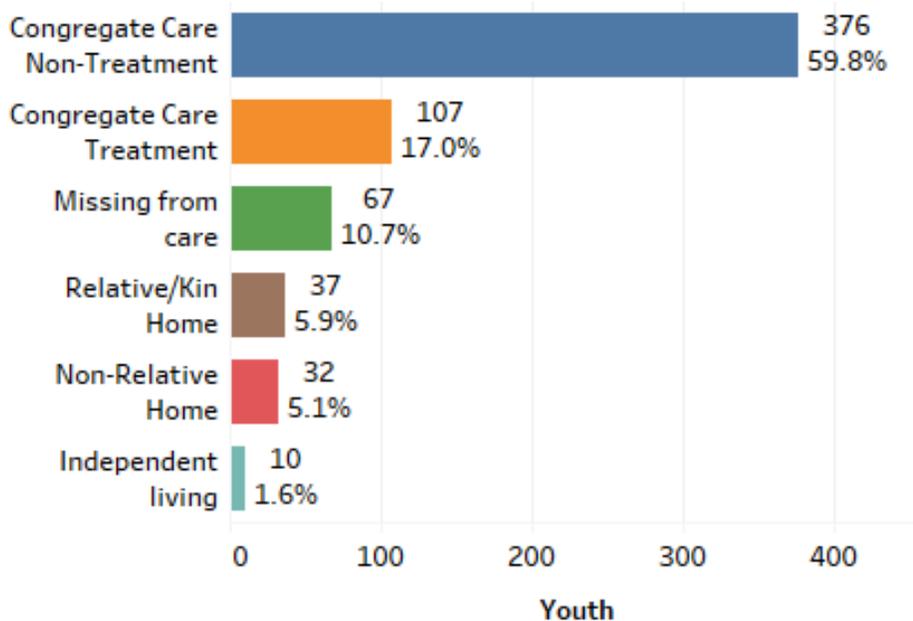
**Figure 49: Race and Ethnicity of Probation Supervised Youth in Out-of-Home Placement Compared to Nebraska Census Data on 6/30/2019, n=629**



**PLACEMENTS**

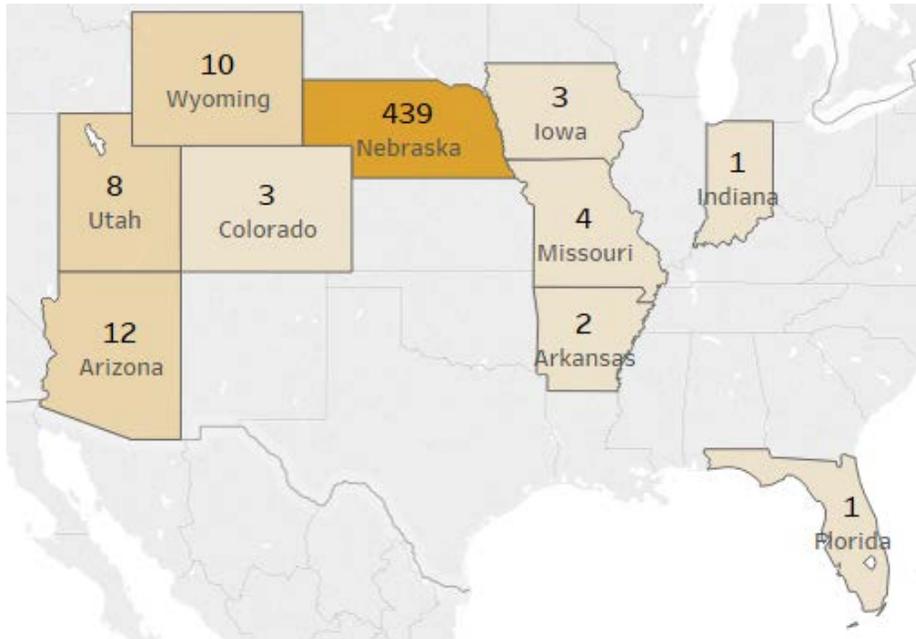
**Placement Type.** The majority of Probation supervised youth in out-of-home care are in a non-treatment congregate (group) care facility (Figure 50). **Only 17.0% are in a treatment facility.**

**Figure 50: Probation Supervised Youth in Out-of-Home Care on 6/30/2019 by Placement Type, n=629**



**Congregate Care.** For the 483 youth in congregate care facilities, 44 (14.7%) are placed outside of Nebraska (Figure 51).

**Figure 51: Probation Supervised Youth in Congregate Care on 6/30/2019 by State of Placement, n=483**



## PROBATION YOUTH DATA GATHERED FROM FCRO REVIEWS CONDUCTED DURING FY2018-19

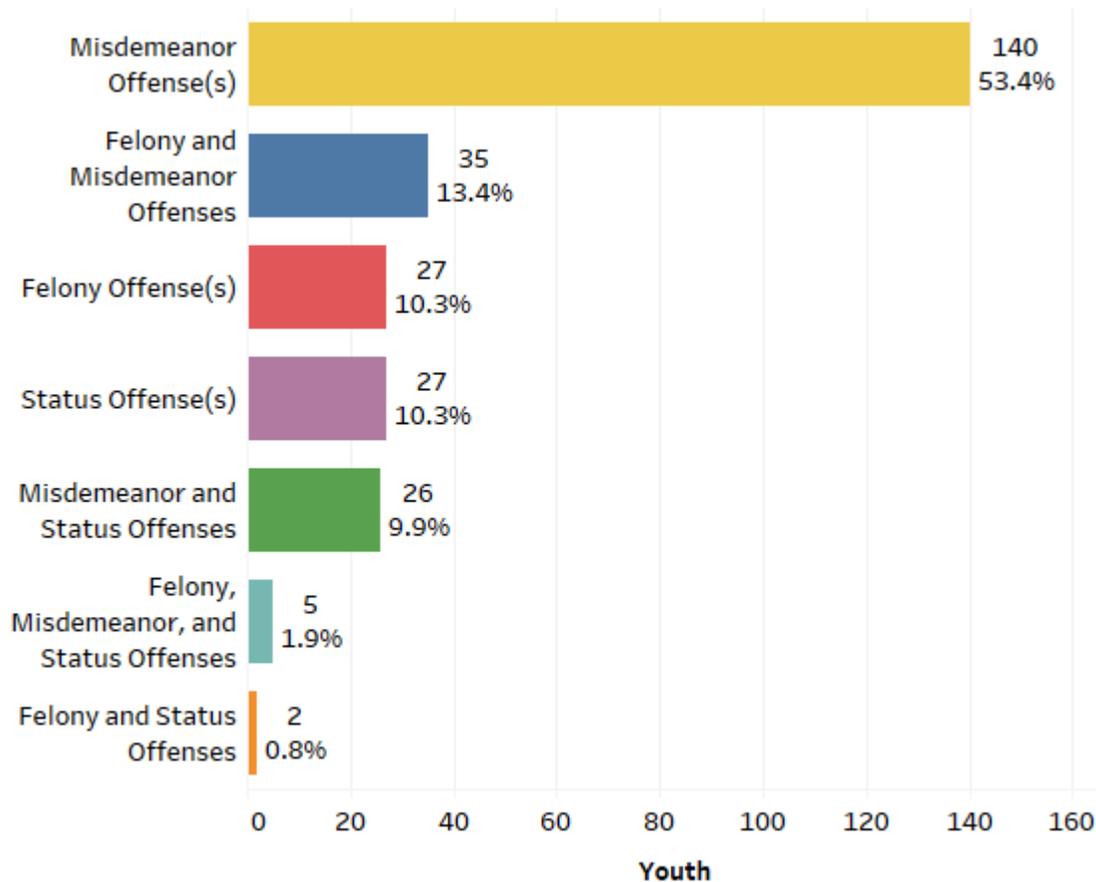
The Foster Care Review Office (FCRO) **conducted 266 case file reviews on 262 youth** in out-of-home care under exclusive Probation supervision in FY2018-19. This does not include the 14 youth who were placed at a Youth Rehabilitation and Treatment Center at the time of review.

Reviews for Probation supervised youth are conducted by boards with specific training in juvenile justice that focus solely on Probation youth in out-of-home care.

### OFFENSE TYPES

**Figure 52** shows the offenses that led to this episode of Probation for youth in out-of-home care reviewed in FY2018-19, including 27 youth that had only a status offense (an offense that an adult could not be charged with, such as truancy or running from home). Most had been convicted of one or more delinquency offenses (misdemeanor, felony, or violations of a city ordinance that would be considered a crime if an adult).

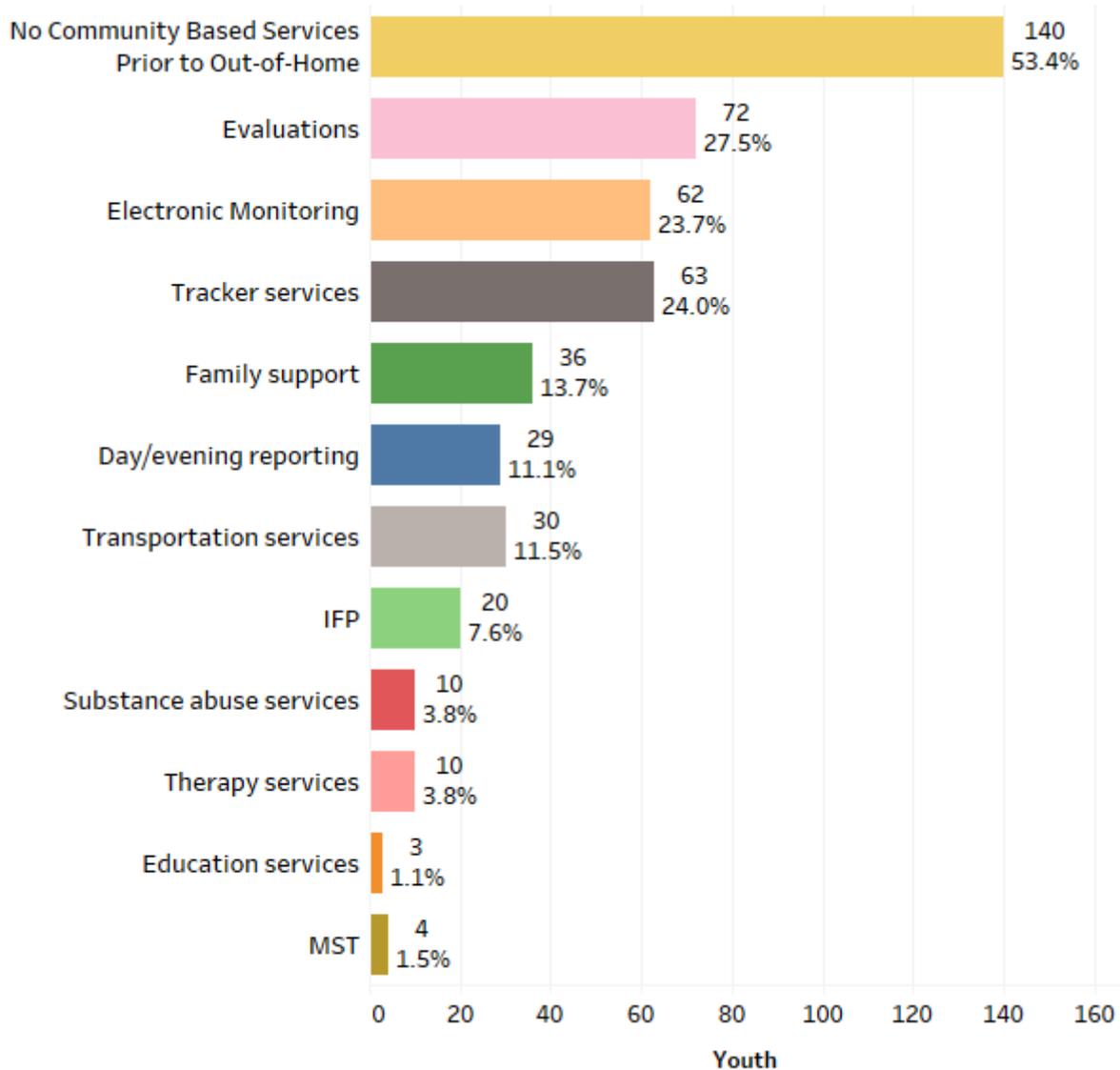
**Figure 52: Current Offenses For Youth Reviewed FY2018-19, n=262**



**COMMUNITY-BASED SERVICES**

**Figure 53** below shows the type(s) of community-based services that reviewed youth had received prior to their FCRO review. Some youth may have received several different types of services prior to entering out-of-home care. Yet, **140 (53.4%)** youth had no documentation of any community-based services prior to being placed out of the home. This is not to imply that the 140 youth never received community based services, as most had. The services began, however, after the youth was initially placed in out-of-home care.

**Figure 53: Community-Based Services Received By Youth Reviewed  
FY2018-19, n=262  
(Multiple Types May be Identified)**



**PLACEMENTS**

**Placement Types.** The distribution of placements for youth who were reviewed by the FCRO closely mirrors the distribution of placements for all Probation youth in out-of-home care (See **Figure 50 on page 57**). Youth were most likely to be placed at a non-treatment congregate care facility, followed by a treatment congregate care facility.

**Safety and Appropriateness.** One of the most important roles of the FCRO is to ensure that all children who are placed in out-of-home care through the State are safe.

- Nearly all (**97.0%**) of the youth placed out-of-home while supervised by Probation were safe. All youth determined to be unsafe were missing at the time of review.

The local board reviews whether or not the current placement is the best fit for the youth, including whether or not the placement is the least-restrictive setting possible to meet the youth’s needs.

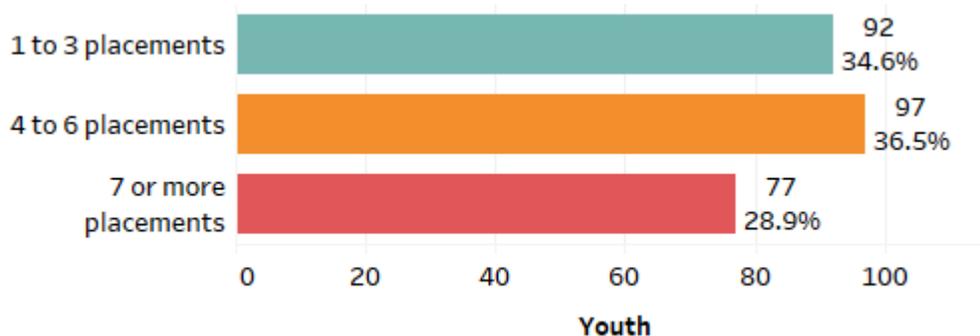
- In the majority of cases (**85.3%**), the board agreed that the type of out-of-home placement was appropriate for the youth.
- For **22 youth (8.3%)**, their placement type was deemed not appropriate by the FCRO review board.
- Appropriateness could not be determined for **17 youth (6.4%)**.

Collaborative work between the FCRO and Juvenile Probation must continue in regards to accurately recording and reporting placements. For example:

- FCRO staff verify all placement histories with the available documentation prior to the review, and in **22.5%** of reviews, placement information had to be corrected prior to the review.

**Probation Placements this Episode.** **Figure 54** below shows the number of out-of-home placements (living arrangements) associated with youth’s involvement with Probation only and does not include episodes of missing from care. Any placements associated with a previous involvement with NDHHS child welfare are also not included.

**Figure 54: Probation Out-of-Home Placements this Episode for Probation Supervised Youth Reviewed FY 2018-19, n=266**



Multiple placements may be necessary for youth in need of specific treatment services, however, it is important to minimize the total number of placements in order to provide stability.

**PROBATION PLANS AND SERVICES**

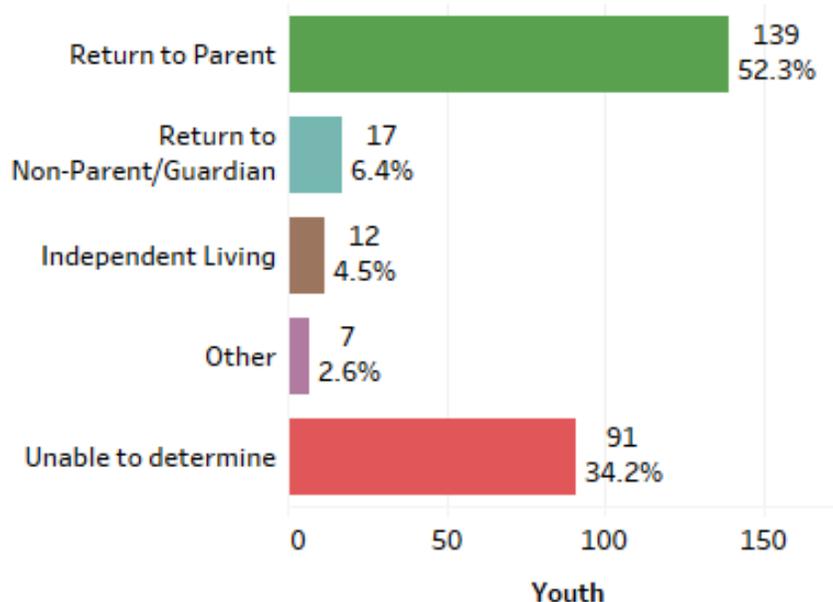
**Individualized Transition Plan.** Individualized Transition Plans (ITPs) are to include goals and steps toward achieving those goals. Of the youth who should have an ITP<sup>69</sup>:

- The FCRO was provided a written plan for review in **79.6% of the cases**.
- The plan was not provided in **20.4% of cases**.

Youth in the 4J and 3J Probation Districts (Douglas and Lancaster counties, respectively) were much more likely to have a written ITP available for review than all other Probation Districts; **91.8% compared to 60.8%**.

**Plan Objectives.** Even in situations where a written plan is provided, the plan’s objective was not always clear. The plan objective could not be determined in over 1/3 of the reviews, the same as in the last fiscal year. As shown in **Figure 55**, where the plan objective was clear, the largest single group of youth had a plan objective to return to the parent (**139, 75.1% adjusted**), also the same as the prior fiscal year.

**Figure 55: Plan Objective at Time of Review for Probation Supervised Youth Reviewed FY2018-19, n=266**



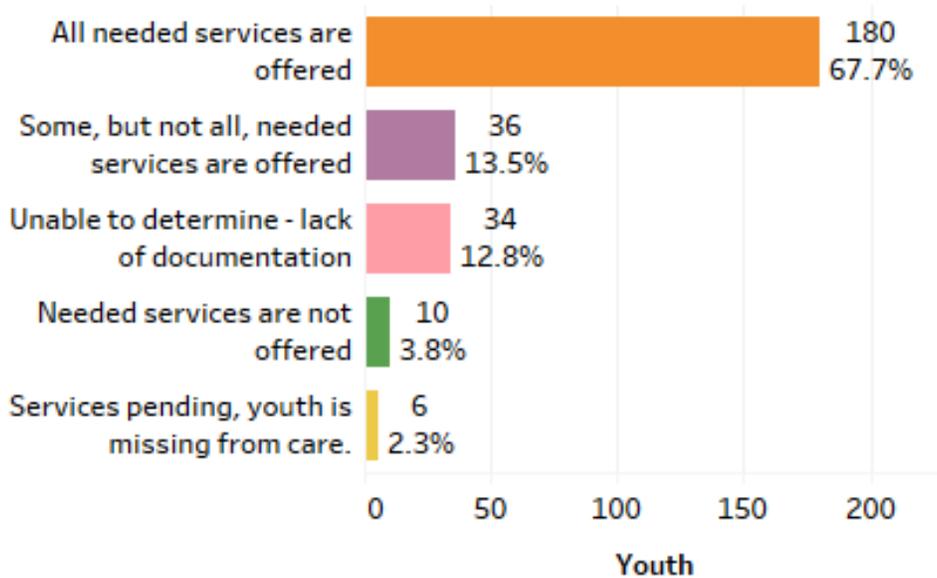
<sup>69</sup> Individualized Transition Plans are not provided for youth who are missing at the time of the review. In some instances, such as detention or crisis stabilization, the youth may have a Short-term Transition Plan (STP). Complete STPs are considered a substitute for ITPs and included within this measure.

Juvenile Probation

**Services.** Whether there is a written plan or not, most youth eventually return to the family and/or community. In order to prevent future acts of delinquency and increase community safety, juveniles in State care must be provided the appropriate services.

An assessment of the services offered to Probation supervised youth out-of-home extends beyond the scope of what is written into the plan and looks at the overall status of the case and the feedback provided by review participants. In the majority of cases, **(67.9%)** all needed services are offered (**Figure 56**). **That is a significant improvement from the 58.0% in the prior fiscal year.** Lack of documentation, however, is still a problem in **12.8%** of the cases.

**Figure 56: Needed Services Provided at Time of Review for Probation Supervised Youth Reviewed FY 2018-19, n=266**

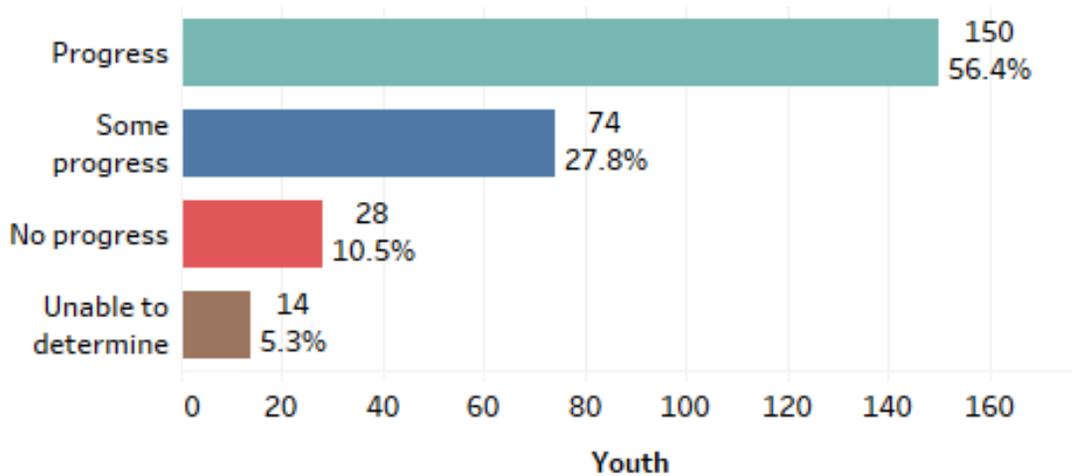


With a focus on reducing re-entry into the juvenile justice or adult criminal systems and community safety, it is important to note that a youth may be receiving all required services but is not yet ready to return to his or her community.

**PROGRESS TOWARDS COMPLETING PROBATION**

**Progress toward Successful Completion of Probation.** As shown in **Figure 57**, the majority of the youth reviewed were making consistent or some progress towards the successful completion of Probation.

**Figure 57: Progress toward Successful Completion of Probation at Time of Review for Probation Supervised Youth Reviewed FY2018-19, n=266**



**Need for Continued Out-of-Home Placement.** Progress, however, is not the same as being currently ready to transition from out-of-home placement.

- In **78.5%** of the cases reviewed, there was a recognized need to continue out-of-home placement.

**Need for Continued Probation Supervision.** Need for out-of-home placement and need for Probation supervision are distinct. Continued supervision can provide youth returning to their homes and communities with services to ease the transition and improve the chances for continued success.

- In **91.4%** the board found that Probation supervision needed to continue.

There are many factors that must be considered to determine if a youth should or should not continue in out-of-home placement or Probation supervision. One of the most important factors is the risk to re-offend.

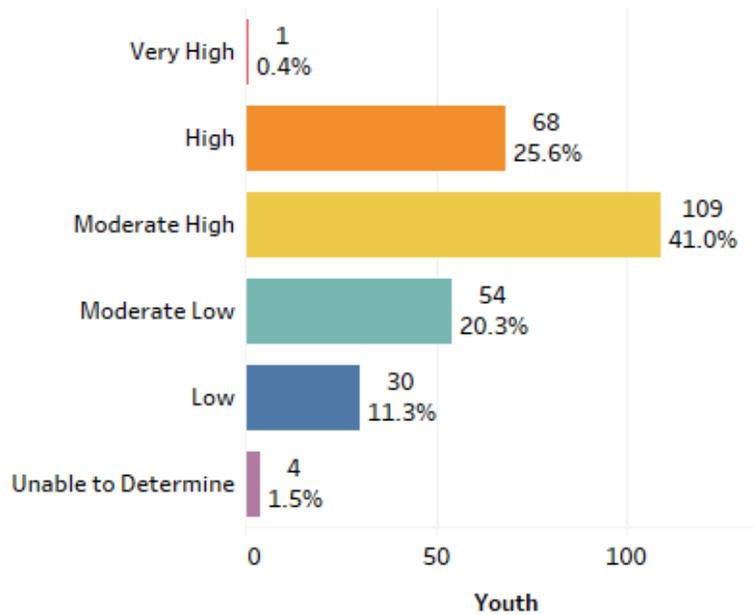
**RISK TO RE-OFFEND: YLS SCORES**

**Most Recent YLS Score.** The Youth Level of Service (YLS) tool is an evidence-based scoring tool that indicates the youth’s likelihood to re-offend and is given at different stages of the youth’s Probation case to help gauge progress. Ideally, the score would decrease as services are used and internalized by the youth.

Juvenile Probation

**Figure 58** shows that about **31.6%** of those reviewed should be getting closer to successful completion of Probation as they were at low or moderate risk to re-offend.

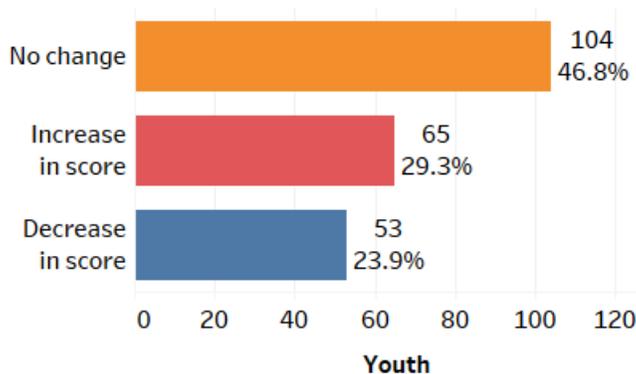
**Figure 58: Most Recent YLS Score for Probation Supervised Youth Reviewed FY 2018-19, n=266**



**Change in YLS Score over Time.** For 222 youth reviewed, the FCRO was able to document the YLS Score at the point of adjudication and compare it to the most recent YLS Score. For many (**46.8%**) of the youth, the YLS score did not change (**Figure 59**).

For the remainder, more youth increased their YLS score than decreased their YLS score. An increase in the YLS score is concerning. For some youth, it may mean that during their time on Probation, more information was available to the Probation officer to correctly determine the YLS category. For others, the concern is that out-of-home services are not meeting the needs of youth and may be leading to an increased risk to re-offend.

**Figure 59: Change in YLS Score from Adjudication to Review, n=222**



Risk of re-offending is one reason that may require a youth to remain out-of-home or on Probation. Other times, there are specific barriers – some the youth may have control over, and some they cannot control – that will delay their successful completion of Probation.

## **BARRIERS TO COMPLETING PROBATION**

The 262 reviewed Probation supervised youth in out-of-home care experienced a variety of barriers preventing them from returning safely to their home and community. Barriers can be categorized as youth-related, parent related, system related, or safety related. Multiple barriers can be identified for each youth.

**Youth-related.** Many of the barriers preventing the completion of Probation were related to the goals the youth needs to achieve to be successful.

- The most common barrier to completing Probation is needing time to complete a service or treatment **(172, 65.6%)**.
- Other youth-related barriers to the completion of Probation include:
  - needing time to complete education **(5, 1.9%)**,
  - missing from care at time of review and need to be located **(6, 2.3%)**,
  - not benefitting from provided services **(23, 8.8%)**, and
  - not wanting to return home **(18, 6.9%)**.

**Parent-related.** The actions or inactions of parents may be a barrier to youth returning home.

- The most common parental issue is lacking the skills needed to manage the youth and to help the youth learn to self-regulate their behaviors **(49, 18.7%)**.
- Related to that is parental unwillingness to accept or care for the youth in the home **(19, 7.3%)**.
- For some youth, an abuse/neglect/abandonment petition is needed due to parental actions or inactions **(7, 2.7%)**.

**System-related.** System barriers encompass factors that are beyond the control of the youth but still prevent the youth from returning home.

- As previously discussed, the most prevalent systemic barrier is the lack of a written transition plan with goals and the steps that must be completed to meet those goals **(106, 40.5%)**.
- Some youth need transitional visits **(2, 0.8%)** prior to returning home.
- Others would benefit from in-home services if available in their area **(3, 1.1%)**.

While system barriers are less common than youth- and parent-related barriers, they must be taken seriously and immediately remedied.

**Safety.** For 7 youth **(2.7%)**, there is a safety concern regarding returning the youth to the home. This category includes both safety concerns regarding the parents and their ability to care for the youth and concerns for the safety of others in the home.

**PRIOR INVOLVEMENT WITH NDHHS CHILD WELFARE**

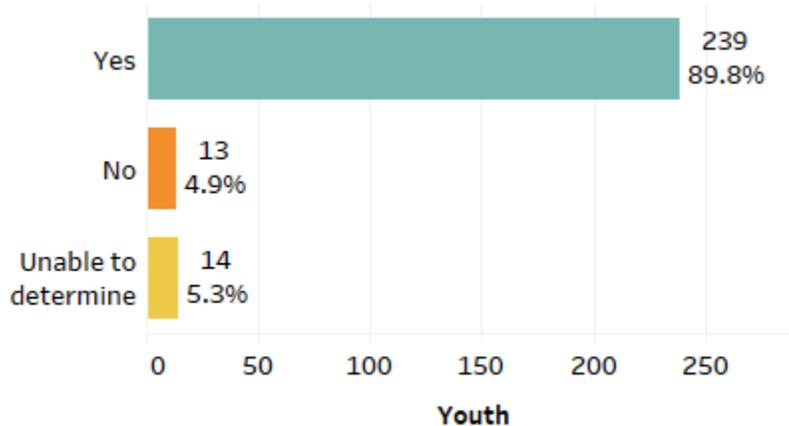
Prior abuse, neglect, or household instability can have an impact on the youth’s ability to regulate their current behaviors and the services they may benefit from.

- **Over one-third (36.8%) of the reviewed youth had previous out-of-home care involvement with Nebraska’s DHHS** at some time prior to being supervised by Probation (data on involvement with other state’s HHS systems is not available). This could include being in out-of-home care due to parental abuse or neglect in early childhood or could have been a more recent event.

**YOUTH MENTAL HEALTH ISSUES**

***Mental Health Diagnosis.*** Mental health conditions can exacerbate anti-social behaviors and require a different approach to treatment; **89.8% of the youth reviewed have a mental health condition (Figure 60).**

**Figure 60: Professionally Identified Mental Health Conditions for Probation Supervised Youth Reviewed FY2018-19, n=266**

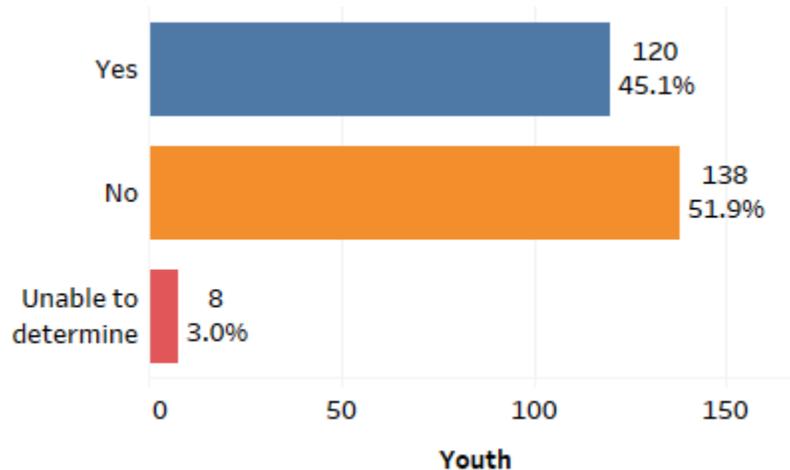


***Psychotropic Medications.*** Psychotropic medications are a commonly prescribed treatment for certain types of mental health diagnoses. While not all mental health conditions respond to or require this type of treatment:

- **45.3% of the youth reviewed were on one or more of these powerful medications at the time of review.**

***Substance Use.*** Substance use is another common mental health-related issue. As shown in **Figure 61**, over half of the youth reviewed had some sort of substance use issue. Further, there were 98 youth who were drug tested in the 60 days prior to review. Of those, 21 youth (**21.4%**) tested positive for substance use.

## Juvenile Probation

**Figure 61: Youth with a Substance Use Issue, FY2018-19, n=266**

**Other Mental Health Related Issues.** Some other considerations when looking a youth's mental health needs include:

- **14 (5.2%) youth** were displaying sexualized behaviors, which may or may not be related to past victimization.
- **9 (3.4%) youth** had committed self-injury (cutting, suicide attempts, etc.) in the past six months.
- **5 (1.9%) youth** had documentation of being sex trafficked in the past, and for another **9 (3.4%) youth**, there was suspicion of such.

## **EDUCATION**

The vast majority, (**238, 89.5%**), of Probation supervised youth were enrolled in school at the time of review. Most of the youth who were not enrolled in school were either missing from care at the time of the review or over the age of 18 (when enrollment is no longer mandatory).

Whether involved with juvenile justice or not, all youth find education plays a major role in their lives and development. Many youth have significant educational deficits prior to involvement with Probation, plus youth can find their education further disrupted by a Probation out-of-home placement. For juvenile justice involved youth, educational achievement can play a role in preventing re-entry into the system.<sup>70</sup> It is with this in mind that the FCRO considers several educational outcome measures for this population.

<sup>70</sup> National Juvenile Justice Network at <http://www.njjn.org/our-work/improving-education-for-youth-in-juvenile-justice-snapshot>. Youth.gov at <https://youth.gov/youth-topics/juvenile-justice/reentry>. Juvenile Justice Information Exchange at <https://jjiie.org/2015/03/23/what-is-re-entry-and-aftercare-for-youth/>. National Conference of State Legislatures, Re-entry & Aftercare, found at <https://www.ncsl.org/documents/cj/jguidebook-reentry.pdf>.

**On Track to Graduate.** In assessing whether or not a youth was on track to graduation, the FCRO found that:

- For a substantial number of youth (**12.6%**), the FCRO was unable to determine if the youth was on track to graduate.
- Of the **208** youth that had documentation available:
  - **178 (85.6%) youth** were on track to graduate, but
  - **30 (14.4%)** were struggling.

**Behaviors in School.** Negative behaviors such as what brought children into the Juvenile Justice System can extend into the educational setting.

- Notably, the majority of Probation supervised youth (**79.0%**) were able to maintain their behaviors during the school day.
- The FCRO found **14.7%** of youth’s files did not indicate whether behaviors in school were an issue or not.

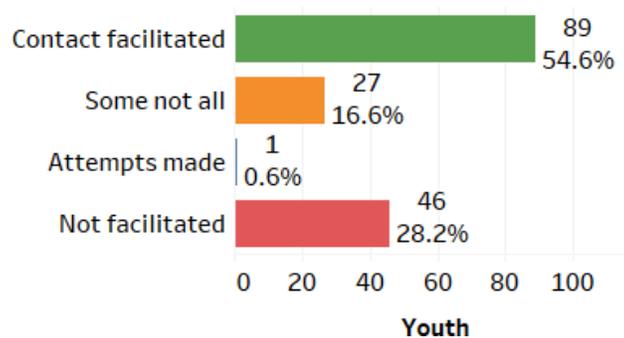
**YOUTH CONTACT WITH FAMILY**

**Contact with Parents.** Contact with parents or siblings can be an indicator of future success reintegrating into families and communities.<sup>71</sup>

- The majority of youth reviewed (**71.7%**) have contact with their mother while in out-of-home care.
- Fewer youth (**41.1%**) have contact with their father.

**Contact with Siblings.** Sibling connections can be important to the youth also, with some youth having stronger ties to their brothers or sisters than to their parents. For 163 youth who had siblings, contact was facilitated with all or some siblings in **71.2%** of the cases (**Figure 62**). Contact with siblings was not facilitated in over ¼ of the youth with siblings.

**Figure 62: Contact with Siblings for Probation Supervised Reviewed FY2018-19, n=163**



<sup>71</sup> Sources include National Institute of Health, The Challenge and Opportunity of Parental Involvement in Juvenile Justice Services, at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3989100/pdf/nihms569441.pdf>; and Improving Family Involvement for Juvenile Offenders with Emotional/Behavioral Disorders and Related Disabilities, at <https://www.pacer.org/jj/pdf/bedi-36-01-52.pdf>.

## YOUTH LEGAL REPRESENTATION

**Court-Appointed Attorneys.** When involved in a court case it is critical to have adequate legal representation.

- Most (**95.4%**) youth reviewed had a court-appointed attorney; however, the majority of cases reviewed were from Douglas and Lancaster County, where it is required by law.<sup>72</sup>

Three of the youth who did not have legal representation were from Washington county. Richardson, Saline, Hall, Dawes, Stanton, Knox, Red Willow, Nemaha, and Thurston counties each had one reviewed youth in out-of-home care who did not have legal representation.

**Guardians Ad Litem and CASAs.** A guardian ad litem is an attorney appointed to represent the best interest of the youth, which is not always the same as representing the youth's wishes like court-appointed attorneys do.

- Many (**42.5%**) of the youth reviewed had a guardian ad litem (GAL).

CASA representatives work in tandem with a youth's guardian ad litem.

- **3** youth reviewed had a CASA representative appointed to their case.

## APPROPRIATE INTERVENTIONS FOR YOUTH WITH SPECIAL NEEDS

IQ testing results are included here not to stigmatize these youth, but because it has major implications regarding obtaining and utilizing the best tools to help this substantial segment of youth law violators to self-regulate their behaviors and keep communities safe.

- IQ scores were available for **85 of the 276** youth reviewed.
  - **Given that 6 of those 85 youth had a score of less than 70, and an additional 12 scored between 70-79, it appears that IQ tests are primarily targeted to youth who appeared to have a deficit or trouble with cognitive therapy/treatments.**

Since lower scoring youth are particularly vulnerable to poor understanding of consequences for certain behaviors, the following must be researched in more detail:

- Appropriateness of interventions. Information about the disability often helps to explain behavior in a way that facilitates constructive intervention, and it is essential to arriving at a disposition that will meet the youth's rehabilitative needs at a level that can be internalized by the youth.
- Validity of YLS with lower IQ youth. The YLS is an assessment of the risk to re-offend that is used by Probation in making decisions regarding youth assigned to them. Further

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<sup>72</sup> Neb. Rev. Stat. §43-272(1)(b) requires that counties having a population of 150,000 or more shall appoint counsel for a juvenile with a petition filed under (1), (2), (3b) or (4) of Sec §43-247.

## Juvenile Probation

research needs to include whether their YLS scores are valid for youth with below average IQs.

- IDEA and juvenile justice. The Individuals with Disabilities Education Act (IDEA) is the Federal Government's special education law. IDEA provides supplementary Federal funds to assist States and local communities in providing educational opportunities for approximately 6 million students with varying degrees of disability who participate in special education. As a requirement for receiving IDEA Federal funding, states must offer free, appropriate public education in the least restrictive environment.<sup>73</sup> Youth with below average IQ may be covered under IDEA.

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<sup>73</sup> National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth.

**SECTION 4**  
**YOUTH IN CARE PLACED AT**  
**THE YOUTH REHABILITATION AND**  
**TREATMENT CENTERS**  
**(YRTCS)**

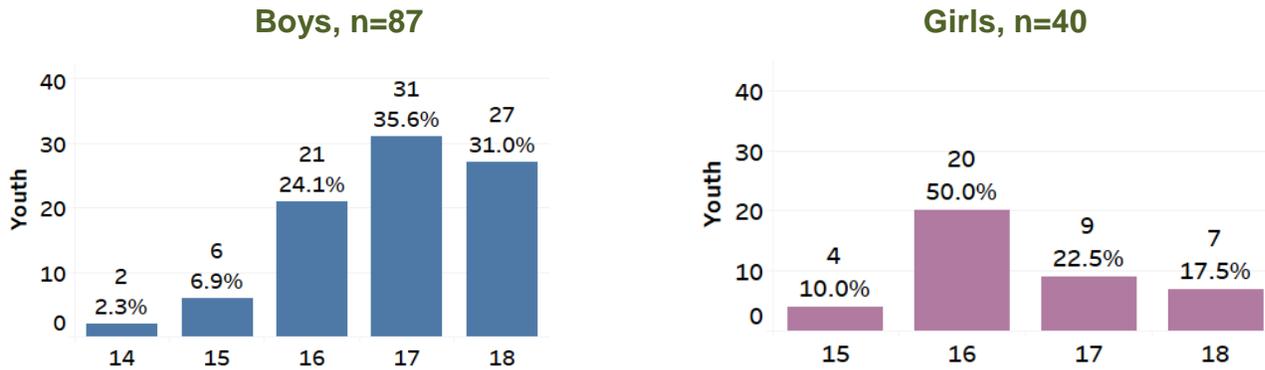
Per Neb. Rev. Stat. 43-186 "...When it is alleged that the juvenile has exhausted all levels of Probation supervision and options for community-based services and section 43-251.01 has been satisfied, a motion for commitment to a youth rehabilitation and treatment center may be filed and proceedings held...."

Youth placed at the Youth Rehabilitation and Treatment Centers (YRTCs) are in the care and custody of the Office of Juvenile Services (OJS) of the Department of Health and Human Services during that placement.



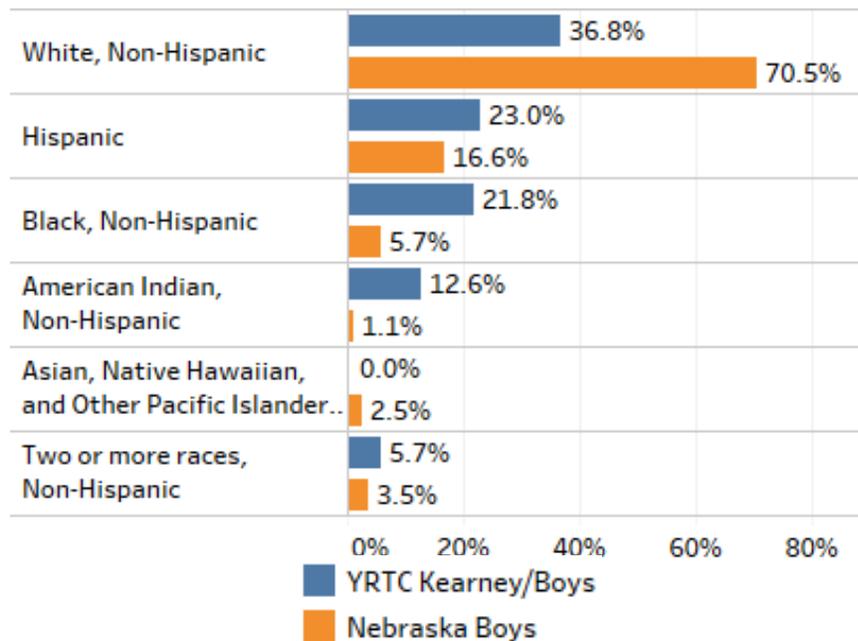
**Age.** Per Neb. Rev. Stat. §43-251.01(4), youth committed to a youth rehabilitation and treatment center (and thus also under OJS) must be at least 14 years of age. See **Figure 64** for more details.

**Figure 64: Ages of Youth Placed at a Youth Rehabilitation and Treatment Center on 6/30/2019**



**Race and Ethnicity.** As shown in **Figures 65 and 66**, Black or African American youth are disproportionately placed at the Youth Rehabilitation and Treatment Centers, at a rate **4 times their percentage** in the population for boys, and nearly **3 times** for girls.<sup>74</sup> American Indian<sup>75</sup> and multi-racial youth are also disproportionately represented.

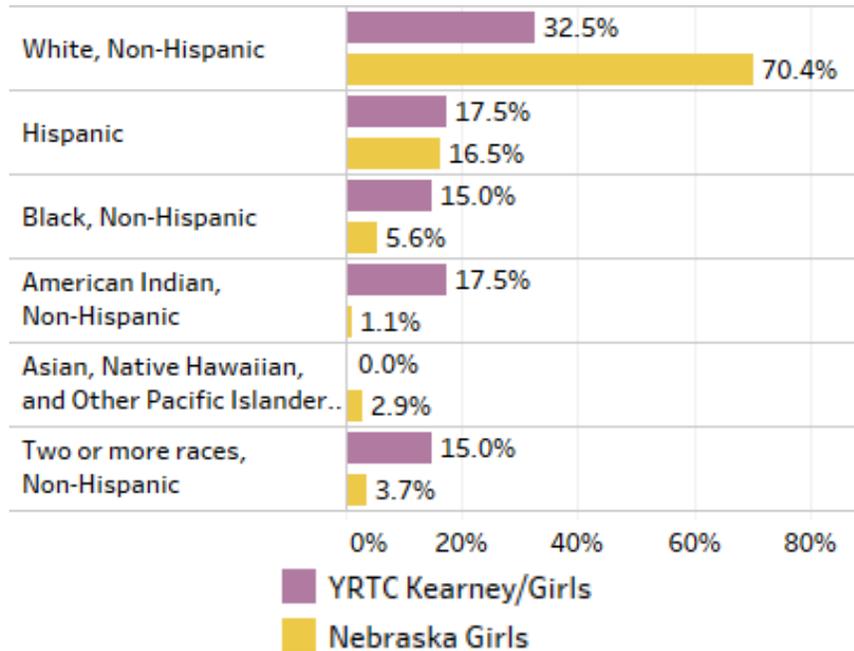
**Figure 65: Race and Ethnicity of Kearney YRTC Population (boys) on 6/30/2019 Compared to the Nebraska Census, n=87**



<sup>74</sup> U.S. Census Bureau, Population Division, County Characteristics Datasets: Annual County Resident Population Estimates by Age, Sex, Race, and Hispanic Origin: July 1, 2018.

<sup>75</sup> Some American Indian youth at the YRTCs are placed through tribal courts.

**Figure 66: Race and Ethnicity of Geneva YRTC Population (girls) on 6/30/2019 Compared to the Nebraska Census, n=40**



## REVIEWS OF YOUTH PLACED AT THE YRTCS

During FY 2018-19, the FCRO conducted 14 reviews of youth placed at a Youth Rehabilitation and Treatment Center, 8 boys placed in Kearney and 6 girls placed at Geneva. Due to the limited number of reviews at each facility, only limited data will be discussed here. In each instance a youth was reviewed while placed at a YRTC, the local board found the placement to be safe. The placement at YRTC was appropriate for 12 of the youth, but could not be determined for 2 youth. At the time of review, all 14 youth had a continued need for out-of-home placement and probation supervision.

In August 2019, outside the time frame for this report, several serious concerns were raised regarding the state of the YRTC-Geneva facility after an incident of vandalism occurred. Since that time, all youth housed there have been moved. In September, the FCRO will review all of the youth who were placed at YRTC-Geneva **and who remain out-of-home at that time, with the exception of youth placed at the Geneva facility by a tribal court.** The aggregated findings from these reviews will be made available to the public.

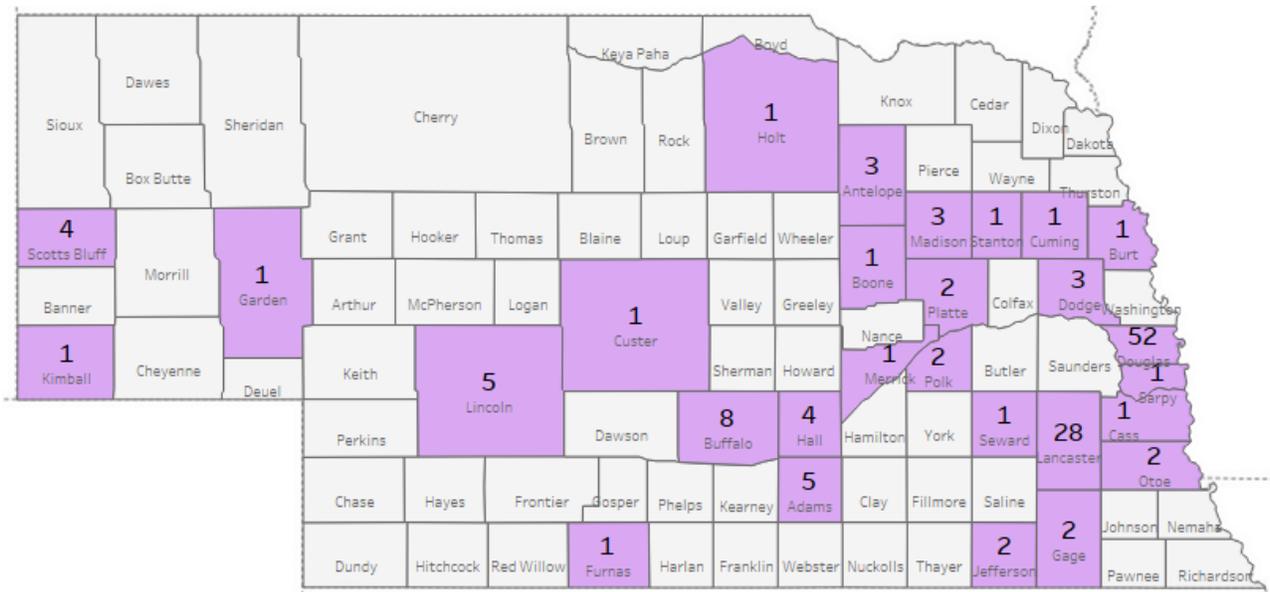
# SECTION 5- YOUTH IN OUT-OF-HOME CARE SERVED BY BOTH THE OFFICE OF PROBATION AND NDHHS (DUALY-INVOLVED YOUTH)

**On June 30, 2019, 138 youth were** simultaneously involved with both child welfare (NDHHS) and Probation. These are sometimes referred to as either dually-involved or dual-adjudicated youth. Review data for dually-involved youth are integrated into the Child Welfare Review Data (Section 2).

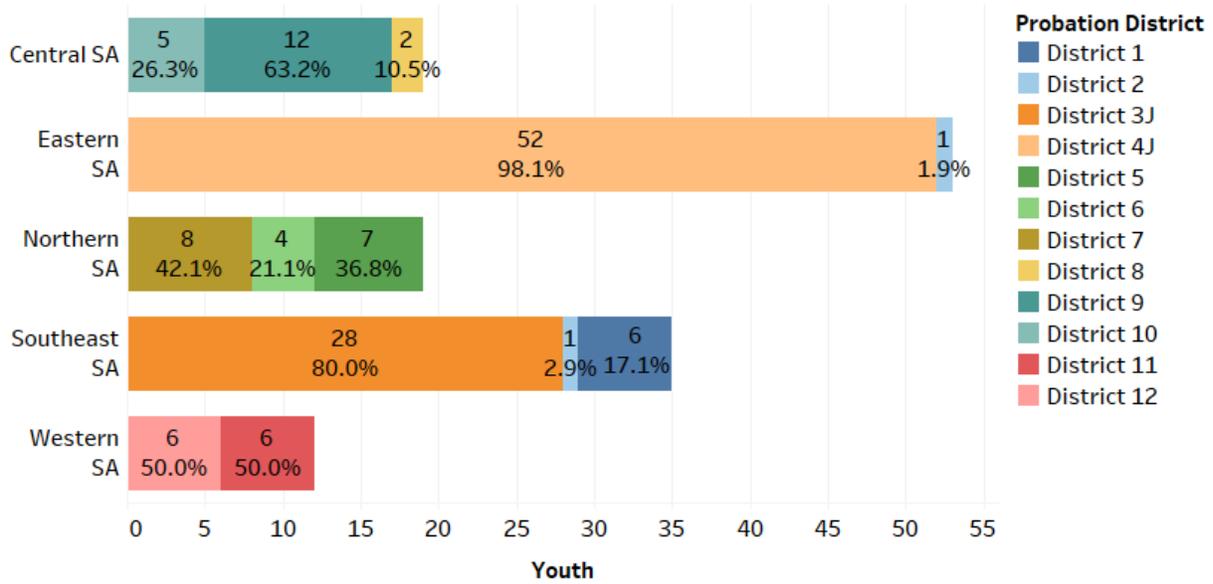
## DEMOGRAPHICS

**County.** As illustrated in **Figure 67**, dually-involved youth in out-of-home care come from many different regions of the state. (See Appendix A for a list of counties and their respective district/service area).

**Figure 67: County of Origin for Dually-Involved Youth, n=138**

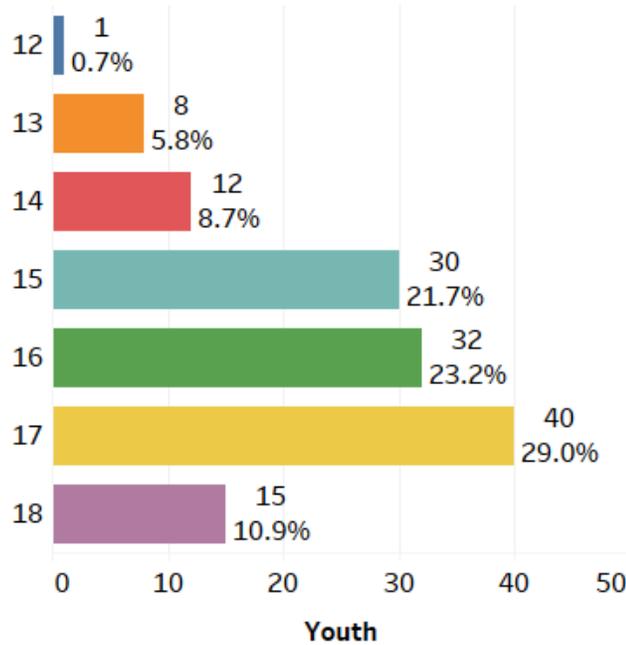


**Figure 68: NDHHS Service Area and Probation District for Dually-Involved Youth, n=138**



**Age.** Figure 69 below shows the age groups for dual agency youth. Most are in their teens, but interestingly 63.1% are in their upper teens. Further analysis is needed to determine why so many are in this age group.

**Figure 69: Age for Dually-Involved Youth, n=138**

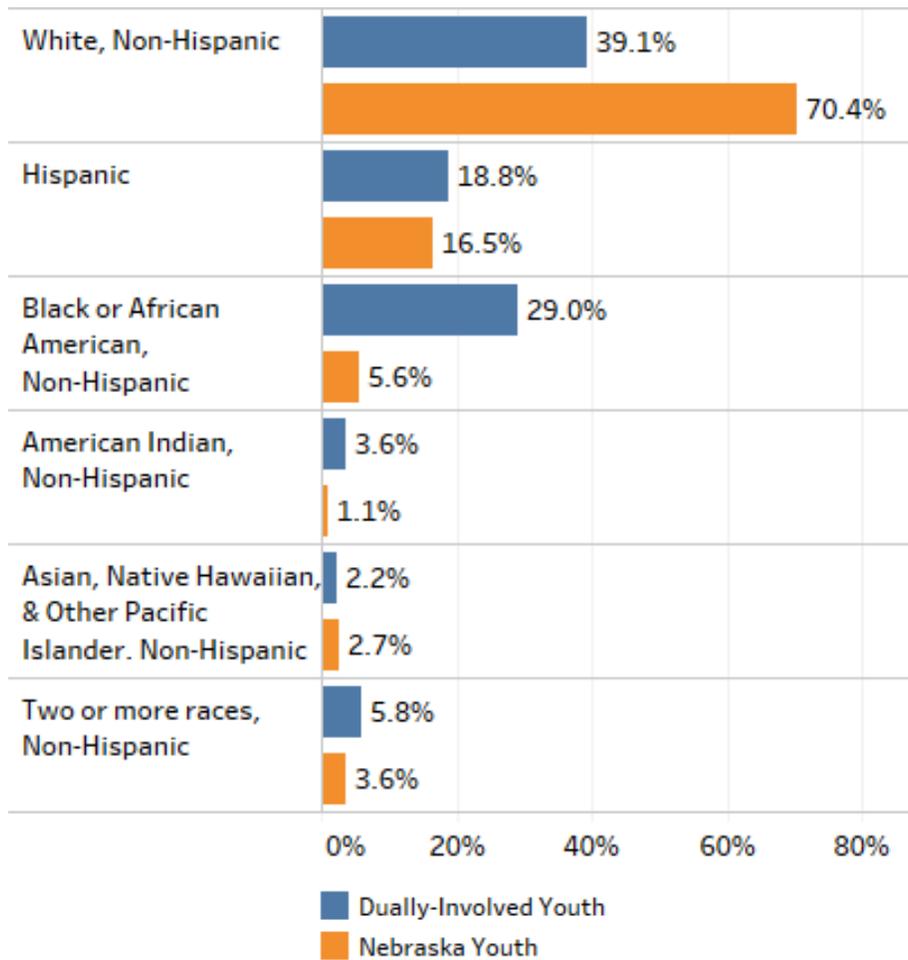


**Gender.** More boys than girls are dually-involved youth (**62.3% to 37.7%, respectively**). In that respect, this group more closely matches that of Probation youth who do not have NDHSS involvement than it does children under NDHHS.

**Race and Ethnicity.** As with other populations discussed throughout this report, there is racial disproportionality in this group also, as shown in **Figure 70** below.

**Black, American Indian, and multi-racial youth are disproportionately represented in the out-of-home population when compared to the census population.<sup>76</sup>**

**Figure 70: Race for Dually-Involved Youth Out-of-Home on 6/30/2019 Compared to Nebraska Census, n=138**

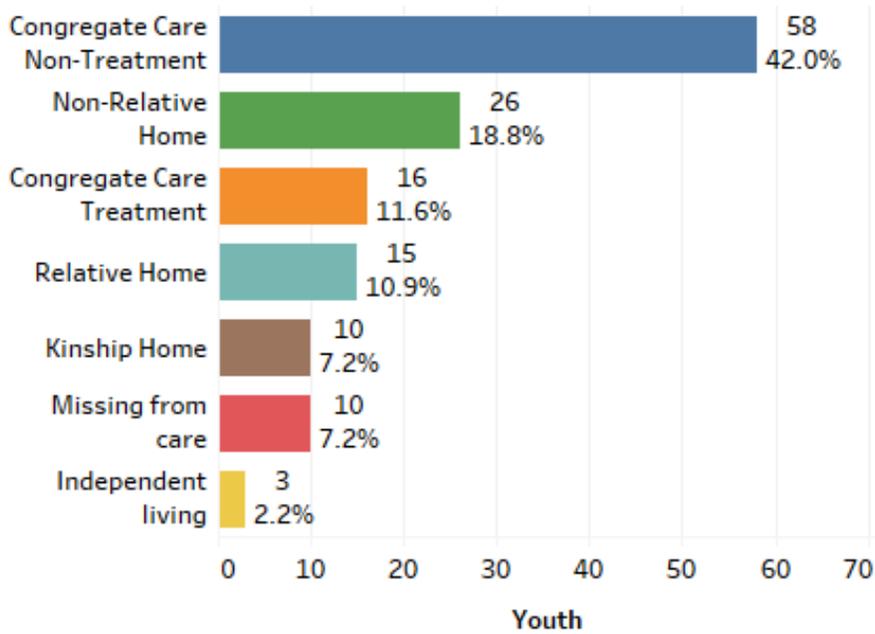


<sup>76</sup> U.S. Census Bureau, Population Division, County Characteristics Datasets: Annual County Resident Population Estimates by Age, Sex, Race, and Hispanic Origin: July 1, 2018.

## PLACEMENTS

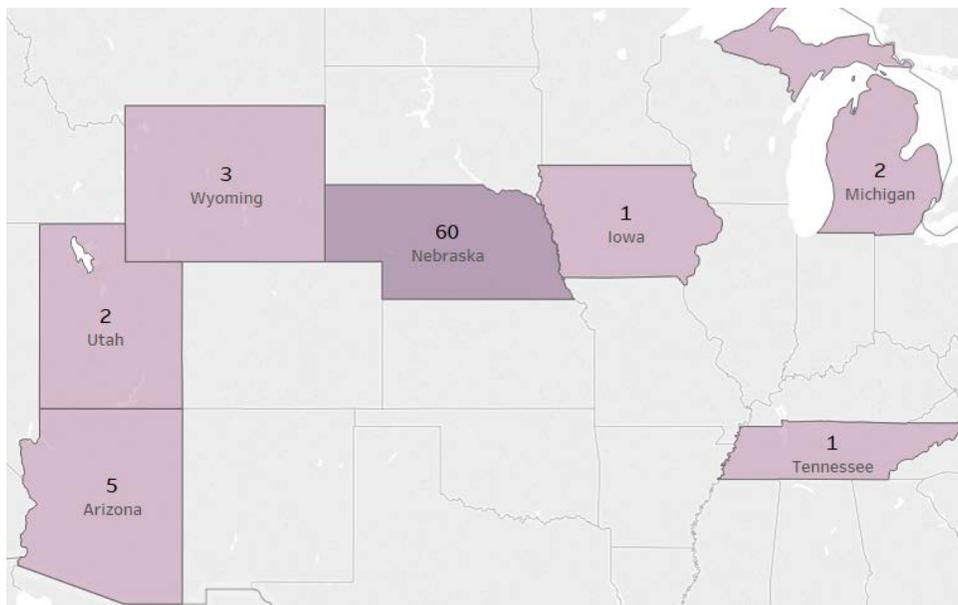
**Placement Type.** Most dually-involved youth in out-of-home care are in non-treatment care.

**Figure 71: Placement Type for Dually-Involved Youth in Out-of-Home Care (excludes YRTCs), n=138**



**Congregate Care.** Most (81.1%) dually-involved youth in congregated care are in Nebraska (Figure 72). Dually-involved youth have the percentage of out-of-state placement.

**Figure 72: Placement State for Dually-Involved Youth in Congregate Care, n=74**



## Appendix A

### County to NDHHS Service Area and Judicial (Probation) District In Effect on June 30, 2019<sup>77</sup>

County	NDHHS Service Area	Probation District
Adams	Central SA	District 10
Antelope	Northern SA	District 7
Arthur	Western SA	District 11
Banner	Western SA	District 12
Blaine	Central SA	District 8
Boone	Northern SA	District 5
Box Butte	Western SA	District 12
Boyd	Central SA	District 8
Brown	Central SA	District 8
Buffalo	Central SA	District 9
Burt	Northern SA	District 6
Butler	Northern SA	District 5
Cass	Southeast SA	District 2
Cedar	Northern SA	District 6
Chase	Western SA	District 11
Cherry	Central SA	District 8
Cheyenne	Western SA	District 12
Clay	Central Service Area	District 10
Colfax	Northern SA	District 5
Cuming	Northern SA	District 7
Custer	Central SA	District 8
Dakota	Northern SA	District 6
Dawes	Western SA	District 12
Dawson	Western SA	District 11
Deuel	Western SA	District 12
Dixon	Northern SA	District 6
Dodge	Northern SA	District 6
Douglas	Eastern SA	District 4J
Dundy	Western SA	District 11
Fillmore	Southeast SA	District 1

County	NDHHS Service Area	Probation District
Franklin	Central SA	District 10
Frontier	Western SA	District 11
Furnas	Western SA	District 11
Gage	Southeast SA	District 1
Garden	Western SA	District 12
Garfield	Central SA	District 8
Gosper	Western SA	District 11
Grant	Western SA	District 12
Greeley	Central SA	District 8
Hall	Central SA	District 9
Hamilton	Northern SA	District 5
Harlan	Central SA	District 10
Hayes	Western SA	District 11
Hitchcock	Western SA	District 11
Holt	Central SA	District 8
Hooker	Western SA	District 11
Howard	Central SA	District 8
Jefferson	Southeast SA	District 1
Johnson	Southeast SA	District 1
Kearney	Central SA	District 10
Keith	Western SA	District 11
Keya Paha	Central SA	District 8
Kimball	Western SA	District 12
Knox	Northern SA	District 7
Lancaster	Southeast SA	District 3J
Lincoln	Western SA	District 11
Logan	Western SA	District 11
Loup	Central SA	District 8
Madison	Northern SA	District 7
McPherson	Western SA	District 11

<sup>77</sup> District boundaries in statute effective July 30, 2019. Neb. Rev. Stat. §43-301.02 and Neb. Rev. Stat. §81-3116.

<b>County</b>	<b>NDHHS Service Area</b>	<b>Probation District</b>
Merrick	Northern SA	District 5
Morrill	Western SA	District 12
Nance	Northern SA	District 5
Nemaha	Southeast SA	District 1
Nuckolls	Central	District 10
Otoe	Southeast SA	District 2
Pawnee	Southeast SA	District 1
Perkins	Western SA	District 11
Phelps	Central SA	District 10
Pierce	Northern SA	District 7
Platte	Northern SA	District 5
Polk	Northern SA	District 5
Red Willow	Western SA	District 11
Richardson	Southeast SA	District 1
Rock	Central SA	District 8
Saline	Southeast SA	District 1
Sarpy	Eastern SA	District 2
Saunders	Northern SA	District 5
Scotts Bluff	Western SA	District 12
Seward	Northern SA	District 5
Sheridan	Western SA	District 12
Sherman	Central SA	District 8
Sioux	Western SA	District 12
Stanton	Northern SA	District 7
Thayer	Southeast SA	District 1
Thomas	Western SA	District 11
Thurston	Northern SA	District 6
Valley	Central SA	District 8
Washington	Northern SA	District 6
Wayne	Northern SA	District 7
Webster	Central SA	District 10
Wheeler	Central SA	District 8
York	Northern SA	District 5

## APPENDIX B - Background on the FCRO

### Role

The FCRO's role under the Foster Care Review Act is to: 1) independently track children in out-of-home care or on a trial home visit, 2) review those children's cases, 3) collect and analyze data related to the children, 4) identify conditions and outcomes for Nebraska's children in out-of-home care, 5) make recommendations to the child welfare and juvenile justice systems on needed corrective actions, and 6) inform policymakers and the public on issues related to out-of-home care.

The FCRO is an independent state agency not affiliated with NDHHS/CFS, NDHHS/OJS, a NDHHS lead agency, Courts, the Office of Probation, or any other entity.

### Mission

The FCRO's mission is to provide oversight of the child welfare and juvenile justice systems by tracking and reviewing children in out-of-home care, reporting on aggregate outcomes, and advocating on individual and systemic levels to ensure that children's best interests and safety needs are met.

### Vision

Every child involved in the child welfare or juvenile justice system becomes resilient, safe, healthy, and economically secure.

### Purpose of FCRO Reviews

The FCRO was established as an independent agency to review case plans of children in foster care. The purpose of reviews is to assure that appropriate goals have been set for the child, that realistic time limits have been set for the accomplishment of these goals, that efforts are being made by all parties to achieve these goals, that appropriate services are being delivered to the child and/or his or her family, and that long-range planning has been done to ensure timely and appropriate permanency for the child, whether through a return to a home where conditions have changed, adoption, guardianship, or another plan.

### Purpose for the FCRO Tracking/Data System

The FCRO is mandated to maintain an independent tracking/data system of all children in out-of-home placement in the State. The tracking system is used to provide information about numbers of children entering and leaving care, children's needs, outcomes, and trends in foster care, including data collected as part of the review process, and for internal processes.

### About this Report

**Data quoted within this Report are from the FCRO's independent data tracking system and FCRO completed case file reviews unless otherwise noted.**

Neb. Rev. Statute §43-1303 requires NDHHS/CFS (whether by direct staff or contractors), courts, the Office of Probation, and child-placing agencies to report to the FCRO any child's out-of-home placement, as well as changes in the child's status (e.g., placement changes

and worker changes). By comparing information from multiple sources the FCRO is able to identify discrepancies. When case files of children are reviewed, previously received information is verified, updated, and additional information is gathered. Prior to individual case review reports being issued, additional quality control steps are taken.

Please feel free to contact us if there is a specific topic on which you would like more information, or check our website ([www.fcro.nebraska.gov](http://www.fcro.nebraska.gov)) for past annual and quarterly reports and other topics of interest.

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## ADDITIONAL INFORMATION IS AVAILABLE



The Foster Care Review Office is able to provide additional information on many of the topics in this Report. For example, much of data previously presented can be further divided by judicial district, NDHHS Service Area, county of court involved in the case, and various demographic measures.

If you are interested in more data on a particular topic, or would like a speaker to present on the data, please contact us with the specifics of your request at:

**Foster Care Review Office Research Team**  
**1225 L Street, Suite 401**  
**Lincoln NE 68508**

**402.471.4420**

**[www.fcro.nebraska.gov](http://www.fcro.nebraska.gov)**

**email: [fcro.contact@nebraska.gov](mailto:fcro.contact@nebraska.gov)**

