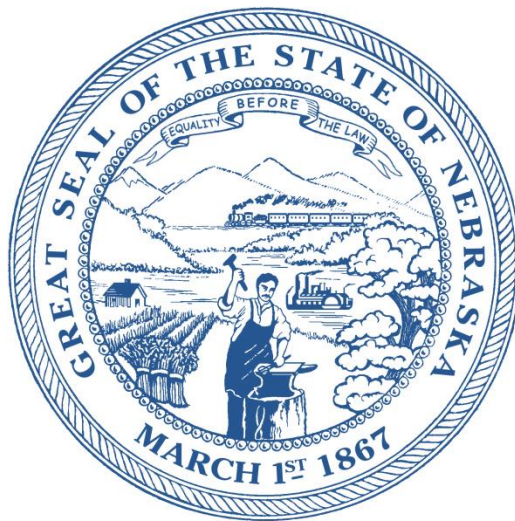


# **The Nebraska Foster Care Review Office Annual Report**

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



**Issued December 1, 2015**

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

### **Advisory Committee Members**

(all volunteers)

- Chair, Craig Timm, Omaha, local board member (term 8/6/2012-3/1/2018)
- Vice-Chair, Sandy Krubak, North Platte, local board member (term 3/2/2014-3/1/2017)
- Michelle Hynes, Dakota City, local board member (term 8/6/2012-3/1/2018)
- Elizabeth Neeley, Seward, data expert (term 3/2/2014-3/1/2017)
- Sheree Keely, Omaha, citizen at large (term 8/6/2012-3/1/2018)

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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)*

This report contains the Foster Care Review Office's (FCRO) independent data and analysis of the child welfare system with recommendations for system improvements. FCRO staff track children's outcomes and facilitate case file reviews. Local board members, who are community volunteers that have completed required instruction, conduct case file reviews and make required findings. In fiscal year 2014-15 (July 1, 2014-June 30, 2015), local board members conducted **4,162 reviews of cases involving 2,958 NDHHS wards** in out-of-home care.<sup>1,2</sup>

During **Fiscal Year 2014-15, a total of 5,630 Nebraska children** (not counting youth under the Office of Juvenile Services or the Office of Probation Administration) were in out-of-home care for some portion of their life. This is **164 more children** than during Fiscal Year 2013-14.

**On June 30, 2015, there were 3,145 children (NDHHS wards) in out-of-home care in Nebraska**, most of whom had experienced a significant level of trauma prior to their removal from the parental home. Since 2012, there has been a substantial decrease (10%) in children placed out-of-home but there has been a **4% increase** in the past year.

Federal and state law clearly and unequivocally establishes three goals for children in out-of-home care: safety, permanency and well-being. This is like a three-legged stool with no one part more important or necessary than the other. The basic overriding premise for all stakeholders is to "do no more harm" to any child. Through oversight by the FCRO, data is collected on children in out-of-home care with the goal of ensuring that no more harm comes to our children while in out-of-home care and that they are better off when they leave out-of-home care than when they entered.

There is no question that improvements have been made in the child welfare system during the past three years but we have only just begun. Leadership on child welfare issues from each of the branches of government is showing success with an increased commitment to transparency, prompt identification and solutions in areas of concerns, and inclusiveness from NDHHS.

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

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

Some of the key data indicators and relevant changes are discussed below.

- **Demographics**

- 4% increase in the past year of children placed out-of-home. (See page 9).
- Disproportionality in out-of-home care continues with more Native American and Black children placed in out-of-home care. (See page 10).
- Neglect continues to be the most prevalent reason for children to be removed from the home.<sup>3</sup> For children on their first removal from the home, neglect was involved in over two-thirds of the cases. (See page 17).
  - Parental substance abuse is next. For children on their first removal from the home, parental substance was involved in approximately 50% of the cases. (See page 17).
- 21% of children have been in out-of-home care for two years or longer. There has been no significant improvement. (See page 47).
- 31% of children in out-of-home care on June 30, 2015, had been removed from their home more than once, which is still a concern but an improvement from 2013 when the rate was 38%. (See page 58).

- **Case management**

- 32-46% of children have had 4 or more caseworkers over their lifetime depending upon the area of the State. (Less than 4 preferred). There has been no improvement over the past year. (See page 50).
- 21% of the cases the NDHHS case plan was incomplete or outdated which is a substantial improvement from last year. (See page 39.)
- 98% of the cases contained documentation that caseworkers had contact with the children in the 60 days prior to the case file review. **The FCRO commends NDHHS for improving the documentation of this vital safety indicator.** (See page 22).

- **Court and legal system**

- 25% of children did not have their case adjudicated within 90 days. (See page 64).
- 89% of the court-ordered case files had a complete case plan with specific services and tasks and 96% had target dates specified. This is a significant improvement compared to 51% in 2012 and 72% in 2013. (See page 39ff).
- 84% of the courts did conduct timely permanency hearings, but in about 80% of the cases there was no documentation regarding the courts conducting an exception hearing. (See page 66).
- 51% of the cases had no documentation regarding guardian ad litem contact. This percentage has remained study over the past three years. (See page 65).

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<sup>3</sup> Neglect is a broad category of parental acts of omission or commission that result in the failure to provide for a child's basic physical, medical, education, and/or emotional needs, including the failure to provide adequate supervision.



- 23% of the cases contained legal grounds that filing a termination of a parental rights action would be in the child's best interest, but it had not been filed. This has remained steady over the past year. (See page 68).
- **Placement**
  - 29% of children had 4 or more placements over their lifetime which is a slight improvement this past year. (See page 74).
  - 10% of the cases did not contain sufficient documentation to ensure that the placement was safe and appropriate, which has not improved. (See page 31).
  - 93% of children are placed in a least restrictive placement type which is an improvement from previous year. 52% of children on June 30, 2015 were placed in a relative or kinship home. This is over a 5% increase in the past year. (See pages 77-78).
  - 60% of the cases reviewed it could not be determined if the children's out-of-home caregivers had received children's health care information or this information was not provided, which is only a slight improvement. (See page 24).
  - There are fewer licensed foster home beds in the past year with some foster homes operating at over capacity. (See page 29-30).
- **Education**
  - 47% of school-aged children were either not on target in school or the FCRO was unable to determine if they were on target, which has not improved. (See page 85).
  - Graduation rate for state wards remains less than 50%. (See page 84).
  - 60% of the school-aged children reviewed it was undocumented or information was not provided as to whether caregivers were given educational information. (See page 84).
  - 28% of school-aged children reviewed were enrolled in special education compared to 9% of the general population. (See page 86).
  - 41% of youth reviewed that had changed caregivers had also changed schools. (See page 85).
- **Mental Health**
  - 44% of children had a professionally diagnosed mental health and/or trauma related condition which is a 7% increase over the previous year. (See page 80).
  - 25% of children were prescribed psychotropic medication at the time of their most recent FCRO review which has remained a consistent percentage. (See page 80).

## **RECOMMENDATIONS**

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

### **Legislative:**

1. Review and amend the statutes regarding the computation of caseloads to ensure that required calculations are meaningful and reflect the case management supports needed for children under NDHHS supervision.
2. Complete a collaborative study regarding the children's mental and behavioral health system in Nebraska including the feasibility of ear-marking funding for children's mental and behavioral health needs.
3. Require the Nebraska Children's Commission (NCC) in the next year to:
  - a. Develop a system of care from prevention through treatment services for the child welfare system based on relevant data and evidence-based practices to meet the specific needs of each area of the State.
    - i. This array should include services that are goal-driven and outcome-based. NCC should further explore the feasibility of utilization of performance-based contracting for specific child-welfare services including the feasibility of the addition of "no reject/no eject" provisions to any and all service contracts.
  - b. Complete an in-depth study and analysis regarding case management workforce issues specifically considering:
    - i. Comparative salaries from other states and the Nebraska current pay structure based on job descriptions;
    - ii. Utilization of incentives for child welfare workers;
    - iii. Evidence-based training requirements for child welfare workers and supervisors; and,
    - iv. Collaboration with State university system to increase the work force pool.
  - c. Create a committee to explore the current statutory jurisdictional basis in juvenile court and ways to improve the judicial process based upon models from other States.

**Judicial System:**

1. Appropriately adjudicate the reasons that children enter care to ensure services can be ordered to address the root causes for abuse or neglect.
2. Improve documentation by the legal system regarding the findings made at permanency hearings and 15-month exception hearings.
3. Ensure that guardians ad litem are meeting the Supreme Court Rules by completing reports, conducting independent determination as to the juvenile's best interest and consulting with the juvenile at their placement. Failure to provide sufficient consultations should be addressed by the judge.
4. Require mandatory continuing legal education hours on the practice of juvenile law for all attorneys, not just guardians ad litem, in juvenile court.

**NDHHS:**

1. Create a collaborative special study on children that entered care due to reasons of neglect to obtain more detail on what this encompasses. By better defining neglect, an array of services and prevention strategies can be developed to prevent removals, heal if a removal is necessary, and sustain a positive reunification.
2. Create a collaborative special study to look at the efficacy and use of Structured Decision Making (proprietary evidence-based assessment instruments used by NDHHS) throughout all parts of the child welfare system. This should include the incorporation into its court reports and case plans the Structured Decision Making findings to ensure that these documents are complete, appropriate for the circumstances, timely, goal-orientated, and measurable.
3. NDHHS through its contracts with service providers ensure that all services are goal-orientated and progress-driven based upon the findings of Structured Decision Making assessments. Explore the use of performance-based contracts that include the utilization of outcome-based uniform reports and a "no reject/no eject" provision.

There are many other specific recommendations found in the body of this Report, all of which support the summarized recommendations above.

**The FCRO encourages everyone involved in the child welfare system to consider all policies and practices to ensure that no more harm comes to a child and that each child is better off when he or she leaves out-of-home care than they were when they entered.**

## ORGANIZATION OF THIS REPORT

**Section 1** Covers major issues in the current child welfare (foster care) system for children placed out of the parental home due to abuse or neglect and provides recommendations for improvements. Major subtopics are:

- Primary information on children and families.
- Safety related issues.
- Issues related to permanency.
- Issues related to well-being.
- Considerations for special populations.

**Section 2** Covers information regarding reviews of young adults age 19 and 20 who have voluntarily sought services through the Bridge to Independence program.

**Section 3** Provides an update on FCRO efforts to review children in the Probation System who are in out-of-home care, with explanation of collaborative processes currently in place. New legislation that took effect in the summer of 2015 renders this a work in progress.

**Section 4** Gives a brief update on FCRO efforts to review children placed with their parents who remain under court supervision, also known as a trial home visit. New legislation that took effect in the summer of 2015 renders this a work in progress.

**Section One**

**ISSUES IMPACTING  
STATE WARDS (CHILDREN)  
IN OUT-OF-HOME CARE  
&  
RECOMMENDATIONS TO IMPROVE  
THE CHILD WELFARE SYSTEM**



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<sup>4</sup> Pictures used in this Report are from public domain and are not children who are or have been in out-of-home care in Nebraska.

## **PRIMARY INFORMATION ABOUT NDHHS WARDS IN OUT-OF-HOME CARE**

This subsection describes NDHHS wards (children) in out-of-home care which includes common attributes, basic demographics, and definitions for key terms such as “*the child welfare system*,” “*parties to the case*”, and “*trauma*.”

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

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

- Complex family units that are presenting one or more serious issues.<sup>5</sup>
- Responders to allegations of abuse, including staff of the Department of Health and Human Services (NDHHS) and law enforcement officers from across the state.
- Child care and custody agencies, such as NDHHS and the Office of Probation Administration.
- The legal system, including judges that render orders, county attorneys that file and argue petitions to the court, guardians ad litem/CASA volunteers that represent the best interests of children or represent the best interests of mentally ill or cognitively impaired parents, attorneys representing the parents’ wishes, attorneys representing juveniles accused of law violations, and tribal representatives.
- Nebraska Families Collaborative (NFC), also known as a lead agency. NDHHS contracts with NFC in the Omaha area to provide case management and other services as a pilot project.
- Service providers and gateways to services, including the complex mental health system (on a state and local level), child advocacy centers, agencies that NDHHS or the lead agency contracts with to support foster parents and group facilities, direct caregivers for children placed out-of-the home such as foster parents and group home staff, the education system, the medical community, and providers of other services.
- The social environment of the families, including counties, communities, and cultures.
- Child advocates.
- Internal oversight of the child welfare system, such as NDHHS Continuous Quality Improvement (CQI) or the Court Improvement Project (CIP).
- External oversight of the child welfare system, such as the Foster Care Review Office, the Inspector General of Nebraska Child Welfare, and the Auditor of Public Accounts (for fiscal issues).

All of the above interact within a complex set of state and federal laws and regulations and divergent funding streams. Funding sources are complex and can include any of the following:

- Medicaid;
- federal IV-E funds;
- federal IV-B funds;
- federal Chafee funds;
- federal social services block grants;
- county, state and federal child welfare funds;
- state and federal court improvement funds;
- SSI/SSD (social security for disabled children or adults);

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<sup>5</sup> See page 17 for a description of the reasons why children were removed from the home.

- developmental disability funds;
- housing assistance;
- TANF (cash assistance);
- SNAP (food assistance);
- private insurance;
- private charities, foundations, and food banks; and,
- biological or adoptive parents of children in out-of-home care.

Each of the above sources may also have its own sets of rules.

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



## REMOVAL, TRAUMA AND HEALING

A basic understanding of children's reactions to removal from the parental home, the effects of trauma, and what is needed for healing is necessary if the rest of this Report is to be understood in context.

**The basic overriding premise for all stakeholders is to “do no more harm” to any child.** When determining whether to remove a child from the parents and place the child in out-of-home placement, there are several important considerations. Primarily, it must be determined that removal is the least worst of the alternatives given the case specifics. In other words, children should only be placed in a foster home, a group home, or specialized facility, (out-of-home care) as a **temporary** measure to ensure their health and safety in instances where ongoing safety issues exist in the home of removal and/or the parents are unwilling or unable to voluntarily participate in services to prevent removal.

**There are consequences for every decision to remove a child from his or her parents.** By definition, living in a foster placement regardless of the type, is an unusual circumstance in which life is not the same as it is for children living with parents. For example, a series of permissions must be obtained in advance to give the child a haircut, go on a field trip, go to a friend's birthday sleepover, go to an amusement park in another state, or to learn to drive.

Further, many children in out-of-home placements feel stigmatized, or internalize messages that because they were the ones forcefully taken out of the home that they must be “bad.” Children who have already experienced trauma in the home of origin are often additionally traumatized by placement. Therefore, the system needs to take special care to ensure that removal from the home occurs **only** when absolutely necessary.

In recognition of the realities of out-of-home care Congress passed and President Obama signed the *Preventing Sex Trafficking and Strengthening Families Act*, also known as the SFA, in September 2014. One aspect of the SFA is to provide a more normalized experience for children in an out-of-home placement. Another is to prevent children from running away from placements and being victimized by human traffickers, and to ensure that children who had experienced sex or labor trafficking receive needed services.

**Trauma can have a lasting impact.** In the past, it was believed that children were resilient and thus able in most cases to recover quickly and easily from their experiences in an abusive or neglectful home and/or from moves between caregivers while in out-of-home care. National research has disproven that belief and found instead that these effects may impact children for the rest of their life, even with the best of interventions.<sup>6</sup> Therefore, it is important to understand

<sup>6</sup> An online search of “foster care alumni” will turn up hundreds of articles regarding the experiences of former wards who have now reached adulthood.

that the basic statistics found throughout this Report cannot adequately communicate that many children enter the system already wounded or traumatized.

These children likely experienced trauma in the form of repetitive or accumulated disparate episodes, such as an environment of domestic violence, parental drug abuse, and/or serious parental mental illness, whether or not these episodes were brought to the attention of the system. This type of trauma is termed “complex trauma” by the National Children’s Traumatic Stress Network (NCTSN).<sup>7</sup>

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

Early maltreatment can result in long-term behavioral changes. These in turn draw responses from those around the trauma-adapted child, responses that can either help or hinder the child’s attempts at re-adaptation to the non-traumatic world.<sup>8</sup>

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

- Are more likely to misread facial and non-verbal cues, and think there is a threat where none is intended. They also respond more quickly and forcefully than other children to anything perceived as a threat.
- Have a greater likelihood of attention deficits, emotional dysregulation, and oppositional behaviors, which may have been adaptive to the threatening environment but not appropriate in a safe environment.
- Are more likely to have developmental or educational delays.
- Have a greater chance of short-term memory issues.
- Often challenge their caregiver in ways that may threaten the stability of the placement.
- May present sleep problems, food issues, toileting problems, anger, aggression, detachment, hyper-arousal, depression, or chronic medical issues.
- Do not know how to say what they are feeling.
- Lack the skills for self-regulation or for calming down once upset.
- May have issues related to adverse brain development.
- Need to be redirected or behavior may start to escalate.
- Need adults that are consistent and predictable enough to teach the lessons their developing brains need, and that understand that children’s trauma response is a healthy response to an unhealthy threat rather than a personal affront.
- Can learn new means of coping with stress if given the time and the social-emotional buffering needed.<sup>9</sup>

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<sup>7</sup> NCTSN was established by Congress in 2000 as a collaboration of frontline providers, researchers, and families. Combining knowledge of child development, expertise in the full range of child traumatic experiences, and dedication to evidence-based practices, the NCTSN changes the course of children’s lives by changing the course of their care. Found at [222.nctsn.org](http://222.nctsn.org).

<sup>8</sup> American Academy of Pediatrics, [Helping Foster and Adoptive Families Cope With Trauma](#), c 2013 American Academy of Pediatrics and Dave Thomas Foundation for Adoption.

It has been found that children that have experienced toxic loads of stress get stuck in flight or fight mode, where everything is a threat, forcing them to become more hyper vigilant. The process can remap the brain and impact development. Some lose ground cognitively, especially in their ability to learn.<sup>10</sup>

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

- Were more likely to have a diagnosed conduct disorder (21% of foster youth compared to 7% of the general population).
- Were more likely to have a major depressive disorder (19% compared to 12%).
- Were more likely to have been diagnosed with Post Traumatic Stress Disorder (13% compared to 5%).
- Were more likely to have been diagnosed with Separation Anxiety Disorder (12% compared to 9%).<sup>11</sup>

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

**Fiscal Impact.** Beyond the consequences for the child, **the impact of trauma carries high short and long-term fiscal and human costs for society.** As a short term example, Nebraska's NDHHS spent at least \$191,344,573 on child welfare in FY2014-15.<sup>12</sup> Long-term, a child that cannot learn may grow up to be an adult that cannot hold a job (see page 84 for a description of educational impact). A child with chronic physical problems may grow up to be a chronically ill adult. A child that grows up learning to hate him or herself may become an adult with an eating disorder or substance addiction.<sup>13</sup>

*The impact of trauma carries high short and long-term fiscal and human costs for society.*

Children are not the only victims of trauma. Many children in the foster care system have parents that themselves have a trauma history. If untreated, this parental trauma history will impact the care parents are able to give their children. National research has shown that women with a history of suffering sexual or physical abuse during their childhood were **3 times** more likely to have experiences of adult intimate partner violence and allegations of child abuse and neglect toward their children than women with no childhood history of abuse.<sup>14</sup>

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

<sup>10</sup> Meyers, Laurie, The Toll of Childhood Trauma, Counseling Today magazine from the American Counseling Association, June 2014.

<sup>11</sup> Pecora, Peter, Mental Health Services for Children Placed in Foster Care, 2009, National Institute of Health.

<sup>12</sup> Program 354 Summary of Expenditures FY 2014-2015, with expenses paid as of July 14, 2015. Attachment to letter by NDHHS Deputy Director Tony Green in response to Senator Bolz' request for information regarding LR296, September 18, 2015.

<sup>13</sup> National Child Traumatic Stress Network, Impact of Complex Trauma, [www.nctsn.org](http://www.nctsn.org).

<sup>14</sup> IOM (Institute of Medicine) and NRC (National Research Council); New Directions in Child Abuse and Neglect Research, 2014, page 74.



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

A compassionate, trauma-informed approach to working with these parents can provide them with opportunities to address their own trauma experiences, understand how it may affect their parenting, and make changes that strengthen their ability to provide appropriate care for their children.<sup>15</sup> Such a system could also help mitigate some of the impact of poverty on child safety and well-being.

**It is the statutory charge of NDHHS and the other key players of the child welfare system to reduce the impact of abuse whenever possible and to minimize the trauma of the child's removal. The goal must be to minimize a child's time in out-of-home care and help the child to heal from any past traumas.**

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<sup>15</sup> State Policy Advocacy and Reform Center (SPARC), *Raising the Bar: Child Welfare's Shift Toward Well-being*, July 2013. SPARC is supported by the Annie E. Casey Foundation and the Jim Casey Youth Opportunities Initiative.

## NEBRASKA STATE WARDS IN OUT-OF-HOME CARE

Throughout Section One, the focus is on children under the Nebraska Department of Health and Human Services that are in out-of-home care.<sup>16</sup>

**On June 30, 2015, there were 3,145 NDHHS wards (children) in out-of-home care in Nebraska,** most of whom had experienced a significant level of trauma and abuse prior to their removal from the parental home.

Table 1 shows the trends for this group.

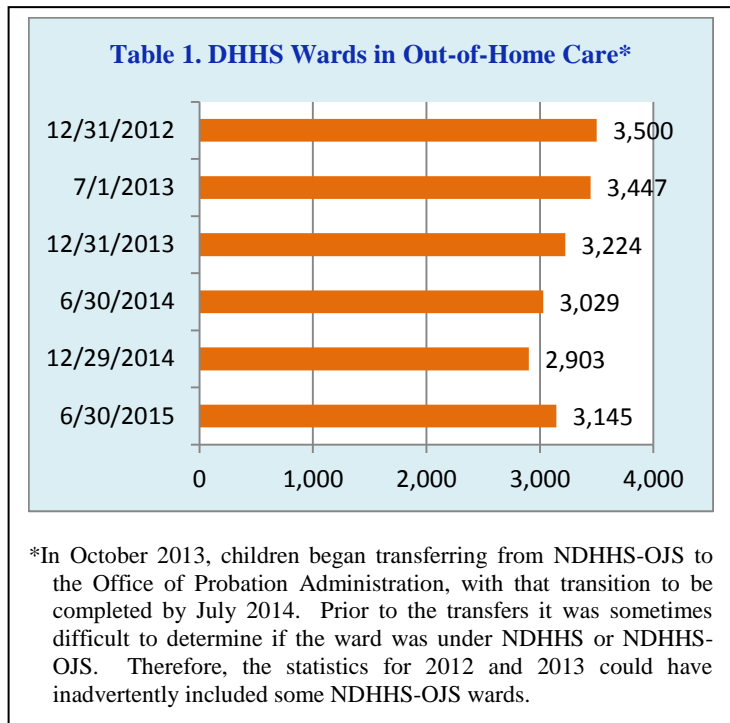
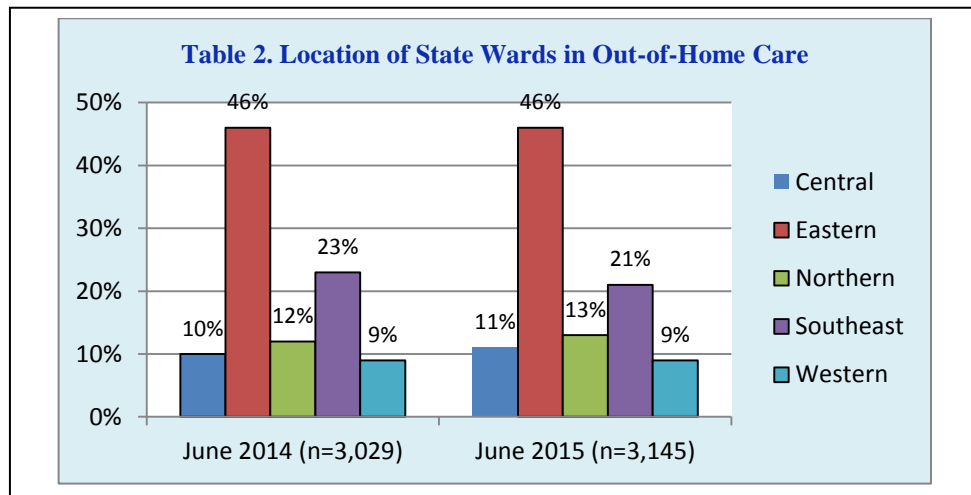


Table 2 shows the location of State Wards based on the NDHHS Service Areas.<sup>17</sup>



<sup>16</sup> The FCRO here purposefully excludes: children under NDHHS’s Office of Juvenile Services placed out-of-home, children under the Office of Probation Administration placed out-of-home, children placed with the parents on a trial home visit, and young adults in the voluntary extension of some foster care services known as Bridge to Independence. Those are each discussed in separate sections later in this Report.

<sup>17</sup> A map of the Service Areas can be found in Appendix D.

**AGE GROUPS**

When considering age groups, the FCRO finds that on June 30, 2015:

- **38% of children in out-of-home care were infants and preschoolers (age 0-5).**
- **33% of children were elementary school age (age 6-12).**
- **29% of children were teens (13-18 years of age).** Legal adulthood in Nebraska occurs on the 19<sup>th</sup> birthday.

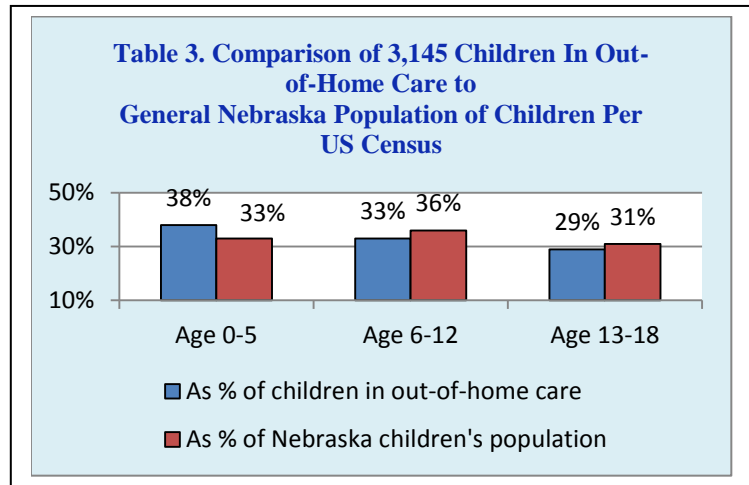


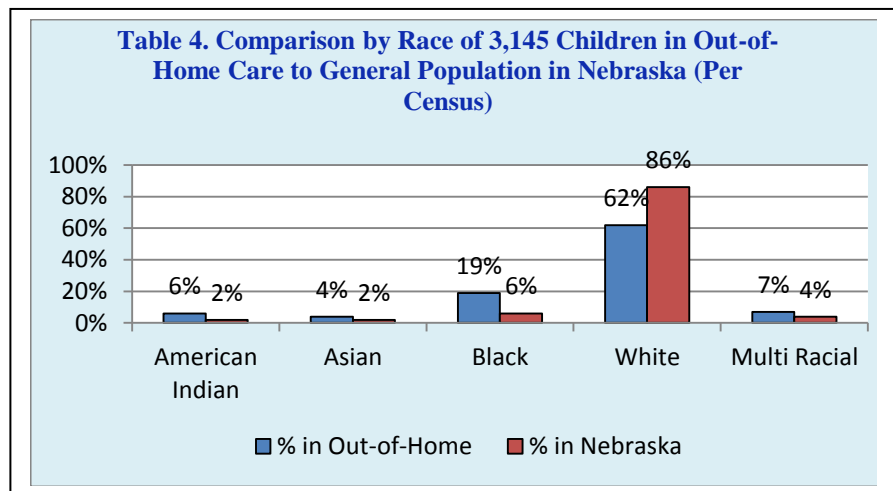
Table 3 shows how this compares to the general population of Nebraska children. Considering the vulnerability of infants/preschoolers and their inability to protect themselves from parental abuse or neglect, it is not surprising that a larger percentage of children in out-of-home care are from that age range. Furthermore, due to legislative changes in 2013 many youth that are age 13-18 are now in the State Probation system and not NDHHS.

**The percentage in each age group in out-of-home care has remained stable for the last two years.**

**RACE**

Minority children continue to be overrepresented in the out-of-home population as a whole, as shown in Table 4.<sup>18</sup>

Table 4 compares the percentage of each race in out-of-home to the percentage for Nebraska as a whole from the U.S. Census.



<sup>18</sup> The source for the general population of children in Nebraska was [www.census.gov/popest/data/national/asrh/2012/index.html](http://www.census.gov/popest/data/national/asrh/2012/index.html).

**Further breakdown of race/ethnicity of wards in out-of-home care on June 30, 2015**

The children included in Table 5 are NDHHS wards in care at a point in time (the end of the fiscal year). Hispanic is designated as an ethnicity, rather than a race. However, it is possible to extract the number of children with each race from the 480 children that have a documented race.

Table 5. Race and Ethnicity of Children under NDHHS in Out-of-Home Care June 30, 2015			
Race	Ethnicity		Grand Total
	Hispanic	Non-Hispanic	
American Indian only	36	141	177 (6%)
Asian/Native Hawaiian only	4	10	13 (<1%)
Black only	7	591	598 (19%)
White/Caucasian only	288	1,638	1,926 (61%)
Multiple races identified	14	200	214 (7%)
Unable to determine	<u>131</u>	<u>85</u>	<u>216 (7%)</u>
<b>Grand Total</b>	<b>480 (15%)</b>	<b>2,665 (85%)</b>	<b>3,145</b>

Analysis:

- Percentage breakdown by race of children in out-of-home care has remained consistent for the last few years.
- **When compared to the Nebraska population, there are disproportionately *more* Native American and Black children in out-of-home care and disproportionately *fewer* White children in out-of-home care.**
- The percentage of Hispanic children in out-of-home care (15%) is what would be expected based on Nebraska Census data, (which is also 15%).

**GENDER**

On June 30, 2015, **49% of children in out-of-home care were girls and 51% were boys.** In the general population of Nebraska children, the ratio is also 49% female/51% male, so there is no disproportionality regarding the ratio of girls to boys in the child welfare system.<sup>19</sup>

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

## TOTAL NUMBERS OF STATE WARDS IN OUT-OF-HOME CARE DURING FY14-15

Per Neb. Rev. Stat. §43-1303(2)(b)(iv), the FCRO is to include in the annual report the number of children supervised by the foster care programs in the state. The following includes only state wards under NDHHS and **does not** include youth under the Office of Probation Administration or the NDHHS Office of Juvenile Services.

It is calculated as shown in Table 6.

A direct comparison to prior year totals for state wards only is not available due to prior years reports containing the number for all children in out-of-home care, (for example NDHHS, NDHHS-OJS, private reporters, etc.) rather than being segregated by only NDHHS wards.

<b>Table 6. Wards in Care During FY2014-15</b>	
State wards in out-of-home care July 1, 2014	3,029
Plus:	
Wards that entered or re-entered out-of-home care during FY14-15	<u>-2,601</u>
Wards whose cases were active anytime during fiscal year	5,630
Less:	
Children that left foster care during the fiscal year	+2,092
Delayed reports or transfers to other agencies	<u>+393</u>
State wards in out-of-home care on June 30, 2015	<b>3,145</b>



## **SAFETY AND NDHHS WARDS IN OUT-OF-HOME CARE**

This subsection defines “*safety*”, discusses reasons that children are removed from the home, and details some specific safety measures and outcomes.

## **SAFETY DEFINED**



In child welfare there are a number of different definitions of “*safety*” and that word can be used in ways that the average person, unfamiliar with the system, would not think about.

For example, in child welfare “*safety*” has a different definition from “*risk*.” Therefore, it is important to define what the Foster Care Review Office means by safety. Within the context of this Report, **safety is defined as: free from hurt, injury, danger, or undue hazard of loss, injury, or seriously inadequate care.**

Consideration of safety for children in out-of-home care involves a number of factors, including:<sup>20</sup>

1. **Is the child safe while in an out-of-home care placement?**
2. **Is the child safe during visitation with the parent(s)?**
3. **Does the child’s permanency objective facilitate the child’s future safety and stability?**
4. **Did the agency responsible for the child provide services** to ameliorate factors that would inhibit a parent’s ability to maintain the child safely at home? Have the parents demonstrated better parenting as a result?
5. **Are there issues with limitations to the services** available to facilitate a safe return to the home or other permanency objective?
6. **Is the child receiving treatment needed to overcome any past traumas?**
7. **If the child cannot safely return home, what alternatives** can provide the best permanency? How are those being facilitated?

Safety consideration also impacts children’s current and future well-being and their likelihood of timely permanency, as well as the trauma that children may have endured.<sup>21</sup>

<sup>20</sup> For further details, see Appendix A.

<sup>21</sup> See page 14 for a description of trauma and children in out-of-home care.

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

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to ensure that Nebraska better addresses the root causes for children's removals from the parental home:

### **RECOMMENDATIONS TO THE CHILD WELFARE SYSTEM**

1. Create a collaborative special study on children that entered care due to reasons of neglect to obtain more detail on what this encompasses. By better defining neglect an array of services and prevention strategies can be developed to prevent removal.
2. Task the Nebraska Children's Commission to develop a system of care from prevention to treatment services based on state-wide data and evidence based practices.
3. Create a collaborative special study to look at the efficacy and use of Structured Decision Making (a proprietary set of assessments used by NDHHS) throughout all parts of the child welfare system.

### **RECOMMENDATIONS TO THE COURT SYSTEM**

1. Appropriately adjudicate the reasons that children enter care to ensure services are ordered to address the root causes for abuse or neglect. For example, if parental substance use is identified after the child's removal, file a supplemental petition in juvenile court to allow the court to address the relevant issue with the parent prior to the child's return to the home.
2. Ensure that the rights of the father are appropriately addressed by stakeholders and courts at the time of removal. Do not wait until it is clear that the mother cannot or will not safely parent before addressing the father's rights and ability to parent.

## **BASIS FOR THE RECOMMENDATIONS**

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. Reasons vary as indicated in the information that follows, but as Dr. Brenda Joan Harden of the University of Maryland states:

“Children in foster care are particularly vulnerable to detrimental outcomes, as they often come into state care due to their exposure to maltreatment, family instability, and a number of other risk factors that compromise their healthy development...these children are predominantly from impoverished backgrounds, a situation that exacerbates the risk factors they experience.”<sup>22</sup>

While individual children's resiliency levels and personality can play a role in determining the short- and long-term impact of abuse or neglect, it is the responsibility of the child welfare

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<sup>22</sup> Brenda Joan Harden, Ph.D., Future of Children, Volume 14, Number 1, page 32.

system to examine the reasons for their current situation so that decisions can be made on the most efficacious distribution of resources to meet the best interest of children. Therefore, during the FCRO review process, information is gathered related to the adjudicated issues that led to the most current removal, as well as other conditions impacting case progression.

### ANALYSIS OF THE DATA

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

- **Over 50% of children removed from the home enter out-of-home care following an adjudication of parental neglect. Forms of neglect were also heavily present in over two-thirds of cases for which it was not adjudicated.** Therefore, neglect needs to be targeted in child abuse prevention efforts.
- **Parental drug use (37%) is a heavily contributing factor in children's removals.** Where parental drug use is present the drug of choice is most likely to be methamphetamine. Many systems need to come together to deal with this societal problem.
- Parental mental health is identified as a non-adjudicated condition impacting children's cases much more frequently than it is being adjudicated (9%, 7% respectively).
- Children's mental health is also more likely to be identified as a non-adjudicated condition than it is being adjudicated (12%, 3%, respectively).
- Unsafe or unsanitary housing was adjudicated in 28% of the reviews in early 2015 and another 33% had it identified post-adjudication. This also can be considered neglect.

Details follow.

**ADJUDICATED REASONS FOR THE CURRENT REMOVAL**

Adjudication is the process whereby the court establishes it has jurisdiction for continued intervention in the family’s situation. Issues found true during the court’s adjudication hearing are to subsequently be addressed by the legal parties to the case and form the basis for case planning throughout the life of the case. What was adjudicated also plays a role in a termination of parental rights proceeding should that become necessary.

The FCRO conducted **4,162 reviews on 2,958 children** in FY2014-15, and Table 7 shows the **adjudicated** reasons for those children. Some important details:

- Children are typically reviewed at least once every six months while in out-of-home care. Tables 7, 8, and 9 **do not** duplicate the reasons for children reviewed more than once, for example it would not count neglect twice for a child with two reviews during the time period.
- Up to 5 different reasons may be identified per child, with the average being 2.6 and 2.7 reasons identified per child during each of the time periods.

<b>Table 7. Adjudicated Reasons for Removal From the Home for 2,958 Children Reviewed During FY2014-15</b>		
	<b>FY2014-15</b>	<b>Percentage</b>
Neglect and related		
Neglect	1,730	58%
Housing Substandard - Unsafe	722	24%
Physical abuse and related		
Domestic Violence	432	15%
Physical Abuse	370	13%
Abuse/neglect of sibling	230	8%
Sexual abuse	133	4%
Parental substance abuse		
Parent Drug Use	1,089	37%
Parent Alcohol Use	290	10%
Baby Born Substance Affected	54	2%
Parental Incarceration	242	8%
Parent Mental Health	217	7%
Parental Physical Illness, Disability	22	1%
Abandonment	165	6%
Relinquishment	6	<1%
Child's Teen Parent in Foster Care	4	<1%
Death of Parent		
Issues related to the child		
Child's Alcohol Use	9	<1%
Child's Drug Use	8	<1%
Child's Disabilities	18	1%
Child's Behaviors	216	7%
Child's Mental Health	83	3%
Child's Suicide Attempt	14	<1%
Child's Illness	20	1%

It is also important to clarify what some of the terms used mean and the interplay between different categories.

- “Neglect” is a broad category of parental acts of omission or commission that result in the failure to provide for a child’s basic physical, medical, educational, and/or emotional needs, including the failure to provide minimally adequate supervision.

- Neglect is often a symptom of an underlying condition. Some of the more common include: a parental mental health issue, parental substance abuse, parental cognitive functioning deficits, domestic violence in the home, or poverty.
- Unsafe or unsanitary housing is often found in tandem with poverty, parental mental health, parental physical health, or parental substance abuse issues.
- Regarding sexual abuse, the figures in Table 7 includes sexual abuse that was part of the adjudication for the child, not cases reported post-adjudication. Since children often do not disclose until they are in an environment in which they feel safe, the rate cited under adjudicated reasons could possibly understate actual prevalence since nationally 9.3% of cases of maltreatment of children in 2012 were classified as sexual abuse.<sup>23</sup>

### Differences based on number of removals

Table 8 illustrates that children on their first removal from the home tend to have a different set of adjudicated reasons than do children who are on their second or greater removals. Thus, Table 8 separates those two groups.<sup>24</sup>

Some points to consider:

- **Parental drug use is more prevalent amongst children in their first removal (42%) than for children with prior removals (30%).** This was not expected.
- Neglect is more common for children in their first removal (64%) than second removal (58%).
- The reason for the second removal appears to shift from parental issues to child issues:
  - **Children that have been removed from the home before are nearly twice as likely to re-enter out-of-home care due to their own behaviors or mental health diagnosis.** Children's behaviors are often a symptom of an underlying mental health issue or a response to extreme trauma.<sup>25</sup>
  - Parental mental health is adjudicated more for first removals (9%) than second (5%).
  - Children's behaviors are adjudicated more for second removals (12%) than first (7%).

<sup>23</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, Child Maltreatment 2012.

<sup>24</sup> As a reminder, this data is just for reviews of NDHHS wards, not youth who are out-of-home under either the NDHHS Office of Juvenile Services, or the Office of Probation Administration.

<sup>25</sup> This is described in greater detail in the section on mental health starting on page 81 and on trauma page 5.

**Table 8. Adjudicated Reasons Children Enter Out-of-Home Care, Divided by # of Removals from the Home**

Reason	On First Removal From Home			On 2+ Removal from Home		
	Reviewed during 1st half of 2014, n=1,568	Reviewed during 2nd half of 2014, n=1,449	Reviewed during 1st half of 2015, n=1,259	Reviewed during 1st half of 2014, n=677	Reviewed during 2nd half of 2014, n=497	Reviewed during 1st half of 2015, n=577
Neglect and related						
Neglect	74%	64%	64%	52%	59%	58%
Housing Substandard - Unsafe	32%	28%	28%	21%	24%	24%
Physical abuse and related						
Physical Abuse	15%	12%	12%	11%	13%	15%
Abuse or Neglect of a Sibling	12%	10%	10%	2%	3%	5%
Domestic Violence	22%	16%	16%	10%	11%	13%
Sexual Abuse	7%	4%	5%	7%	5%	7%
Parental substance abuse						
Parent Drug Use	52%	42%	42%	30%	32%	30%
Parent Alcohol Use	17%	13%	10%	11%	9%	7%
Baby Born Substance Affected	3%	2%	2%	<1%	<1%	1%
Parental Incarceration	18%	10%	8%	10%	10%	9%
Parent Mental Health	16%	9%	9%	8%	2%	5%
Parental Physical Illness, or Disability	2%	1%	1%	2%	1%	<1%
Abandonment	12%	5%	7%	7%	4%	5%
Relinquishment	3%	0%	0%	3%	1%	0%
Child's Teen Parent in Foster Care	1%	0%	0%	5%	0%	0%
Death of Parent	1%	1%	1%	1%	1%	0%
Child related issues						
Child's Behaviors	13%	6%	7%	26%	22%	12%
Child's Mental Health	5%	2%	3%	10%	8%	5%
Child's Suicide Attempt	1%	0%	0%	1%	2%	1%

Reasons for the variability between time periods needs further research.

**NON-ADJUDICATED ISSUES IMPACTING CHILDREN’S CASES**

Based on case file reviews conducted by the FCRO, there are additional reasons for removal that the FCRO finds should have been included in the case. Some of the issues are recognized at the onset, but for various reasons (such as a plea bargain or the fragility of the child victim) may not be included in the adjudication. Other issues may come to light later in the case.

An example of an issue known at the onset of a case, but not adjudicated is if adjudication was on the failure to supervise, but educational neglect was also present.

An example of an issue that may come to light later in the case would be: The child was removed due to unsafe

housing with it later determined that the root cause for the condition of the dwelling was maternal depression. If that root issue is not addressed, then it may be unsafe for the child to return home and his or her trauma may also not be adequately healed.

Table 9. Non-Adjudicated Conditions				
Condition/Issue	1st Removal From Home		2+ Removals	
	Reviewed during 2nd half of 2014, n=794	Reviewed during 1st half of 2015, n=698	Reviewed during 2nd half of 2014, n=217	Reviewed during 1st half of 2015, n=198
Neglect and related				
Neglect	34%	57%	24%	26%
Housing substandard - unsafe	16%	33%	18%	16%
Physical abuse and related				
Domestic violence	15%	43%	8%	8%
Physical abuse	10%	17%	13%	10%
Abuse or neglect of a sibling	9%	15%	12%	6%
Sexual abuse	8%	21%	10%	9%
Parental substance abuse				
Parent drug use	39%	68%	22%	24%
Parent alcohol use	11%	23%	7%	8%
Baby born substance affected	2%	0%	0%	0%
Parental incarceration	13%	29%	10%	17%
Parent mental health	21%	43%	14%	11%
Parental physical illness, or disability	2%	4%	3%	5%
Abandonment	14%	34%	16%	19%
Relinquishment	4%	13%	3%	6%
Child's teen parent in foster care	1%	1%	0%	0%
Death of parent	2%	4%	2%	3%
Child's related issues				
Child's behaviors	14%	30%	28%	30%
Child's mental health	6%	12%	15%	20%
Suicide attempt	1%	2%	4%	3%
Child's drug use	2%	6%	6%	7%
Child's disabilities	3%	5%	3%	6%
Child's illness	2%	2%	1%	1%



The “n” values below indicate the number of children for whom a non-adjudicated condition was identified, which is a subset of all children reviewed. Statistics were not available for the first half of 2014.<sup>26</sup>

Points to consider:

- **Domestic violence was included in the adjudications for 15% of the cases, but was a factor for 43% of the cases.**
- **Parental drug abuse was in the adjudication for 37% of the children reviewed, but was a factor for 68% of the cases.** For example, in some cases, drug abuse may have been adjudicated towards the mother, but not the father. Later, it could be identified that father also struggles with that issue. Or, the adjudication was on a filthy house and parental drug abuse was later identified as an underlying issue.

### PARENTAL SUBSTANCE ABUSE

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

Parental methamphetamine use continues to be a growing issue in Nebraska. Consider the following:

- For children on a first removal reviewed during the first half of 2015, 61% of the parents with a drug issue were identified as using methamphetamine. During the last half of 2014, the rate had been 57%.
- Conversely, for children who had prior removals reviewed during the first half of 2015, 17% of the parents with a drug issue were identified as using methamphetamine.

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<sup>26</sup> As a reminder, this data is just for reviews of NDHHS wards, not youth who are out-of-home under either the NDHHS Office of Juvenile Services, or the Office of Probation Administration.

## **CASEWORKER CONTACT WITH CHILDREN**

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to ensure that Nebraska continues to have the important caseworker – child contact each month.

### **RECOMMENDATIONS TO NDHHS**

1. **Keep up the good work!** Share this achievement with front-line staff.
2. Develop an effective feedback loop when issues are identified with the quality of the contacts and/or the quality of the documentation.

### **BASIS OF THE RECOMMENDATIONS**

By policy case workers are to have personal contact with each child every 30 days.<sup>27</sup> This is an important safeguard for children, particularly young children that may not be seen outside the foster home. Recently some states have had tragedies occur when caseworkers did not provide this vital service. As a result, some states require workers to take pictures of the children at each visit to ensure contact happened.

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

Using that window, **the FCRO found that worker/child contact was occurring for 98% of the children reviewed.** The FCRO congratulates all involved on that important achievement!



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<sup>27</sup> In 2012-2014, “State IV-B agencies [child welfare] must ensure that the total number of monthly caseworker visits to children in foster care is not less than 90 percent...If the state title IV-B agency fails to meet any of the applicable standards...is subject to a reduction in Federal Financial Participation of one, three or five percentage points, depending on the amount by which the agency misses the standard.” In 2015 the standard raises to 95%. (ACYF-CB-IM-11-06). Federal HHS Administration for Children and Families. Nebraska is achieving that goal.

## CONTINUED NEED FOR OUT-OF-HOME CARE

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to ensure that children do not unnecessarily remain in out-of-home care.

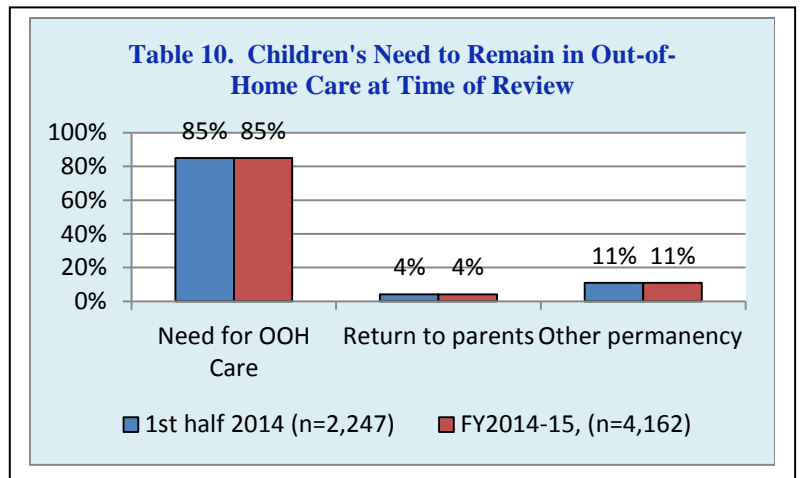
### RECOMMENDATIONS TO THE CHILD WELFARE SYSTEM

1. Conduct a collaborative study to analyze the 15% where there is no longer a need for out-of-home placement to determine why permanency had not been achieved for those children. For example, why the adoption/guardianship is not finalized or why return to the parent has not occurred. FCRO continues to advocate on these cases but further research is needed.

### BASIS OF THE RECOMMENDATIONS

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

With these considerations in mind, statute requires the FCRO to determine if there is a continued need for out-of-home placement during every review conducted.



**The percentages in Table 10 are nearly identical to the findings made every year since 2009, so there is no improvement.**

## PROVISION OF CHILDREN’S HEALTH RECORDS TO CAREGIVERS

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to ensure that caregivers are given essential information about the children they are being entrusted with.

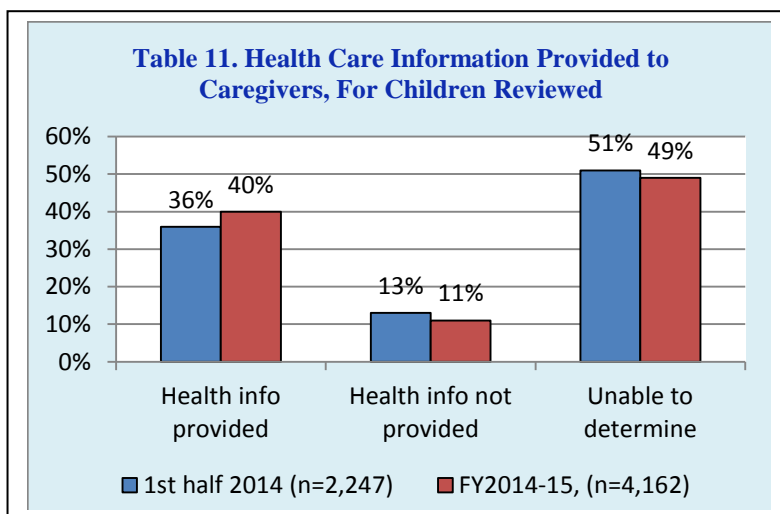
### RECOMMENDATIONS TO NDHHS AND SERVICE PROVIDERS

1. Ensure that foster parents are required under contract to complete monthly reports which include all health, education and dental information.
2. Enact oversight mechanisms requiring medical information be promptly and accurately supplied to foster parents or other caregivers upon the child’s placement, and that this transfer of information is documented. Ensure that caregivers understand it is their responsibility to request medical information when providing care for a child so that no important information “falls through the cracks”.

### BASIS OF THE RECOMMENDATIONS

Due to the impact on safety and well-being, the FCRO is required under federal regulations to attempt to determine whether medical records were provided to the caregivers at the time of the placement and if medical needs are being met while placed in out-of-home care. FCRO review specialists carefully analyze all case documentation for indication of whether this occurred.<sup>28</sup>

During the FCRO’s review of children’s cases, attempts are made to contact the child’s placement per federal requirement to determine whether the placement received medical background information on the child at the time the child was placed.<sup>29</sup> Caregivers are not required to respond to the FCRO – and many do not. Contact is attempted for all reviews and results noted for the legal parties in the local board’s recommendation



<sup>28</sup> Unable to determine includes (a) the foster parents were unable to be reached or did not communicate back when messages were left or (b) there is no documentation from the foster parents in the child’s file indicating whether they received information.

<sup>29</sup> Foster parents are provided the opportunity to attend the FCRO review, along with the phone number and email address for the review specialists. Foster parents can complete a questionnaire, which is sent to each of them or available online. Review specialists also attempt to contact the placement via phone or email prior to the local board meeting.

report.

While there has been a slight improvement, it is concerning that **49% of the children's cases reviewed in FY 2014-15 did not have documentation** whether children's caregivers had been provided the child's essential medical information.

Further, **11% of the cases where documentation was available showed that the caregivers had not received health records** when the children entered the foster home or facility.

## HEALTH CARE AND DENTAL CARE STATUS OF CHILDREN REVIEWED

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to ensure that children receive essential physical and dental health screenings, treatments, and immunizations.

### RECOMMENDATIONS TO NDHHS AND SERVICE PROVIDERS

1. Develop a process whereby the FCRO can immediately report to the appropriate NDHHS staff when serious medical issues are identified and receive prompt feedback on whether children's medical and dental needs have been addressed.
2. Enact oversight mechanisms requiring that medical or dental issues for children in out-of-home care are addressed in a timely manner, and that services received are consistently documented.

### BASIS OF THE RECOMMENDATIONS

Based on the following facts and concerns regarding the lack of documentation that essential health information has been shared with caregivers, beginning in 2014 the FCRO has sought to quantify whether children have unmet medical or dental needs. National studies that have shown that 90 percent of young children entering care have physical health problems<sup>30</sup> and 35 percent have significant dental/oral health problems.<sup>31</sup>

The FCRO gathers statistics on whether children's health records were readily accessible on the NDHHS computer system, N-FOCUS. **During reviews, 73% of the children's health records were available in the NDHHS system of record.** This means that in over **25%** of the cases, reviewers had to go to other sources for health status information. This situation needs to improve in order to ensure caseworkers and their supervisors have instant access to this critical information should emergencies arise, or if a case must transfer to different personnel.

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<sup>30</sup> L. K. Leslie, J. N. Gordon, L. Meneken, K. Premji, K. L. Michelmore, and W. Ganger. The Physical, Developmental, and Mental Health Needs of Young Children in Child Welfare by Initial Placement Type. Journal of Developmental & Behavioral Pediatrics, June 2005, v26 i3 p177(9), as quoted in Medicaid and Children in Foster Care, SPARC (State Policy Advisory and Reform Center, 2013.)

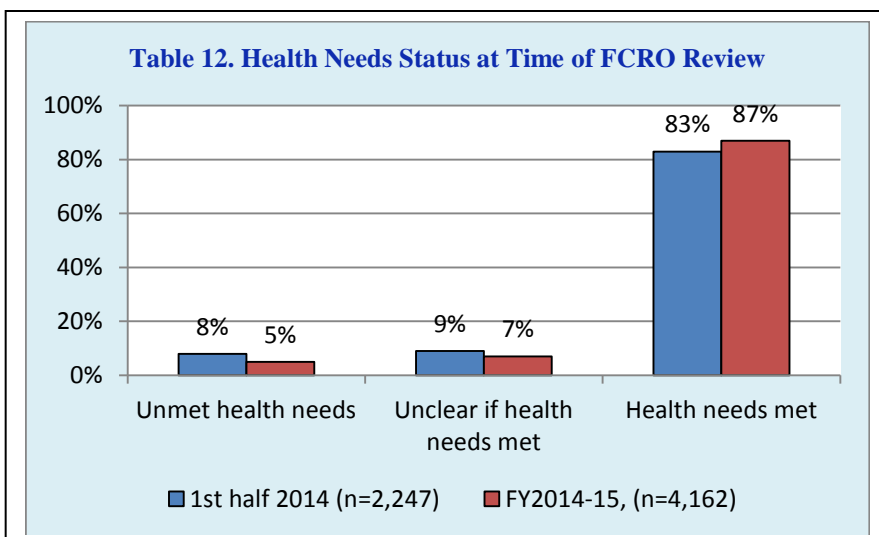
<sup>31</sup> American Academy of Pediatrics. Accessed December 3, 2012, [http://www2.aap.org/fostercare/dental\\_health.html](http://www2.aap.org/fostercare/dental_health.html)

### Health Care Needs

Of those cases where health records were available during reviews, **87%** of children had their health needs met. It is still concerning that **12%** had either unmet health needs or it was unclear.

Reviewers report that the numbers in the “unmet” and “unclear” categories in Table 12 are impacted by one or more of the following:

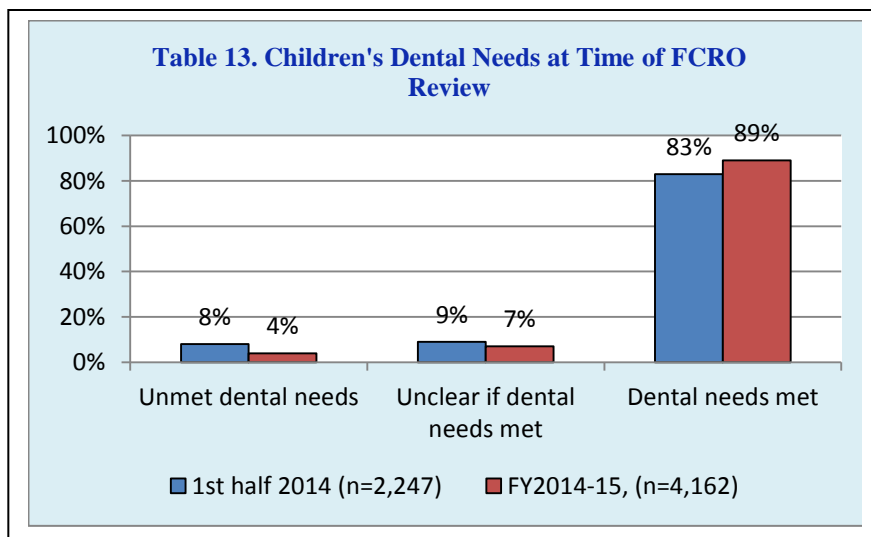
- Caregivers may not have responded to FCRO requests for this information.
- Caseworkers may not have recorded verbal and other updates on the NDHHS computer system so there is no documentation available at review.
- The date of last physicals may not be available to know whether they are occurring at recommended frequency.



### Dental Care Needs

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

It is reported across the state that there is a general lack of dentists willing to accept Medicaid making it more difficult to ensure children receive needed services but it is positive that there has been an increase in the number of children that were reviewed by the FCRO that have their dental needs met.



## PLACEMENT AVAILABILITY, SAFETY, AND APPROPRIATENESS

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to ensure that there is adequate capacity and decision-making concerning placement safety and appropriateness.

### RECOMMENDATIONS TO THE CHILD WELFARE SYSTEM

1. Ensure that all kinship and relative placements have necessary agency-based supports.
2. Identify appropriate paternal and maternal relative/kinship placements at the time of children's initial placement in foster care. Ensure that family finding occurs at the time of removal from the parental home.
3. Ensure the forms and processes developed by the Children's Commission Foster Care Rate Workgroup are being appropriately utilized and that a data collection process is being implemented which can be used to better match caregiver strengths to children's needs.
4. Require that all contracts entered into by NDHHS with foster care agencies require specific training for all foster parents, specific documentation requirements and an addition of a "no eject/no reject" clause. Explore the feasibility of utilizing performance-based contracts with foster care agencies.

### BASIS OF THE RECOMMENDATIONS



It is only rational to expect that the conditions in foster homes and group homes should be much better than those endured by the child prior to coming into care. As a result, foster homes and group homes should offer and be held to a higher standard of care than that occurring in the child's home of origin.

Foster parents have different skill sets and abilities just as children have different abilities and needs.

Matching children with the caregivers best suited to meet their needs must occur but it is a challenge. This challenge impacts both the children's safety and well-being as well as placement stability.

### PLACEMENT ARRAY, TYPES/AVAILABILITY

The first question is what types of placement are currently available by each NDHHS Service Area. The FCRO thanks NDHHS for providing information about the number and types of foster homes operating as of September 2015 that are shown in Table 14. Important points:

- The chart that follows includes only family-like settings and thus **does not** include group homes or specialized facilities.



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

The FCRO compared Table 14 to one provided in July 2014. Some interesting trends to note:

- **Based on information on the number of beds provided by NDHHS, it appears that many homes are operating over capacity.** The FCRO does not know exactly how many homes are over capacity, or whether those capacity waivers were to keep sibling groups together.
  - On June 30, 2014, there were 2,681 children in a family like setting, and a total of 2,550 licensed beds, a difference of 131 (**105% of capacity**)
  - On June 30, 2015, there were 2,889 children in a family like setting, and a total of 2,731 licensed beds, a difference of 158 (**106% of capacity**).
- **In total, there are 7% more relative, kinship, and foster family home beds than was true last year** (2,731 compared to 2,550).
- **There are 5% (72) fewer agency-based foster home beds than the previous year.** (1,287 in 2015 compared to 1,359 in 2014).
- **There are 60% (99) more kinship foster homes** (265 in 2015 compared to 166 in 2014).
- **There are 134 more approved relative foster homes** (659 in 2015 compared to 525 in 2014).
- **There are fewer licensed relative homes** (93 in 2015 compared to 114 in 2014).

Again, Table 14 does not include children in congregate (group) care or specialized facilities.

**Table 14. Maximum Beds by Placement Location 9/30/2015, courtesy of NDHHS**

		Central	Eastern	Northern	Southeast	Western	Out Of State	2015 Total	2014 Total
Kinship	Kinship Foster Home (Approved)	30	98	41	47	35	1	252	164
	Kinship Foster Home (Licensed)		3					3	0
	Omaha Tribal Kinship FH(Approved)		1					1	33
	Santee Sioux Tribal Kinship FH(A			1				1	0
	Winnebago Tribal Kinship FH(App)			8				8	2
	<i>Subtotal of Kinship</i>	<i>30</i>	<i>102</i>	<i>50</i>	<i>47</i>	<i>35</i>	<i>1</i>	<i>265</i>	<i>199</i>
Relative	Relative Foster Home (Approved)	80	283	106	94	91	5	659	525
	Relative Foster Home (Licensed)	11	25	6	32	19		93	113
	Omaha Tribal Relative FH (Approved)		2	35			1	38	36
	Omaha Tribal Relative FH(Licensed)			6				6	0
	Santee Sioux Tribal Relative FH (App)			10				10	1
	Winnebago Tribal Relative FH (Licensed)			1				1	2
	Winnebago Tribal Relative FH(App)			13			1	14	20
<i>Subtotal of Relative</i>	<i>91</i>	<i>310</i>	<i>177</i>	<i>126</i>	<i>110</i>	<i>7</i>	<i>821</i>	<i>697</i>	
Foster homes	Continuity Foster Care	1						1	2
	DD Family Home (Approved)	2	10	1	2			15	6
	Foster Home - Traditional	6		4	15	84		109	126
	Foster Home-Agency-Based	148	590	172	359	18		1287	1359
	Omaha Tribal Foster Home		2	20				22	14
	Santee Sioux Tribal Foster Home			2				2	1
	Winnebago Tribal Foster Home			3				3	3
	Adoptive Home (Approved)	3	7		3	4		17	17
	Adoptive Home (Licensed)	24	55	23	36	22		160	150
	<i>Subtotal of foster homes</i>	<i>184</i>	<i>664</i>	<i>225</i>	<i>415</i>	<i>128</i>	<i>0</i>	<i>1616</i>	<i>1684</i>
	Omaha Tribal Emergency Shelter FH			5				5	3
	Unknown	1		23				24	0
<b>Grand Totals</b>	<b>306</b>	<b>1,076</b>	<b>480</b>	<b>588</b>	<b>273</b>	<b>8</b>	<b>2,731</b>	<b>2,550</b>	

## APPROPRIATENESS OF PLACEMENT

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

As a basis for the finding, the FCRO’s review specialists research whether any allegations have been made against the placement of children being reviewed and the system’s response to those allegations. The FCRO review specialist and local board also considers the results of home studies, which measure the strengths and weaknesses of each foster family placement, and the needs of the individual children

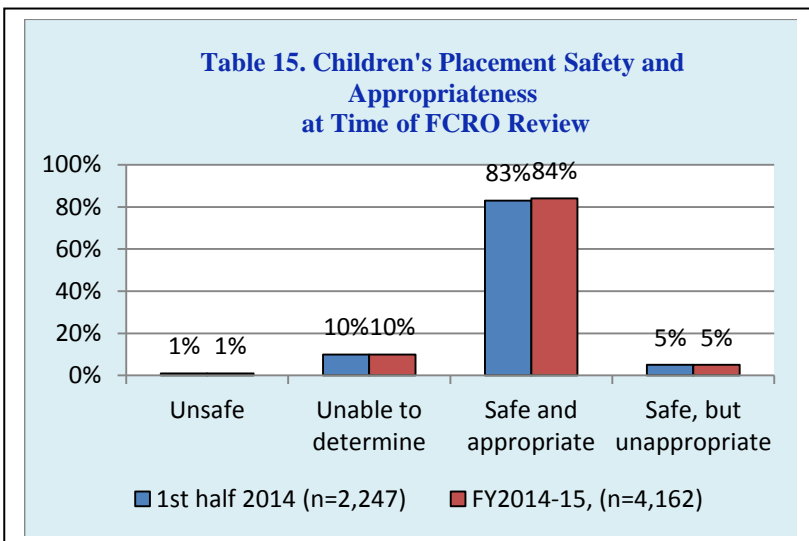
*“Nothing matters to a kid more than where he lays his head.”*

- Quote from a former foster child that spent many years in the child welfare system

receiving care by that particular caregiver including but not limited to the child being reviewed. **The FCRO does not assume children to be safe in the absence of documentation.** If the documentation does not exist, the “unable to determine” category would be utilized.

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

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



As Table 15 illustrates, the percentages in each category have remained steady. When the FCRO reviewed these cases, **10% of the children’s files did not contain sufficient documentation in order to ensure the safety and appropriateness of the children’s placement.** This is still unacceptably high.

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

- There was no home-study available.<sup>32</sup>
- The results of investigations regarding a placement were not available.
- As assessment is pending that would determine if a higher level of care is needed.
- It is unclear if the placement is willing to provide adoption or guardianship for cases where that may be a primary or concurrent goal.
- If there are recent changes, such as the foster parents separating, or an adult child returning to the home and the home-study had not been updated.

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

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<sup>32</sup> A home-study is documentation which contains critical information about the foster family's history, parenting practices, social issues (drug/alcohol use), and the physical condition of the home.

## **PERMANENCY FOR NDHHS WARDS IN OUT-OF-HOME CARE**

In this subsection, the Foster Care Review Office defines “**permanency**”, discusses the length of time that some children spend in out-of-home care, and issues that impede children achieving timely permanency.

## **PERMANENCY DEFINED**

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

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

In this Annual Report, the FCRO presents information about the following topics related to permanency:

1. Barriers to children achieving permanency based on FCRO local board findings.
2. Effectiveness of case planning and use of appropriate permanency objectives.
3. Length of time in foster care.
4. Case manager changes and its impact on permanency.
5. Parenting time and availability of services for the parent and child(ren).
6. Return to out-of-home care.
7. Court and legal issues impacting timely exits from out-of-home care.

The FCRO was one of several groups that participated in the 2014 Barriers to Permanency Project. This Project analyzed the cases of children in care for three or more years to identify the barriers to permanency. This Report is available on the FCRO’s website, [www.fcro.nebraska.gov](http://www.fcro.nebraska.gov).

## **BARRIERS TO CHILDREN ACHIEVING PERMANENCY**

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to reduce the barriers to children reaching a timely and appropriate permanent home.

### **RECOMMENDATIONS TO THE CHILD WELFARE SYSTEM**

1. Continue to have collaborative, in-depth examinations of why children remain in out-of-home care for prolonged periods, especially surrounding the systemic issues of appropriately including fathers in the process, adjudication delays in the courts, and inappropriate case plans.
2. Replicate the Barriers to Permanency Project in the fall of 2016.

### **BASIS OF THE RECOMMENDATIONS**

During each of the 4,162 reviews conducted FY2014-15, the top 1-5 current barriers to safety and permanency that existed for reviewed children are identified. A standard list is used to ensure uniformity.

By definition, the identified issue would delay or prevent children’s case plans being implemented and children achieving safe, permanent homes. Barriers could be due to: the action/inaction of the parents; action/inaction of the parties to the cases; the need for more time to complete services; or larger systemic issues.

#### **Parental Barriers**

Table 16 shows the primary barriers for children whose mother or father have been identified and have intact parental rights. Fewer fathers are identified, so the “n” for that group is less than for mothers. Observations:

- There are some clear differences as to the degree to which the issues impact mothers compared to fathers.

<b>Table 16. Barriers Regarding the Parents</b>		
	Regarding Mother (n=1418)	Regarding Father (n=1207)
Lack of progress on adjud. issues	46%	25%
Need time to complete services	34%	19%
Refuses to engage	33%	20%
Lack of housing	30%	14%
Substance abuse	28%	11%
Not attending visitation	27%	19%
Lack employment	25%	8%
Mental health issue	16%	5%
Incarceration	8%	18%
Unable to deal with child's behaviors	7%	3%
Domestic violence	5%	4%
Pending criminal charges	5%	4%
Low functioning parent	4%	2%
Physical health	2%	1%
Communication	1%	1%
Aggravated circumstances	1%	1%
Medicaid	<1%	0%
Other	5%	6%

For example, **lack of progress is identified for 46% of the mothers compared to 25% of the fathers. Refusal to engage in services is identified for 33% of the mothers and 20% of the fathers.**

- An average of 2.7 barriers were identified for mothers, while an average of 1.6 barriers were identified for fathers.
- Maintaining family relationships while children are in care is a critical component of any successful reunification practice.<sup>33</sup> Knowing this, it is highly concerning that not attending or **inconsistently attending visitation is an issue for 27% of the mothers and 19% of the fathers.** Further information on parental visitation can be found on page 51.

**System Barriers**

Table 17 shows system barriers to children not receiving permanency.

There are a number of reasons why the primary permanency plan may not be appropriate. Two of the more frequent reasons are: (1) that the plan remains reunification although the parents have had time to avail themselves of rehabilitative services but progress is not being made, or (2) the plan is guardianship for young children that would be better served by adoption, which is legally more permanent. See the next section of this Report for more information on permanency planning.

<b>Table 17. Other Barriers to Permanency</b>		
	<b>Reviewed 2nd Half of 2014</b>	<b>Reviewed 1st Half of 2015</b>
<u>Court and legal system barriers</u>		
Primary permanency objective is not appropriate	23% (n=2,193)	24% (n=1,969)
Issue with concurrent plan	4% (n=2,193)	9% (n=1,929)
Court delays or continuances	5% (n=2,193)	4% (n=1,969)
TPR pending	5% (n=2,193)	5% (n=1,969)
<u>System issues</u>		
System lacks permanent home for children with serious trauma, behavioral, or mental health challenges	9% (n=2,193)	10% (n=1,969)
<u>Adoption/guardianship issues</u>		
Adoption paperwork incomplete	27% (n=490)	26% (n=468)
Guardianship paperwork incomplete	30% (n=172)	32% (n=161)
Child needs to complete services	16% (n=2,193)	22% (n=1,969)

As discussed earlier in this Annual Report, children often need time to heal from the trauma of abuse and neglect, and many (16%-22%) were in process of completing services towards this end at the time of the FCRO’s review. **Delays are common (26%-32%) to completion of adoption and guardianship paperwork for applicable cases.**<sup>34</sup>

<sup>33</sup> Child Welfare Information Gateway, Children’s Bureau/ACYF, U. S. Department of Health and Human Services. Family Reunification, What the Evidence Shows. 2011.

<sup>34</sup> See page 44 for additional information on cases of pending adoption.



## **CASE PLANNING AND PERMANENCY OBJECTIVES**

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to ensure that children have complete and measurable plans that will help the cases progress to timely permanency.

### **RECOMMENDATIONS TO NDHHS AND THE LEGAL SYSTEM**

1. NDHHS incorporate into their court reports and case plans the Structured Decision Making assessment findings to ensure that these statutorily required documents are complete; appropriate for the circumstances; timely; goal oriented; and clearly specify what needs to occur and what is expected of all involved with the children's case. The plans must be measurable so progress (or lack of progress) can be determined.
2. Use concurrent planning, in appropriate cases, as another tool to reduce unnecessary time in out-of-home care and that reasonable efforts are being used to meet the permanency objective of the concurrent plan.
3. Ensure adoptions are completed by persons with expertise in this intricate area of juvenile law, and address causes for delays – such as subsidy issues.
4. Whenever feasible, ensure that court review hearings are being held every three months.

### **BASIS OF THE RECOMMENDATIONS**

NDHHS is to prepare and submit to the court a complete plan with services, timeframes, and tasks specified. The courts can order the plan as is, modify the plan, or order NDHHS to create a new plan. The Court-ordered permanency plan lists one of several possible primary objectives. Typical objectives include reunification, adoption, guardianship, or independent living.

The case plan is one of the tools the child welfare system uses to help children achieve permanency. Case planning should detail appropriate, realistic, and timely steps toward rehabilitation of the parents (if reunification is the objective), and then effectively hold the parents accountable for fulfilling those steps. This should always be based upon the findings of Structured Decision Making assessments.

The NDHHS case plan must also be material to the juvenile court's jurisdiction and the measures of accountability must be fair. Otherwise, parents and children can wind up in no-win situations, which the FCRO has identified in some reviews. Often parents do not have a basis for understanding how the system expects them to respond to their children.

It may be difficult or impossible for parents that grew up in homes in which they experienced trauma (abuse or neglect, domestic violence, homelessness, incarceration, other serious family stressors) to provide their children with support and structure if the parent's own trauma remains unaddressed. National research has demonstrated that a parent's trauma history may increase his or her children's risk of maltreatment and impact the parent's ability to respond in a protective

manner to their children.<sup>35</sup> Parents may have a difficult time articulating what types of help they need.

**Case Plans and Court-Ordered Plans**

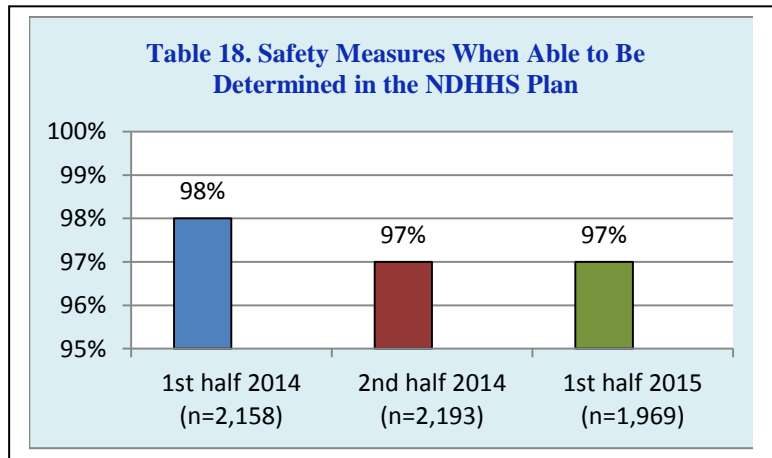
Local citizen review board volunteers report that all too often they encounter case plans that are inappropriate, incomplete, unrealistic, or not timely. This is based on a series of findings that the local boards are required to make about the case plan for every child reviewed after a careful analysis of the plan and related documentation. The local boards also consider if the courts have effectively ordered services to meet the permanency plan and if these services are appropriate. **The individual findings regarding case planning for the 4,162 reviews conducted FY2014-15 are described next.**

**A. SAFETY MEASURES IN THE NDHHS CASE PLAN**

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

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

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



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

**B. COMPLETENESS OF THE NDHHS PLAN**

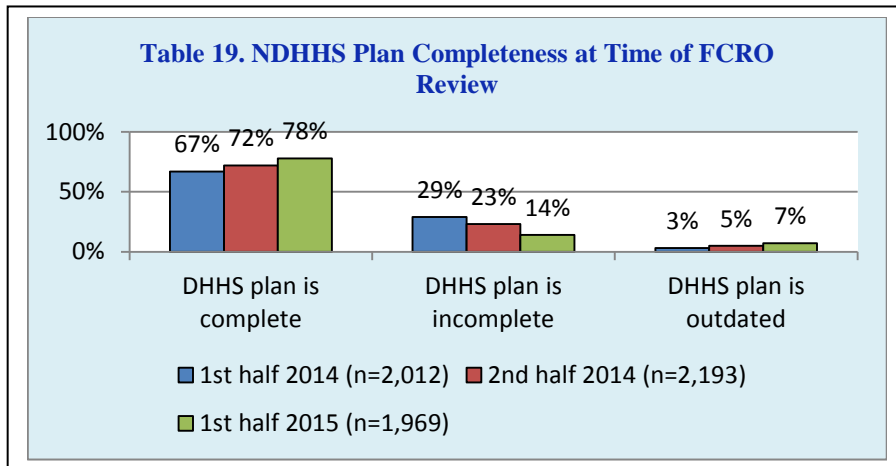
NDHHS is to prepare a complete plan with services, timeframes, and tasks specified, and submit this to the courts. The courts can order the plan as is, modify the plan, or order NDHHS to create a new plan.

<sup>35</sup> Tulberg, Erika, MPH, MPA, Impact of Traumatic Stress on Parents Involved in the Child Welfare System, as found in CW360 – Trauma-Informed Child Welfare Practice, Winter 2013.

There has been **significant improvement** by NDHHS in the preparation of complete case plans as shown in Table 19.

Areas that still need improvement include the following situations:

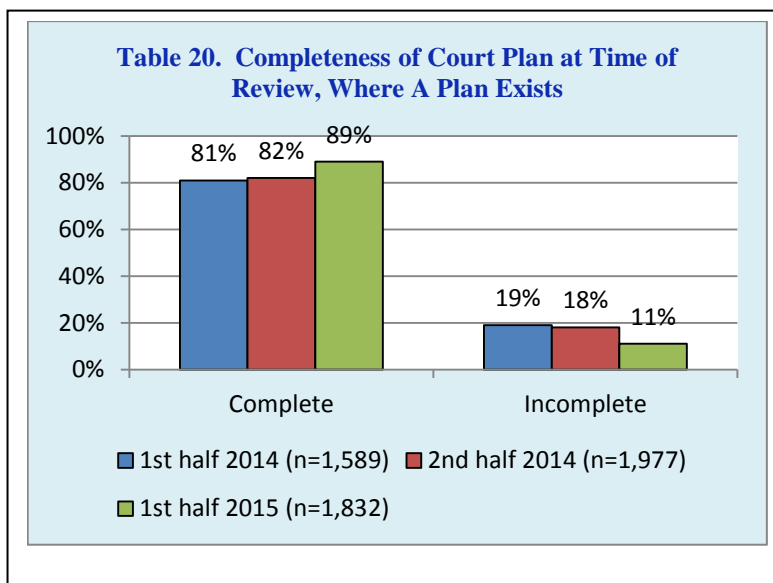
- The plan or concurrent plan is adoption, but all the goals reflect reunification.
- The plan does not address a non-custodial parent.
- The plan does not address paternity, if not already established.
- A service to address an adjudicated issue is not included in the plan.
- The plan is missing goals,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



**C. COMPLETENESS OF THE COURT-ORDERED PLAN**

Table 20 gives the findings from reviews.<sup>36</sup> Once a plan is submitted by NDHHS, the court is to order a plan. The Court-ordered plan needs to be complete, as this is what controls the actions the various parties need to take in order for the children’s case to move forward to a timely conclusion.

**There has been significant improvement by the judicial system in ordering detailed plans and all parties are to be commended for this improvement.**

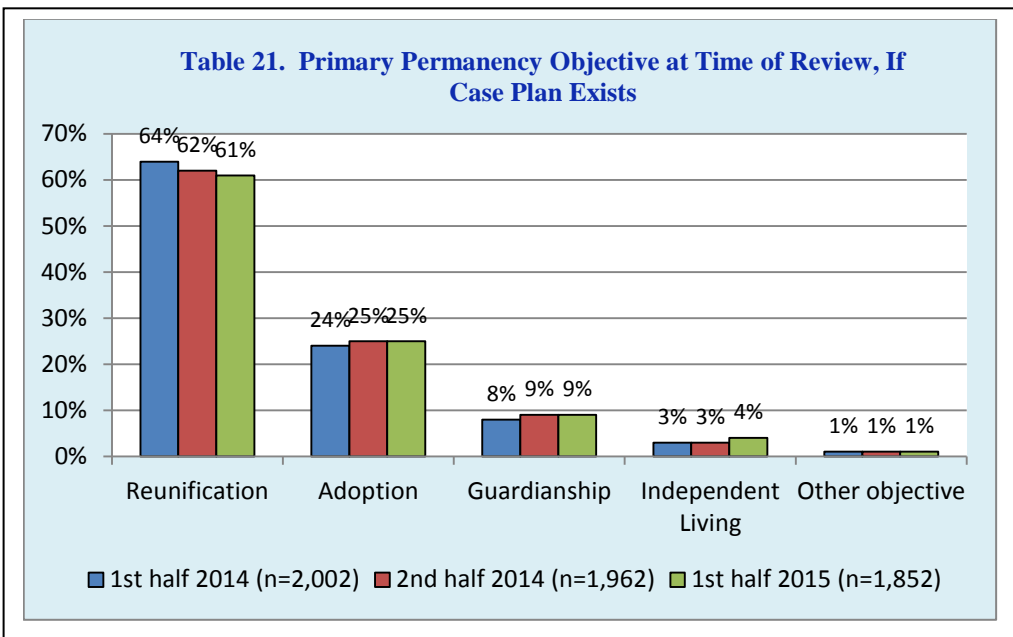


<sup>36</sup> The “n” for each group is less than the total number of reviews conducted. The primary reason for this is that to review a child at six months post-removal the FCRO must review some children prior to adjudication or disposition (due to delays in some areas) so there would not have been a plan created yet.

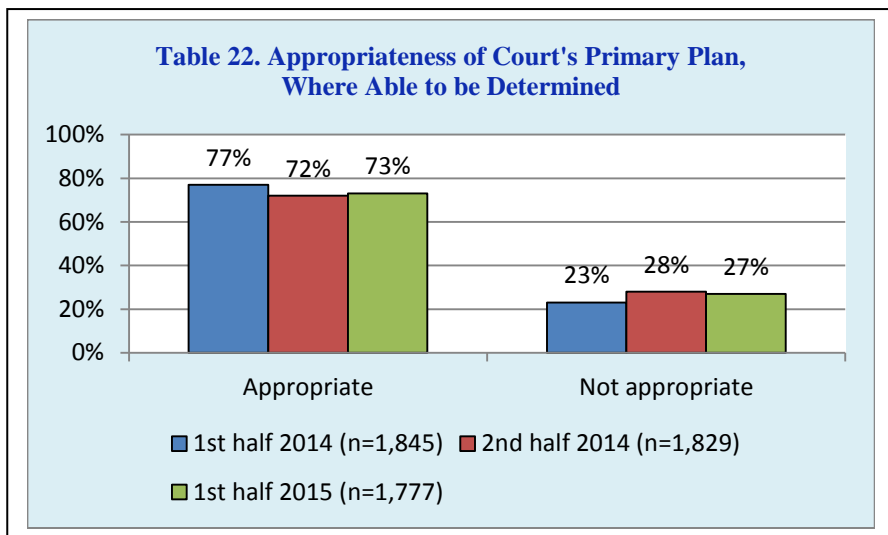
**D.APPROPRIATENESS OF COURT-ORDERED PERMANENCY OBJECTIVE**

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

Table 21 shows the objective for children at the time of review. The majority of children reviewed (61-64%) have a plan of reunification with one or both parents. The next most prevalent is adoption (24-25%), followed by guardianship (8-9%).



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 or goal (reunification, adoption, guardianship, etc.) is the most fitting for the child being reviewed.<sup>37</sup> If the goal listed does not match the circumstances then the board would find a goal inappropriate.



<sup>37</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.

Some examples of inappropriate goals:

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

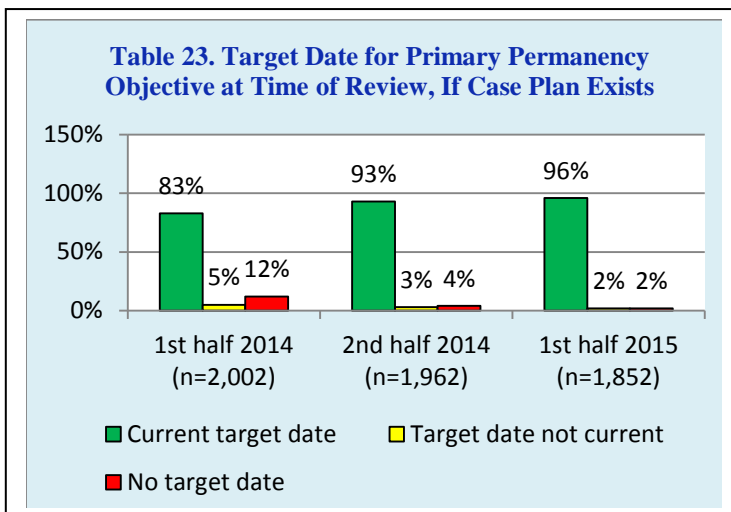
**FCRO staff actively advocate in the situations where the local board feels a permanency objective is not appropriate to ensure that the best interest of children are being met.**

**E.TARGET DATE FOR COURT-ORDERED PERMANENCY TO BE ACHIEVED**

The court-ordered permanency plan is also to include a target or projected date for permanency to be achieved. This requirement is in place to keep everyone’s focus on moving the case forward.

The following indicates whether that target date was current or not at the time of review.

**There has been significant improvement by the judicial system in ordering detailed target dates and all parties are to be commended for this improvement.**



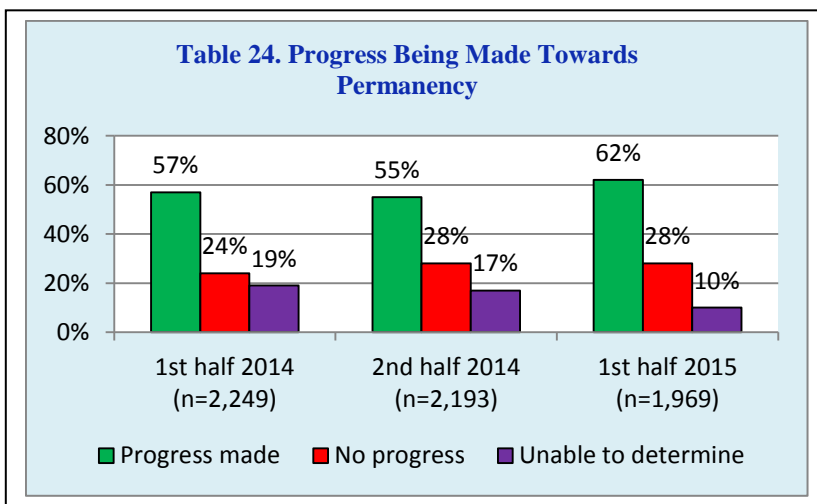
**PROGRESS BEING MADE TOWARDS PERMANENCY**

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

This finding is made by local boards after considering all available documentation and stakeholder information.

Examples of no progress include:

- Plan is reunification but the parents are not engaged or actively participating in needed



services.

- Plan does not reflect reality – such as the plan is still officially reunification when all efforts are being made towards adoption.
- Plan remains reunification even though the parent’s whereabouts are unknown.
- Plan is adoption, but a home willing to adopt has yet to be found.

Although there are fewer cases in which the FCRO is unable to gauge progress, it is still unacceptable that for 10% of the cases reviewed it is unclear if progress is being made (which means there is no clear progress), and for another 28% clearly no progress is being made. In other words **for more than one-third of the children reviewed, their case is stagnating and permanency is still far away.** This could be due to 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. All parts of the child welfare system should be working towards the same goal – permanency!

### **REASONABLE EFFORTS TOWARDS PERMANENCY**

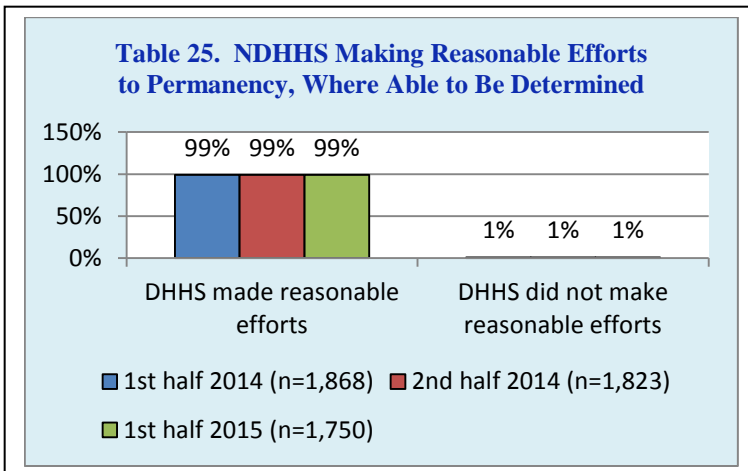
While the system must hold parents accountable, NDHHS is obligated to make “reasonable efforts” to preserve and reunify the family if this is consistent with the health and safety of the child unless a statutory exception of “aggravated circumstances” is found by the juvenile court, or the juvenile court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

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

The juvenile court makes the determination of reasonable efforts on a case-by-case basis. A finding that the State has failed to provide reasonable efforts has significant consequences to 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.

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

NDHHS reasonable efforts do not always translate into progress being made, as described previously. For example, NDHHS may be offering appropriate services, doing appropriate assessments, and the like, but the parents may still be disengaged. Or, there could be delays with achieving permanency while waiting for the appeal of an adjudication or termination of parental rights decision.



As Table 25 illustrates, NDHHS was making reasonable efforts in nearly all the cases where the FCRO was able to make the determination.

**CONCURRENT PLANNING/OBJECTIVES**

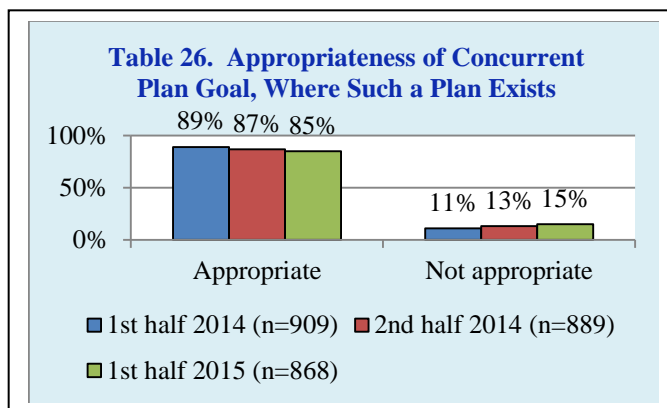
Statutes permit the court to include a concurrent permanency objective in its plan. For example, the primary plan may be reunification, but the concurrent plan is adoption.

Benefits of concurrent planning include:

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

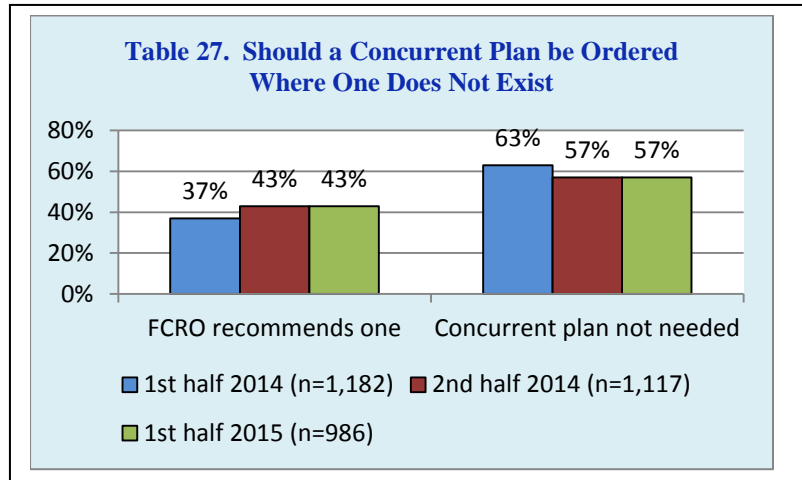
Table 26 shows if a Concurrent Plan was ordered by the Court whether it is an appropriate goal and in 15% of reviewed cases the goal was not appropriate.

For cases where there was no concurrent plan, local board members reviewing the case do make a finding as to whether a concurrent plan should have been ordered or is not needed.



As Table 27 shows, local board members found that **more than a third** of cases where there was no concurrent plan should have included one.

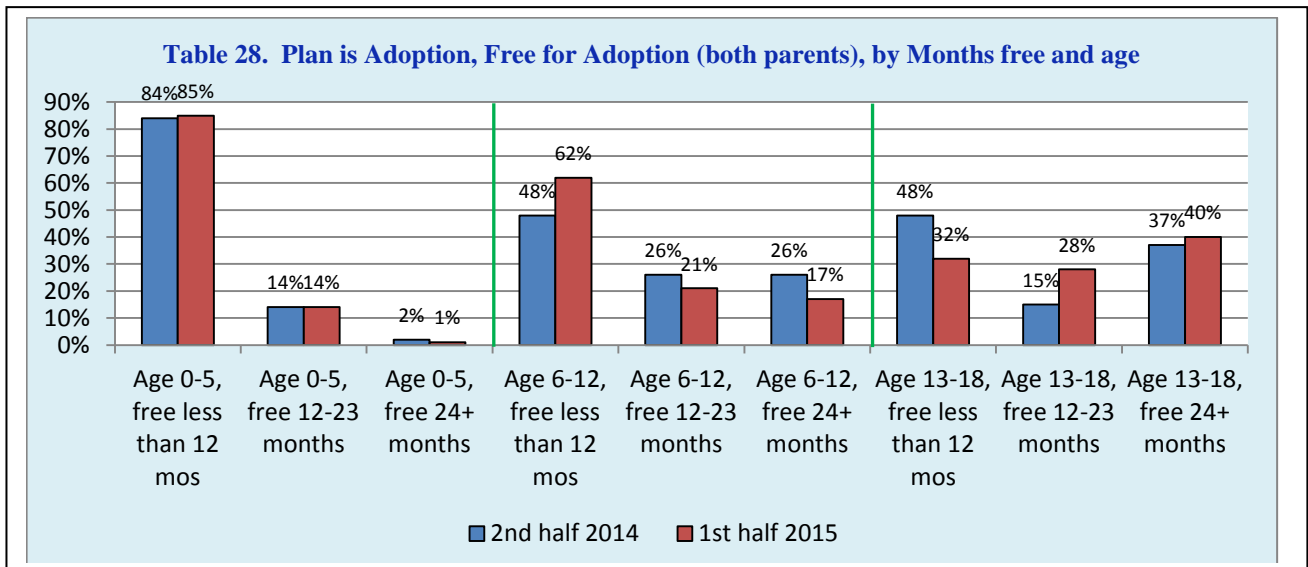
A typical example in the category “did not order, but board recommends one” is the primary plan is reunification but parents are making very limited or no progress; thus, the board recommends a concurrent plan of adoption or guardianship so that there are no unnecessary delays to permanency.



**PLANS FOR ADOPTION REQUIRE SPECIALIZED SUPPORT SERVICES**

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

Table 28 provides details on children whose primary plan is adoption and who were “free for adoption” regarding both parents at the time of the FCRO’s review. The term “free for adoption” means that a court has either ordered a termination of parental rights or accepted a relinquishment, or for a small number parent(s) are deceased.





Many court orders terminating parental rights are appealed so some of the children in the chart are waiting an appellate decision. Appeals are usually decided in a year or less. **Therefore, there must be a different explanation for why the adoption is not complete for most in 12-23 month free for adoption category, and all in 24+ month category.** There are two main possible reasons that are given by stakeholders for this delay:

- 1) Behavioral or mental health needs of the child related to trauma;
- 2) Subsidy rate disagreement.

Neither of these reasons are acceptable reasons and can be easily solved by collaborative efforts of all stakeholders.

## LENGTH OF TIME IN FOSTER CARE

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to reduce the barriers to children reaching a timely and appropriate permanent home.

### RECOMMENDATIONS TO THE CHILD WELFARE SYSTEM

1. Ensure that the courts hold a 15-month exception hearing to determine if a termination of parental rights petition needs to be filed against the parents and its findings are specifically delineated in a court order.
2. Ensure all stakeholders, especially county attorneys who make strategic filings and pleas as to what conditions are adjudicated, meet the needs of children and families so that the appropriate services are being offered.
3. Replicate the Barriers to Permanency Project in the fall of 2016.

### BASIS OF THE RECOMMENDATIONS

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

*“The decisions in child welfare are not between good and bad, they are between worse and least worse. Each decision will be harmful. What decision will do the least amount of damage? We all have a tendency to under-rate the risk to the child of being in the foster care system and over-rate the risk to the child of living in poverty in a dysfunctional family.”<sup>38</sup>*

*Time in foster care is not a neutral event for children involved...Decisions in child welfare are not between good and bad, they are between worse and least worse.*

Time in foster care is not a neutral event for children involved. A trauma-informed child protection system needs to be knowledgeable about the potential short- and long-term impacts on disruptions in attachment relationships – especially for the youngest children.

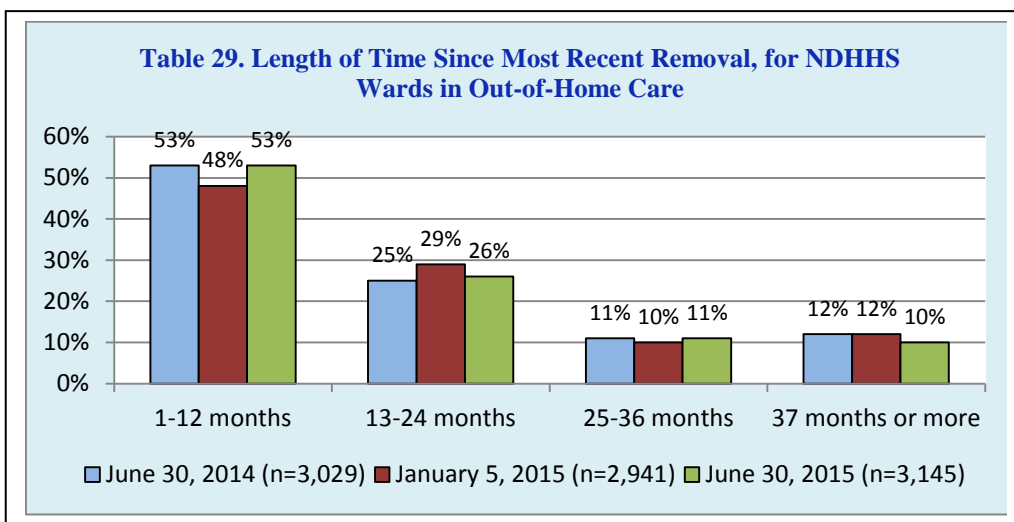
Younger children especially are very sensitive to their environment. Children in out-of-home care have already had at least one major change in their environment by entering a foster care placement. Most have experienced another major event when moved to new caregivers after the initial placement. Some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

<sup>38</sup> Address to FCRB Volunteers, September 2006.

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

**Months in Out-of-Home Care**

The negative effects of children living in foster care increases with the time children spend in out-of-home care. The chart that follows shows the number of months from the most recent removal from the home for NDHHS wards that were in out-of-home care. For children that have been removed from the home more than once, this does not include time in out-of-home care during past removals. Many children spend a significant number of months out of the home.



**It is particularly concerning that 21% of children have been in out-of-home care for two years or longer. From a child’s perspective this is a very long time. There has not been any significant improvement in the past year.**

**Children leaving out-of-home care**

Table 30 is about the **2,092** children (state wards only) that left out-of-home care during FY2014-15 (July 1, 2014-June 30, 2015), and measures only their most recent episode (in other words it does not take into account any removals from the home they may have previously experienced).

Permanency type	Number of Children	Average days out-of-home (this episode)
Returned to parent	1,266 (61%)	236 days (0.6 years)
Adoption	503 (24%)	964 days (2.6 years)
Guardianship	137 (7%)	785 days (2.2 years)
Reached age of majority	97 (5%)	1,269 days (3.5 years)
Other	89 (4%)	n/a
<b>Total</b>	<b>2,092</b>	

## CASEWORKER CHANGES AND THE IMPACT ON PERMANENCY

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to reduce the number of caseworker changes that children and families must deal with, as research shows that each change can lengthen the time children spend in out-of-home care.

### RECOMMENDATIONS TO THE LEGISLATURE

1. Review and amend the caseload formula to ensure calculations are meaningful and not overly complicated. Make the formula more reflective of the case management supports needed for children at home under NDHHS supervision.
2. Provide funding for adequate numbers of caseworkers and supervisors, and then ensure compliance with caseload standards.

### RECOMMENDATIONS TO NDHHS

1. Develop adequate supports and mentoring for caseworkers, whether employed directly by NDHHS or by a NDHHS contractor. Ensure supervisors have adequate supports and training so they, in turn, can better support their staff.
2. Better utilize exit interviews to determine measures that could impact caseworker changes.
3. Utilize the Nebraska Children's Commission to complete an in-depth study into:
  - a. Salaries and pay structure in surrounding states.
  - b. Creation of incentives for workers and administrators to pursue formal social work education.
  - c. Collaboration that can be created with the State university system to increase the work force pool.

### BASIS OF THE RECOMMENDATIONS

Local board members and staff have identified that stable case management is critical to ensuring children's safety while in out-of-home care, and is critical for children to achieve timely and appropriate permanency. The number of different caseworkers assigned to a case is significant because worker changes can create situations where:

1. There are gaps in the information transfer and/or documentation, sometimes on more than one transfer. This includes maintaining an accurate history of the parent's reactions during parenting time (visitation) and the parent's

*The number of caseworkers assigned to a child's case is significant to children, to parents, and to the system at large*

utilization of services, such as therapy, and substance abuse treatment, or other actions that may be court ordered, like obtaining employment and stable housing.

2. New workers lack knowledge of the case history needed to determine service provision or make recommendations on case direction, especially when first learning new cases.
3. New workers are often unfamiliar with the quality and availability of services.
4. Case progression is slowed.
5. Supervisor time is needed to continuously recruit and train new personnel.
6. Funds that could have been used for direct services are needed to pay for repeated recruitment, training, and related costs.

Nebraska is not alone in dealing with caseworker changes and turnover; a web search shows that state after state is dealing with this issue. One often-quoted study 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>39</sup> The University of Minnesota also found that caseworker turnover correlated with increased placement disruptions.<sup>40</sup>

In an attempt to reduce caseload sizes and improve caseworker retention the Nebraska Legislature passed LB 222 in 2013. The bill requires NDHHS to report to the Legislature's Health and Human Services Committee on caseloads and mandates how those caseloads are to be measured. The intentions were good, but based on numerous discussions with NDHHS administration it is clear that the formula for caseloads is difficult to measure. This is due to the fact that the law specifies that if children are in out-of-home care the measurement is by child, if children are at home under NDHHS supervision then the measure is by families, and when some children in a family are home but others are in an out-of-home placement the measurement is a combination. Many workers have some cases in each of the three categories. The current formula also does not fully take into account the amount of work that goes into supporting children in the family home. The current statutory formula also does not consider case managers that are in training and unable to do a full caseload.

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

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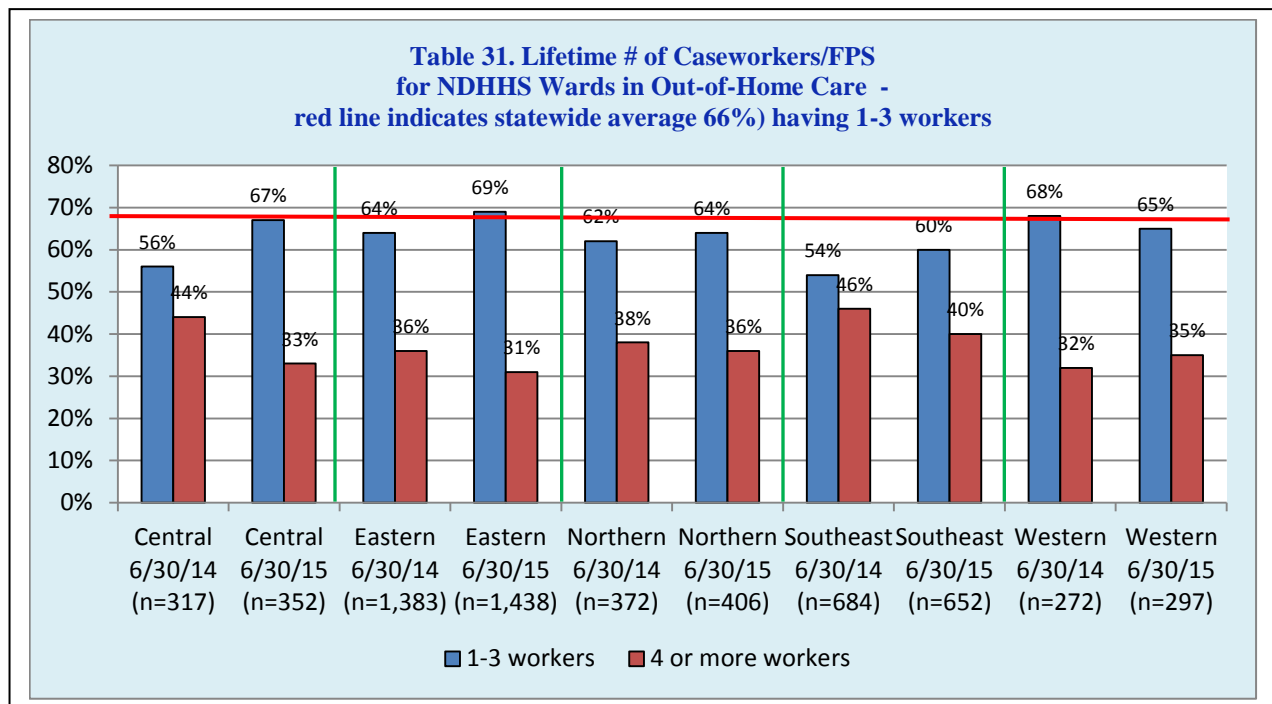
<sup>39</sup> Review of Turnover in Milwaukee County Private Agency Child Welfare Ongoing Case Management Staff, January 2005.

<sup>40</sup> PATH Bremer Project – University of Minnesota School of Social Work, 2008.

## CASEWORKER CHANGES AS REPORTED TO THE FCRO BY NDHHS<sup>41</sup>

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

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



**There has been little change in the last two years.**

Here are some interesting facts on the number of workers. Again, this is from data supplied by DHHS. Please note this does not include any children assigned to these workers that were in the parental home.

- On June 30, 2015, there were 110 Family Permanency Specialist from Eastern Service Area FPS workers assigned to 1,438 children (average 13 children) and there were 172 NDHHS workers assigned to 1,707 children (average 10 children).
- On June 30, 2014, there were 130 FPS assigned to 1,383 children (average 10 children) and there were 210 NDHHS workers assigned to 1,645 children (average 8 children).

<sup>41</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.”

## **VISITATION (PARENTING TIME)**

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

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to ensure that children's vital connections to the parents are maintained and enhanced through the effective use of visitation.

#### **RECOMMENDATIONS TO THE CHILD WELFARE SYSTEM**

1. Order parenting time to reinforce the attachments between parent and child by providing the maximum contact possible with the parent appropriate to each individual child's case circumstances. Promote timely reunification by measuring willingness and ability to parent as demonstrated by parental attendance and interactions with the children.
2. NDHHS through its contracts with service providers needs to ensure that these services are goal-orientated and progress-driven. The use of performance-based contracts that include the utilization of outcome-based uniform reports by all service providers.

#### **BASIS OF THE RECOMMENDATIONS**

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

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



Parents need to be prepared for the purpose of the visits, what is expected during visits, and how visits may change over time in length and frequency.<sup>42</sup> It is important to understand that there is no expectation of perfection during visitation.<sup>43</sup> Should there be a conflict between what is in the best interests of the child and what is in the best interests of the parents, the best interest and well-being of the child shall always take precedence, without using parenting time as a threat or form of discipline to the child or to control or punish the parent.<sup>44</sup>

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

<sup>43</sup> Ohio Caseload Analysis Initiative, Visitation/Family Access Guide 2005. Adapted from Olmsted County Minnesota CFS Division.

<sup>44</sup> Nebraska Supreme Court Commission on Children in the Courts Guidelines for Parenting Times for Children in Out of Home Care, June 2009.

While children are in foster care, visitation with parents is widely recognized as a vital tool for promoting timely reunification.<sup>45</sup> Visitation helps to identify and assess potentially stressful situations between parents and their children.<sup>46</sup> Visitation helps children adapt to being in care, cope with feelings of loss and abandonment, and improve overall emotion well-being.<sup>47</sup>

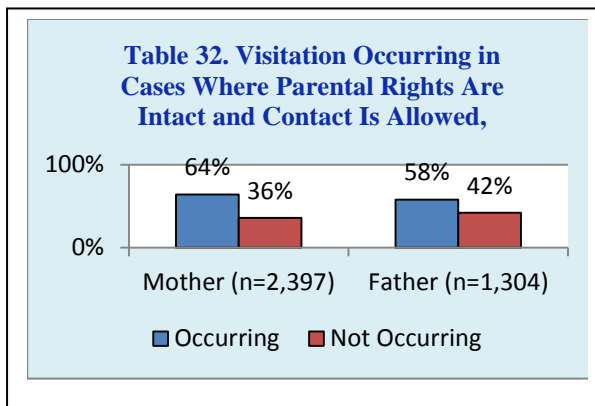
**Research shows that children that have regular, frequent contact with their family while in foster care experience a greater likelihood of reunification, shorter stays in out-of-home care, increased chances that the reunification will be lasting, and overall improved emotional well-being and positive adjustment to placement.**<sup>48</sup> Chances for reunification for children in care increase tenfold when mothers visit regularly as recommended by the court.<sup>49</sup>

There needs to be a well-trained workforce that is knowable regarding parenting practices and child development. All referrals to service providers by case managers need to contain specific goals that can be measured. This ensures that the parents know what is expected of them and progress can be shown. All reports by service providers should be in a uniform format based on the progress made. Further, visitation reports are evidence needed by the courts to ensure reasonable efforts are being made, to determine parental compliance and progress, and to ensure timely permanency.

### FCRO FINDINGS ON VISITATION

The FCRO found the following regarding parent-child visitation during all reviews. There are clear differences in the percentages on whether there is visitation ordered with the mother or the father, as shown by the different “n” sizes for each column. As a percentage slightly more fathers are not attending visitation as ordered by the court when compared to mothers.

**A little over 60% of mothers** are attending visitation with their children but this means that **40% are not attending visitation. Less than 60% of fathers** are attending visitation.



<sup>45</sup> Davis, Landsverk, Newton & Ganager, in Parent-Child Visiting, by Amber Weintraub, April 2008, National Resource Center for Family-Centered Practice and Permanency Planning, at the Hunter College School of Social Work, a service of the Children’s Bureau/ACF.

<sup>46</sup> Ohio Caseload Analysis Initiative, Visitation/Family Access Guide 2005. Adapted from Olmsted County Minnesota CFS Division.

<sup>47</sup> Fanshel & Shinn, in Parent-Child Visiting, by Amber Weintraub, April 2008, National Resource Center for Family-Centered Practice and Permanency Planning, at the Hunter College School of Social Work, a service of the Children’s Bureau/ACF.

<sup>48</sup> Partners For Our Children, Washington State, Family Visitation in Child Welfare, April 2011.

<sup>49</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.



**If parents are not consistently visiting their children, the system needs to consider other permanency objectives. The system needs to ask how can a healthy and permanent relations form and grow when a parents does not see their child(ren)?**

## **SERVICES FOR PARENTS AND CHILD**

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

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to ensure that services to parents and children needed to heal trauma and the conditions that led to removal from the home are available and properly utilized.

#### **RECOMMENDATIONS TO THE CHILD WELFARE SYSTEM AND COMMUNITIES**

1. The Nebraska Children's Commission be tasked with creating a state-wide system of care for available services that is data-driven and evidence-based to meet the needs of each of the Service Areas.
2. Find ways to assist families with meeting requirements to reunify with their children that may not be possible for families in poverty, such as obtaining affordable housing, employment skills, food, day care, before and after school programs, tutoring, therapy, substance abuse or mental health aftercare, etc.
3. Provide crisis stabilization services in three key areas: 1) as early intervention to prevent a child's removal from the home, 2) when children transition home and to maintain them safely in that home, and 3) to support foster homes and reduce placement disruptions.

#### **RECOMMENDATIONS TO NDHHS**

1. Develop services that are goal-driven and outcome-based through the use of performance-based contracting.

#### **RECOMMENDATIONS TO THE LEGAL SYSTEM**

1. Ensure that the adjudicated reasons are appropriate to meet the needs of successful reunification.
2. Conduct review hearings every three months and specify in court orders what services are to be successfully completed.

### **BASIS OF THE RECOMMENDATIONS**

The potential benefits of early engagement with families entering the child welfare system are many. Engagement with families whose children are in foster care helps ensure the preservation

of the bond between parents and children. Sound engagement helps motivate families to work toward change.<sup>50</sup>

Motivation to change is clearly linked to the degree of hope that change is possible. The degree to which parents in child abuse and neglect cases are ready to change varies over time. By the time that an initial assessment is completed, ideally caseworkers will have moved families to the stage at which they are determined to make the changes necessary to ensure children’s safety and well-being. If parents have not moved to that point, the likelihood of change is compromised.<sup>51</sup>

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

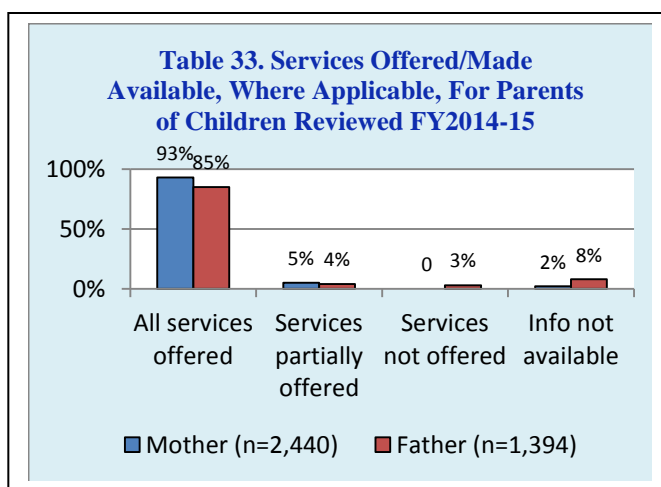
An additional concern is that services for parents are often only available from 8 a.m-5 p.m., without the flexibility to accommodate parents whose available time does not coincide with the normal “business day” of service providers. This makes it difficult for parents to comply with case plans, especially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

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

### SERVICES FOR PARENTS

If parents still have parental rights and were included in the adjudication, they are normally ordered to complete some services designed to help correct the issues that led to their children’s removal from the home.

There are two primary components of services for parents that must be considered: 1) if all needed services are being offered or made available to the parents, and, 2) if so, is the parent compliant. Data regarding these two



<sup>50</sup> Altman, Julie C., *Engagement in Children, Youth, and Family Services*, in *Child Welfare for the 21<sup>st</sup> Century*, 2005.

<sup>51</sup> U.S. Department of Health and Human Services, *Child Protective Services: A Guide for Caseworkers*, 2003.

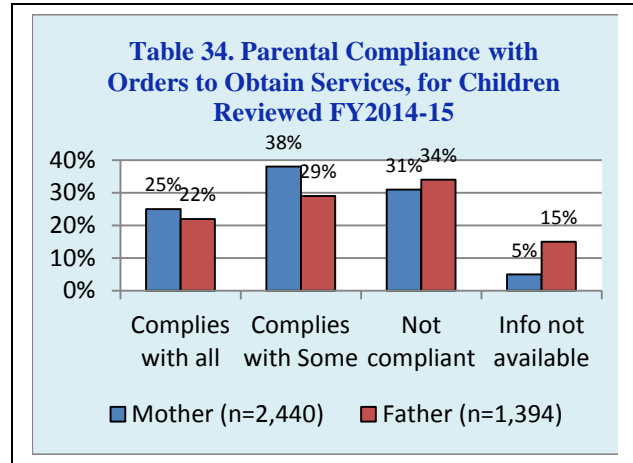
components are collected with each review conducted.

Parents often need assistance in obtaining services due to issues such as affordability, distance to providers, lack of transportation, or language barriers.

**Table 33 also shows that the number of mothers ordered to have services (2,440) is much higher than the number of fathers (1,394).**

Table 34 looks at compliance with the court order that the parents obtain services.

A greater percentage of mothers (63%) are compliant with some or all services, but a substantial percentage (36%) has not complied or information not available. For fathers, 49% were either not complaint or information was not available. **Since compliance with services is one of the means for addressing progress to permanency, it is unacceptable that there is so much information unavailable in the children’s files.**

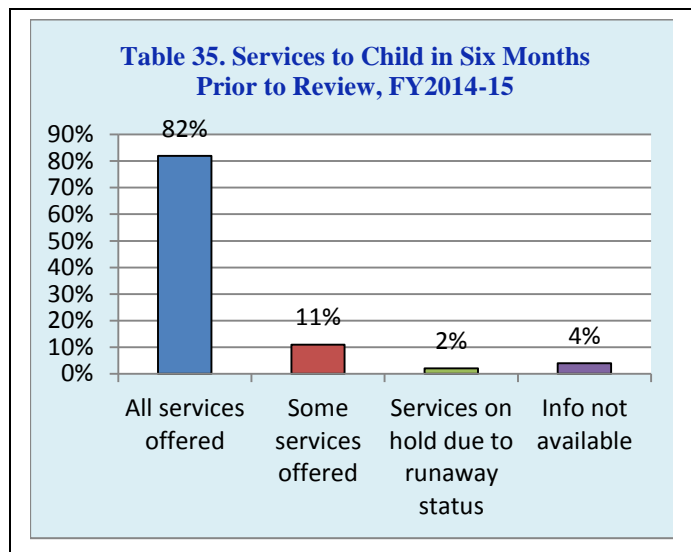


## SERVICES FOR CHILDREN

All children in out-of-home care are normally ordered services, which can range from physical and dental care to higher level services.

Table 35 shows how many of the children were receiving needed services in the six month period prior to FCRO reviews.

**The majority of the children were getting some or all of the needed services. The “some” category may include children on wait lists or with pending arrangements.**

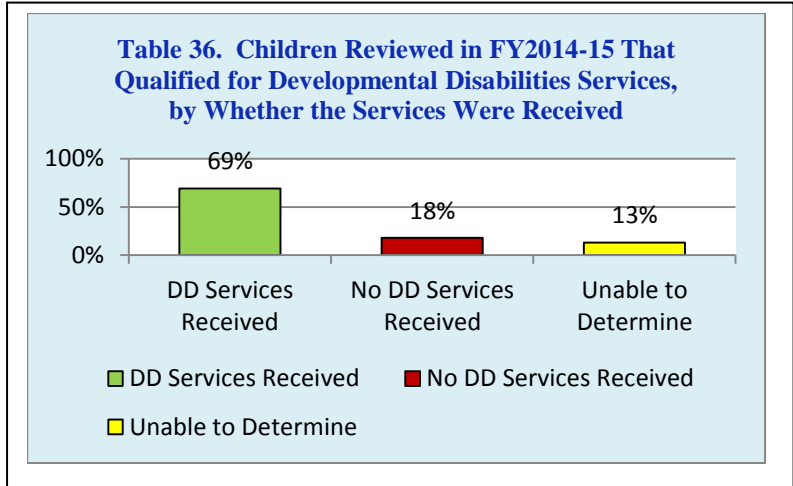


**Children who were abused or neglect and are developmentally disabled**

Among the most vulnerable are children who experienced abuse and neglect who also meet the strict criteria for qualification for Developmental Disabilities Services. During FY2014-15, the FCRO conducted 89 reviews on children in this group.

**It is unacceptable that 18% of this very vulnerable population were documented as not receiving disabilities services, and in another 13% of the cases it was unable to be determined if these boys and girls were getting the specialized services they need.**

The FCRO plans to issue another report on the Developmental Disabilities Permanency Pilot project in December 2015.



## CHILDREN’S RETURNS TO OUT-OF-HOME CARE

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to reduce the number of children who experience re-entry into out-of-home care and the trauma that can cause for them.

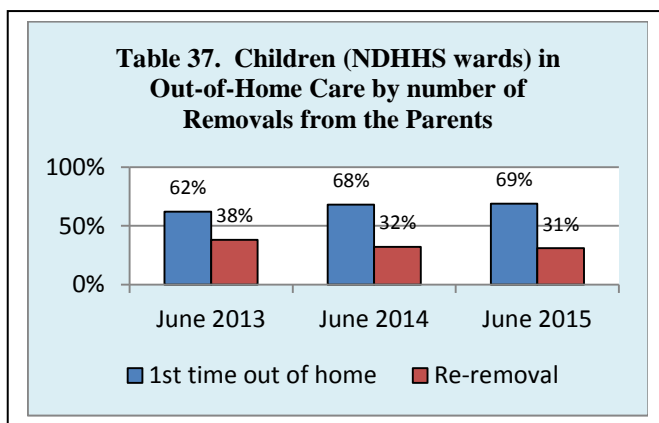
### RECOMMENDATIONS TO THE CHILD WELFARE SYSTEM

1. Work to eliminate service gaps and ensure that services are in place before children are placed back in the home. Children that have experienced the trauma of abuse and neglect often need services to heal, and parents need services to effectively deal with the factors that led to removal of children from their home.
2. FCRO through its review of trial home visits will conduct further analysis on children that returned to out-of-home care to see if the second removal involved new issues or if there was a failure to permanently stabilize the family home.
3. Continue collaborative efforts to address the issue of adoption and guardianship disruptions both within the child welfare and probation system.

### BASIS FOR THE RECOMMENDATIONS

Many children are in foster care, return home, and then are removed from the home again. As reported in the FCRO September 2013 Quarterly Report, some children return to care quickly, while others may be home a year or more before another removal occurs.<sup>52</sup>

Repeat removals<sup>53</sup> from the home can be damaging to children for many reasons. The children may have experienced another episode of abuse or neglect. The children may have unmet needs (such as treatment for trauma). While there has been improvement; there is still substantial room for improvement.



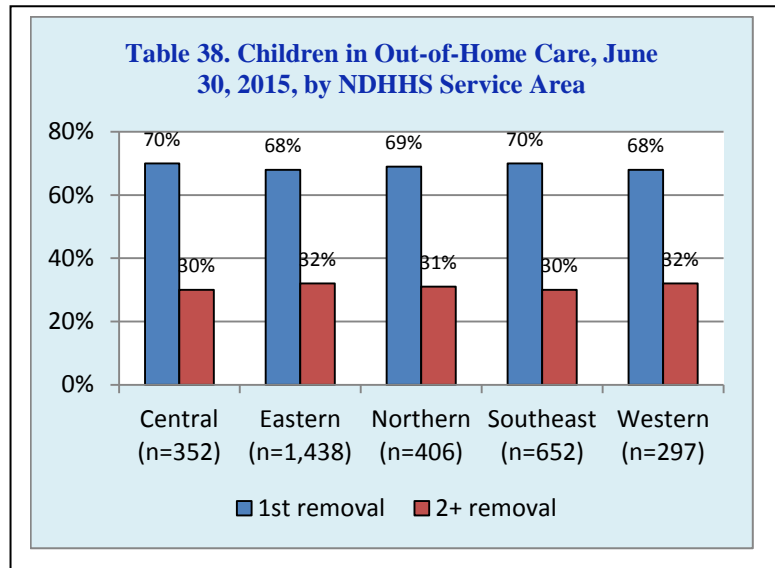
<sup>52</sup> [September 2013 Quarterly Update to the Legislature](#). FCRO. Available at [www.fcro.nebraska.gov](http://www.fcro.nebraska.gov).

<sup>53</sup> Re-removals here include children removed from adoptive, guardianship, or biologic parents – including on trial home visits.

To answer the question on whether there were differences in the rates of re-entries between the different NDHHS service areas the FCRO offers Table 38, which shows only minor variations in the percentage with prior removals.

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

“Many states with a relatively high percentage of foster care reentries also had a relatively high percentage of children entering foster care that were adolescents...states with large numbers of youth in their foster care populations would benefit from developing strategies that target the needs of these youth.<sup>54</sup>



<sup>54</sup> US Department of Health and Human Services, Child Welfare Outcomes 2009-2012 Report to Congress, Executive Summary, page v.

## **PATERNITY (FATHER) IDENTIFICATION**

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to reduce the number of children who linger unnecessarily in foster care pending a legal identification of the father.

### **RECOMMENDATIONS TO THE LEGISLATURE**

1. Clarify the issue of which court has jurisdiction to enter a change of custody order involving children are involved in juvenile court.

### **RECOMMENDATIONS TO NDHHS AND THE LEGAL SYSTEM**

1. Ensure that rights of the father are appropriately addressed by stakeholders and courts from the time of removal. Do not wait until it is clear that the mother cannot or will not safely parent before addressing the father.
2. Clarify the rights and duties of a legal father that has not been adjudicated or filed against in juvenile court.

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. Due diligence is not defined. In spite of this requirement, for many children paternity is not identified promptly, if at all. Whether or not the father is a suitable caregiver for the children, the father’s due process and constitutional parental rights must be addressed if the children’s well-being is to be adequately addressed.

Some national researchers have noted:

“The lack of engagement by non-resident fathers might, at least in part, reflect the fact that caseworkers do not have the same expectations for fathers as they do for mothers. Perhaps non-resident fathers are simply responding to low expectations – expectations that likely mirror those of the community and society in general.”<sup>5556</sup>

Other national research shows the following about non-resident fathers; that is, fathers that were not residing with the children’s mother at the time that the children were removed from the home:

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<sup>55</sup> Malm et al (2006), as quoted in *Bringing Back the Dads: Changing Practice in Child Welfare Systems*, American Human Association with funding and support from the U.S. Dept. of Health of Human Services, 2011. Page 34.

<sup>56</sup> Non-resident father refers to fathers that were not living in the same home as the child.



“Children whose non-resident fathers were contacted by child welfare had shorter periods of time in the child welfare system compared to children with unknown non-resident fathers, or children whose non-resident fathers were known, but not contacted.”<sup>57</sup>

There are several reasons why this is an issue:

- If the father is a potentially safe placement, then the father’s level of “engagement” needs to be measured. Engagement is a word used in the child welfare system to mean anything between mere contact and active participation in trying to correct the issues that led to out-of-home care and the creation of a safe, permanent home for the children.
  - If the father is engaged, then the children could possibly be placed with him rather than with non-family members.
    - It is “possibly” placed with the father because there can be an issue with custody orders. For children that are involved in juvenile courts, there is a lack of clarity as to whether the juvenile court is to enact the change of custody orders or if that must be done in district court. Some children have lingered in foster care because the juvenile court case cannot be closed until custody is permanently assigned to the father; otherwise, if the mother retains legal custody she could legally take the child from placement with the father.
  - If the father is not engaged and functionally abandons his child, then that needs to be addressed so permanency is not delayed.
- If the father is not a safe placement, issues regarding the father should be addressed simultaneous to the issues involving the mother. Often paternity is not addressed until after the mother’s rights are relinquished or terminated instead of addressing the suitability of the father as placement earlier in the case. This can cause serious delays in children achieving permanency because the case must start from the beginning with reasonable efforts to reunify with the father.
- Delays in identifying paternity can also result in delays in determining if any of the paternal relatives are appropriate placements for the child.
- Even after fathers are legally identified, they are often not adjudicated or included in the plan for their children.

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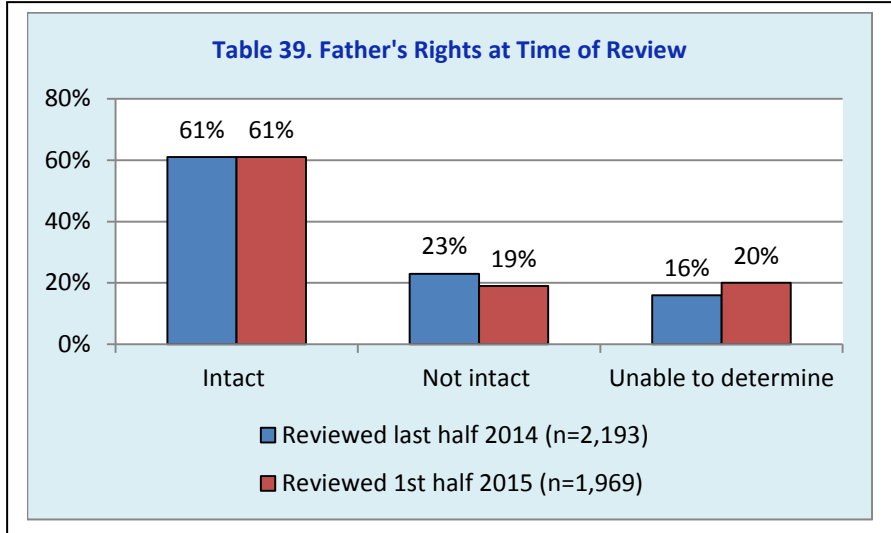
<sup>57</sup> Malm and Zielewski (2009), as quoted in Bringing Back the Dads: Changing Practice in Child Welfare Systems, American Humane Association with funding and support from the U.S. Dept. of Health of Human Services, 2011. Page 31.

Table 39 shows the status of father’s rights at the time of the FCRO case file review.

Not intact includes fathers whose rights were terminated, fathers who had relinquished their rights, and fathers that are deceased.

Sometimes the father’s rights were difficult to determine. **In 734 reviews (18%) of children’s abuse or neglect cases conducted in FY2014-15, paternity was not clearly established** so those children are in the “unable to determine” category above.

Since 2012, the percent with unclear paternity has hovered between 15-21%.



## **COURT AND LEGAL SYSTEM ISSUES**

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations to reduce the number of children who are experiencing adjudication delays or other court issues.

### **RECOMMENDATIONS TO THE LEGAL SYSTEM**

1. Weigh motions for continuation against the need for a prompt adjudication and regular review hearings. If a continuation must occur, do so for the shortest time possible. Through timely adjudications parents can begin services to correct the reasons why their child was placed in out-of-home care.
2. Provide adequate judicial resources to ensure timely adjudication and case progression.
3. Ensure that guardian ad litem are following the Supreme Court's Rules by conducting an independent determination as to the juvenile's best interests, and consulting with the juvenile at least once in the placement including sending a copy of their report to the FCRO. Failure to provide sufficient consultations should be addressed by the judge.
4. Improve documentation by the legal system regarding findings of permanency hearings and 15 month exception hearings.

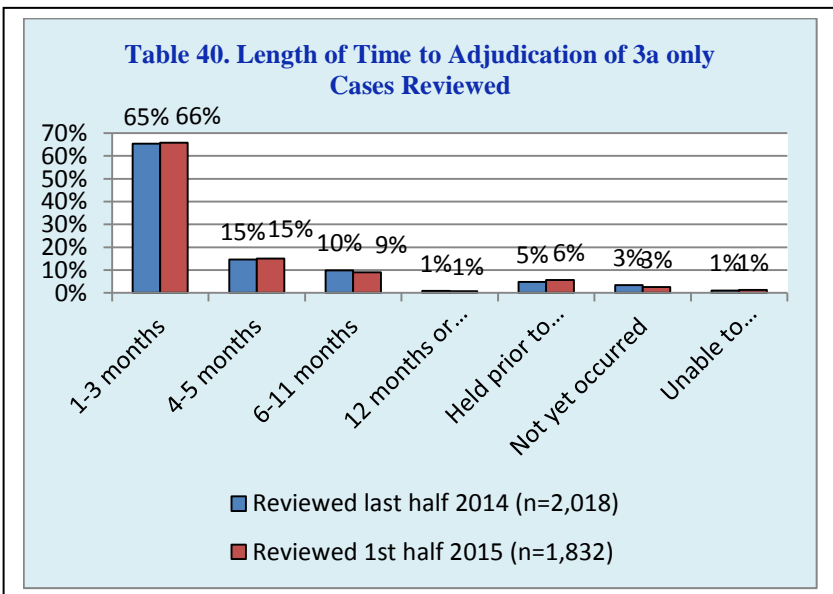
### **BASIS FOR THE RECOMMENDATIONS**

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

Under Neb. Rev. Stat. §43-178, the adjudication hearing must occur within 90 days of the child entering out-of-home care, unless there is a showing of good cause. This is considered a guideline rather than a mandate. Table 40 shows the length of time to adjudication for children adjudicated for only a "3a" (abuse or neglect) reason.

The FCRO finds that in practice **adjudication within 90 days (3 months) did not occur for 28% of the children** reviewed in FY2014-15. There are a number of explanations as to why adjudications may not happen within 90 days. Here are a few of the more common reasons:

- Delays while waiting for the completion of evaluations.
- Delays due to caseworker changes.
- Delays if the court docket is full.
- Motions for continuance that are:
  - Used to prevent admissions, testimony, and/or factual determinations made at the adjudication from being used by the state to enhance a pending criminal prosecution;
  - Due to parental incarceration.
  - Due to parental transportation issues.
  - Due to legal parties not being adequately prepared.



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

## **GUARDIAN AD LITEM PRACTICES**

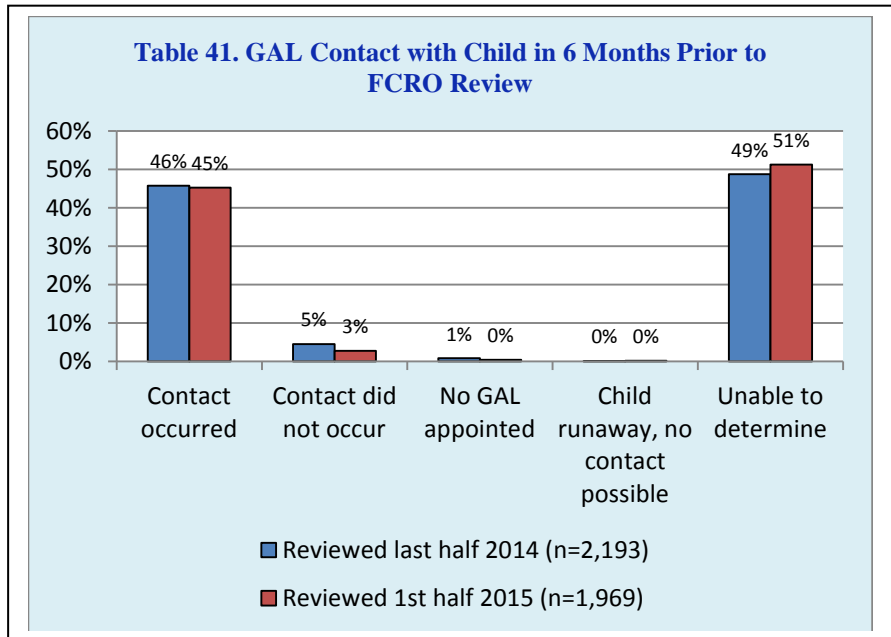
Many guardians ad litem are doing exemplary work that greatly benefits the children they represent. The issue described here in no way minimizes their efforts, and the FCRO considers them vital partners in the work to ensure children’s best interests are met.

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

An informed, involved guardian ad litem is the best advocate for the child’s legal rights and best interests. Each child has rights that are guaranteed under the U.S. Constitution, Nebraska statutes and case law. The guardian ad litem is charged with the legal duty of assuring that the

best interest and the legal rights of the child are effectively represented and protected in juvenile court proceedings.

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



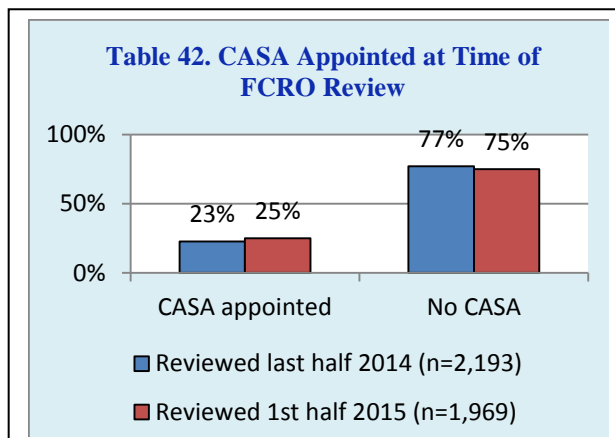
The FCRO attempts to derive this information from a variety of sources, including:

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

After all these attempts, **GAL contact was unable to be determined for 50% of the children reviewed** as shown in Table 41. **Recent statutory changes have not yet led to improvement in this area. The FCRO will be closely monitoring this over the next year.**

### CASA volunteers

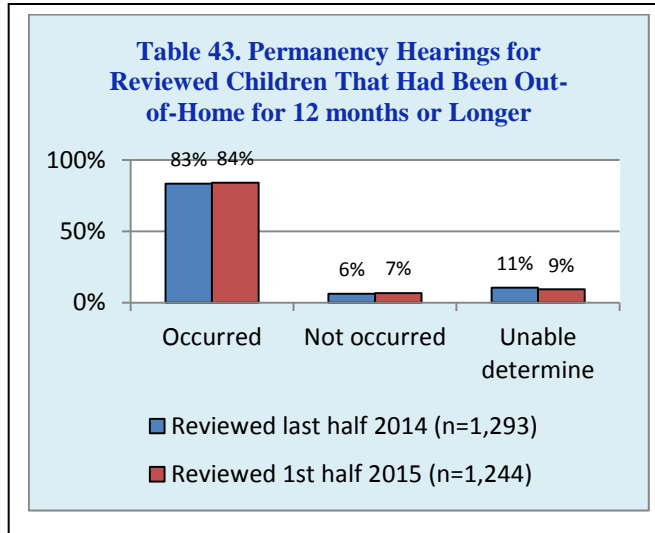
In some areas of the State courts have CASA programs (Court Appointed Special Advocates). These are non-attorney volunteers that work with a Guardian Ad Litem and the Court by continually gathering information on a single family directly from the parents, relatives, foster parents, children, teachers,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



The FCRO finds that CASA volunteers can be a wealth of information on children’s cases. However, as the Table 42 shows, there are not enough CASA volunteers for all the children who could benefit from their service. **Only about 25% of children reviewed had a CASA appointed.**

### COURT HEARINGS

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

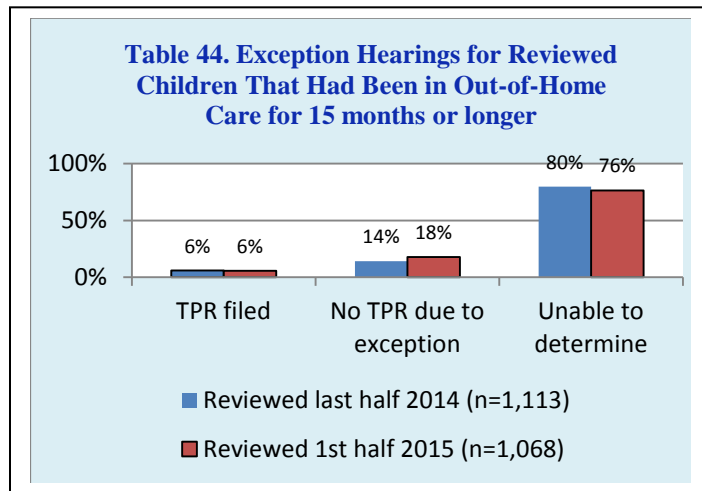


It is reported to the FCRO that some courts that are setting the dates for this hearing at the beginning of the case, informing parents of the need for timely compliance, and using the hearings to set case direction – and that those courts are seeing an improvement in timely permanency.

Table 43 shows the status of permanency hearings for reviewed children that had been in out-of-home care for 12 continuous months or longer. In the majority of the cases, the permanency hearing had occurred. However for about **20% of the children that court hearing either had**

**not occurred or the documentation was such that it was unable to be determined whether it occurred or not.**

**Exception hearings** are to occur if the child has been in care for 15 of the past 22 months. It is called an exception hearing because at that point the court is to determine if there is a verified exception to requiring the prosecutor (county attorney) or GAL to file a motion for termination of parental rights. As Table 44 shows, for most of the children reviewed it was hard for our staff to determine if such a hearing had occurred. **In about 80% of the cases, the FCRO was unable to locate any documentation regarding an exception hearing.**



## TERMINATION OF PARENTAL RIGHTS

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations regarding cases where parents cannot or will not address the reasons that children were removed from their care and where it is unsafe to return the children to the home.

### RECOMMENDATIONS

1. Require **all** attorneys, not just guardian ad litem who practice in juvenile court, complete mandatory continuing legal education hours on juvenile law, including abuse/neglect and termination of parental rights.
2. File appropriate pleadings regarding legal fathers from the onset if fathers are unsuitable as immediate placements for their children.
3. Amend Nebraska statutes to allow NDHHS attorneys to file termination petitions.

### BASIS FOR THE RECOMMENDATIONS

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

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

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

The FCRO is required (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 the parents is likely, and 3) if return to the parents is unlikely what should be the permanency goal.

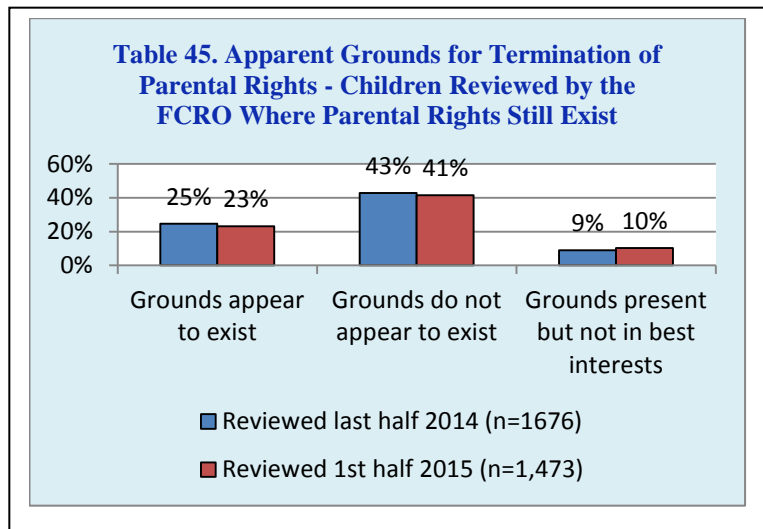


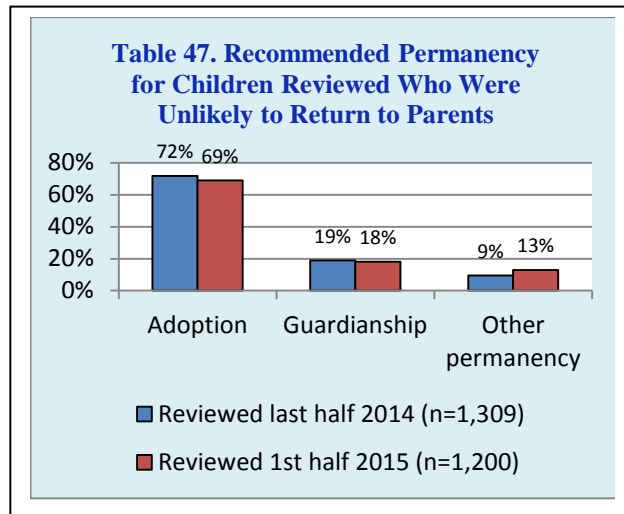
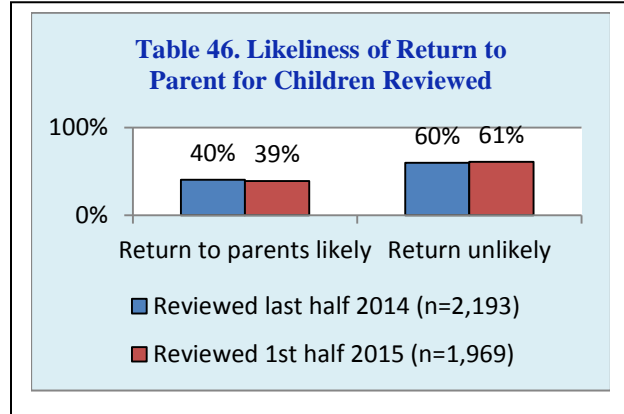


Table 45 illustrates the findings, starting with the status of apparent grounds for termination of parental rights in cases where parental rights remain intact. In Table 45 it shows that in about **23% of the children’s cases grounds for a termination of rights appears to exist**. For about **41% grounds did not exist at time of review**, and for the remaining **10% it would not be in the child’s best interests**.

Table 46 shows the likeliness of return to the parent for children reviewed. In about **40% of the cases the local boards found reunification likely**, and in about 60% they did not.

For children that are unlikely to return to parents, the FCRO is required to make a recommendation on an alternative goal. Table 47 shows that finding.

Adoption, being the most permanent alternative, is generally what is recommended. In some cases, such as where children do not want to completely sever ties to the parents, guardianship may be the best option. The “other permanency” category could include preparing for adult living for youth age 16 or older.



## REASONS FOR EXITS FROM OUT-OF-HOME CARE

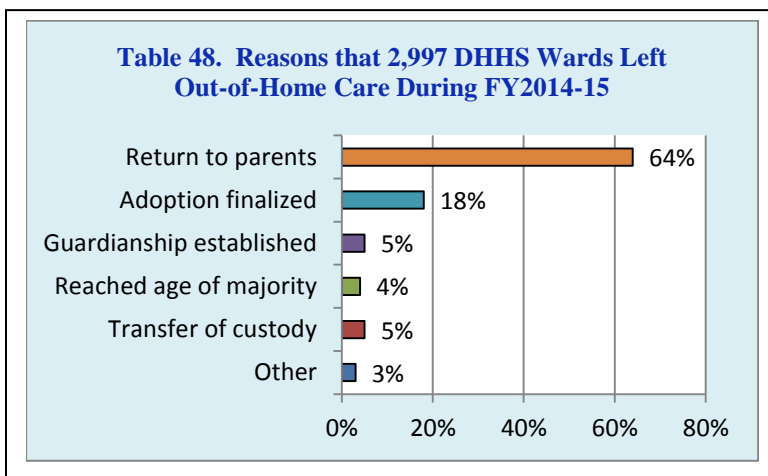
Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations regarding reasons that children leave out-of-home care.

### RECOMMENDATIONS TO THE CHILD WELFARE SYSTEM

1. Ensure that children are reunified as soon as it is safely possible.
2. Provide crisis stabilization services in three key areas: 1) as early intervention to prevent a child’s removal from the home, 2) when children transition home and to maintain them safely in that home, and 3) to support foster homes and reduce placement disruptions.

### BASIS FOR THE RECOMMENDATIONS

Most (64%) Nebraska children that leave the foster care system return to their parents. Others are adopted, reach the legal age of majority (adulthood), have a legal guardianship finalized, or a custody transfer (to another state or a tribe). The Table 48 shows exits by numbers and percent of children.



#### Comparison to national statistics

The following chart compares Nebraska percentages with national percentages for three of the categories, as those are the only comparable categories for which national data is available.<sup>58</sup>

<u>Reason for Exit</u>	<u>Nebraska</u>	<u>National</u>
Reunification	64%	51%
Adoption	18%	21%
Guardianship	5%	7%

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

<sup>58</sup> Sciamanna, John, Reunification of Foster Children with their Families, the First Permanency Outcome, SPARC (State Policy Advocacy and Reform Center), October 2013.

## WELL-BEING AND NDHHS WARDS IN OUT-OF-HOME CARE

In this subsection, the Foster Care Review Office defines “*well-being*”, and details specific well-being measures and outcomes.



## WELL-BEING DEFINED

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

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

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

Well-being includes the following data:

1. Placement concerns;
2. Connections with siblings;
3. Assess to mental health services;
4. Educational needs.

## PLACEMENT ISSUES

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations regarding obtaining and maintaining foster placements that are equipped to handle the needs of each child entrusted to its care and reducing unnecessary placement changes.

### RECOMMENDATIONS TO NDHHS AND ITS CONTRACTORS

1. Determine the reasons for a change in placement and what services can be used to stabilize placements. Explore the feasibility of performance-based contracts with foster care agencies and include in the contracts a “no reject/no eject” provision.
2. Identify appropriate relative and kinship placements, both paternal and maternal, at the time of the children’s initial placement in foster care, and provide those placements with needed supports. Ensure that a relative/kinship placement is not selected simply because of biological connections, but rather because it is a safe, appropriate placement that is in the child’s best interest.
3. Develop a mechanism to increase the licensing of relative and kinship homes, which would then beneficially impact the ability of the state to draw down federal IV-E funds.
4. Require that all relative/kinship placements have agency-based supports.

### BASIS FOR THE RECOMMENDATIONS

Nothing is more important for a child than where and with whom he or she lives. In child welfare this is known as the child’s “placement.” Most would agree that disrupting a child’s home environment by taking that child from one set of caregivers and placing him or her with another is harmful to the child, even if the change is necessary. National research indicates that children experiencing four or more placements over their lifetime are likely to be permanently damaged by the instability and trauma of broken attachments.<sup>59</sup> However, **children that have experienced consistent, stable, and loving caregivers are more likely to develop resilience to the effects of prior abuse and neglect, and more likely to have better long-term outcomes.**

As Dr. Peter Pecora found:

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

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<sup>59</sup> Some examples include: Hartnett, Falconnier, Leathers & Tests, 1999; Webster, Barth & Needell, 2000.

And, “While many child welfare staff and some new state laws try to minimize school change when a placement changes, in too many situations the child is forced to change schools. School mobility has been implicated as a clear risk for dropout.”<sup>60</sup>

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

***Children entering out-of-home care undergo enormous changes....***

Another prestigious research organization found that:

“Numerous studies have shown an association between frequent placement disruptions and adverse child outcomes, including poor academic performance, school truancy, and social or emotional adjustment difficulties such as aggression, withdrawal, and poor social interaction with peers and teachers. Emerging research has shown that a child’s risk of these negative outcomes increases following multiple placement disruptions regardless of the child’s history of maltreatment or prior behavioral problems... Placement instability is often dismissed as a consequence of the behavioral problems children have upon care...Policy Lab researchers’ published new evidence...that debunked this common misconception about placement instability.”<sup>61</sup>

The type of placement and the stability of that placement influence child outcomes. It is incumbent upon the child welfare system to provide children with supportive microsystems, that is, direct relationships with caring adults.<sup>62</sup>

In a recent publication Judith Cohen, MD, and Anthony Mannarino, PhD, described an adolescent suffering from trauma that refuses to discuss his long history of physical and verbal abuse and neglect, witnessing of domestic violence, and being bullied at school. The boy reacts to his foster parents with angry, aggressive behavior and refuses to obey the rules. He is hyper vigilant and complains that his foster parents disrespect him. The foster parent reacts by becoming stricter and giving him commands in loud voices – not realizing that these actions are actually triggering more trauma reminders for the youth. “*The adults in his life do not understand this, they see him as a kid with bad behaviors who needs discipline.*” Unfortunately, this type of reaction by the adults to youth that have experienced significant trauma is all too common.<sup>63</sup>

<sup>60</sup> Dr. Peter Pecora, Senior Director of Research Services with Casey Family Programs and Professor at the School of Social Work at the University of Washington, in The Foster Care Alumni Studies – Why Should the Child Welfare Field Focus on Minimizing Placement Change (2007)

<sup>61</sup> Noonan, Kathleen, Rubin, David, Mekonnen, Robin, Zlotnik, Sarah, and O’Reilly, Amanda. Securing Child Safely, Well-being, and Permanency Through Placement Stability in Foster Care. Children’s Hospital of Philadelphia Research Institute Policy Lab, Evidence to Action, Fall 2009.

<sup>62</sup> Brenda Jones Harden, Safety and Stability for Foster Children; a Developmental Perspective, Future of Children, vol. 14, Number 1.

<sup>63</sup> Trauma-Focused Cognitive Behavioral Therapy for Youth in Child Welfare, CW360 – Trauma-Informed Child Welfare Practice – Winter 2013.

## HOW NEBRASKA’S CHILDREN IN FOSTER CARE FARE

Consider Table 49. It shows the number of lifetime placements for the NDHHS wards in out-of-home care at the end of June in 2014 and 2015, as independently tracked by the FCRO. Placement changes included in the lifetime count do not include brief hospitalizations, respite care, or returns to the parental home. It shows that in 2015, **29% had been documented to exceed the optimum 1-3 placements range**. While this is an improvement from 33% in 2014, clearly improvement needs to be made in this area.

During the review process the FCRO collects data on whether children had experienced a placement change in six months prior to the review and, if so, why they were most recently moved.

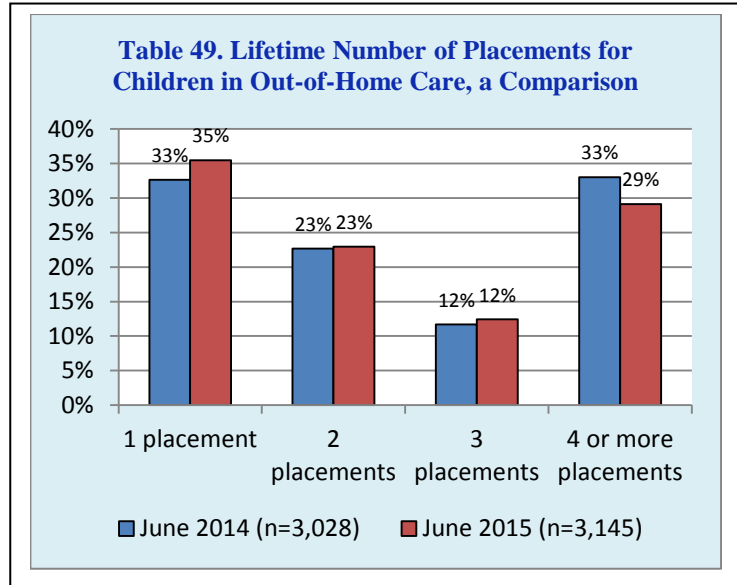
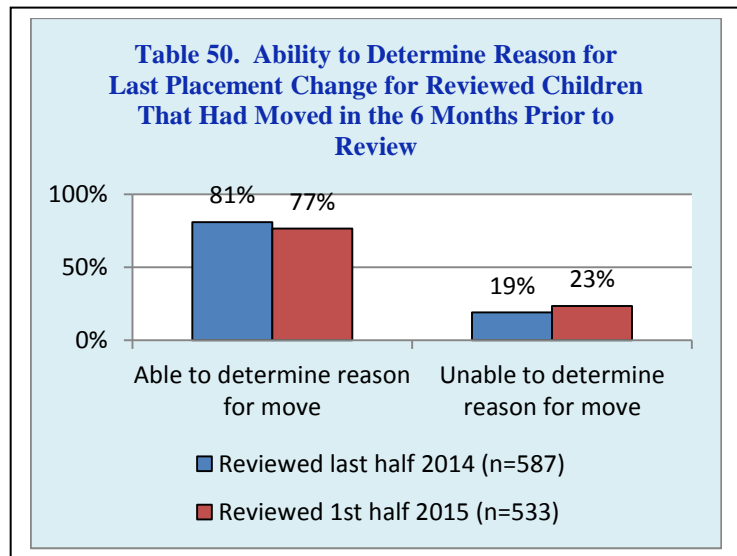
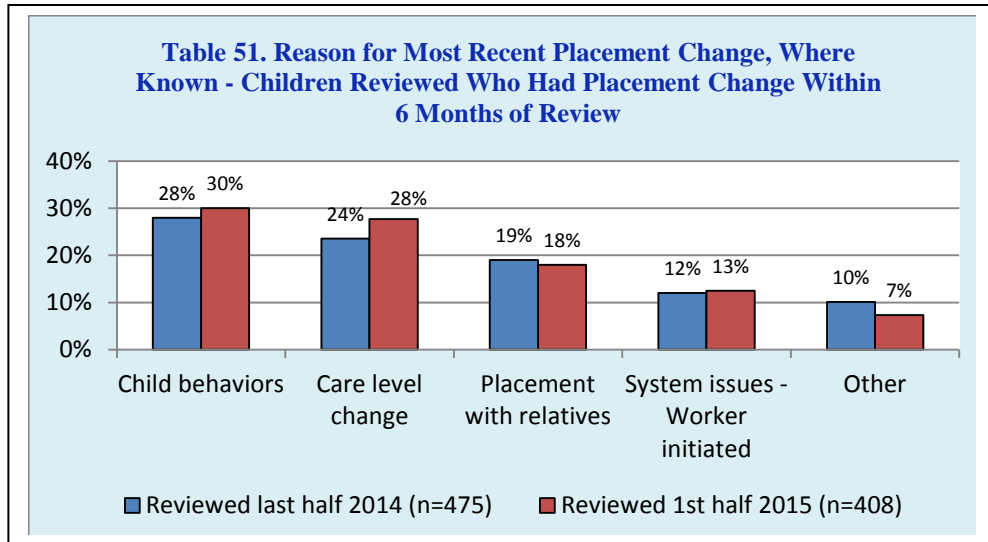


Table 50 illustrates that it is difficult to obtain information on why such moves occurred – indeed, **for 20% of the children no information was available**.

When placement change information is available, there are a variety of reasons that primarily fall into the following categories: immediate safety (allegations of abuse in placement), a need to increase or decrease the level of care, to maintain family connections, children’s behaviors, system issues, and others.

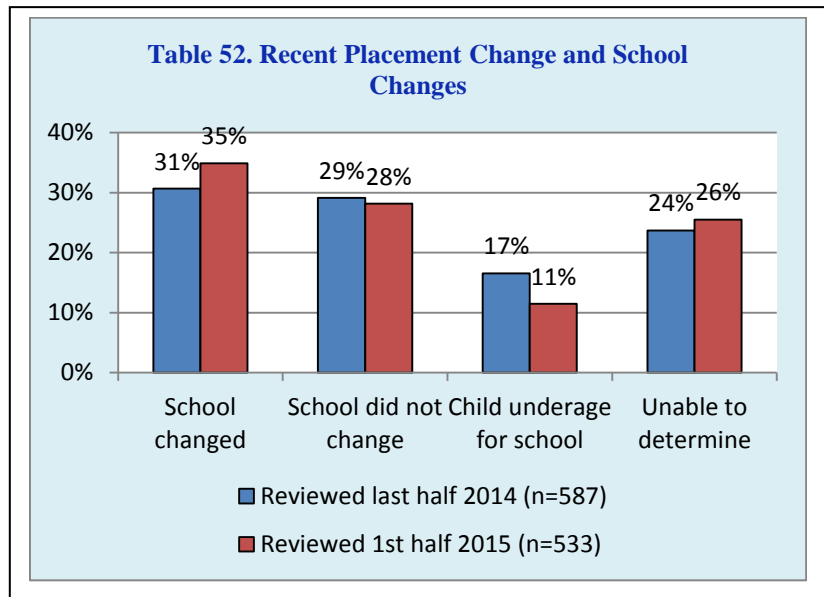


As Table 51 illustrates, behaviors are the most frequent reason for changes followed closely by the need to change the level of care being provided. One question that must be asked is whether the system caused these behaviors.



One additional item must be considered when looking at children changing placements – a placement change frequently means a change in schools.

Consider Table 52. **Children changed schools with the placement move for 55% of the cases where the FCRO was able to find information regarding school changes**, that is, for 186 of 336 children in the first half of 2015. Just as concerning is that fact that the FCRO was unable to determine a change in schools for about one-fourth of children.





## PLACEMENT TYPES

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

Table 53 shows the restrictiveness of placements for NDHHS wards in out-of-home care. As previously noted, it does not include youth under OJS or the Office of Probation Administration.

**An increased percentage of children are in the least restrictive placements. Over half (52%) or 1,498 of the 2,889 children in this category were placed with relatives or kinship/child specific placements.**<sup>64</sup>

<b>Table 53. Restrictiveness of Placement Type</b>		
<u>Type</u>	<u>June 30, 2014</u>	<u>June 30, 2015</u>
Least restrictive *	2,681 (88%)	2,889 (93%)
Moderately restrictive **	158 (5%)	114 (4%)
Most restrictive ***	149 (5%)	111 (4%)
Runaway	26 (1%)	30 (<1%)
Other	15 (<1%)	0
Total	3,029	3,144

\* Least restrictive includes relative placements, foster family homes, agency-based foster homes, developmental disability homes, and supervised independent living.

\*\* Moderately restrictive includes group homes and boarding schools.

\*\*\* Most restrictive includes medical facilities, psychiatric residential treatment facilities, youth rehabilitation and treatment centers at Geneva and Kearney, youth detention centers, and emergency shelters.

## RELATIVE OR KINSHIP CARE

Some children in foster care receive day-to-day care from relatives, in a practice known in Nebraska as relative care. Others receive care from persons that are like a family member, such as a coach, a teacher, a person that was legally their aunt or uncle until a divorce, etc. In Nebraska that is called kinship care.<sup>65</sup>

Whether relative or kinship care, this type was put in place to allow children to keep intact existing and appropriate relationships and bonds with appropriate family members, and to lessen the trauma of separation from the parents. If a maternal or paternal relative or family friend is an

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

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

<sup>64</sup> More information on relative/kinship placements can be found on page 96.

<sup>65</sup> To avoid confusion it is important to recognize that in some other states all relative care may be called kinship, and in others kinship includes both relatives and non-relatives. National research sometimes uses the terms interchangeably. Nebraska differentiates between the two categories.

appropriate placement, children suffer less disruption and are able to remain placed with persons they already know that make them feel safe and secure. Thus, relative care can be especially beneficial when children have a pre-existing positive relationship with a particular relative.

**As of June 30, 2015, 52% of the children in out-of-home care in Nebraska were in a relative or kinship placement.**

**National research has shown:**

1. Demographics of relative caregivers:
  - a. Significantly poorer than non-kin foster parents.
  - b. Have less formal education than non-kin foster parents.
  - c. More likely to be single.
  - d. Tend to be older, with a sizable number over 60 years of age.
  - e. Tend to have more health issues than non-kin foster parents.
2. Relative caregivers willingness to provide care:
  - a. More likely to accept large sibling groups into their homes.
  - b. Often report that care giving is a very meaningful and rewarding role for them.
3. Potential benefits of a relative placement:
  - a. Placement stability is greater for children in a relative home.
  - b. Children in relative care have a lower probability of returns to foster care.
  - c. Relative placements can enhance child well-being by keeping connections with siblings, the broader family, and the community intact.
  - d. A study by Children's Hospital of Philadelphia found three years after placement with relatives, children have significantly fewer behavior problems.
4. Permanency issues:
  - a. Children in relative care are less likely to be reunified with their parents.
  - b. In some cultures, adoption has little relevance or meaning, so the relative caregivers are less likely to push for that to occur.
  - c. Children in relative placements tend to remain in foster care longer.
5. System issues impacting relative caregivers:
  - a. Relative caregivers often were given no time to prepare for their new roles.
  - b. More children in relative homes were removed due to neglect than for physical abuse.
  - c. Relative caregivers and children in their care receive fewer services.
6. National research is limited, and made more difficult by different jurisdictions defining and tracking kinship care arrangements in different ways.<sup>66,67,68,69,70</sup>

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<sup>66</sup> Urban.org, [Kinship Foster Care An Ongoing, Yet Largely Uninformed Debate](#), Rob Green.

<sup>67</sup> Science Daily, [Kinship Care More Beneficial Than Foster Care, Study Finds](#), June 2008.

<sup>68</sup> Annie E. Casey Foundation, [Kinship Care: Supporting Those who Raise Our Children](#). 2005.

<sup>69</sup> Center for Law and Social Policy, [Is Kinship Good for Kids](#), March 2007.

**Delayed identification of relatives**

Although NDHHS policy is to quickly identify parents and relatives and determine their suitability as a placement, through reviews it appears that is not consistent in practice. The father’s and the paternal relative’s suitability as a placement for the child cannot be considered until paternity is identified. Services with a track record of locating families (generically referred to a family finding) should be utilized to help locate relatives so their suitability as a potential caregiver can be addressed.

Table 54 illustrates the search for **maternal** relatives. As it shows, searches for **maternal relatives are documented for about 80% of the children** reviewed which is an improvement but there is still room for further improvement.

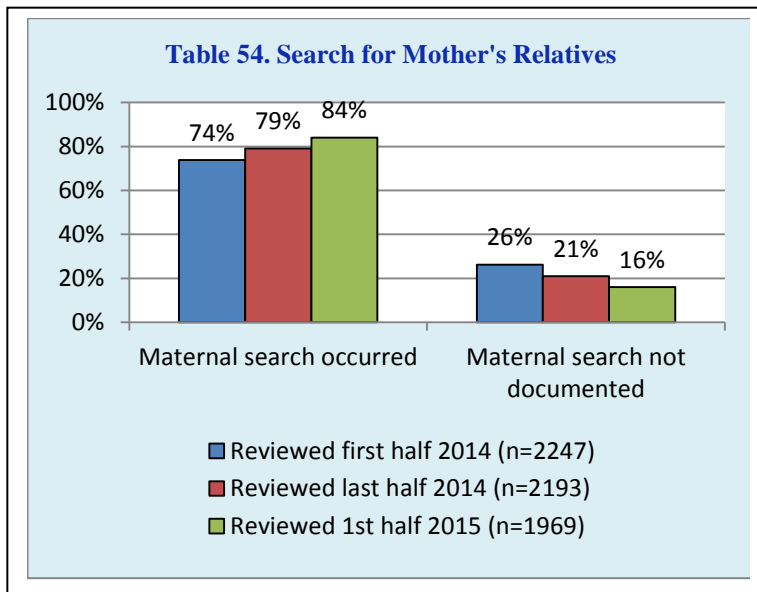
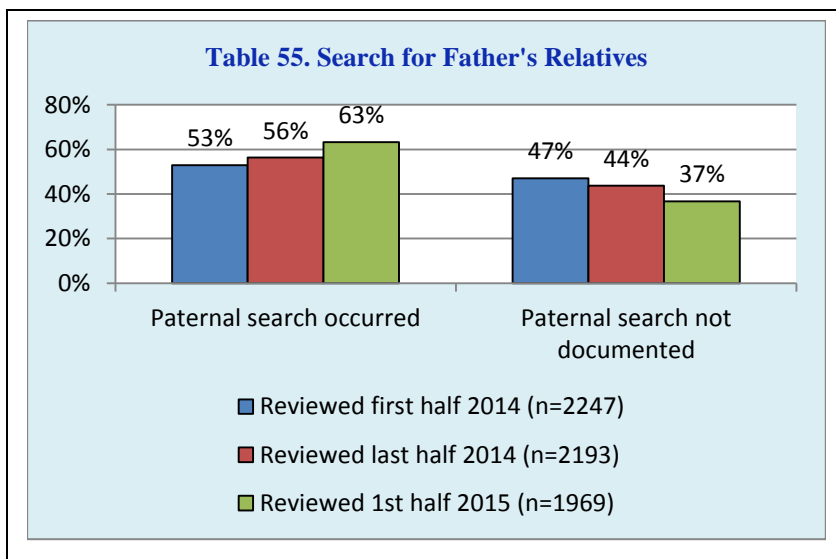


Table 55 is about searches for **paternal** relatives.

In about **40% of the cases reviewed there was no information to indicate a search for paternal relatives had been conducted.**

**Specific information relative caregivers need**

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



<sup>70</sup> School of Social Work, Colorado State University, Kinship Care in the United States: A Systematic Review of Evidence-Based Research, July 2005.

## MAINTAINING CONNECTIONS WITH SIBLINGS

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations regarding children in out-of-home care maintaining connections with siblings.

### RECOMMENDATIONS TO NDHHS AND ITS CONTRACTORS

1. Ensure siblings that are unable to be placed together can maintain appropriate and consistent contact with each other. Document the consistency and quality of that sibling visitation.

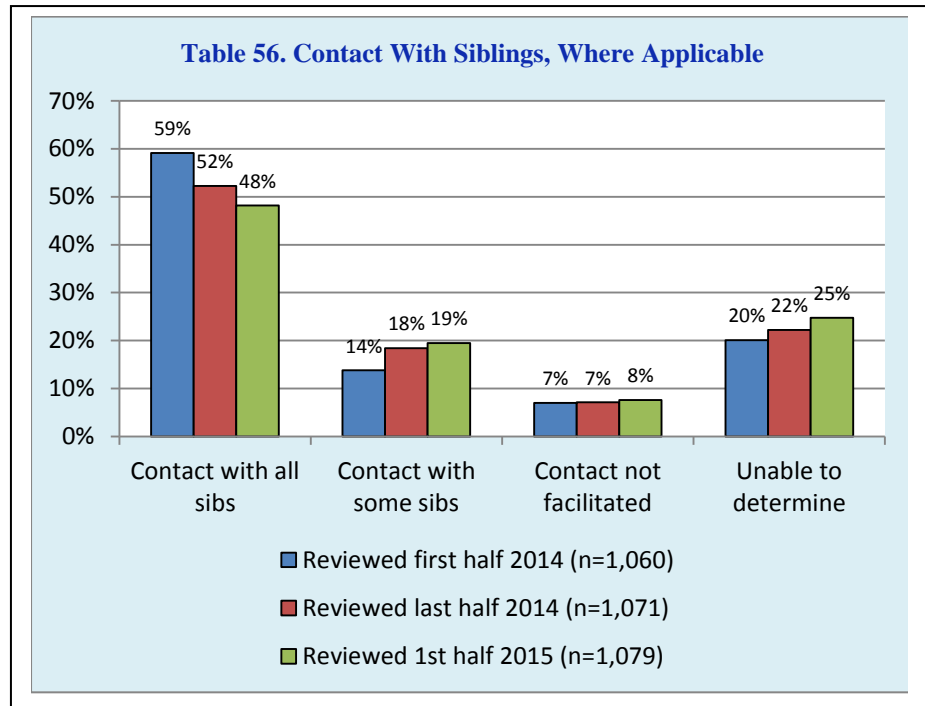
### BASIS FOR THE RECOMMENDATIONS

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

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

Due to the importance of maintaining sibling connections, local board members are required to make a finding during reviews regarding sibling contacts. Approximately

**75% of children had contact with some, if not all, of their siblings. Documentation of efforts to meet this important requirement must be improved on.**



## ACCESS TO MENTAL HEALTH SERVICES

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations regarding children in out-of-home care being able to access needed mental health services.

### RECOMMENDATIONS TO NDHHS

1. Ensure payment sources are available for children and youth with a wide array of behavioral problems, regardless of managed-care/Medicaid denials.
2. Ensure that Behavioral Health Regional funds are earmarked for helping children, particularly children that have experienced trauma.
3. Explore how the use of braided or blended funding alternatives can assist children in receiving needed help.

### BASIS FOR THE RECOMMENDATIONS

During reviews the FCRO looks at whether children had a diagnosed mental health or trauma related condition. In the last half of 2014, the FCRO found that 39% (862 of 2,193) of children had such a diagnosis. During the first half of 2015, the FCRO found that **44% (865 of 1,969) had a diagnosis. This indicates that a significant number of children in out-of-home care are impacted by the managed care system.**

Some additional statistics of note:

- Professional interventions
  - **One third of children were court-ordered to be in therapy.**
    - **For children court-ordered to be in therapy, only 86% had documentation that this was actually occurring.**
  - **25% of children reviewed during FY2014-15 were currently prescribed psychotropic medications on the date of the review.**
  - 4% of children reviewed during FY2014-15 had been diagnosed with having their own substance abuse issue (not their parents' issue).
- Behaviors
  - **25% of children reviewed during FY2014-15 were currently exhibiting difficult behaviors that could impact their placement stability.**
  - 8% of children reviewed during FY2014-15, which does not include OJS/Probation youth, had their own law violation issues.
  - 7% of children reviewed during FY2014-15 were engaging in concerning sexualized behaviors in the six months prior to the review. This does not include the normal behaviors of children; instead, these are concerning behaviors that can be common in abused children.

- 2% of children reviewed during FY2014-15 had intentionally committed self-injury in the six months prior to the review.

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

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

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

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

## **EDUCATION OF CHILDREN IN FOSTER CARE**

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations regarding education and children in out-of-home care.

### **RECOMMENDATIONS FOR CROSS-SYSTEMS COLLABORATION**

1. Continue collaborative efforts between local schools districts, NDHHS, the Department of Education, foster parents, guardians ad litem, and other interested parties to reduce communication gaps and encourage school engagement by children, youth, and their caregivers. Consider a pilot to examine whether attendance and testing scores are impacted by out-of-home care.

### **BASIS FOR THE RECOMMENDATIONS**

Most children in foster care have lived in chaotic, stressful environments prior to their removal from the home. Some have had pre-natal and/or post-natal exposure to alcohol and/or drugs. Some moved often, even during the school year. Some did not get the early childhood stimulation needed to grow and thrive – such as parents reading to children or teaching concepts like colors, letters, and numbers. Some, even in early elementary school, had parents that did not ensure their regular school attendance. These children often begin their formal education at a significant disadvantage.<sup>71</sup>

Further, children that are experiencing separation from their parents, adjusting to a new living environment, and often adjusting to a new school, can experience too much stress to properly concentrate on their education. The grief effects are exacerbated each time a child is moved to a new placement and a new educational setting.

National research shows that frequent school changes are associated with an increased risk of failing a grade in school and of repeated behavior problems.<sup>72</sup>

In June 2012 the Nebraska Department of Education issued a *State Ward Statistical Snapshot*.<sup>73</sup> That report was an eye-opener. It was updated in 2015. The following are some of the key findings from the 2015 update:

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<sup>71</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>72</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>73</sup> Benjamin Baumfalk & Eva Shepherd, State Ward Statistical Snapshot Project, Nebraska Department of Education, June 29, 2012, and Nebraska Department of Education 2015.

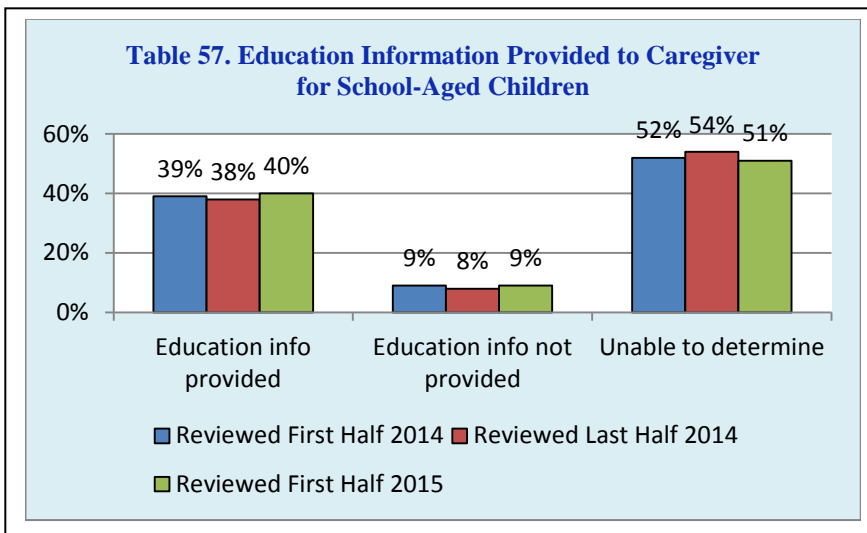
- **44% of state wards in 12<sup>th</sup> grade graduated high school, compared to 84% of the non-wards.**
- **24% of state wards were found to be highly mobile – that is, in two or more public schools during a calendar year. This compares to 4% of non-wards.**
- Wards who entered care due to abuse or neglect missed an average 12 days during the school year compared to 7 days for non-wards.
- 35% of state wards qualified for special education, compared to 16% of non-wards.
- 24% of state wards had a verified behavioral disorder disability, compared to 4% of non-wards.
- In math tests, 65% of wards performed below standard, compared to 30% of non-wards.
- In reading tests 52% of wards were below standard, compared to 23% of non-wards.
- In the 4<sup>th</sup> grade math test scores, wards averaged 88.26 compared to non-wards that averaged scores of 102.96. For 11<sup>th</sup> graders wards average 50.61 compared to non-wards at 96.36.
- In the 4<sup>th</sup> grade reading tests, wards averaged a score of 94.35 compared to 109.28 for non-wards.

### EDUCATION RECORDS SHARED WITH CAREGIVER

Foster parents, group homes and other placements are charged with ensuring that children placed with them receive all necessary educational services. Educational information is essential for this to occur. During the FCRO’s review of children’s cases, attempts are made to contact the child’s placement per federal requirement to determine whether the placement had received educational background information on the child at the time the child was placed.<sup>74</sup>

Placements are not mandated to respond to the request for information and many do not. Where the data was able to be

determined for children of school age, the FCRO found that **only 40% of the providers (foster parents, group homes) had received this essential information.**



<sup>74</sup> Foster parents are provided the opportunity to attend the review, along with the phone number and email address for the review specialists. Foster parents are provided a questionnaire to complete if attending the review conflicts with their schedules. Review specialists also attempt to contact the placement via phone or email.

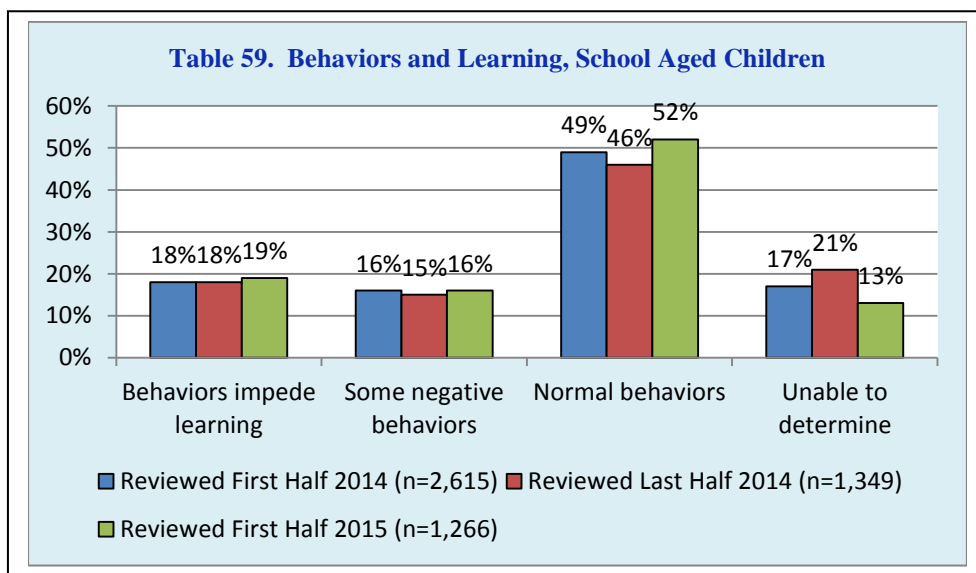
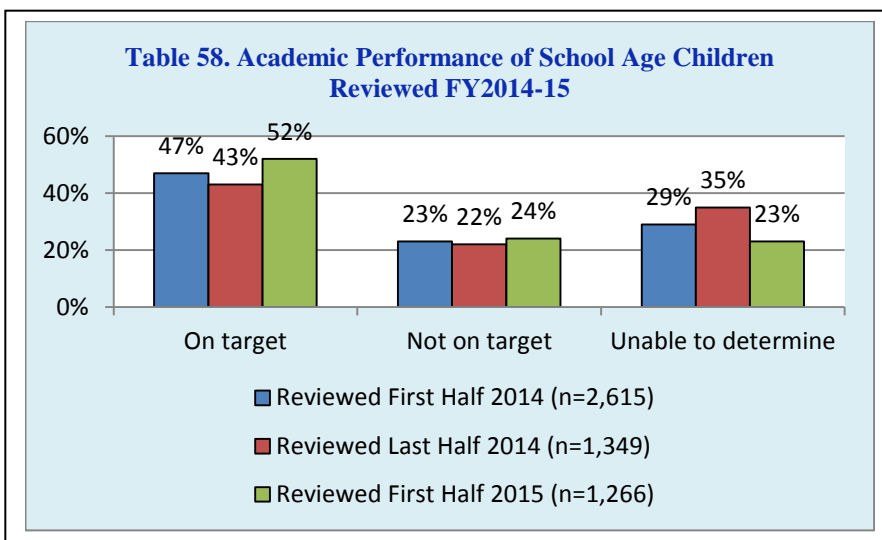


## SCHOOL PERFORMANCE

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

**Table 57 shows nearly one-third (30%) of those children’s files did not contain sufficient information to determine if they were academically on target, or whether services were needed in this vital area that will impact the child’s entire life.**

As discussed elsewhere in this Report, children in out-of-home care can display some very challenging behaviors as a result of the cumulative traumas that they have experienced. These behaviors may be displayed in the child’s placement, during visitation, and during the school day. Table 59 shows that 30% of children have behaviors that are negatively impacting their education.



## SCHOOL CHANGES

The FCRO found that 793 school-aged children reviewed in FY2014-15 had been moved to a new placement in the six months prior to the review. Often a change in the foster home or other caregiver can result in a school change. The FCRO recorded whether there was documentation that the 793 children that changed caregivers also changed schools. [Changes here did not include the normal transitions from elementary to middle school, or middle school to high school.] **A school change occurred for 323 (41%).**

## SPECIAL EDUCATION

Nationally about 9% of the general population of school children received special education.<sup>75</sup> In contrast, **28%** of the school-aged children reviewed in FY2014-15 were enrolled in special education.

## EARLY DEVELOPMENT NETWORK

A child is eligible for Early Development Network (EDN) services if he or she is not developing typically, or has been diagnosed with a health condition that will impact his or her development.

Parents must consent to an Early Development Network referral for children age birth through three years of age. Often parents of children in out-of-home care refuse to provide their consent. The FCRO found EDN referrals were **completed for 84% of the children age 0-3 reviewed in FY2014-15 for whom a referral was made.** The issue remains as to how many referrals were not made or parents refused this service.

## OTHER EDUCATION-RELATED ISSUES

During reviews foster parents also reported issues with:

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

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

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

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<sup>75</sup> US Dept. of Education, The Condition of Education, 2009.

### National Studies

National surveys of former foster children have found that the foster system also did not encourage high expectations for their education.<sup>76</sup> Numerous sources show that youth transitioning from foster care to adulthood often have significant educational deficits. These are the youth most likely to become homeless and face employment challenges.

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<sup>76</sup> Trudy Festinger, No One Ever Asked Us, New York: Columbia University, 1984 cited in Patrick A. Curtis, Grady Dale Jr. and Joshua C. Kendall, eds, The Foster Care Crisis: Translating Research into Policy and Practice, Lincoln, Neb.: University of Nebraska, 1999, p. 109.

**Section Two**

**PRELIMINARY RESULTS OF  
REVIEWS OF THE CASES  
OF YOUNG ADULTS  
IN THE BRIDGE TO INDEPENDENCE  
PROGRAM (b2i)**

## **THE BRIDGE TO INDEPENDENCE (b2i) PROGRAM**

Based on the rationale that follows, the Foster Care Review Office (FCRO) makes the following recommendations regarding the relatively new Bridge to Independence (b2i) program.

### **RECOMMENDATIONS TO NDHHS**

1. Learn from reviews of young adults in the b2i program to ensure that children age 13-18 and their families receive needed and age-appropriate services to include independent living skills. Make sure the program does not result in simply “moving the cliff” for involved youth/young adults.
2. Give Independence Coordinators the tools necessary to help young adults develop and maintain positive relationships with other adults and/or family that will extend well beyond the limited scope of the b2i program.

### **BASIS FOR THE RECOMMENDATIONS**

#### **Prior to reaching adulthood**

The Ansell-Casey assessment is to be done annually beginning at age 16 until the child leaves out of home care. It assesses key independent living skills and provides a framework to determine skills the youth has yet to acquire, so that services can be individually tailored to meet their needs. For youth reviewed that were in the 16-18 age group, the FCRO found:

- 38% of those reviewed in the last half of 2014 had completed the assessment.
- This rose to 41% of those reviewed in the first half of 2015.

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

- 79% of those reviewed in the last half of 2014 had a completed independent living plan.
- **This rose to 82% when reviewed in the first half of 2015.**

#### **The b2i program**

This is a condensed history designed to give context for this program. The transition from childhood to adulthood can be rough for many adolescents, but for young persons that have experienced abuse and neglect, mental health issues, or serious dysfunctional families it becomes even more of a challenge. Challenges include educational gaps, first time financial management, attempting to obtain affordable medical insurance, obtaining and maintaining transportation, and developing positive social supports.

On October 7, 2008, the federal Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351) was signed into law. The Act’s requirements were intended to achieve better outcomes for children. Some of its many provisions were aimed at older youth that were about to reach the legal age of majority while still in out-of-home care. Due to these provisions states are allowed to:

- Extend federally funded assistance for Title IV-E eligible young adults and expand the use of Title IV-E training funds.
- Provide federal grants for programs to help families maintain connections.
- Extend resources for Education and Training Vouchers.
- Extend Independent Living Services.
- Mandate the development of transition plan for those nearing the “age out” threshold.

With the Nebraska Legislature’s passage of LB 216 in 2013, youth in out-of-home care due to abuse and neglect who are approaching the age of majority (19 in Nebraska) are now allowed to enter into a voluntary foster care agreement with NDHHS for extended services up to their 21<sup>st</sup> birthday. The two years of services may include Medicaid health coverage, post-secondary education assistance, foster care payments, and/or continuation of case management services. To qualify for services, the young adult must be employed for 80 hours per month, or be enrolled in a recognized educational program, or be incapable of meeting the requirements due to a medical condition.

Bridge to Independence (b2i) began serving young adults in October 2014, shortly after federal approval was granted to use federal Title IV-E funds for some qualifying expenditures. The Department of Health and Human Services administers the program. The FCRO has been given the responsibility to provide oversight by the Legislature to ensure that the program is meeting the needs of young adults enrolled.

Young adults in the program have access to a NDHHS Independence Coordinator (IC) who helps develop a plan, and then works individually with the young adult to accomplish goals. The IC engages the youth, and assists in guidance and counsel. The young adult is the decision maker and is supported by the IC; ultimately, this prepares the young adult to take ownership for their choices.

## **CASE REVIEW PROCESS**

The FCRO has developed a thorough review process after consultation with young adults who were formerly in out-of-home care, NDHHS, the Children’s Commission and committees within the b2i program to ensure data collection aligns with program goals.

In February of 2015 the FCRO began conducting reviews of the young adults in the program. Those first selected for review had been enrolled in the program for at least four months. It is the FCRO’s goal to review the cases of young adults who are active in the program at least every six months.

The case review process begins by the FCRO Review Specialist (staff person) notifying NDHHS IC Supervisors that the young adult’s case will be reviewed. The IC then notifies the young adult and a time is scheduled that best accommodates the young adult. Cases were initially being reviewed face-to-face in a place of the young adult’s choice, but conference calls have become the standard vehicle for case reviews to be better accommodating. Young adults are given the choice of a face-to-face whenever possible, but the majority ask that reviews be conducted via conference call as they find that more convenient.

**PRELIMINARY DATA BASED ON THE FIRST REVIEWS OF YOUNG ADULTS IN THE PROGRAM**

**(91 such reviews were conducted from 92/01/2015-09/30/205)**

The chart to the right shows the reasons for which the young adult was eligible to enter the b2i program.

Eligibility at Entry	Count
Comp. High School	11
Post-Secondary	38
Special Programs	13
Emp. 80 Hours/Month	52
Med/DD Incapable	2
Total (*Multi. Resp.)	116

\*Some have more than one eligibility at entry\*

Next are some basic demographics. Most program participants are female, and from the Eastern Service Area (metro Omaha).

Gender	Count	Percent
Female	59	65%
Male	32	35%
Total	91	100%

Service Area	Count	Percent
Eastern	46	51%
Southeast	25	28%
Central	10	11%
Northern	6	7%
Western	4	4%
Total	91	100%

Information was also gathered on marital status. Most are single.

Marital Status	Count	Percent
Single	87	96%
Married	4	4%
Total	91	100%

Over a fourth (26%) are already parenting, and almost a fifth (17%) of the females in the program are pregnant.

Pregnant	Count	Percent
No	49	83%
Yes	10	17%
Total	59	100%

With Children	Count	Percent
No	67	74%
Yes	24	26%
Total	91	100%

The next two charts provide the status of school enrollment at time of review, and employment status at time of review. Fewer young adults are enrolled in school than originally anticipated.

Enrolled in School	Count	Percent
<u>Yes</u>	39	43%
- High School	10	11%
-- Full-Time	4	4%
-- Part-Time	6	7%
- Post Secondary	29	32%
-- Full-Time	25	28%
-- Part-Time	4	4%
<u>No</u>	52	57%
Total	91	100%

Employment Status	Count	Percent
Full Time	34	37%
Seeking	30	33%
Part Time	17	19%
Not Seeking	10	11%
Total	91	100%

Next is the status of housing type for young adults at the time of the review.

Housing Type	Count	Percent
Shared housing	54	59%
Independent Housing	15	17%
Relative	9	10%
Dorm or campus housing	5	6%
With parent/guardian	3	3%
Couch Surfing	2	2%
Foster Home	1	1%
Host Homes	1	1%
Transitional Housing	1	1%
Total	91	100%



Finally, is a chart that indicates whether the young adult met the criteria for NDHHS to recoup some of the expenses through the federal IV-E program (which is part of Social Security).

<b>IV-E Eligibility</b>	<b>Count</b>	<b>Percent</b>
No	60	66%
Yes	23	25%
Unable to determine	8	9%
Total	91	100%

### **ADDITIONAL ANALYSIS**

The tables focus on just some of the data variables collected. The FCRO began second reviews on applicable cases beginning in September. The goal is that the b2i data collected will be used longitudinally to measure the progression of the young adult throughout their time in the program.

The FCRO envisions that data collected for the b2i program could possibly help re-examine the programs and services for youth ages 14-18 that are in the foster care system. Over time, it may be helpful to look at the various points of entry by age to see if young adults have more or less need for specific services, as some young adults enter the program later into young adulthood causing a shortened experience.

### **EVALUATION TOOLS**

The National Young Adults in Transition Database (NYTD) is a federally mandated data collection system created for states to survey young adults in foster care at the age of 17, 19, and 21. There are different versions of the survey (22, 57, and 88 questions). Nebraska NDHHS is currently using the 22 question survey. The Evaluation and Data Workgroup, a subcommittee of the Children's Commission b2i Advisory Committee, has recommended implementation of a satisfaction survey by NDHHS.

## Section Three

# CHILDREN IN OUT-OF-HOME CARE THROUGH THE OFFICE OF PROBATION ADMINISTRATION

First, for context, here is a brief history of recent events involving children who are status offenders or delinquents. There were significant changes to the Nebraska Juvenile Justice system brought about by LB 561 in 2013. Many of the provisions of that legislation took effect in October 2013. One of the key changes was transferring youth from the NDHHS Office of Juvenile Services (OJS) to the Office of Probation Administration.

Following that change there were conflicting interpretations of Nebraska statute regarding whether the Foster Care Review Office had authority to conduct reviews of children in out-of-home care who were under the Office of Probation Administration. That was resolved by the Legislature in 2015, becoming effective in the summer of 2015.

Beginning in July, through a collaborative process the Office of Probation Administration has provided the FCRO weekly information on children entering out-of-home care and leaving out-of-home care while under the program.

- From the information provided by the Office of Probation Administration and tracked by the FCRO, **the FCRO has determined that as of November 16, 2015, there were 869 children in out-of-home care through the Office of Probation Administration. Those children averaged 234 days in out-of-home care.**
  - 31% were female, 69% were male.
  - 1% were under 13 years of age.
  - 20% were in detention facilities or the YRTC, 17% were in a group home, 16% were in a treatment level group home, and 11% were at a PRTF level.
  - 39% were from the Eastern area, 30% were from the Southeast Service Area, 13% were from the Northern Service Area, 9% were from the Western Service Area, and 7% were from the Central Service Area.

The Office of Probation Administration and the FCRO began collaborative work in late summer 2015 developing FCRO case review processes, which includes the process whereby the Office of Probation Administration will provide file and other information needed for reviews and assist in obtaining the necessary court orders to do so. Simultaneously, a FCRO internal workgroup developed a draft statistical collection tool, and this was provided to the Office of Probation Administration for their review and suggestions. It was, and is, the FCRO's intent to assist Probation in its internal CQI processes as well as providing oversight to the system.

The review process was piloted in October 2015. Data from those reviews was not available for publication as this report was being drafted. However, the FCRO does plan to provide review data in future reports as it becomes available.

## Section Four

### TRIAL HOME VISITS

Trial home visits are defined in Neb. Rev. Stat. 43-1301 as when a court involved youth goes from an out-of-home placement back to his/her custodial parent, but remains a ward of the state and continues to receive services. Trial home visits are intended to be short-term supports to reunification. Children really have not fully experienced “permanency” until there is no longer court involvement in their family’s lives.

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

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

In 2015, the Nebraska Legislature amended statute (Foster Care Review Act, Neb. Rev. Stat. 43-1301-1322) to authorize the FCRO to begin to review the cases on trial home visit. This took effect in late August 2015, and NDHHS began reporting on these children to the FCRO at that time. Currently the FCRO has an internal workgroup that is determining the forms and data collection instrument that will be used on these reviews, which are planned to begin in spring of 2016.

**The following preliminary data is available: as of November 16, 2015, there were 512 children on a trial home visit, and they had been in the home under supervision for an average of 143 days.**

## SUMMARY

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

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

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



## **APPENDICES**

## APPENDIX A

### THE FOSTER CARE REVIEW OFFICE

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

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

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

### WHAT FCRO REVIEWS ENTAIL

As Nebraska's federal IV-E review agency<sup>77</sup> the Foster Care Review Office collects, evaluates, & disseminates data on children in out-of-home care; uses trained citizen volunteers to review children's plans, services and placements to ensure safety, security, and progress to permanent homes; disseminates findings & recommendations; legally advocates in court; visits foster care facilities; and sponsors/co-sponsors educational programs.

**During Fiscal Year 2014-15 (July 1, 2014-June 30, 2015), the Foster Care Review Office conducted 4,162 comprehensive reviews on 2,958 individual children's cases.**<sup>78</sup>

Beginning January 1, 2015, FCRO management made the strategic decision to reduce the minimum number of cases reviewed by each board each month. This was done to allow FCRO staff to further advocate for children's best interests in the cases reviewed. It is expected that the total reviews conducted in FY2015-16 will be impacted as a result.

Another change implemented at that time was restructuring the scheduling priority system to ensure that children's cases were scheduled to be reviewed within 30-45 days prior to court

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<sup>77</sup> The federal Title IV-E (pronounced 4E) Foster Care program provides funds to States to assist with: the costs of foster care maintenance for eligible children; the administrative costs to manage the foster care program; the costs of training staff, foster parents and private agency staff; and the costs of reviews for eligible children. These funds are part of the Social Security Act. The purpose of the program is to help states provide proper care for children that need placement outside their homes in a foster family home or in a qualifying institution and that have not only experienced abuse or neglect, but also family income deprivation.

<sup>78</sup> Children are typically reviewed once every six months while in out-of-home care, thus some are reviewed twice in a twelve-month period.

reviews. That was done so that information and recommendations in the reports the FCRO issues to the court and legal parties after reviews is timely and relevant.

FCRO reviews involve the following:

1. Staff activities prior to the local board meeting
  - Thoroughly researching children's NDHHS agency records (computer and those kept at NDHHS local offices), gathering pertinent information and copying/summarizing this information for local board members to review.
  - Clarifying, verifying and supplementing gathered information through personal contacts with the child's placement, protection and safety worker/lead agency caseworker, and additional legal and/or interested parties.
  - Verifying if medical and educational records have been shared with foster parents.
  - Researching to determine names and addresses of legal and interested parties for support staff to notify of upcoming reviews.
  - Preparing and sending summaries of pertinent information and copies of additional pertinent information from the child's agency record to local board members prior to board meetings each year.
  
2. The local board meeting
  - Staff facilitating 53 local review board meetings across the state per month where boards (4-10 members) of trained community based volunteers make 13 state and federally mandated findings for each child or youth reviewed, determine barriers to permanency, and determine what recommendations need to be made to ensure timely permanency.

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

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

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

- If the child is prescribed medications or needs adaptations due to a physical or psychological condition, is the staff trained on how to care for the child's condition?

**Is the child safe during visitation with the parent(s)?**

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

**Does the child's permanency objective facilitate the child's future safety and stability?**

- Is there domestic violence in the home? How is that being addressed?
- What is the support system in the home? Is the family isolated from support? Is there someone the child can easily go to in an emergency?
- What is the age and ability of the child to remove him or herself from the situation?
- Is there an escape plan?
- Is there cyclical mental illness (mental illness that occurs in repeated episodes over a person's lifetime) present?
- Are drug and alcohol issues present?
- Does the parent have the ability to demonstrate empathy toward the child; can they put themselves in the child's place?
- Are the children supervised before/after school?
- Who else is in the home? Do those persons pose a hazard?
- What is the past behavior of the parents?
- Does the safety plan align with information on the SDM<sup>79</sup> assessments?

**Did the agency responsible for the child provide services** to ameliorate factors that would inhibit a parent's ability to maintain the child safely at home? Have the parents demonstrated better parenting as a result?

**Are there issues with limitations to the services** available to facilitate a safe return to the home or other permanency objective?

**Is the child receiving treatment needed to overcome any past traumas?**

**If the child cannot safely return home, what alternatives** can provide the best permanency? How are those being facilitated?

Other activities include:

- Staff recording the local board member's recommendations and concerns.
- Allowing for participation by involved parties per federal and state law (such as citizen reviewers, parents, foster parents, school personnel, counselors, day care providers, extended family members, law enforcement, legal parties) in children's reviews.

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<sup>79</sup> Structured Decision Making® is the trademarked set of tools currently being utilized by NDHHS for assessments throughout the life of a case.



- Assuring all confidential material is returned to the staff for secure destruction (shredding).

3. Staff activities after the local board meeting

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

## APPENDIX B

### LOCAL FOSTER CARE REVIEW BOARD MEMBERS

The Foster Care Review Office gratefully acknowledges the perseverance and dedication of each local board member citizen reviewer. The following persons served on a local board on June 30, 2015.

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

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

Schmid, Myrna  
Schraeder, Catherine  
Schroeder, Dave  
Schulze, Mark  
Scott – Mordhorst, Tina  
Seka, Paulette  
Self, Renae  
Seyfarth, John  
Shaffer, Peggy  
Shasserre, Joshua  
Sheehan, Lori  
Sherer, Nicole  
Sherer, Scott  
Shramek, Karen  
Sim, Patricia  
Sims, Linda  
Sinclair, Gwen  
Sinclair, Tom  
Smith, Lisa  
Snyder, Jennifer  
Snyder, Lindsay

Sobeski (Farho), Linda  
Somersher, Rhonda  
Stafford, Tara  
Stiverson, Mary  
Stranglen, Joyce  
Suing, Mark  
Taylor, Lori  
Taylor-Riley, Kimberly  
Tegeler, Nancy  
Thomas, Marge  
Thorson, Joyce  
Timm, Craig  
Titkemeier, Beverly  
Todd, Lisa  
Trigg, Sue  
Urbanek, Greg  
Valenti, Dedrie  
Vana, Roberta  
Vandewege, Jerene  
VanLaningham, Jody  
Vickers, Jesica

Victor, Kendra  
Walker, Lisa  
Warwick, Wauneta  
Watchorn Newbrey, Robyn  
Watson, Christine  
Weber, Bridget  
Weihsing, Debra  
Wilhelm, Roberta  
Williams, Sarah  
Wilson, Billie  
Wilson, Monica  
Wolfe, Beverly  
Wombacher, Claudia  
Woody, Roberta  
Woolley, Alton  
Worden, Joan  
Wright, Shanna  
Wright, Denise  
Young, Kimberly  
Zetterman, Emily

## APPENDIX C

### BACKGROUNDS OF LOCAL BOARD MEMBERS

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

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

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

The members serving on June 30, 2015, represent the following background categories (some in multiple categories).

<u>Background</u>	<u># of volunteers</u>
Education / Library Sciences	79
Social Work / CASA	54
Business / Self-employed	30
Medical / Pharmacy	33
Legal / Law enforcement	18
Counselor / Therapist / DV	21
Volunteer / Retired / Homemaker	16
Other	19

**APPENDIX D**  
**COUNTY DATA ON ABUSE/NEGLECT CASES<sup>80</sup>**

The following is a sample of some of the county level data the FCRO has available. In this case it is for NDHHS wards in out-of-home care on June 30, 2015. **Please contact the FCRO if you would like any additional information.**

	Children	Age 0-5	Age 6-12	Age 13-15	In Out-of-Home More Than Once	Children with 4 or more Lifetime Placements	4 or more lifetime workers (NDHHS or lead agency)	% range of Children in Poverty Per Nebr. Dept. of Labor
Adams	59	24	19	16	28	22	36	15-19%
Antelope	8	0	4	4	4	2	2	15-19%
Arthur	0	0	0	0	0	0	0	<10%
Banner	2	0	0	2	2	1	1	20%+
Blaine	0	0	0	0	0	0	0	20%+
Boone	6	1	4	1	0	0	5	<10%
Box Butte	4	2	2	0	3	2	3	20%+
Boyd	2	0	1	1	2	2	2	<10%
Brown	6	1	4	1	0	0	0	<10%
Buffalo	108	65	38	15	27	13	28	10-14%
Burt	9	3	2	4	2	3	0	<10%
Butler	18	8	5	5	11	3	5	10-14%
Cass	18	7	6	5	10	7	11	<10%
Cedar	2	1	1	0	1	1	1	<10%
Chase	1	0	0	0	0	0	0	20%+
Cherry	1	0	1	0	0	0	0	<10%
Cheyenne	11	2	8	1	2	2	3	15-19%
Clay	7	0	3	4	1	2	5	10-14%
Colfax	23	5	8	10	6	4	10	15-19%
Cuming	7	4	1	2	1	4	3	10-14%
Custer	13	3	7	3	2	1	5	10-14%
Dakota	18	8	6	4	6	6	10	20%+
Dawes	0	0	0	0	0	0	0	20%+
Dawson	37	14	10	13	9	6	14	15-19%
Deuel	3	3	0	0	0	0	1	20%+
Dixon	3	2	1	0	0	0	2	15-19%
Dodge	81	25	28	28	39	24	39	15-19%
Douglas	1264	449	441	374	383	425	409	15-19%

<sup>80</sup> This chart does not include children under the Office of Juvenile Services, the Office of Probation Administration, or children on a trial home visit.

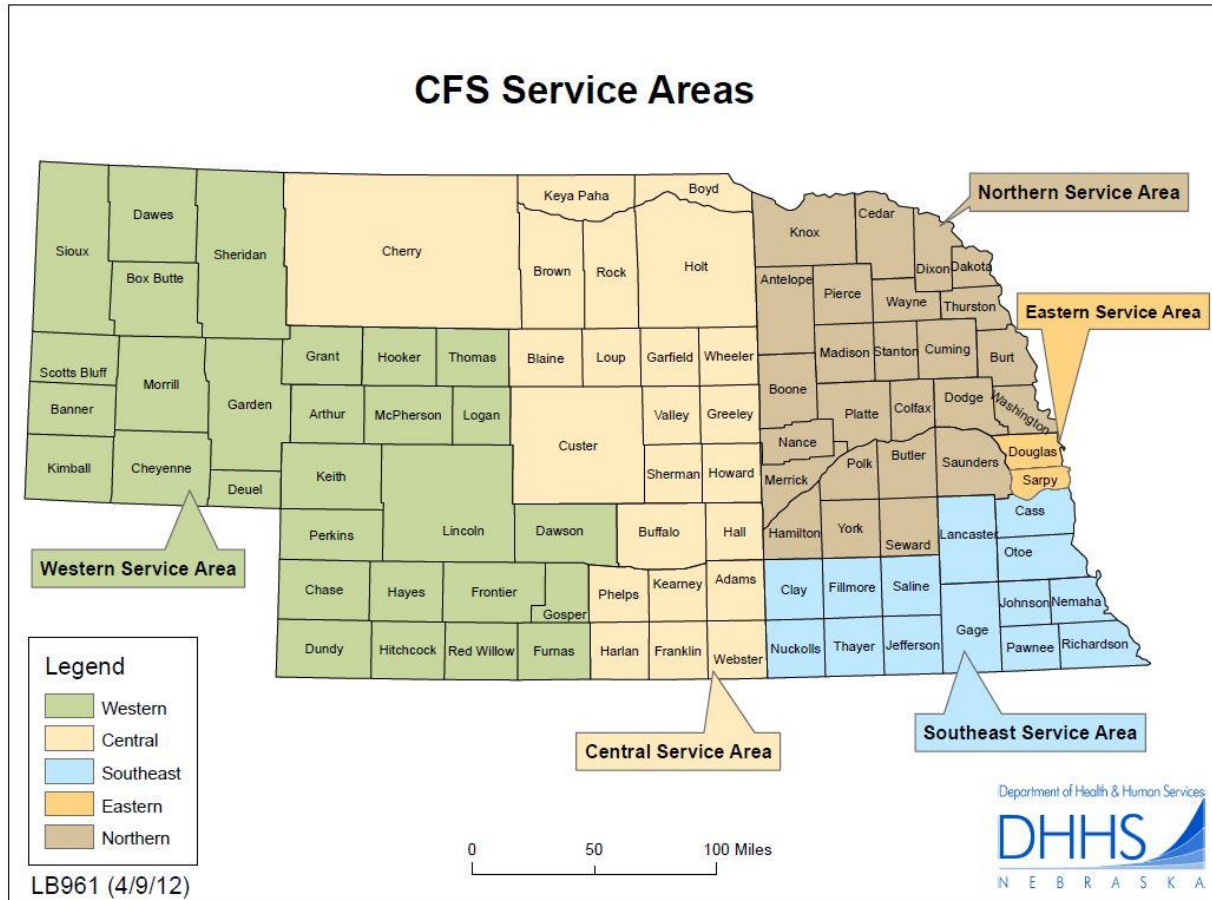
	Children	Age 0-5	Age 6-12	Age 13-15	In Out-of-Home More Than Once	Children with 4 or more Lifetime Placements	4 or more lifetime workers (NDHHS or lead agency)	% range of Children in Poverty Per Nebr. Dept. of Labor
Dundy	4	2	2	0	2	2	2	10-14%
Fillmore	9	2	2	5	1	2	3	<10%
Franklin	5	0	1	4	1	2	3	20%+
Frontier	1	0	0	1	1	0	0	15-19%
Furnas	4	2	2	0	0	0	2	20%+
Gage	24	8	8	8	7	9	4	15-19%
Garden	0	0	0	0	0	0	0	15-19%
Garfield	0	0	0	0	0	0	0	20%+
Gosper	0	0	0	0	0	0	0	10-14%
Grant	0	0	0	0	0	0	0	20%+
Greeley	7	2	4	0	0	2	0	15-19%
Hall	99	48	35	16	31	19	30	15-19%
Hamilton	2	0	1	1	1	0	0	10-14%
Harlan	4	2	0	2	1	2	2	15-19%
Hayes	0	0	0	0	0	0	0	10-14%
Hitchcock	5	1	2	1	2	1	1	20%+
Holt	5	4	0	1	0	2	2	10-14%
Hooker	0	0	0	0	0	0	0	20%+
Howard	3	2	1	0	0	0	0	10-14%
Jefferson	4	3	0	1	1	1	1	15-19%
Johnson	5	2	2	1	5	4	5	15-19%
Kearney	16	4	5	7	7	3	9	<10%
Keith	15	5	6	4	3	3	0	10-14%
Keya Paha	0	0	0	0	0	0	0	20%+
Kimball	5	2	1	2	1	2	2	10-14%
Knox	4	3	0	1	0	0	0	20%+
Lancaster	502	208	146	148	137	173	190	15-19%
Lincoln	95	40	35	20	32	17	38	10-14%
Logan	7	0	1	1	2	1	2	<10%
Loup	0	0	0	0	0	0	0	20%+
Madison	68	35	18	15	21	19	20	15-19%
McPherson	0	0	0	0	0	0	0	10-14%
Merrick	13	4	6	3	3	2	3	10-14%
Morrill	2	1	0	1	1	1	2	20%+
Nance	4	2	0	2	2	2	3	10-14%
Nemaha	9	4	3	2	1	0	1	<10%
Nuckolls	2	0	0	2	1	2	1	20%+

	Children	Age 0-5	Age 6-12	Age 13-15	In Out-of-Home More Than Once	Children with 4 or more Lifetime Placements	4 or more lifetime workers (NDHHS or lead agency)	% range of Children in Poverty Per Nebr. Dept. of Labor
Otoe	28	7	11	10	17	8	15	15-19%
Pawnee	6	3	3	0	1	1	4	15-19%
Perkins	5	3	0	2	1	1	1	<10%
Phelps	12	4	1	7	4	3	3	10-14%
Pierce	4	0	0	4	2	3	2	<10%
Platte	48	25	15	8	4	3	14	10-14%
Polk	10	3	5	2	4	1	3	<10%
Red Willow	15	6	3	6	6	4	3	15-19%
Richardson	17	5	9	3	1	2	2	20%+
Rock	0	0	0	0	0	0	0	10-14%
Saline	11	1	4	6	3	0	4	20%+
Sarpy	175	63	41	71	78	52	41	<10%
Saunders	29	10	9	10	6	5	12	10-14%
Scotts Bluff	67	32	23	12	20	9	27	20%+
Seward	17	4	5	8	7	6	7	<10%
Sheridan	10	6	2	2	3	3	0	20%+
Sherman	0	0	0	0	0	0	0	20%+
Sioux	0	0	0	0	0	0	0	10-14%
Stanton	1	1	0	0	1	1	1	15-19%
Thayer	1	1	0	0	0	0	0	10-14%
Thomas	3	0	1	2	1	0	0	<10%
Thurston	1	1	0	0	0	0	0	20%+
Valley	3	2	0	1	1	1	1	<10%
Washington	10	3	5	2	4	4	4	<10%
Wayne	7	3	2	2	1	1	0	20%+
Webster	7	4	1	2	3	1	1	15-19%
Wheeler	0	0	0	0	0	0	0	10-14%
York	20	5	6	9	6	6	7	<10%
<b>Totals</b>	<b>3,145</b>	<b>1,205</b>	<b>1,029</b>	<b>911</b>	<b>980</b>	<b>916</b>	<b>1,073</b>	<b>--</b>



## APPENDIX E SERVICE AREAS

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



**APPENDIX F**  
**COURT HEARINGS IN ABUSE/NEGLECT CASES**

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



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



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



PRE-HEARING CONFERENCE -- According to the Through the Eyes of a Child website, <http://www.throughtheeyes.org/>, a pre-hearing conference is an informal, facilitated meeting prior to appearing in court.<sup>81</sup> The purpose of the Pre-Hearing conference is three-fold: (1) to gather information about the family at the beginning of the court process, (2) to include the parents in decision-making process and improve their buy-in, and (3) to identify and initiate necessary services as soon as possible.



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



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



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<sup>81</sup> Through the Eyes of a Child is an initiative of the Supreme Court.

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

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

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



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

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

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



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

Also,

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

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

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

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

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

**Foster Care Review Office  
521 S. 14<sup>th</sup>, Suite 401  
Lincoln NE 68508  
402.471.4420**

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

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