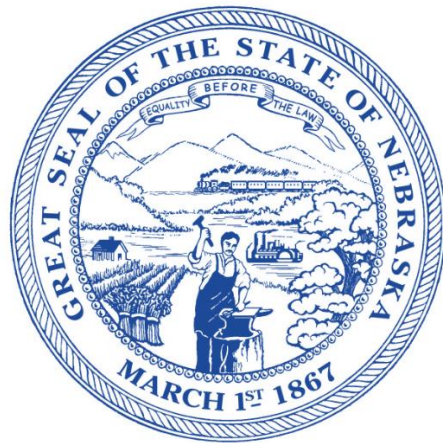


The Nebraska Foster Care Review Office Quarterly Report



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

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Executive Summary

COVID-19 Pandemic Response

As the child welfare and juvenile justice systems experience rapid and substantial changes to respond to the COVID-19 pandemic, oversight of the foster care system is more important now than ever. The FCRO has maintained the citizen review process for Nebraska children in out-of-home care. All 53 local review boards representing communities across the state have continued to meet during the COVID-19 pandemic through conference call and video formats (page 9).

The FCRO is monitoring emergency policy and procedure changes that affect system-involved children. The effects of the current pandemic will extend far beyond the immediate public health crisis:

- families in need of supports and services may not be coming to the attention of DHHS/CFS, potentially leading to a surge in reports when schools and activities resume;
- parents working towards reunification had and may continue to have services interrupted, and trauma responses may occur;
- children have and may continue to experience trauma from social distancing, even with best efforts to keep them connected to their families and other supports; and
- courts will need to adjust to increased caseloads.

The data collected by the FCRO during the pandemic will assist in future evaluations of how the child welfare and juvenile justice systems responded to the health crisis, and can be used to identify areas of immediate concern for our system partners.

Monitoring of significant system changes for children in out-of-home care

Prior to the pandemic, the Nebraska foster care system experienced two substantial system changes, both of which have raised concerns among stakeholders and require additional oversight.

DHHS-CFS Eastern Service Area Contract Change

In the fall of 2019 the lead agency in the Eastern Service Area (Omaha metro) changed from PromiseShip to Saint Francis Ministries. Many former PromiseShip workers were hired by Saint Francis and were allowed to keep their existing caseloads. When that happened, the FCRO made significant efforts to ensure that worker change counts for the children did not count that transition as a worker change.

Figure 13 on page 22 shows that 32.1% of the DHHS/CFS wards from the Eastern Service Area that were in out-of-home care on 3/31/20 had five or more workers over their lifetime, double the proportion of the rest of the state.

Youth Rehabilitation and Treatment Centers

As outlined in the [FCRO March 2020 Quarterly Report](#), DHHS-Office of Juvenile Services has made significant changes to the Youth Rehabilitation and Treatment Center System, in part as a response to a series of high-profile events beginning in August of 2019. The new system involves three facilities with different programming at each:

- YRTC-Kearney (previously male-only facility), will serve as the hub campus for intake, assessment, and programming for all youth;
- YRTC-Lincoln (located at the Lancaster County Youth Services Center) will be used for youth with specific needs requiring targeted behavioral programming; and
- YRTC-Geneva (previously female-only facility), will work with female youth transitioning back to the community.

The population of female youth at the YRTC decreased substantially during the fall of 2019, and while it has increased since December, there are still 38% fewer girls placed at a YRTC than a year ago.

The FCRO has increased the number of reviews of youth placed at a YRTC and is monitoring the current proposed legislation related to the Office of Juvenile Services pending in the Legislature.

Nebraska children in out-of-home care

On 3/31/20, there were 4,347 Nebraska children in out-of-home care. The report includes demographic, placement, and other current data based on court status and agency serving the child. The report also includes annual trend data for DHHS-CFS, Probation, and the YRTCs.

FCRO Recommendations

1. While significant time and energy has been devoted to the impact of the COVID-19 pandemic, the many issues negatively impacting Nebraska's system-involved children and their families described in detail in the [FCRO 2019 Annual Report](#) remain to be addressed. As soon as pandemic conditions allow, the child welfare and juvenile justice systems must return focus on the recommended system improvements.
2. Ensuring focus remains on children's best interests throughout the pandemic and in its aftermath must remain the priority of all system partners. Children's interests are often best served by working towards developing healthy families who are able to safely provide care for children. For that to happen, services and supports must be accessible and available to families, and system partners must express compassion for setbacks and delays in parents' progress, and empathy for children's trauma responses related to current stressors. Expansion of services for families will be particularly important to address current and future needs and if the expected surge of children entering care becomes a reality.
3. System capacity must also be expanded to meet not only current demands, but to be able to handle the anticipated surge in the numbers of children and families. Capacity includes recruiting and training additional appropriate placements for children and increasing availability of services tailored to improving parental abilities to cope with the issues that brought children to the attention of the system. When policy-makers make tough decisions based on the economic impact of COVID-19, the safety and vulnerability of the children must be considered and adequate budgets created or maintained.

Special Section on COVID-19

All aspects of the child welfare and juvenile justice systems have had to make substantial, rapid changes in order to respond to the COVID-19 pandemic while still providing needed protection, services, and support to Nebraska children, youth, and families. While it is too early yet to see statistical evidence of those changes, the impact has been significant.

Children entering foster care

As a system, child welfare is typically reactionary: there is a report of maltreatment, then the system reacts to assess that report and determine the appropriate response, in some cases removing children from their homes. The majority of maltreatment reports come from teachers, daycare providers, doctors, and other professionals who regularly interact with children, but with schools closed, activities canceled, and child well-checks delayed, several states have reported substantial decreases in the number of maltreatment reports received, anywhere from 20 to 70%.¹ In Nebraska, there were 38% fewer calls to the child abuse and neglect hotline in April 2020 compared to April 2019.²

And despite the drop in reports, research on maltreatment would indicate that child abuse and neglect is likely increasing during the COVID-19 pandemic. Increased economic insecurity, stress from caring for children with fewer supports while providing for educational needs, and anxiety and fear for the future are all correlated with increased likelihood of child maltreatment.³ This has many states bracing for a surge in reports as stay-at-home orders are lifted throughout the country.⁴

Nebraska, like many other states, requires all citizens to report suspected child abuse and neglect (Neb. Rev. Stat. §28-711) to the Child Abuse and Neglect Hotline at 800-652-1999 or your local law enforcement agency. Abuse and neglect often occur in families who are isolated. A friend, neighbor, family member, or acquaintance may be the only one that can bring the child and family to the attention of professionals who can assess the situation and create a safety plan if needed.

Children in foster care

The COVID-19 pandemic presents a different set of challenges for children and families currently separated because of out-of-home placement. In an article from the Chronicle

¹ Welch, Morgan and Ron Haskins. April 30, 2020. "What COVID-19 means for America's child welfare system." The Brookings Institute. Available at: <https://www.brookings.edu/research/what-covid-19-means-for-americas-child-welfare-system/>

² Beran, Doug. May 25, 2020 "Hotline call data." Email. Department of Health and Human Services.

³ Welch, Morgan and Ron Haskins (see footnote 1)

⁴ Tsai, Sunny. May 14, 2020 "Lifting Stay-at-Home orders may reveal neglected children in need of foster families." KAGS. Texas. Available at: <https://www.kagstv.com/article/life/family/lifting-stay-at-home-orders-may-reveal-neglected-children-in-need-of-foster-families/499-80147301-f485-4221-8d04-5f1f1170e1fc>

of Social Change,⁵ the U.S. Children’s Bureau’s Jerry Milner and David Kelly acknowledge that the pandemic will lead to prolonged separation for some parents and their children, and that these separations are a threat to family integrity. The hardships caused by the pandemic in general, and the separation of families specifically, may even exacerbate trauma responses and destructive behaviors related to the original reasons for removal from the home.

Staying connected to parents is especially important for bonding and brain development for young children.⁶ Frequently out of necessity, but often times out of convenience, many child welfare agencies have moved to virtual visits between children and biological parents. While virtual visits are important for maintaining some family connection, it is especially difficult for young children to stay focused on video calls⁷ and one New Jersey foster parent expressed her sympathy for a mother forced to watch someone else be affectionate with her infant over video instead of holding the child herself.⁸

Experts also warn that the increased isolation from COVID-19 can cause depression and anxiety for children in foster care, a population already at high risk.⁹ This is especially true for youth residing in congregate care facilities that are limiting outside contacts. And youth aging out of foster care are facing an unprecedented economic and educational landscape.

Simultaneously, parents working towards reunification with their children are finding vital services on hold,¹⁰ potentially delaying or disrupting personal progress and increasing feelings of hopelessness.

Nebraska DHHS-CFS is working to mitigate the adverse effects of the COVID-19 pandemic on families while protecting the health of the child welfare workforce and the children and families they serve. As of the writing of this report, the most recent guidance

⁵ Milner, Jerry and David Kelly. April 6, 2020. “Top Federal Child Welfare Officials: Family is a Compelling Reason.” The Chronicle of Social Change. Available at: <https://chronicleofsocialchange.org/child-welfare-2/family-is-a-compelling-reason/42119>

⁶ Ibid

⁷ Tang, Ziyi Kelsey. May 11, 2020. “Social distancing is challenging for foster families.” Missourian. Available at: https://www.columbiamissourian.com/news/covid19/social-distancing-is-challenging-for-foster-families/article_3caedb06-9138-11ea-a859-6bb7cdd0e782.html?utm_medium=email&utm_source=govdelivery

⁸ Koloff, Abbot and Jean Rimback. April 14, 2020. “‘Suffering in Silence’: Coronavirus is a major challenge to NJ’s child protection system.” NorthJersey.com. Available at:

https://www.northjersey.com/story/news/coronavirus/2020/04/14/coronavirus-unprecedented-challenge-nj-child-protection-system/5133057002/?utm_medium=email&utm_source=govdelivery

⁹ Hatfield, Jordan. May 12, 2020. “Experts say virus is causing anxiety and depression among children in foster care.” The Register-Herald, West Virginia. Available at: https://www.register-herald.com/health/experts-say-virus-is-causing-anxiety-and-depression-among-children-in-foster-care/image_272424fa-d6ba-5ec4-ae63-a867acffc5b0.html

¹⁰ Welch, Morgan and Ron Haskins. April 30, 2020. “What COVID-19 means for America’s child welfare system.” The Brookings Institute. Available at: <https://www.brookings.edu/research/what-covid-19-means-for-americas-child-welfare-system/>

(5/8/20) outlines the circumstances requiring face-to-face interactions and when virtual contacts can be utilized.¹¹

DHHS-CFS will use a regional approach to best determine when all face-to-face contacts and visits should resume. During this transition period, a combination of virtual and face-to-face visits may be used for family and sibling visitation, with a focus on maintaining family connections. In many cases, child and family teams will be best positioned to assess the risks of face-to-face for families.

Children and Families in the Courts

In late March 2020, the federal Department of Health and Human Services Administration for Children and Families provided emergency guidance for children’s court hearings during the COVID-19 public health crisis.¹² The guidance letter emphasizes the importance of courts and child welfare agencies working together to ensure judicial proceedings continue.

All required judicial determinations and hearings under Title IV-E of the Social Security Act must occur during the COVID-19 pandemic. The Children’s Bureau encourages courts to be flexible in the means for hearings, including virtual options, while also ensuring that technological limitations will not exclude parents and children from participating in the court process.

The Children’s Bureau also acknowledges that the global health crisis will limit access to services for parents, and that inability to access treatment should not be interpreted as lack of compliance. Circumstances related to COVID-19 are a compelling reason not to file a termination of parental rights for children who have been in out-of-home care for 15 of the last 22 months.¹³

As of the writing of this report, all Nebraska courts have remained open in some fashion during the COVID-19 pandemic.¹⁴ A year prior to the COVID-19 pandemic, Nebraska Chief Justice Michael Heavican hosted a national summit on pandemic preparedness. Omaha was selected due to the University of Nebraska Medical Center having one of the few Biocontainment Units in the country. The goal of the summit was to ensure that

¹¹ DHHS-CFS. May 8, 2020 Guidance on Child, Family, and Facility Contact During the Covid-19 Public Health Emergency. PDF in folder. Online available at: <http://dhhs.ne.gov/Documents/COVID-19-Guidance-on-Child-Family-and-Facility-Contact.pdf#search=Guidance%20on%20Child%2C%20Family%2C%20and%20Facility%20Contact%20During%20the%20Covid%2D19%20Public%20Health%20Emergency%2E>

¹² Milner, Jerry. March 27, 2020. “COVID-19 Child Legal and Judicial Letter.” The Administration on Children, Youth and Families. Available at: [https://www.acf.hhs.gov/sites/default/files/cb/covid_19_childlegalandjudicial.pdf?ct=t\(EMAIL_CAMPAIGN_2_7_2018_COPY_01\)&mc_cid=0560689fd4&mc_eid=32f34410f0](https://www.acf.hhs.gov/sites/default/files/cb/covid_19_childlegalandjudicial.pdf?ct=t(EMAIL_CAMPAIGN_2_7_2018_COPY_01)&mc_cid=0560689fd4&mc_eid=32f34410f0)

¹³ Ibid

¹⁴ Nebraska Supreme Court. April 6, 2020. “S-20-247: Administrative Order Regarding Novel Coronavirus and COVID-19 Disease.” Available at: <https://supremecourt.nebraska.gov/sites/default/files/Administration/emergency/adminorder040620.pdf>

government agencies work effectively to meet the needs of the public if a public health emergency should arise.¹⁵ That foresight proved invaluable. The Nebraska Supreme Court had a plan in place prior to the current pandemic, and the Nebraska “bench book” is the model for other courts throughout the nation.¹⁶

Nebraska’s local courts and probation offices have each been asked to develop and implement emergency preparedness plans specific to their communities that allow for essential functions to continue while limiting the spread of the coronavirus. For example, counties may encourage the filing of electronic exhibits, limit the number of people in court rooms and waiting areas, and hold some hearings through video technology.

The Foster Care Review Office’s Response to COVID-19

Oversight of the foster care system is more important now than ever. The FCRO has maintained the citizen review process for Nebraska children in out-of-home care. All 53 community-based local review boards have continued to meet during the COVID-19 pandemic through conference call and video format.

FCRO system oversight specialists continue to research all available documentation for children in out-of-home care, communicate with involved parties to assess safety, permanency, and well-being, send the local review boards’ final report and recommendations to the legal parties on the case, and advocate for the needs of individual children when necessary.

The data collected by the FCRO during the pandemic will assist in evaluating how the child welfare and juvenile justice systems responded to the health crisis, and can be used to identify areas of immediate concern for our system partners.

If you wish to request that the FCRO review the case of a child in out-of-home care you can contact us via email at FCRO.contact@nebraska.gov.

¹⁵ <https://supremecourt.nebraska.gov/nebraska-hosts-national-summit-pandemic-preparedness>, <https://supremecourt.nebraska.gov/heavican-talks-pandemic-preparedness-legal-rebels-podcast>, <https://supremecourt.nebraska.gov/nebraska-featured-national-center-newsletter-keeping-courts-open>.

¹⁶ Kelly, Bill. May 23, 2019. “If a Pandemic Hits, Nebraska’s Courts Plan to Protect Legal System.” NET News. Available at: <http://netnebraska.org/article/news/1175068/if-pandemic-hits-nebraskas-courts-plan-protect-legal-system>.

Additional Resources on the COVID-19 Pandemic

The following organizations currently maintain information on the COVID-19 pandemic:

- [Centers for Disease Control](#)
- [U.S. Department of Health & Human Services: Administration for Children & Families](#)
- [Nebraska Department of Health and Human Services](#)
- [The Nebraska Supreme Court](#)
- [Nebraska Children and Families Foundation](#)
- [Bring Up Nebraska](#)
- [Voices for Children](#)
- [Local Public Health Departments](#)

The 4,347 children in care on 03/31/20 included the following groups, each of which is described in more detail later in this report:

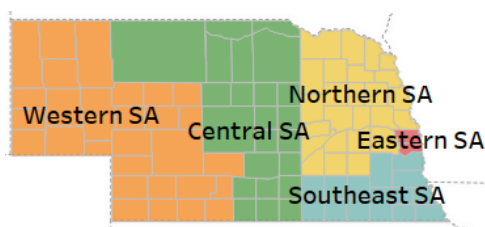
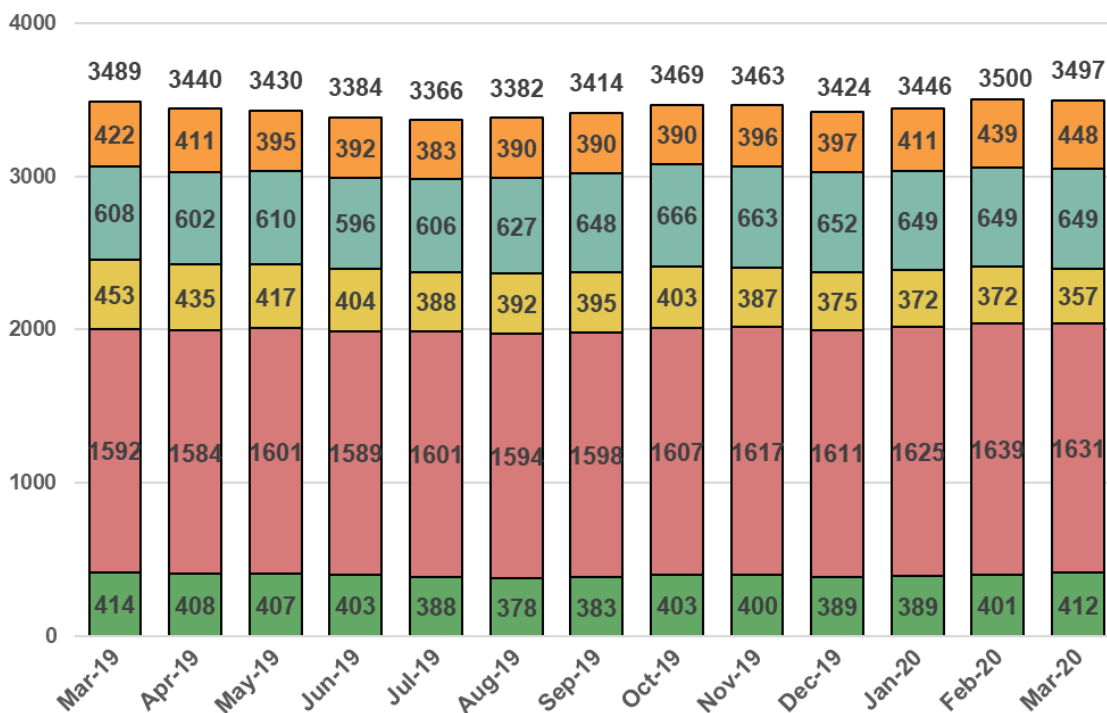
- 3,333 (76.7%) children that were DHHS/CFS wards in out-of-home care or trial home visits with no simultaneous involvement with the Office the Courts and Probation, Juvenile Division (hereafter referred to simply as Probation).
 - This is a 0.8% increase compared to the 3,308 children on 03/31/19.
- 553 (12.7%) youth in out-of-home care while supervised by Probation, but not simultaneously involved with DHHS/CFS or at the YRTCs.
 - This is a 22.7% decrease compared to the 715 such youth on 03/31/19.
- 138 (3.2%) youth in out-of-home care involved with DHHS/CFS and Probation simultaneously.
 - This is a 14.1% increase compared to the 121 children on 03/31/19.
- 115 (2.6%) youth in out-of-home care involved with both DHHS/OJS and Probation, including 101 at the YRTCs.
 - This is the about the same as the 113 such youth on 03/31/19.
- 7 (0.2%) children in out-of-home care served by DHHS/OJS only.
- 201 (4.5%) children in Informal Living Arrangements.
 - The FCRO began receiving reports on these children during the last 12 months so no comparison can be made to the 3/31/19 population.

Average Daily Population of Children with any DHHS/CFS Involvement

Daily population

Figure 2 shows the average daily population per month of DHHS/CFS involved children in out-of-home or trial home visit placements (excluding informal living arrangements) from March 2019 through March 2020 (including those simultaneously served by Probation).

Figure 2: Average Daily Population of All DHHS/CFS Involved Children in Out-of-Home or Trial Home Visit Placements –
 (excludes informal living arrangements, includes children with simultaneous involvement with Probation)¹⁹



¹⁹ The FCRO's FCTS data system is a dynamic computer system that occasionally receives reports on children's entries, changes, or exits long after the event took place. The FCRO also has a robust internal CQI (continuous quality improvement) process that can catch and reverse many errors in children's records regardless of the cause and that works to create the most accurate data possible. Therefore, due to delayed reporting and internal CQI, some of the numbers on this rolling year chart will not exactly match that of previous reports.

For the state as a whole, there has been very little change in the total number of children in out-of-home care or trial home visit for the last year (Figure 3). However a review of the data by service area (SA) shows regional differences, with a substantial decrease (21.3%) of children in out of home care in the Northern SA, and increases in the Southeast, Western, and Eastern service areas.

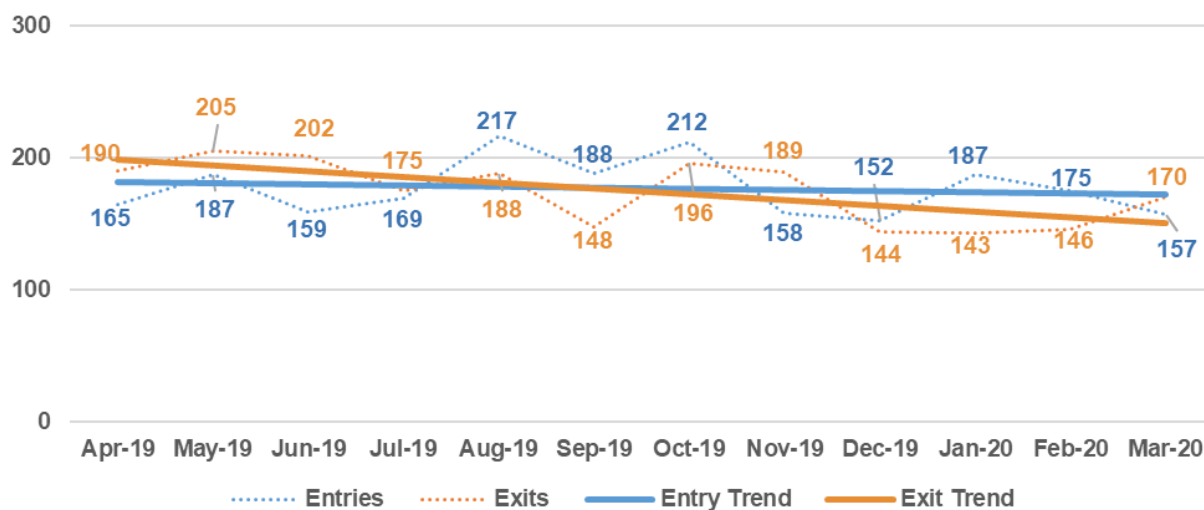
Figure 3: Percent Change in All DHHS/CFS Involved Children in Out-of-Home or Trial Home Visit Placements

	Mar-19	Mar-20	% Change
Central SA	414	412	-0.5%
Eastern SA	1592	1631	2.4%
Northern SA	453	357	-21.3%
Southeast SA	608	649	6.8%
Western SA	422	448	6.2%
State	3489	3497	0.2%

Entries and Exits

Figure 4 shows that for 6 of the last 12 months more children exited the foster care system than entered, which led to net decreases in the overall population of children in out-of-home and trial home visit placements. As expected, the number of children exiting foster care increases in November, when many jurisdictions participate in National Adoption Day, and at the end of the school year during May and June.

Figure 4: Statewide Entrances and Exits of DHHS/CFS Involved Children



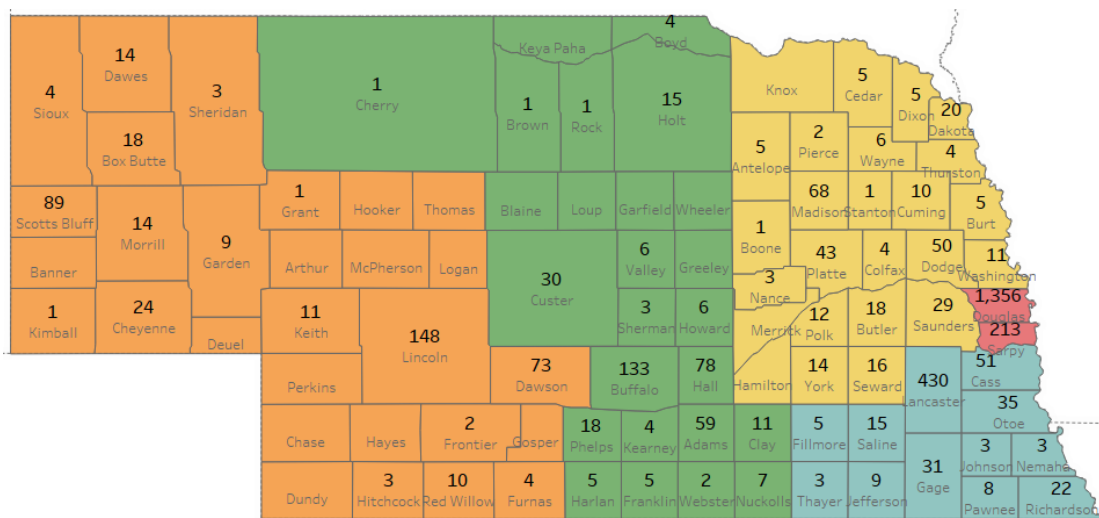
Children Solely Involved with DHHS/CFS – Point-in-time (Single Day) View

Single-day data on DHHS/CFS wards in this section include only children that meet the following criteria: 1) court involved with DHHS/CFS and no other state agency and 2) reported to be in either an out-of-home or trial home visit placement.²⁰ On 03/31/20 there were 3,333 children who met those criteria; this compares to 3,308 on 3/31/19.

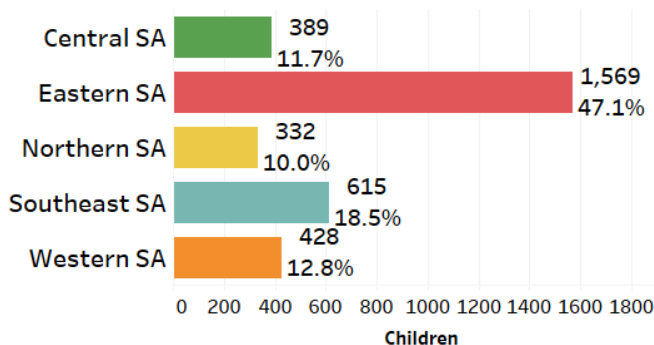
Demographics

County. Figure 5 shows the 3,333 DHHS/CFS wards by county and service area. Child abuse and neglect affects every region of the state, as shown by the distribution of children in care.

Figure 5: DHHS/CFS Wards in Out-of-Home or Trial Home Visit Placement on 03/31/2020 by DHHS/CFS Service Area, n=3,333*



*Counties without numbers had no children in out-of-home care or trial home visit on 3/31/2020.



²⁰ Youth at one of the YRTPCs, youth only involved with Probation, youth dually-involved with Probation and children in a non-court informal living arrangement are not included, and are described elsewhere in this report.

As expected, most of the children are from the two largest urban areas (Omaha and Lincoln, in the Eastern and Southeast Service Areas, respectively). Perhaps more striking, though, is the number of state wards from counties with relatively few children in the population (Figure 6). Just as in the previous quarter, Garden, Sioux, and Lincoln counties have continued to have the highest rates of children in care.

Figure 6: Top 10 Counties by Rate of NDHHS Wards in Care on 03/31/2020

County	Children in Care	Total Age 0-19 ²¹	Rate per 1,000
Garden	9	404	22.3
Sioux	4	243	16.5
Lincoln	148	9062	16.3
Pawnee	8	617	13.0
Richardson	22	1849	11.9
Morrill	14	1181	11.9
Custer	30	2803	10.7
Dawson	73	7027	10.4
Cheyenne	24	2387	10.1
Buffalo	133	13585	9.8

Gender. Girls and boys are equally represented in the population of children in care on 03/31/20, as has been true for several years.

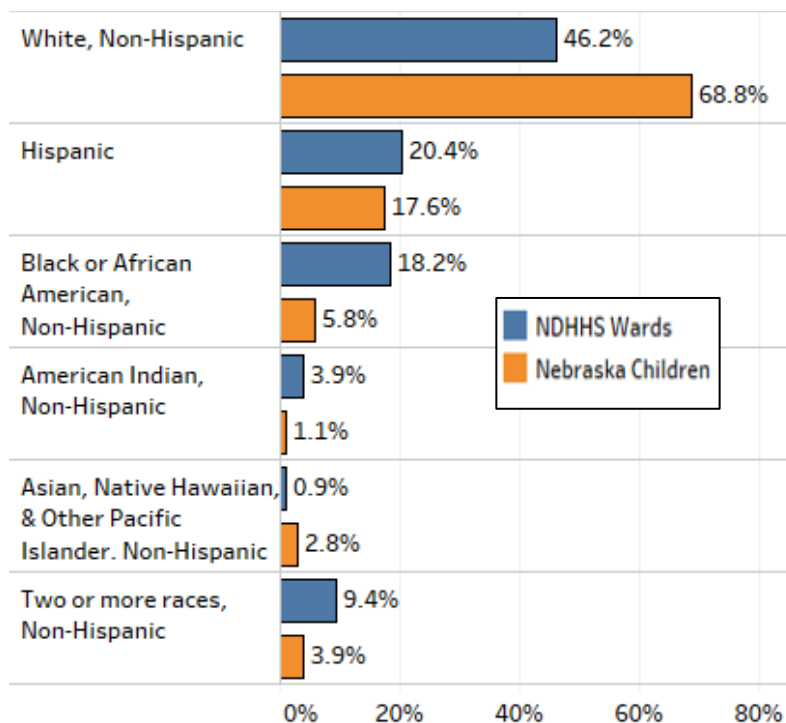
Age. Consistent with past reports:

- 39.4% of children in care are 5 and under,
- 33.9% are between 6 and 12, and
- 26.6% are teenagers.

²¹ U.S. Census Bureau, Population Division, County Characteristics Datasets: Annual County Resident Population Estimates by Age, Sex, Race, and Hispanic Origin: July 1, 2018.

Race and Ethnicity. As the FCRO and others have consistently reported, minority children continue to be overrepresented in the out-of-home population (Figure 7). The Census estimates that 5.8% of Nebraska's children are Black or African American, 1.1% are American Indian or Alaska Native, 17.6% are Hispanic, and 3.9% are multiracial. Yet, 18.2% of DHHS wards are Black or African American, 3.9% are American Indian or Alaska Native, 20.4% are Hispanic and 9.4% are multi-racial.

Figure 7: DHHS/CFS Wards in Out-of-Home or Trial Home Visit Placement on 03/31/20 by Race or Ethnicity, n=3,333

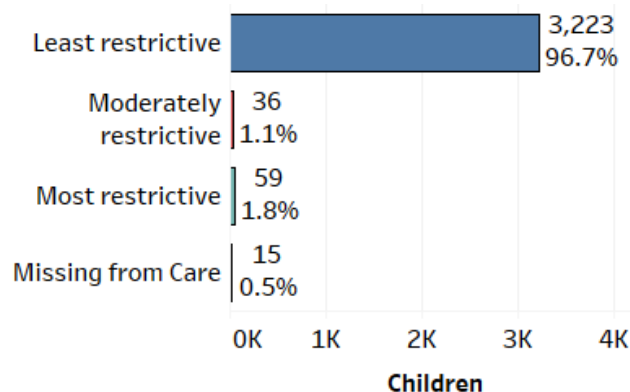


Placements

Placement Restrictiveness. Children in foster care need to live in the least restrictive, most home-like temporary placement possible in order for them to grow and thrive. Some children need congregate care, which could be moderately or most restrictive. A more moderate restrictiveness level includes non-treatment group facilities, and the most restrictive are the facilities that specialize in psychiatric, medical, or juvenile justice-related issues and group emergency placements.

Figure 8 shows that most (3,223 or 96.7%) DHHS/CFS wards in out-of-home placements or trial home visits were placed in a family-like, least restrictive setting. The proportion of children in the least restrictive setting has remained above 95% for over the past two years. DHHS/CFS is to be commended for maintaining focus on providing children the least restrictive placement possible.

Figure 8: Placement Restrictiveness for DHSS/CFS Wards in Out-of-home or Trial Home Placements on 03/31/20, n=3,333



Children missing from care must always be a top priority as their safety cannot be assured. There were 15 children missing on 03/31/20.

Least Restrictive Placements. There are several different types of least restrictive placements, which provide care to children in home-like settings. Nebraska defines some of these placements differently than other states:

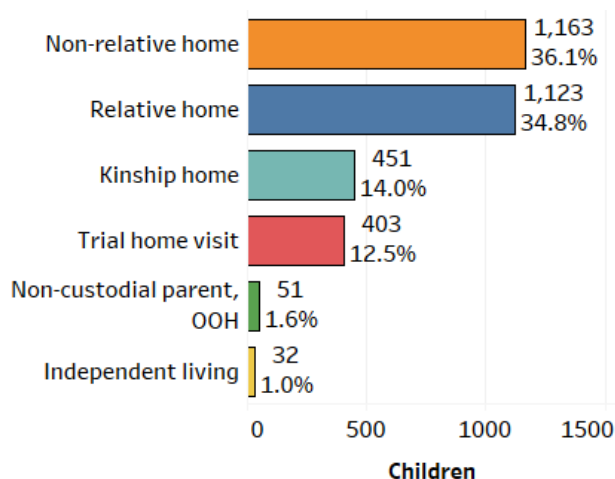
- “Relative” is defined in statute as a blood relationship, while “kin” in Nebraska is defined as fictive relatives, such as a coach or teacher, who by statute are to have had a prior positive relationship with the child.²²
- “Non-custodial parent out-of-home” refers to instances where children were removed from one parent and placed with the other but legal issues around custody have yet to be resolved.
- “Independent living” is for teens nearing adulthood, such as those in a college dorm or apartment.
- “Trial home visit” (THV) by statute is a temporary placement with the parent from which the child was removed and during which the Court and DHHS/CFS remain involved.²³

Nearly half (48.8%) of children in a foster home are placed with relatives or kin (Figure 9).

²² Neb. Rev. Stat. §71-1901(9); 71-1901(7)

²³ Neb. Rev. Stat. §43-1301(11)

Figure 9: Specific Placement Type for DHHS/CFS Wards in the Least Restrictive Placement Category on 03/31/20, n=3,223



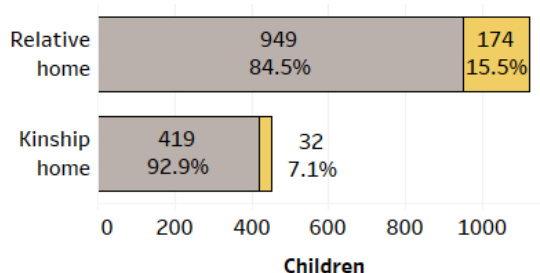
Licensing of relative and kinship foster homes.

Under current Nebraska law, DHHS can waive some of the licensing standards and requirements for relative (not kin) placements. Even though this option is statutorily available, DHHS is instead approving many of these relative placements rather than licensing them. That practice creates a twofold problem:

- 1) approved caregivers do not receive the valuable training that licensed caregivers get on helping children who have experienced abuse, neglect, and removal from the parents, and
- 2) in order to receive Federal Title IV-E funds, otherwise eligible children must reside in a licensed placement, so Nebraska fails to recoup a significant amount of federal funds.

Due to the fiscal impact and training issues described, the FCRO looked at the licensing status for these specific types of placement. The data in Figure 10 shows the number of children in licensed and non-licensed relative and kinship foster homes. This is different from the number of foster homes, as one home may provide foster care to several children. Few children in relative or kinship homes are in a licensed placement.

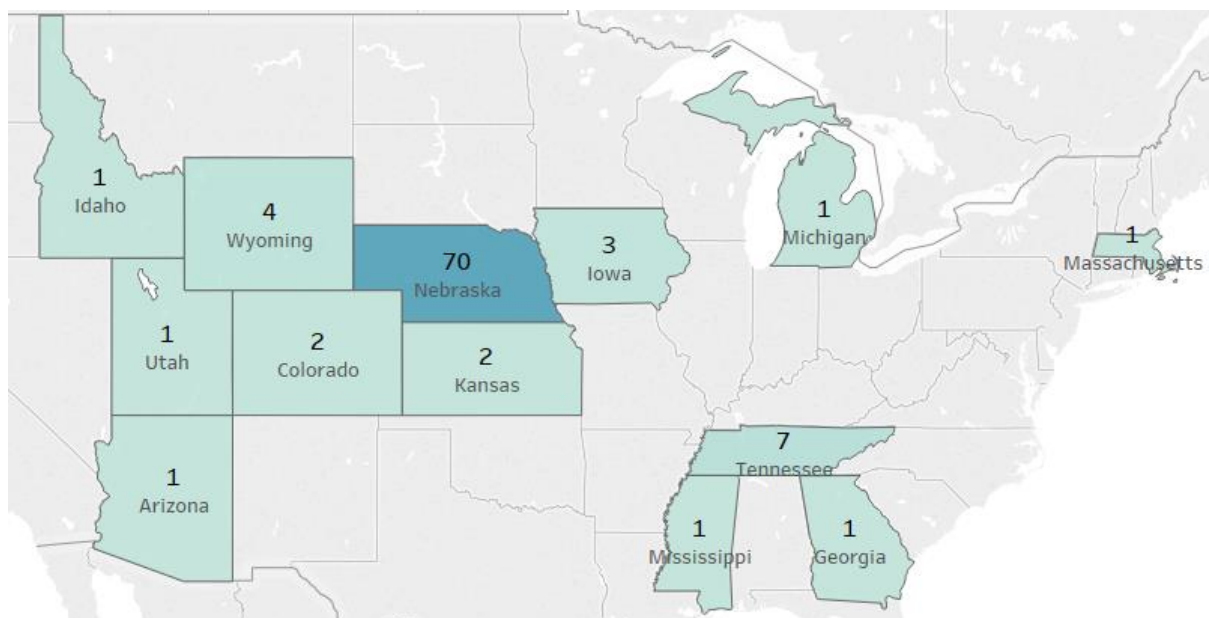
Figure 10: Licensing for DHHS/CFS Wards in Relative or Kinship Foster Homes on 03/31/20, n=1,123 (relatives) and n=451 (kinship)



The FCRO has repeatedly advocated for licensing for relative and kinship foster homes, both for accessing federal funding and for the important training needed for caregivers. It is a positive step that DHHS/CFS recently made online foster parent training available for relative and kinship foster care providers.

Congregate Care. On 03/31/20, 2.9% of DHHS/CFS wards were placed in moderately or most restrictive congregate care facilities. This remains consistent with the prior year. Figure 11 shows that of the 95 DHHS/CFS wards in congregate care, most (70, 73.7%) are in Nebraska. Congregate care facilities should be utilized only for children with significant mental or behavioral health needs, and it is best when those needs can be met by in-state facilities in order to keep children connected to their communities.

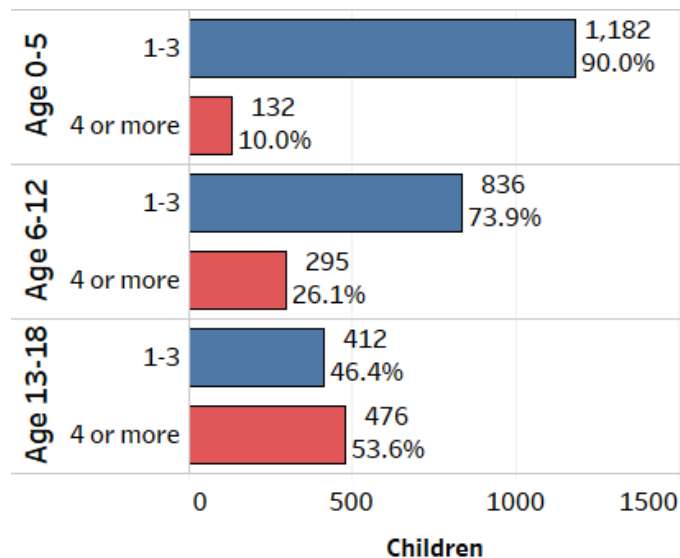
Figure 11: State of Placement for DHHS/CFS Wards in Congregate Care on 03/31/20, n=95



Multiple placements

Of the 3,333 children in care on 03/31/20, 903 children (27.1%) had experienced four or more placements over their lifetime (Figure 12).²⁴ That compares to 25.5% of wards on 03/31/19. It is very concerning that 10.0% of young children have experienced a high level of placement change while simultaneously coping with removal from the parent(s).²⁵

Figure 12: Lifetime Placements for DHHS/CFS wards in Out-of-Home or Trial Home Visit on 03/31/20 n=3,333



Number of Workers during Current Episode of Care

Figure 13 shows the number of workers during the current episode of care for 3,333 children in out-of-home or trial home visit placement on 03/31/20 as reported by DHHS. Workers here include Lead Agency Workers in the Eastern Service Area where DHHS/CFS contracts for such services, and DHHS/CFS case managers elsewhere.²⁶

²⁴ This does not include placements with parents, respite short-term placements (such as to allow foster parents to jointly attend a training) or episodes of being missing from care.

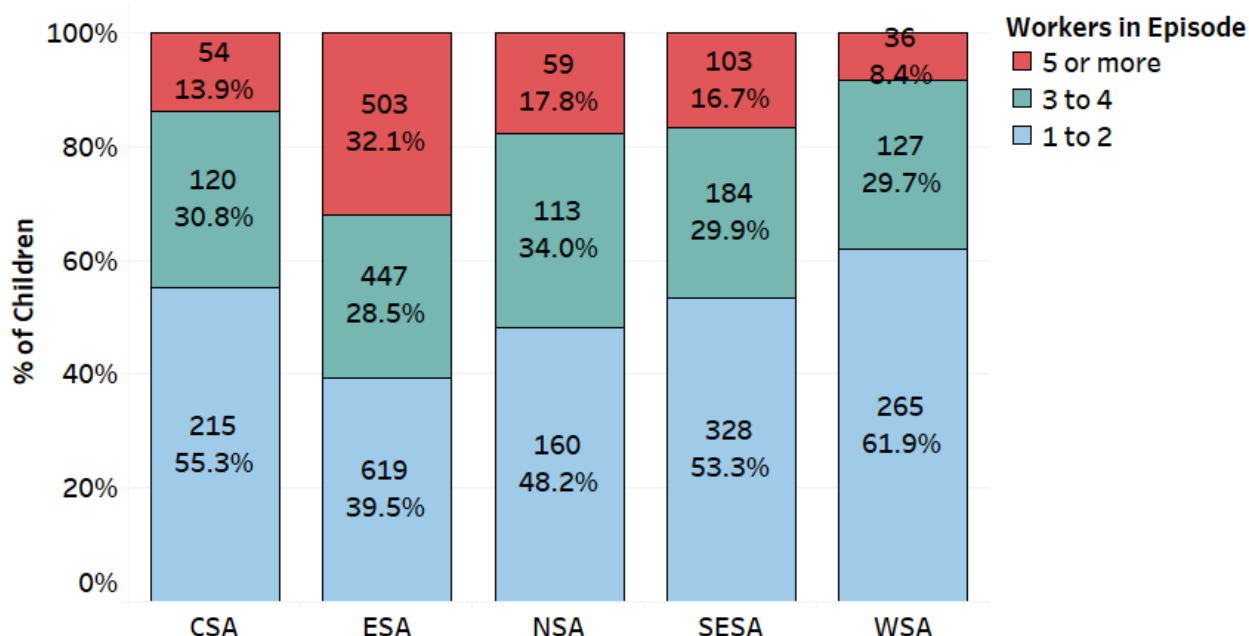
²⁵ The [FCRO 2017 Annual Report](#) included information on the effects of placement changes on children, and is still valid today. For further information on trauma, see the special study on children in care for five years or more that was part of the March 2019 Quarterly Report.

²⁶ In 2019 the lead agency in the Eastern Service Area changed from PromiseShip to Saint Francis Ministries, with case transfers occurring between October and December 2019. FCRO staff made efforts to ensure if a worker transferred agencies but maintained case management for a family, they were not duplicated in caseworker counts. Additional technological issues have occurred related to transfer of caseworker information from NFOCUS to the FCTS database. The FCRO is working with DHHS/CFS to ensure information is reported in a consistent manner to allow for accurate caseworker counts, and has developed internal processes to correct the inaccurate data.

More than four worker changes is considered an unacceptable number of worker transfers that likely significantly delays permanency.²⁷ Depending on the service area, between 8.4% - 32.1% of the children have had five or more workers since most recently entering the child welfare system.

In fall 2019, the lead agency in the Eastern Service Area changed from PromiseShip to Saint Francis Ministries. Many former PromiseShip workers were hired by Saint Francis and were allowed to keep their existing caseloads. To fairly count worker changes from a child and family perspective, if the same worker remained with the family during the transition it was *not* counted as a worker change in the chart below. The proportion of children with five or more caseworkers in the Eastern Service Area is double the proportion in the rest of the state.

Figure 13: Number of Workers in Current Episode by Service Area for DHHS/CFS Wards 03/31/20, n=3,333



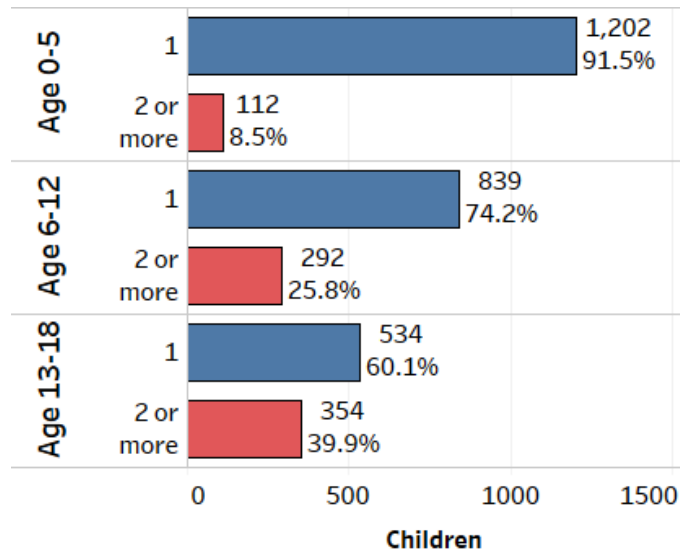
Lifetime episodes involving removal from the home

Figure 14 shows that 758 (22.7%) of the DHHS wards in care on 03/31/20 had experienced more than one court-involved removal from the parental home. This is similar to the 23.5% of children on 3/31/19.

Each removal can be traumatic and increases the likelihood of additional moves between placements. Child abuse prevention efforts need to include reducing or eliminating premature or ill-planned returns home that result in further abuse or neglect.

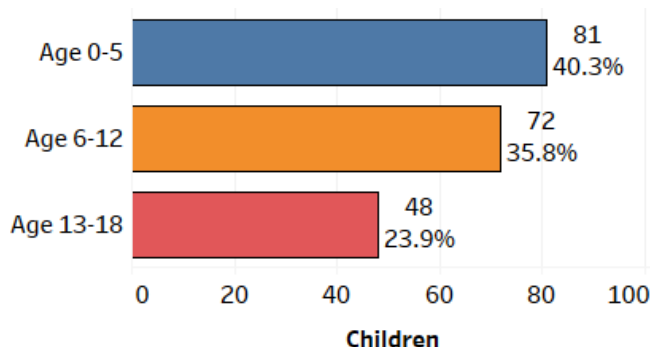
²⁷ Review of Turnover in Milwaukee County Private Agency Child Welfare Ongoing Case Management Staff, January 2005.

Figure 14: Lifetime Removals for DHHS/CFS Wards in Out-of-Home or Trial Home Visit Placements on 03/31/20, n=3,333



Age. The age distribution of children in informal living arrangements is similar to the age distribution of DHHS wards in care (see page 16).

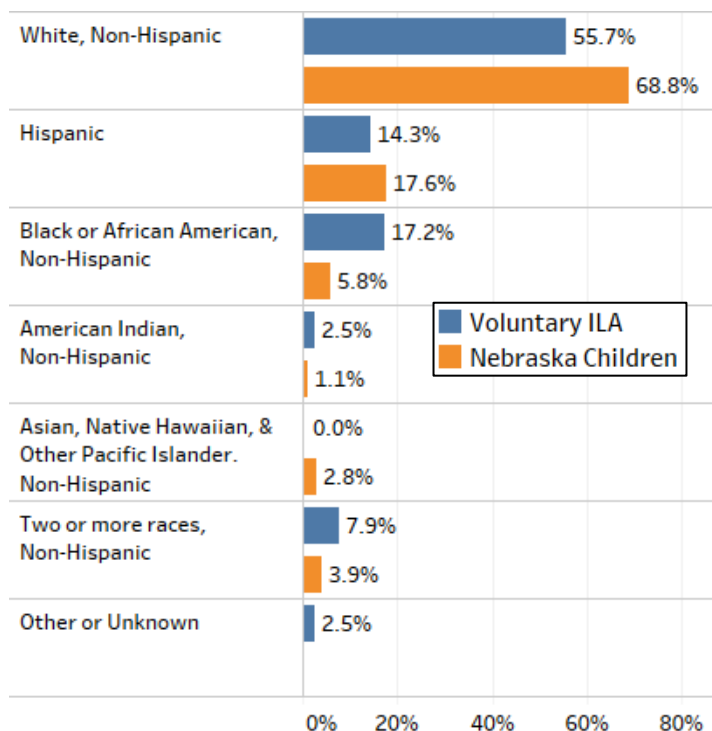
Figure 16: Children in an ILA placement on 3/31/20, n=201



Gender. There are slightly more girls than boys in an ILA placement, 96 boys (47.8%) and 105 girls (52.2%).

Race and Ethnicity. Children in ILAs are demographically similar to children court ordered into out-of-home care through DHHS/CFS in terms of age and gender distributions. Their racial and ethnic make-up is different, however, as more children in ILAs are White Non-Hispanic than their court-system involved peers, 55.7% compared to 46.2%, respectively (see Figure 7, page 17).

Figure 17: Children in an ILA placement on 3/31/20, n=201



Placement information. 173 of the children are with a relative and 28 with other adults known to the parents. Most (137 or 68.2%) reside in the same county as the parents.

Issues in “Hidden Foster Care”

In the Stanford Law Review²⁹ article, “America’s Hidden Foster Care System,” Josh Gupta-Kagan argues that the impact of transferring custody of children from their parents to an informal caregiver at the request of a child protection agency “resemble the formal foster care system. But they are hidden from courts because agencies file no petition alleging abuse or neglect and from policymakers because agencies do not generally report these cases” (p 841). As suggested by the title of the article, Gupta-Kagan identifies arrangements like Nebraska ILAs as “hidden foster care.”

The following issues regarding this system were discussed in the [FCRO December 2019 Quarterly Report](#):

1. **Voluntariness of ILA.** There is a lack of real cooperation by parents in many of the cases, calling into question their voluntary nature. In many cases the parents do not welcome the assistance and rather reluctantly agree to participate when faced with the alternative, which is the looming possibility of a court filing.
2. **Legal Rights of Parents.** This due process argument is the most fundamental concern raised by Gupta-Kagan. “Any state action that interferes with parental authority over children – and certainly state action that separates parents and children – raises substantive and procedural due process concerns.”³⁰ Parents are likely signing legal documents based on information from case managers, without the time or money to seek legal advice, or knowledge of why that legal advice may be important. Gupta-Kagan argues that many of these agreements can be interpreted as threats – if parents do not cooperate, their children will enter foster care.³¹
3. **Safety Concerns.** Safety concerns are among the most serious issues. According to Gupta-Kagan³², “When parents pose an immediate physical danger to children, hidden foster care provides at most weak protection.” In general, there would appear to be a lower bar for safety (even though the same SDM assessments are used) in a voluntary/ILA case.
4. **Safety of the Placement.** The placements utilized in ILA cases do not follow as rigorous of policies/guidelines for approval as foster care placements. For example, not as much information is collected on the placement. It is often not clear who all is residing in the placement home and, therefore, not all people may be properly vetted.

²⁹ Gupta-Kagan, Josh.2020. “America’s Hidden Foster Care System.” Stanford Law Review, Vol. 72, p841-913. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3437849

³⁰ Ibid, p 860.

³¹ Ibid, p. 849-852.

³² Ibid, p 881.

Some narratives have stated that the ILA placement would not be approved as a “regular” placement. From a systemic standpoint, the safety of the child/youth must be the priority no matter whether the case is an ILA non-court case or court involved.

5. **Lack of Services and Support for ILA Placements.** ILA caregivers are providing a service comparable to foster care. The main differences are that they are not being compensated and may lack the support they need to provide care of the child/youth. For example, there is no internal or external agency support, no licensing, and no training offered to these families who step up to support both the child and their parent. There is sometimes confusion about what economic assistance benefits they may be eligible for, if any. If the ILA placement agrees to provide permanency, such as through a guardianship, they do so without the support of a subsidy. This lack of a supporting process may create hardships for some of the ILA caregivers and does not promote long-term stability for the child/youth.

6. **Lack of Services and Support for Parents and Families.** Most of the services for parents in ILA cases focus on informal services, such as supervised visits provided by the placement versus the use of an agency-based service. This can make it difficult to measure improvements. There is a lack of solid evidence such as drug testing which then leads to seeking antidotal and hearsay evidence. In some cases, it has led to heavy questioning of the children that may be not appropriate and potentially traumatizing.

DHHS/OJS Youth Placed at a YRTC – (Youth Rehabilitation and Treatment Center)

The FCRO has statutory authority to track and review cases of all children who are placed in out-of-home care or trial home visit. This includes children whose placement is a result of abuse/neglect and youth who are placed out-of-home through the juvenile justice system.³³

Placement at a Youth Rehabilitation and Treatment Center (YRTC) is the most restrictive type of placement utilized for youth in the juvenile justice system. By statute, a judge can order a youth to be placed at a YRTC only if the youth has not been successful in a less restrictive placement. The DHHS Office of Juvenile Services (DHHS/OJS) is responsible for the care of youth at the YRTCs.

Historical context. Prior to August 2019, boys were placed at the YRTC in Kearney and girls at the YRTC in Geneva. In the aftermath of an August incident at YRTC-Geneva, some girls were moved to the Lancaster County Youth Services Center in Lincoln and then to YRTC-Kearney, with additional girls transferred to the YRTC-Kearney thereafter.³⁴ On 10/21/19 DHHS-OJS announced the development of a modified YRTC system with 3 facilities: YRTC-Kearney, YRTC-Geneva, and YRTC-Lincoln.³⁵

On 3/31/20, all but four YRTC youth – both males and females – were placed at YRTC-Kearney.

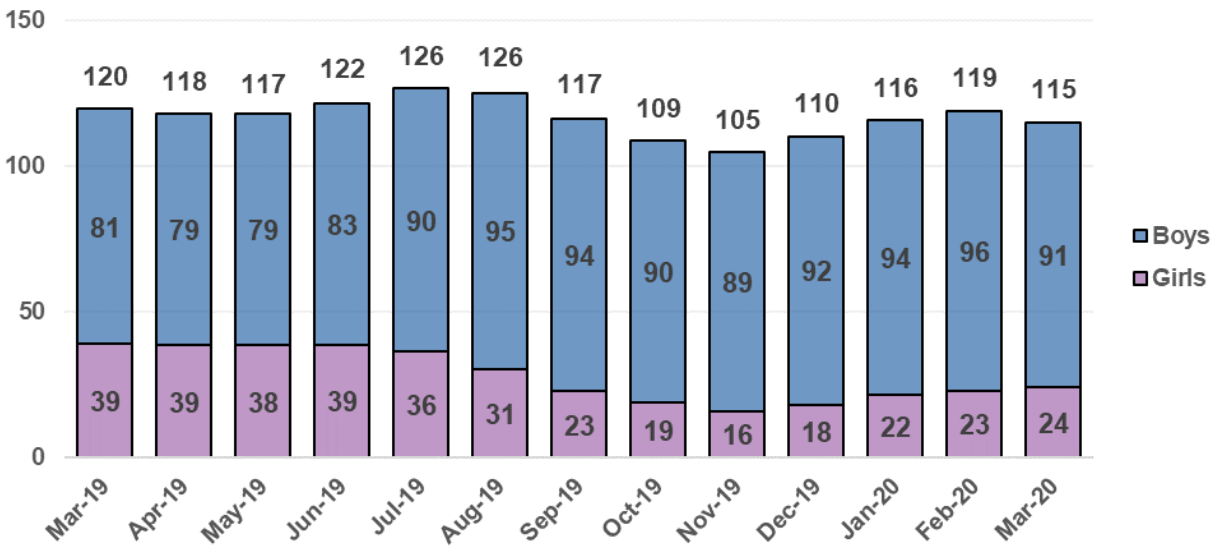
Average daily population. The average daily population of girls placed at a YRTC was largely unchanged through August 2019 (Figure 18 on the next page). Following the incident at YRTC-Geneva, several girls transitioned out of YRTC, as evident by the sharp decline in average daily population.

³³ Nebraska Legislature. “Foster Care Review Act.” §43-1301-43-1321.

³⁴ Nebraska Department of Health and Human Services. August 19, 2019. “Youth from Rehabilitation and Treatment Center in Geneva Relocating to Kearney.” Press Release. <http://dhhs.ne.gov/Pages/Youth-from-Rehabilitation-and-Treatment-Center-in-Geneva-Relocating-to-Kearney.aspx>

³⁵ Nebraska Department of Health and Human Services. October 21, 2019. “DHHS Announces Development of Youth Rehabilitation and Treatment Center System.” Press Release. <http://dhhs.ne.gov/Pages/DHHS-Announces-Development-of-Youth-Rehabilitation-and-Treatment-Center-System.aspx>

Figure 18: Average Daily Number of DHHS/OJS Wards Placed at a Youth Rehabilitation and Treatment Center



When compared to March 2019, there are 37.9% fewer girls placed at a YRTC in March 2020. During the same time period there were 12.8% more boys placed at a YRTC.

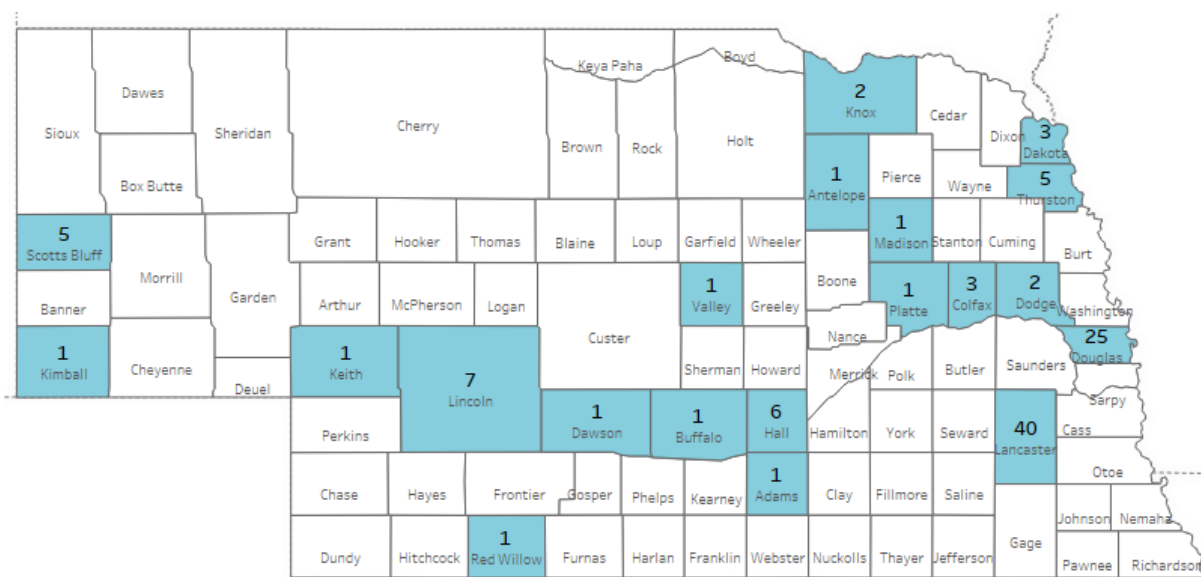
Figure 19: Percent Change in Youth Placed at the YRTC

	Mar-19	Mar-20	% Change
Girls	39	24	-37.9%
Boys	81	91	12.8%
State	120	115	-3.8%

Youth at a YRTC – Point-in-time (Single Day) View

County. 108 youth were placed at a YRTC on 03/31/20, compared to 120 on 3/31/19, a 10.0% reduction. Figure 20 illustrates the county of court for these youth.

Figure 20: County of Court for Youth Placed at YRTC on 03/31/20, n=108*

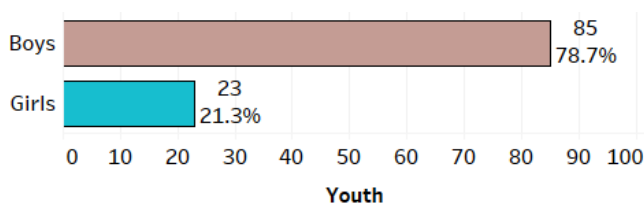


*County data is derived from current court cases. Some youth may have court cases in more than one county. The FCRO determines a primary county using the following ranking of court cases: 1) child welfare court case, 2) felony juvenile court case, 3) misdemeanor juvenile court case, 4) status offense juvenile court case.

Demographics

Gender. On 03/31/20, 23 girls and 85 boys resided in a YRTC.

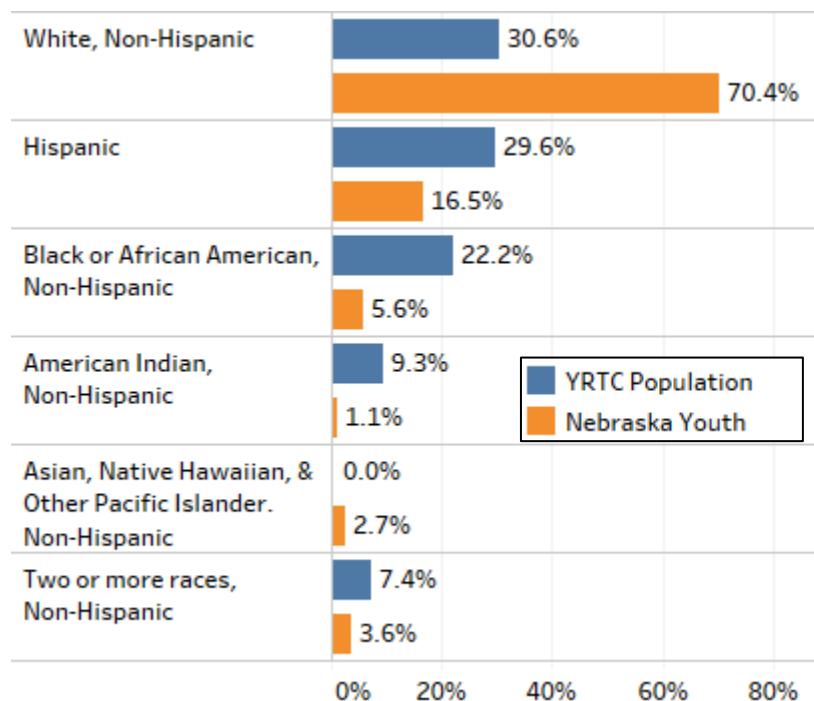
Figure 21: Gender of Youth Placed at YRTC on 03/31/20, n=108



Age. By law, youth placed at a YRTC range in age from 14 to 18. On 03/31/20, the median age of both boys and girls was 17.

Race and Ethnicity. Minority youth are disproportionately represented at the YRTCs (Figure 22).

Figure 22: Racial and Ethnic Background of Youth at YRTCs 03/31/20, n=108



There are some differences in racial and ethnic representation by gender. The following demographic groups are overrepresented in the YRTC system:

- Black or African American boys (23.5% of YRTC males; 5.7% Nebraska male youth)
- Hispanic boys (32.9% of YRTC males; 16.6% of Nebraska male youth),
- American Indian boys (8.2% of YRTC males; 1.1% of Nebraska male youth)
- American Indian girls (13.0% of YRTC females; 1.1% of Nebraska female youth)
- Black or African American girls (17.4% of YRTC females; 5.6% of Nebraska female youth)
- Multiracial girls (13.0% of YRTC females; 3.7% of Nebraska female youth)

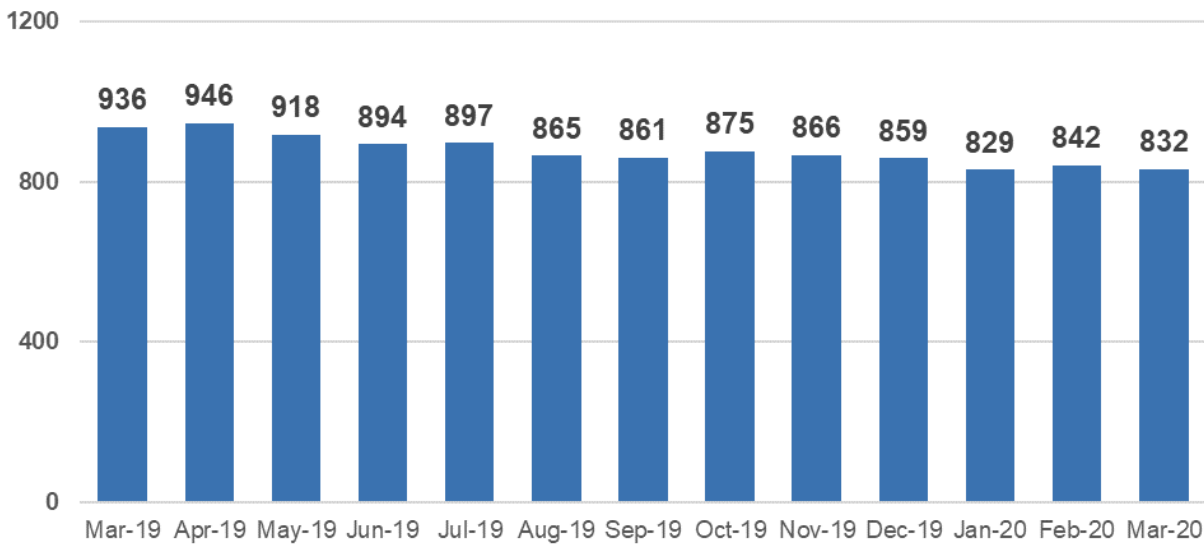
Average Daily Population for Youth Out-of-Home With Any Probation Involvement

Average daily population

Figure 23 shows the average daily population (ADP) per month of all Probation-involved youth in out-of-home placements over the last year (including those with simultaneous involvement with DHHS/CFS and DHHS/OJS), which decreased by 11.1%. It is important to note that the decrease in Probation-involved youth began prior to the current COVID-19 pandemic.

Figure 23: Average Daily Population of Youth in Out-of-Home Care Supervised by Probation

(includes children with simultaneous involvement with DHHS/CFS and DHHS/OJS)



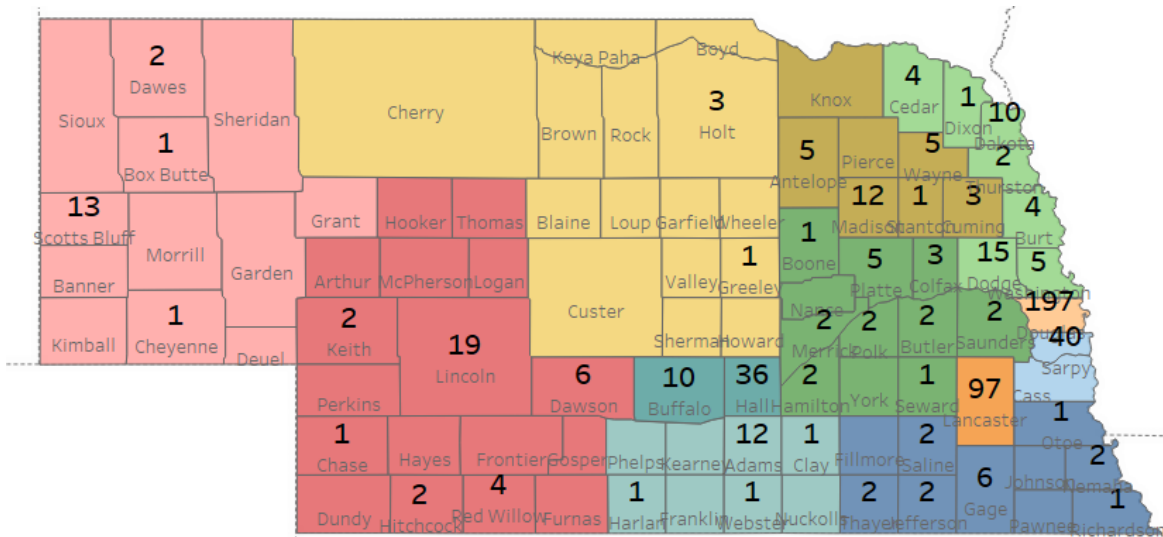
Youth in Out-of-Home Care Supervised by the Administrative Office of the Courts and Probation, Juvenile Division - Point-in-time (Single Day) View

Single-day data here includes only Probation-involved youth in an out-of-home placement that are not simultaneously wards of the state through DHHS/CFS or DHHS/OJS (placed at YRTC).

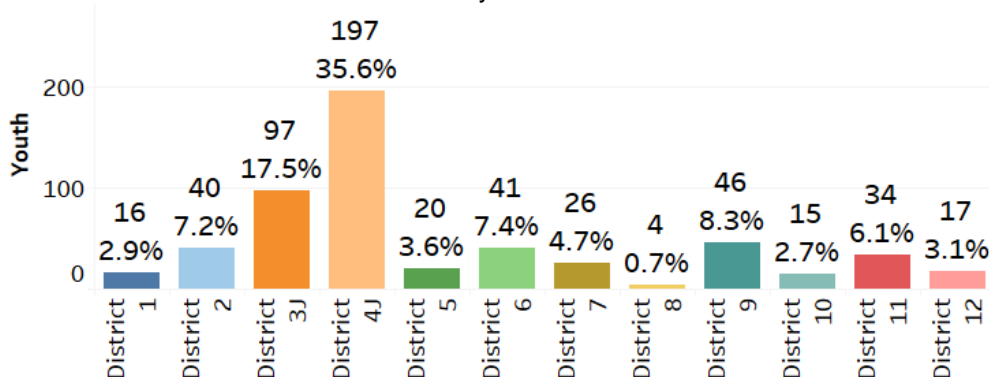
Demographics

County. Figure 24 shows the Probation district and the county of court for the 553 Probation youth in out-of-home care on 03/31/20 that are not involved with either DHHS/CFS or DHHS/OJS. This is a 22.7% decrease when compared to the 715 such youth in care on 03/31/19. Part of this decrease, however, is related to an increase in youth dually-involved with Probation and DHHS/CFS, described in the next section.

Figure 24: County of Origin for Probation Supervised Youth in Out-of-Home Care on 03/31/20, n=553*

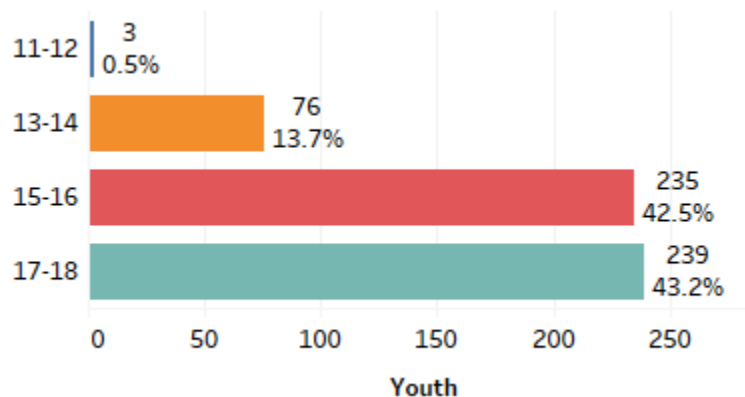


*Counties without numbers have no youth in out-of-home care on 03/31/20.



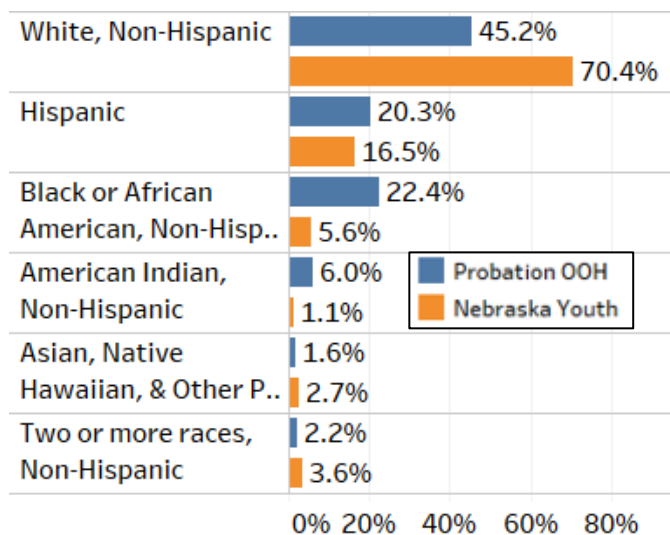
Age. Figure 25 shows the ages of Probation youth in out-of-home care on 03/31/20. The average age was 16.0 for boys and 16.2 for girls, similar to 03/31/19. For the past two years, between 27 and 31% of probation youth have been under the age of 16, and this pattern continues to hold true for the youth out-of-home on 03/31/20, where 29.6% were under age 16.

Figure 25: Age of Probation Supervised Youth in Out-of-Home Care on 03/31/20, n=553



Race and Ethnicity. Disproportionate representation of minority youth continues to be a problem (See Figure 26). Black youth make up 5.6% of the Nebraska youth population and 25.0% of the Probation youth out-of-home. Native youth are also represented at a rate of more than twice their proportion of the general population.

Figure 26: Race and Ethnicity of Probation Supervised Youth in Out-of-Home Care on 03/31/20, n=553



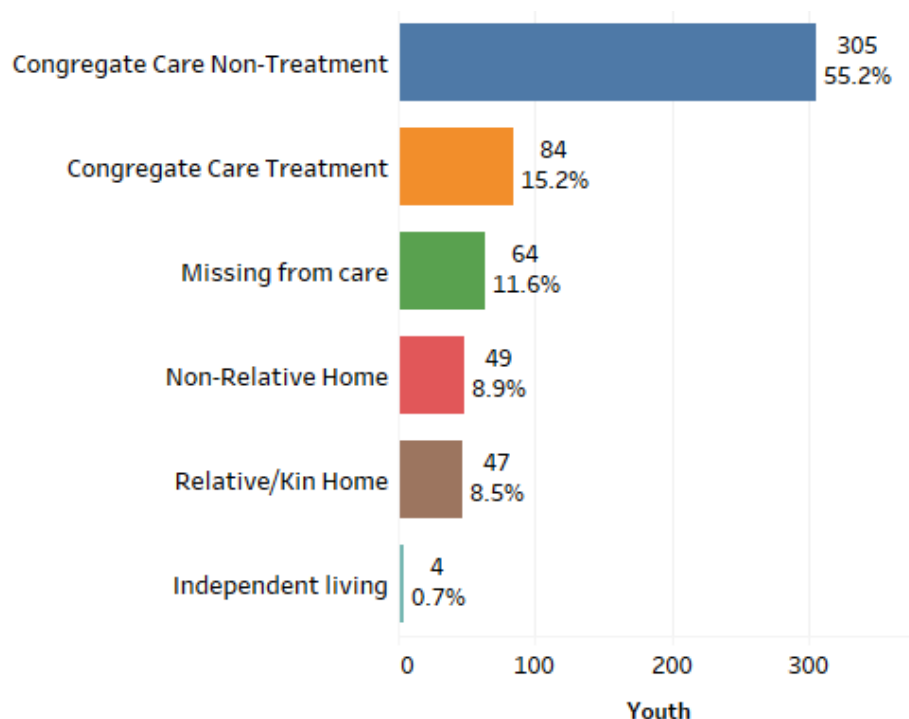
Gender. There are twice as many boys (68.4%) in out-of-home care served by Probation as there are girls (31.6%). That is similar to the numbers throughout 2017, 2018 and 2019.

Placements

Placement Type. Figure 27 shows that 15.2% of Probation youth in out-of-home care on 03/31/20 are in congregate treatment placements, comparable to the 15.5% on 03/31/19. Congregate treatment placements include acute inpatient hospitalization, psychiatric residential treatment facilities, short-term residential, and treatment group home.

Non-treatment congregate care includes crisis stabilization, developmental disability group home, enhanced shelter, group home (A and B), maternity group home (parenting and non-parenting), independent living and shelter. Non-treatment congregate care is where 55.2% of the youth were placed, which compares to 60.6% of the youth on 03/31/19.

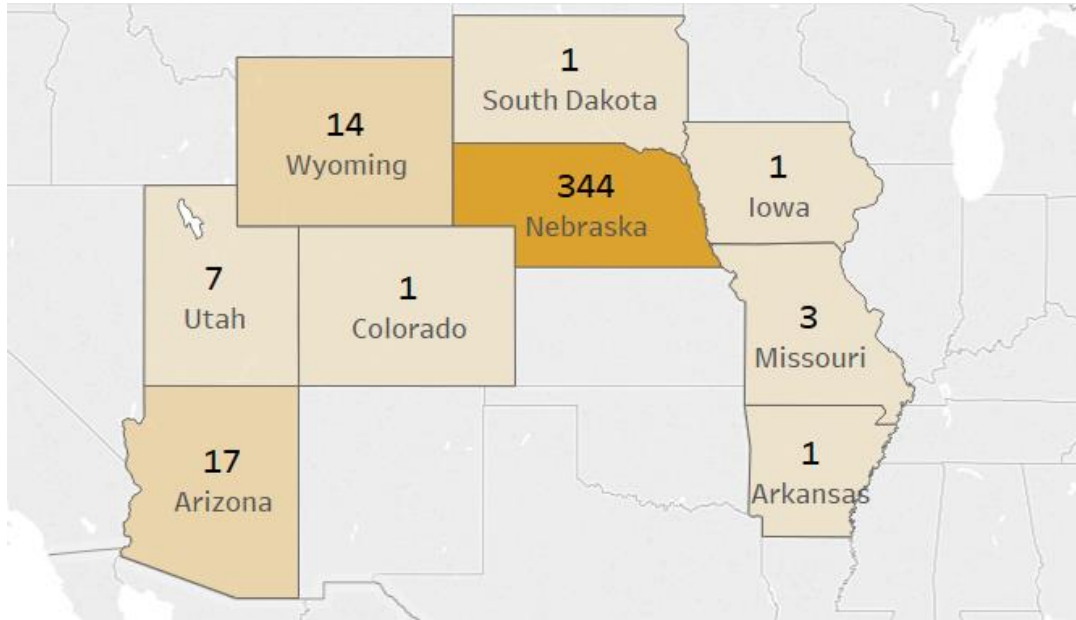
Figure 27: Treatment or Non-Treatment Placements of Probation Supervised Youth in Out-of-Home Care on 03/31/20, n=553



Youth missing from care must always be a top priority as their safety cannot be assured.

Congregate Care. When congregate care is needed, Probation most often utilizes in-state placements. Per Figure 28, 90.0% of youth in congregate care were placed in Nebraska, the same as the previous year.

Figure 28: State Where Youth in Congregate Care Supervised by Probation were Placed on 03/31/20, n=389



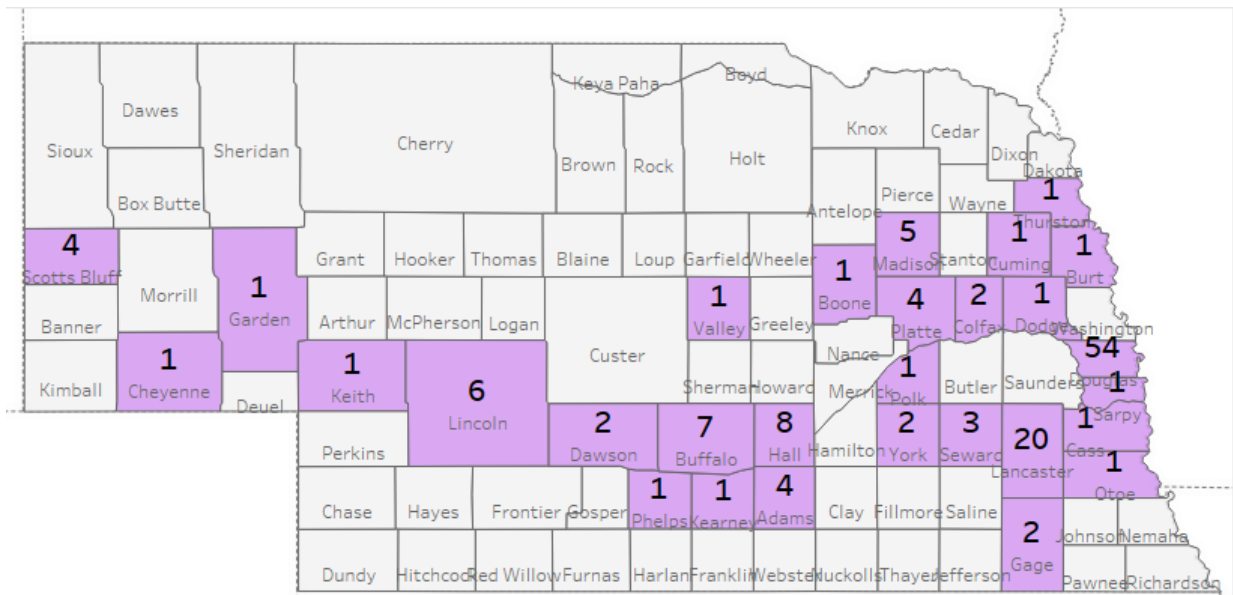
Youth in Out-of-Home Care with Simultaneous DHHS/CFS and Probation Involvement – Point-in-time (Single Day) View

On 03/31/20 138 youth were involved with both DHHS/CFS and the Office of Juvenile Probation (dually-involved youth), which is a 14.1% increase from the 121 such youth on 03/31/19.

Demographics

County. Dually-involved youth come from all parts of the state, as illustrated in Figure 29 below, with the majority from the most populous areas (Douglas and Lancaster counties) as would be expected.

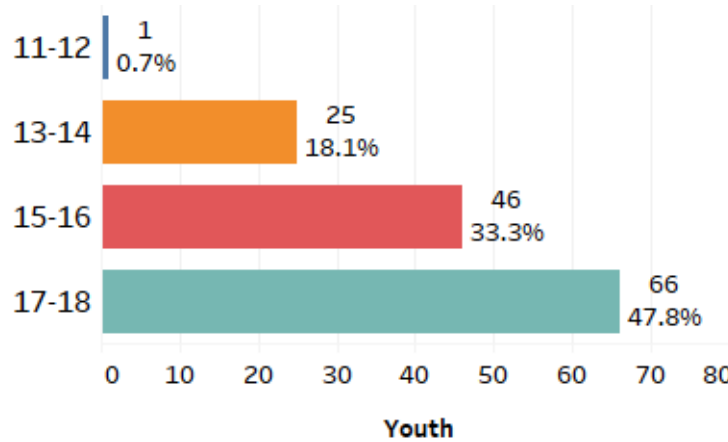
Figure 29: Dually-Involved Youth in Out-of-Home or Trial Home Visit Placement on 03/31/20, n=138*



*Counties without numbers have no dually-involved youth in out-of-home care on 03/31/20.

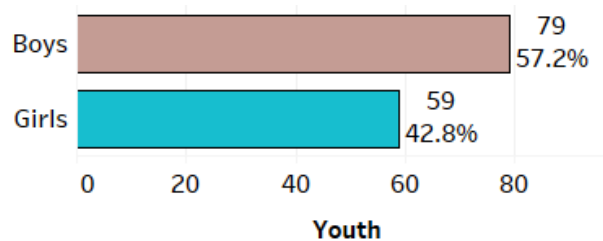
Age. The median age for dually-involved youth in out-of-home care is 16.

Figure 30: Ages of Dually-Involved Youth in Out-of-Home Placement on 03/31/20, n=138



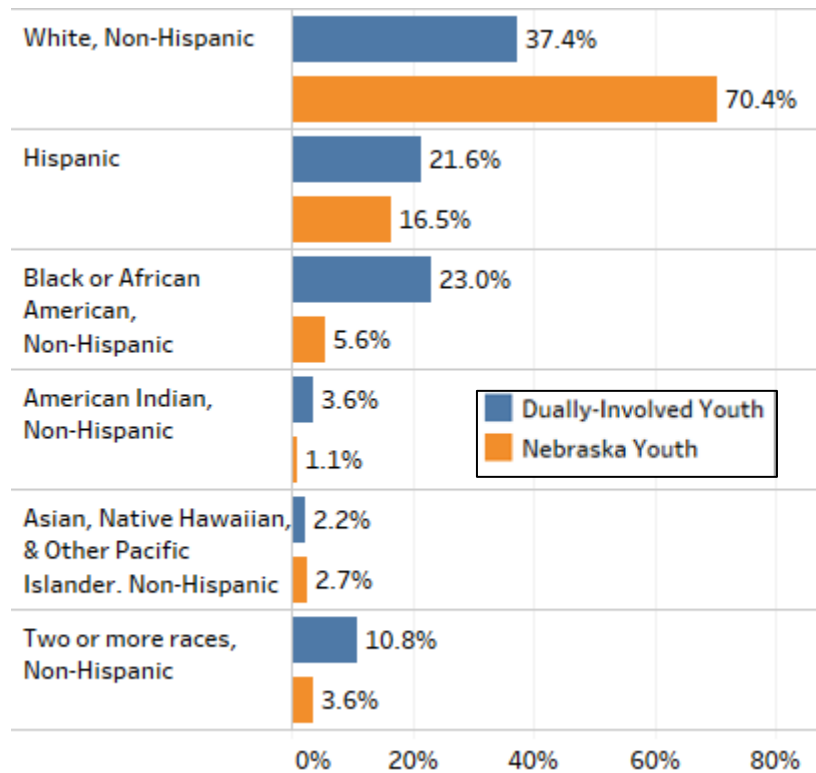
Gender. Figure 31 shows that, as is true with other juvenile justice populations, there are more boys in this group than girls. Compared to a year ago, the number of dually involved girls increased by 28.3% (46 on 03/31/19), and the number of boys increased by 5.3% (75 on 03/31/19).

Figure 31: Gender of Dually-Involved Youth in Out-of-Home or Trial Home Placement on 03/31/20, n=138



Race and Ethnicity. Black, American Indian, and multi-racial youth continue to be overrepresented in the dually-involved population (Figure 32). For example, 22.9% of dually-involved youth are Black or African American, compared to 5.6% in the general population of Nebraska’s children.

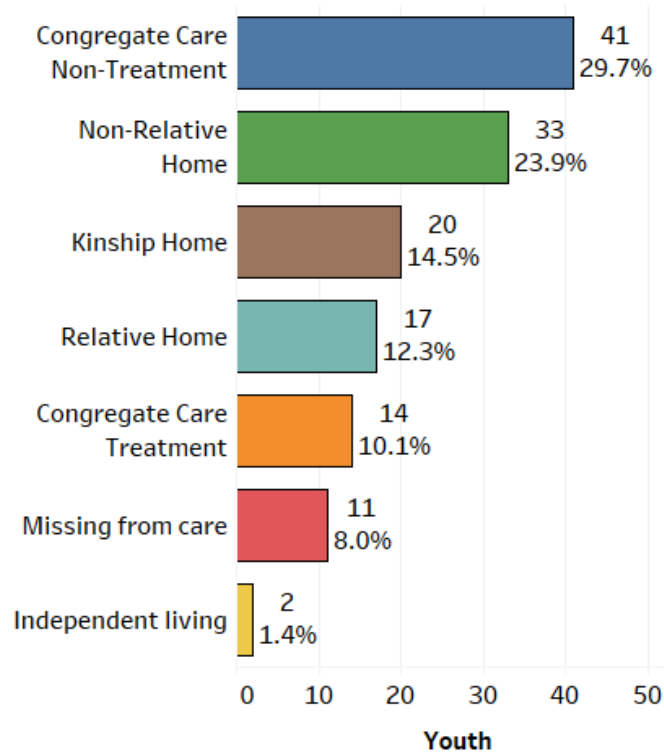
Figure 32: Race and Ethnicity of Dually-Involved Youth in Out-of-Home or Trial Home Placement on 03/31/20, n=138



Placements

Placement Type. Figure 33 shows the placement types for youth with dual agency involvement, using Probation’s definitions of treatment and non-treatment.

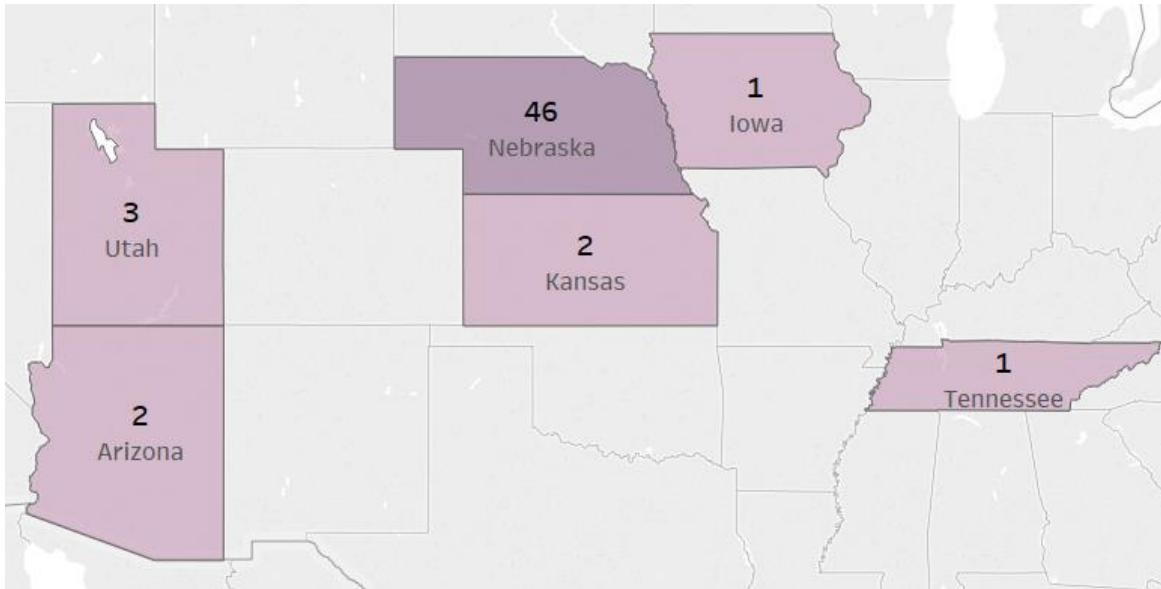
Figure 33: Placement Types for Dually-Involved Youth in Out-of-Home or Trial Home Placement on 03/31/20, n=138



Youth missing from care must always be a top priority as their safety cannot be assured.

Congregate Care. Figure 34 shows the states where dual served youth in congregate care are placed. The 85.1% placed in Nebraska on 03/31/20 is similar to the 82.7% on 03/31/19.

**Figure 34: Placement State for Youth in a Congregate Care Facility on 03/31/20
Served by both DHHS/CFS and Probation, n=54
(excludes one youth for which the facility's state was not reported)**



APPENDIX A: Background on the FCRO

Role

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

The FCRO is an independent state agency not affiliated with DHHS/CFS, DHHS/OJS, DHHS contractors, the Administrative Office of the Courts and Probation, the Office of Inspector General for Child Welfare, or any other entity.

Mission

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

Vision

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

Purpose of FCRO Reviews

The FCRO was established as an independent agency to review case plans of children in foster care. The purpose of reviews is to assure:

- that appropriate goals have been set for the child,
- that realistic time limits have been set for the accomplishment of these goals,
- that efforts are being made by all parties to achieve these goals,
- that appropriate services are being delivered to the child and/or his or her family, and
- that long-range planning has been done to ensure timely and appropriate permanency for the child, whether through a return to a home where conditions have changed, adoption, guardianship, or another plan.

Purpose for the FCRO Tracking/Data System

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

About this Report

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

Neb. Rev. Statute §43-1303 requires DHHS/CFS (whether by direct staff or contractors), courts, the Office of the Courts and Probation, Juvenile Division, and child-placing agencies to report to the FCRO any child's out-of-home placement, as well as changes in the child's status (e.g., placement changes and worker changes). By comparing information from multiple sources the FCRO is able to identify discrepancies. When case files of children are reviewed, previously received information is verified, updated, and additional information is gathered. Prior to individual case review reports being issued, additional quality control steps are taken.

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

APPENDIX B: Definitions

- **FCRO** is the Foster Care Review Office, author of this report.
- **DHHS/CFS** is the Department of Health and Human Services (**DHHS**) Division of Children and Family Services (**CFS**).
- **DHHS/OJS** is the Department of Health and Human Services (DHHS) Office of Juvenile Services. **OJS** oversees the **YRTCs**, which are the Youth Rehabilitation and Treatment Centers.
- **Probation** is a shortened reference to the Administrative Office of Juvenile Probation Administration.
- **Child** is defined by statute as being age birth through eighteen; in Nebraska, a child becomes a legal adult on their 19th birthday.
- **Youth** is a term used by the FCRO in deference to the developmental stage of those involved with the juvenile justice system, who are normally ages 14-18.
- **Out-of-home care** (OOH 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.

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 within foster family homes, while the term “**out-of-home care**” is broader.

- A **trial home visit** (THV) by statute is a temporary placement with the parent from which the child was removed and during which the Court and DHHS/CFS remain involved.
- An **informal living arrangement** (ILA) occurs when a family is involved in a non-court voluntary case with DHHS/CFS, and as part of the safety plan the parent places their child(ren) with a relative or friend.
- Neb. Rev. Stat. 71-1901(9) defines “**relative placement**” as that where the foster caregiver has a blood, marriage, or adoption relationship, and for Indian children, they may also be an extended family member per **ICWA** (which is the Indian Child Welfare Act).
- Per Neb. Rev. Stat. 71-1901(7) “**kinship home**” means a home where a child or children receive foster care and at least one of the primary caretakers has previously lived with or is a trusted adult that has a preexisting, significant relationship with the child or children or a sibling of such child or children pursuant to section 43-1311.02.



Contact Information

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