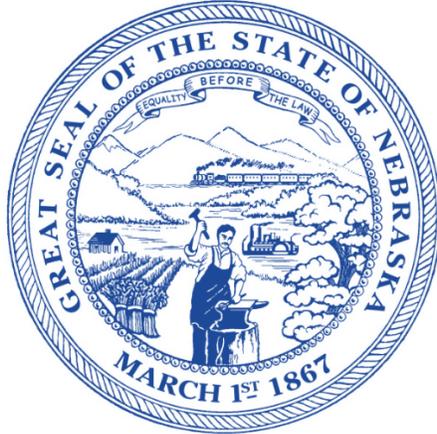


The Nebraska Foster Care Review Office Quarterly Report



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

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Executive Summary

The Foster Care Review Office (FCRO) provides this Quarterly Report to inform the Nebraska Legislature, child welfare system stakeholders, juvenile justice system stakeholders, other policy makers, the press, and the public on identified conditions and outcomes for Nebraska's children in out-of-home care [aka foster care] as defined by statute, as well as to recommend needed changes as mandated.¹

Special Study on Approved Informal Living Arrangements

Approved Informal Living Arrangements² (AILAs) occur 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. Over the last year and a half, the FCRO has been working with DHHS/CFS to fulfill the statutory obligation of the FCRO to track and review all children in out-of-home care, which includes children in AILAs.

Administrative data transferred from DHHS/CFS to the FCRO is still in early stages, and therefore often inaccurate and incomplete. This makes reporting on length of placements, placement changes, and exit reasons difficult. However, the FCRO has completed two rounds of file reviews, and we have identified seven broad concerns regarding AILA placements:

1. **The voluntary nature of AILAs (page 9)**, when parents reluctantly agree to participate when faced with the possibility of a court filing.
2. **The legal rights of parents (page 9)**, particularly due process concerns wherein parents are asked to sign legal documents without the assistance of legal counsel.
3. **Safety concerns** for the best interest of children (**page 10**) when cases close quickly with little services to support parents.
4. **Safety of the placements** utilized in AILAs (**page 11**) when background checks are incomplete or children move to new placements if courts become involved.
5. **Lack of services and support for AILA caregivers and families (page 11)** to alleviate the financial strain of caretaking.
6. **Lack of support for child/youth well-being (page 12)** such as educational or mental health supports.
7. **Inability to provide oversight by 1184 teams (page 12)**, which do provide oversight to voluntary, non-court cases, but do not have the capacity to review all such cases.

¹ See Appendix B for more information about the FCRO. Contact information is on the last page.

² http://public-dhhs.ne.gov/nfocus/HowDoI/children_and_family_services/create_an_approved_informal_living_arrangement.htm

Many of the FCRO's concerns around the legal issues and lack of checks and balances for Approved Informal Living Arrangements are outlined in a forthcoming Stanford Law Review article³, "America's Hidden Foster Care System," by Josh Gupta-Kagan. We strongly recommend this article for a detailed analysis of the legal issues.

Other findings from this Quarterly Report

As in past reports, the FCRO shares average daily populations and point-in-time data for Nebraska's children in out-of-home or trial home visit care, both through child welfare and through juvenile justice. The following are some main points.

- There were **4,142 Nebraska children** in out-of-home or trial home visit placements under DHHS/CFS, DHHS/OJS, and/or the Office of Juvenile Probation on 9/30/19, a 2% decrease from the 4,226 children on 9/30/18.⁴ Most of the decrease was in DHHS/CFS wards (**page 14**)
- Probation continues to place children in congregate care facilities within the state of Nebraska at high rates (**90.0%**). (**page 37**)
- DHHS/CFS wards continue to be placed in the least restrictive, most family like settings at very high rates (**96.4%**). (**pages 21-22**)
- In every population examined in this report, minority children and youth continue to be overrepresented. (**pages 21, 32, 35, and 40**)
- Rates of re-entry into care remained the same for DHHS/CFS wards (**23.6%**). (**pages 26 and 27**)
- Just over half of the youth in home-like settings are placed with relative or kin placements, but only **19.2%** of the relative homes and **5.0%** of the kinship homes are licensed. (**pages 23 and 24**). DHHS/CFS recently created online training to assist in licensing of relative and kinship foster placements. The FCRO will continue to monitor licensing over time to evaluate if this training is being utilized.
- **26.6%** of DHHS/CFS wards have had more than four placement moves (moves between foster caregivers), including **139** children under age 6. (**page 25**)
- **28.1%** of the DHHS/CFS wards in the Eastern Service Areas have had more than 4 workers since the most recent removal. (**pages 25 and 26**)
- It is laudable that congregate care is utilized infrequently for children involved solely with DHHS/CFS; just 3.2% of placements. Increasingly, however, when children are placed in congregate care facilities, those facilities are out-of-state. **The percentage of DHHS/CFS wards in congregate care placed out-of-**

³ Gupta-Kagan, Josh. Forthcoming 2020. "America's Hidden Foster Care System." Stanford Law Review, Vol. 72. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3437849

⁴ See Appendix A for definitions and explanations of acronyms.

state has increased from 8.2% (8 of 97) on 9/30/18 to 20.7% (21 of 101) on 9/30/19. (page 24)

- Compared to a year ago, the number of dually involved girls increased by **93.3%**, and the number of boys increased by **15.2%**. **(pages 38 and 39)**

Recommendations

The FCRO Annual Report released September 1, 2019, includes detailed recommendations and status updates on recommendations made in 2018. The FCRO will continue to work with all stakeholders to pursue these recommendations, available online at <https://fcro.nebraska.gov/pdf/FCRO-Reports/2019-annual-report.pdf> .

***“There can be no keener revelation of
a society’s soul than the way in which
it treats its children”***

-Nelson Mandela

Special Study on Approved Informal Living Arrangements

Much of the information and data presented in this report is reprised from the FCRO Testimony to the Health and Human Services Committee on LR 239 on October 25, 2019.

Approved Informal Living Arrangements⁵ (AILAs) occur 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. Under Nebraska statutes, the FCRO has legal authority to review all children/youth in the child welfare system that are placed outside of the parental home whether due to a court order or voluntarily by a parent, and also those children/youth who were placed outside of the parental home pursuant to a court order and have since been returned to the care of their parent while remaining a state ward. Neb. Rev. Stat. 43-1301(4) defines foster care placement as the following:

(4) Foster care placements means (a) all types of placements of juveniles described in sections 43-245 and 43-247, (b) all types of placements of neglected, dependent, or delinquent children, including those made by the Department of Health and Human Services, by the court, by parents, or by third parties, (c) all types of placements of children who have been voluntarily relinquished pursuant to section 43-106.01 to the department or any child-placing agency as defined in section 71-1926 licensed by the department, and (d) all types of placements that are considered to be a trial home visit, including those made directly by the department or office;

To track these children/youth, the FCRO has an extensive database that receives daily downloads from the DHHS/CFS computer system along with data that gathered, verified, and then input based upon our case file reviews. It came to the FCRO's attention during the summer of 2018 that DHHS/CFS was utilizing Approved Informal Living Arrangements (AILAs) with non-court cases, a practice previous administrations utilized in rare and specific circumstances. These cases, however, were not included in the daily downloads.

With the knowledge that the use of AILAs was increasing, in August 2018 the FCRO requested that these instances be included in our daily downloads because the FCRO has the statutory responsibility to review these voluntary situations. After some discussion around the legal authority of DHHS/CFS to release the information, an agreement was reached to send monthly lists of children involved in AILAs until both data systems – DHHS NFOCUS and FCRO FCTS – could be programmed to automatically transfer this information. We received the first list in December 2019. In February 2019, the FCRO

⁵ http://public-dhhs.ne.gov/nfocus/HowDoI/children_and_family_services/create_an_approved_informal_living_arrangement.htm

did complete a case file review process for each of the 53 children/youth involved in an AILA reported to us as of that date.

In April of 2019, computer changes were completed and AILA families are included in the automatic daily downloads. One goal of receiving this information was to be able to inform the legislature and other stakeholders of how many children were living in an AILA placement at any given time, how often children moved from one AILA to another, the typical length of an AILA placement, and the exit reasons when AILAs closed.

DHHS/CFS and NFOCUS staff acknowledged that, because documenting AILAs in a way that allowed for transmission to the FCRO data base was a new process, there would be quality issues with the data in the short term.

This was clear when we completed a second round of case file reviews in August of 2019. AILA information on NFOCUS that is transmitted to the FCRO is incomplete and often inaccurate, making it difficult to make any conclusions regarding this administrative level data. Some children were moved between several relatives multiple times, despite the FCRO receiving reports on only one placement. Several children had returned to the care of their parents – according to case manager narrative – however NFOCUS and FCRO data did not show the AILA placement had closed. In some cases, a sibling who was in the AILA placement along with their brothers and sisters was not on the list provided to the FCRO. We have notified DHHS of these problems, and will be working with them on a solution.

In total, the FCRO has been notified of **156 children from 99 families** who have been placed in AILAs. We have received the **exit information on 43 children** in that time, **22 of whom have entered state custody** for treatment or due to safety concerns. Seven children were returned to their parents and are now placed in an AILA for a second time. For 4 children, the parent quit cooperating; 3 of those children were immediately placed in foster care. We have received 10 reports of children returning to their parents who have not then entered state care in some other manner. However, during reviews we found several instances of children returning home that were not recorded, and therefore, reported to the FCRO, so we are currently unable to determine how many children have successfully returned to their parents' care.

We are also very concerned about the number of children who are currently involved in AILAs but have never been reported to the FCRO because they were not properly entered into NFOCUS.

In the forthcoming Stanford Law Review⁶ article, "America's Hidden Foster Care System," Josh Gupta-Kagan argues that the impact of transferring custody of children from their parents to a kinship 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

⁶ Gupta-Kagan, Josh. Forthcoming 2020. "America's Hidden Foster Care System." Stanford Law Review, Vol. 72. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3437849

petition alleging abuse or neglect and from policymakers because agencies do not generally report these cases” (p. 1). As suggested by the title of the article, Gupta-Kagan identifies arrangements like Nebraska AILAs as “hidden foster care.”

Based on the reviews conducted in February and August, we have several concerns regarding AILAs, many of which mirror the arguments outlined by Gupta-Kagan.

1. **Voluntariness of AILA.** One of the most concerning and prominent issues that transpires while reviewing AILA cases is the lack of real cooperation by parents in many of the cases, calling into question their voluntary nature. Some of the AILA cases are true voluntary cases where parents welcome the assistance of DHHS, but 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.
 - Of the 30 mothers reviewed who were receiving services through the Department, **18 (60%)** were either minimally or not at all engaged with the services.
 - Only **9 fathers** were receiving services, **6 (67%)** of whom were either minimally or not at all engaged with the services.

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.”⁷ This occurs on many levels:
 1. The rights of parents and children to live together.
 2. Implicit or explicit threat of court action or coerciveness of safety plans.
 3. No court oversight as to the appropriateness of the safety plan, including ensuring that parents are fully informed of their options.
 4. No court oversight to unnecessary removals.
 5. No court oversight of reasonable efforts to reunify.

Many of the above concerns were raised during the FCRO reviews. Most parents do not welcome DHHS or court involvement, so they feel that they are getting a “deal” by signing an AILA. The problem is that they lack the legal knowledge of their rights and options. Gupta-Kagan argues that many of these agreements can be interpreted as threats – if parents do not cooperate, their children will enter foster care.⁸

Even early on in any AILA case, a parent is 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. Whether parents are

⁷ Ibid, p 19.

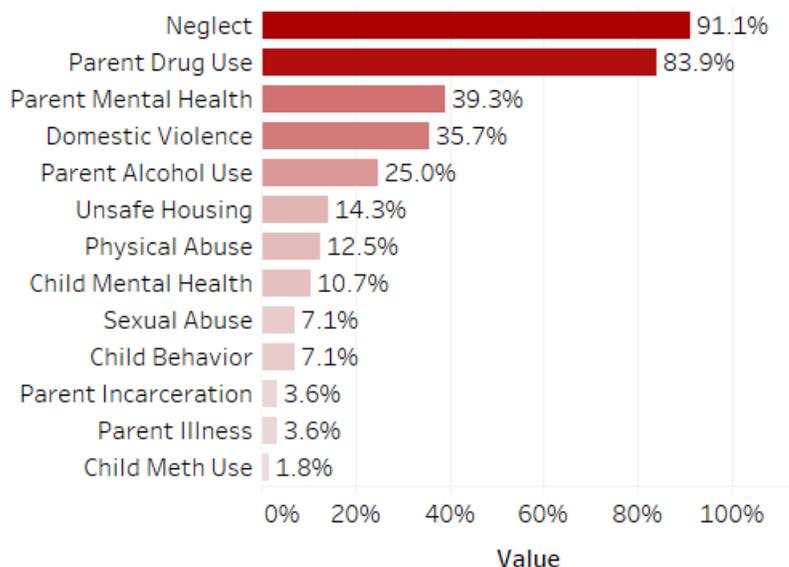
⁸ Ibid, p. 8-10.

cooperating or not cooperating, our reviews found that DHHS moves equally fast in discussing alternative options to close a case, such as “temporary” guardianships. Again, the parents are making long-term decisions without being able to obtain legal counsel. These situations put DHHS/CFS case managers in difficult positions by giving legal advice.

3. **Safety Concerns.** Safety concerns are among the most serious issues. According to Gupta-Kagan⁹, “When parents are an immediate physical danger to children, hidden foster care provides 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/AILA case.
 - **Of the 34 families reviewed in August, 19 (55.9%) had a risk assessment score of *high*, and 12 (35.3%) scored *very high*.** Most families were assessed as conditionally safe (33 of 34) specifically because the children will be in an AILA.

If a parent is making the slightest progress and moving forward is deemed warranted, cases move quickly towards reunification, children return home as early as after a few weeks. There are cases that close while parents are still at the beginning of treatment. There were concerns in some cases that services are not sufficient to support sobriety, especially considering the lack of drug testing and instead relying solely on the parent’s word that they are not using. This is especially concerning when **83.9% (47 of 56) of the children reviewed were in AILA placements due to parents drug use (Figure 1)**. The most commonly used drug was meth.

Figure 1: Reasons Entered AILA Placement, n=56
(may select more than one reason)



⁹ Ibid, p 38.

4. **Safety of the Placement.** The placements utilized in AILA cases do not follow as rigorous of policies/guidelines as foster care placements. For example, not as much information is collected on the placement.
- **For 20 of the 56 children reviewed in August 2019, either no background check was performed, the check was incomplete, or the check was undocumented.**
 - **We were able to verify that a walkthrough of the placement occurred for only 8 (14%) of the children.**

It is not clear who all is residing in the placement home and, therefore, not all people may be properly vetted. Some narratives have stated that the AILA 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 AILA non-court case or court involved.

During our review process, we did notice that some placements change once the court is involved. This leads us to question if the initial AILA chosen by the parent was in the child’s best interest. In some cases, there were several different AILAs during the voluntary case at the decision of the parent, who may not be in a position to make the best decision for the child. DHHS/CFS agrees to these changes although clearly this does not provide the stability that the child needs.

5. **Lack of Services and Support for AILA Placement and Families.** Families that agree to an AILA placement are providing a service comparable to foster care. The main difference is that they are not being compensated and may lack the support they need to provide care of the child/youth.
- **Out of the 56 reviewed children, we found only 1 instance where the placement was receiving monetary support, and just 15 instances where the placement was receiving non-monetary support.**

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 relative child and their parent. There is sometimes confusion about what economic assistance benefits they may be eligible for, if any. If the AILA 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 AILA caregivers and does not promote long-term stability for the child/youth.

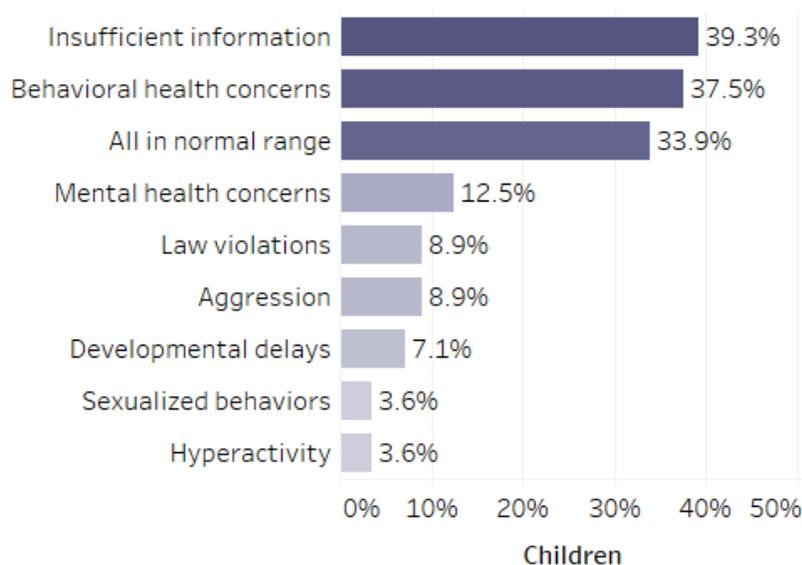
Based on our reviews, less services are used with AILA non-court cases than in court cases that involve similar issues. For example, drop-ins and drug tests are not the norm in non-court cases, but these services can and are still court ordered in court cases. Most of the services in AILA cases focus 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.

6. **Lack of Support for Child/Youth Well-being.** During our reviews, we found a child/youth's well-being in areas such as education, normalcy, and therapy needs receive less attention than in traditional foster care.
- Only 15 of the 56 children were receiving services, and FCRO staff identified **12 children who needed services but were not receiving them.**

Since DHHS/CFS is not the legal custodian of the child/youth in a non-court case, setting up services for the child/youth falls legally on the parents.

Figure 2: Current Behaviors of Children in AILA placements, n=56



In some cases, the parent is not obtaining the needed services, which, as discussed above, raises the legal question as to what authority the DHHS/CFS case manager has to ensure these services are in place. The difference becomes clear when/if the case becomes court involved and DHHS is then legally responsible for all these areas to be addressed. As demonstrated in the **Figure 2**, more often than not there was not enough information in the file to determine the services children needed.

7. **Reviews by 1184 Teams.** Prior to the FCRO receiving AILA information, we were frequently told by the department that voluntary cases, including AILAs, were receiving oversight from 1184 teams. However, **only 8 (23.5%) of the 34 families we reviewed had also been reviewed by an 1184 team. For 6 (75%) of the 8, the 1184 teams had raised concerns about the case.** Our reviews indicated that those concerns were addressed in the case plan in only 1 case, and even then only partially.

The FCRO agrees that children should remain with their parents when it is safe to do so. We further agree that many situations involving a family do not need to be filed with the court system, and in those instances families should receive voluntary services.

It is our position that as a child welfare system, all stakeholders must agree to:

- clear definitions as to what is acceptable safety and risk as stated in our statutes,
- transparent processes and assessments to determine the safety and risk within each family,
- a child welfare model regarding the level of interventions needed based upon the safety and risk levels
- available statewide services at each of these levels to meet the needs of these families, and
- independent third-party oversight over all voluntary cases to ensure that each of these requirements are occurring appropriately.

Currently, the FCRO has the statutory authority to review voluntary cases that involve an informal living arrangement. Also, under Nebraska statutes, the multidisciplinary treatment teams have the ability to review all other voluntary cases, but do not have the needed capacity. In order to meet the needs of Nebraska's children and families, further statutory and policy changes must collectively be made by all stakeholders.

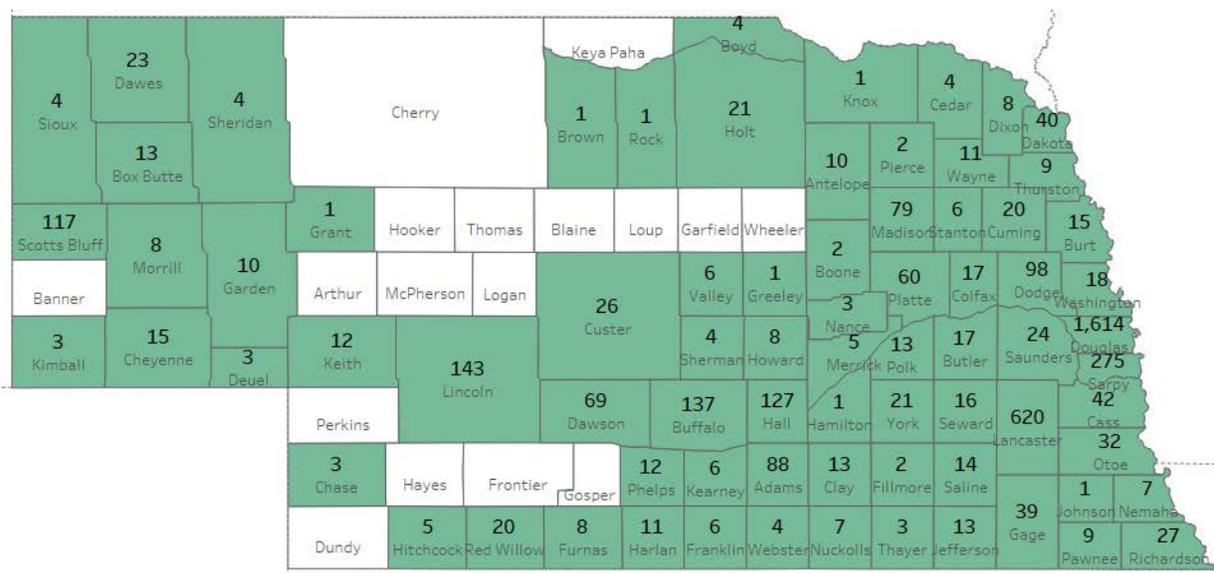
Total Children in Out-of-Home or Trial Home Placement

The remainder of this report details the trends by system over the last year and the current data on children in care on 9/30/19.

On 9/30/19, there were **4,142 Nebraska children**¹⁰ in out-of-home or trial home visit placements under DHHS/CFS, DHHS/OJS, and/or the Office of Juvenile Probation.¹¹ This is a 2.0% decrease from the 4,226 children in such placements on 9/30/18.

As shown in **Figure 3** below, no region of the State is immune from child abuse, child neglect, or youth in need of professional assistance with behavioral issues, which often have a root in early traumatic experiences.

Figure 3: Total Nebraska Children in Out-of-Home or Trial Home Visit Placements on 9/30/19, n=4,142



The **4,142 children** in out-of-home or trial home visit care on 9/30/19 included the following groups:

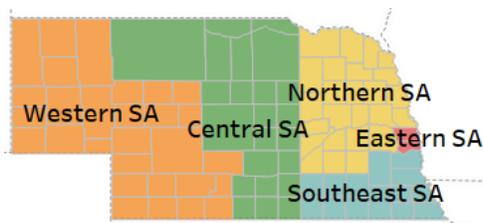
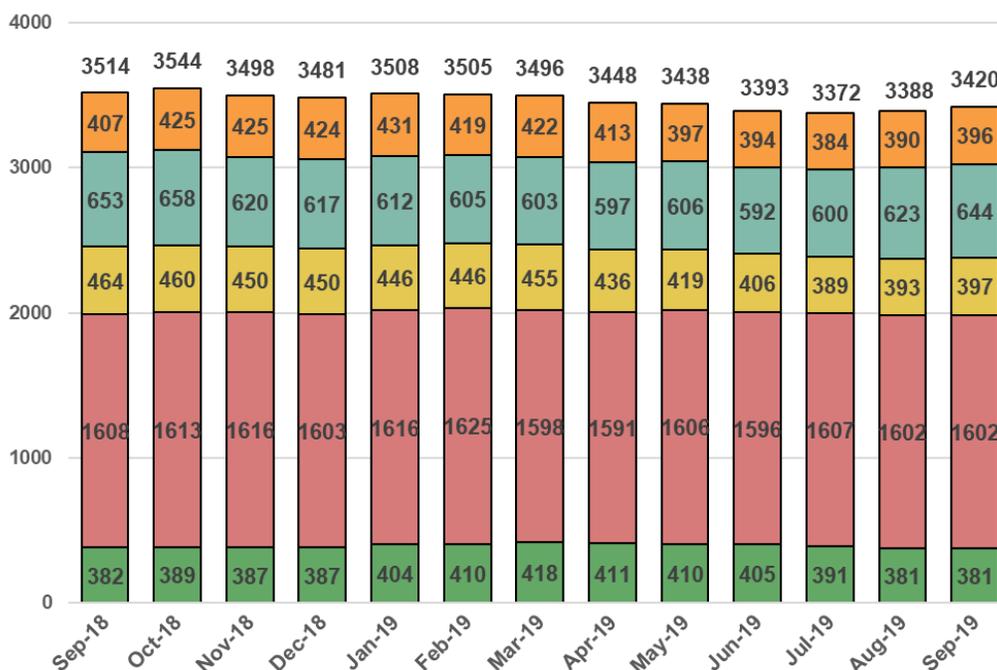
- **3,261 (78.7%) children** that were DHHS/CFS wards in out-of-home care or trial home visits with no simultaneous involvement with the Office of Juvenile Probation Administration (hereafter referred to simply as Probation).
 - This is a 3.6% decrease compared to the 3,382 children on 9/30/18.
- **616 (14.9%) youth** that were in out-of-home care while supervised by Probation, but were not simultaneously involved with DHHS/CFS or at the YRTCs.
 - This is nearly the same compared to the 612 such youth on 9/30/18.
- **149 (3.6%) youth** in out-of-home care who were involved with DHHS/CFS and Probation simultaneously.
 - **This is a 36.7% increase** compared to the 109 children on 9/30/18.
- **109 (2.6%) youth** in out-of-home care who were involved with both DHHS/OJS and Probation, including **103** at the YRTCs and **6** in other placements.
 - This is nearly the same as the 110 such youth on 9/30/18.
- **7 (0.2%) children** in out-of-home care that were served by DHHS/OJS only, all placed at YRTC.
 - There were 13 such children on 9/30/18.

Average Daily Population of Children with any DHHS/CFS Involvement

Daily population

Figure 4 shows the **2.7% decline** in average daily population (ADP) per month of DHHS/CFS involved children in out-of-home or trial home visit placements (including those simultaneously serviced by the Office of Probation) over the course of the last 12 months, when comparing Sept. 2018 to Sept. 2019.

Figure 4: Average Daily Population of All DHHS/CFS Involved Children in Out-of-Home or Trial Home Visit Placements –
(includes children with simultaneous involvement with Probation)¹²



¹² 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.

Figure 5 compares the average daily populations from Sept. 2018 to Sept. 2019 by service area (SA). In Sept. 2019, there were **2.7%** fewer DHHS/CFS wards in out-of-home care or trial home visit than at the same time last year. The decrease in the number of children in out-of-home care varies by service area, with the Northern service area seeing the largest rolling year drop (**-14.3%**).

Figure 5: Percent Change in All DHHS/CFS Involved Children in Out-of-Home or Trial Home Visit Placements

	Sep-18	Sep 19	% Change
Central SA	382	381	-0.3%
Eastern SA	1,608	1602	-0.4%
Northern SA	464	397	-14.3%
Southeast SA	653	644	-1.4%
Western SA	407	396	-2.9%
State	3,514	3420	-2.7%

Entries and Exits

Figure 6 shows that for 7 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 Adoption Day, and at the end of the school year during May and June.

Figure 6: Statewide Entrances and Exits of DHHS/CFS Involved Children

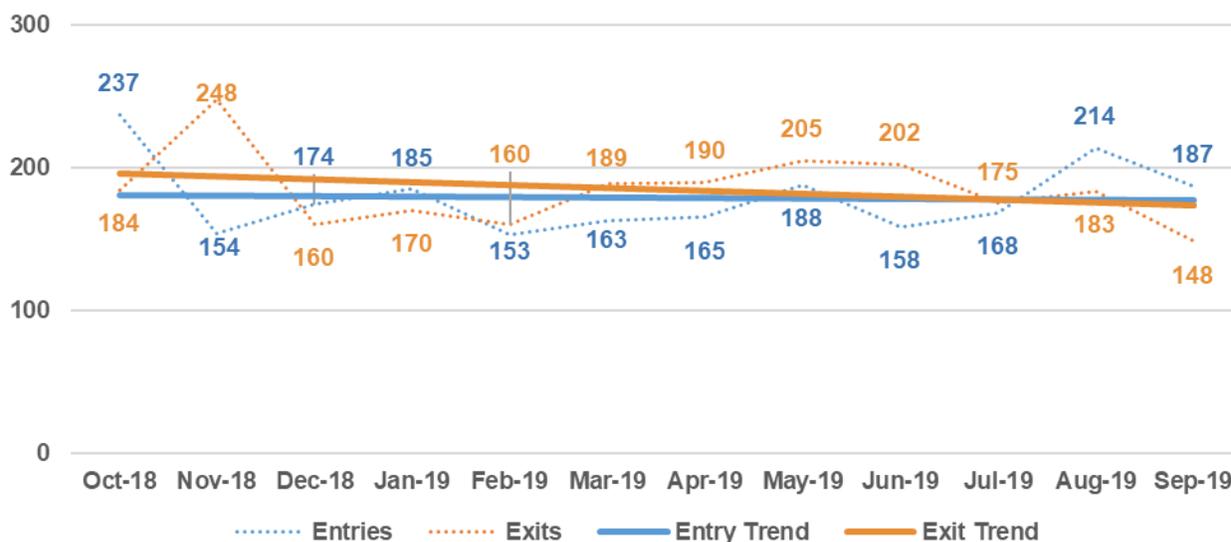
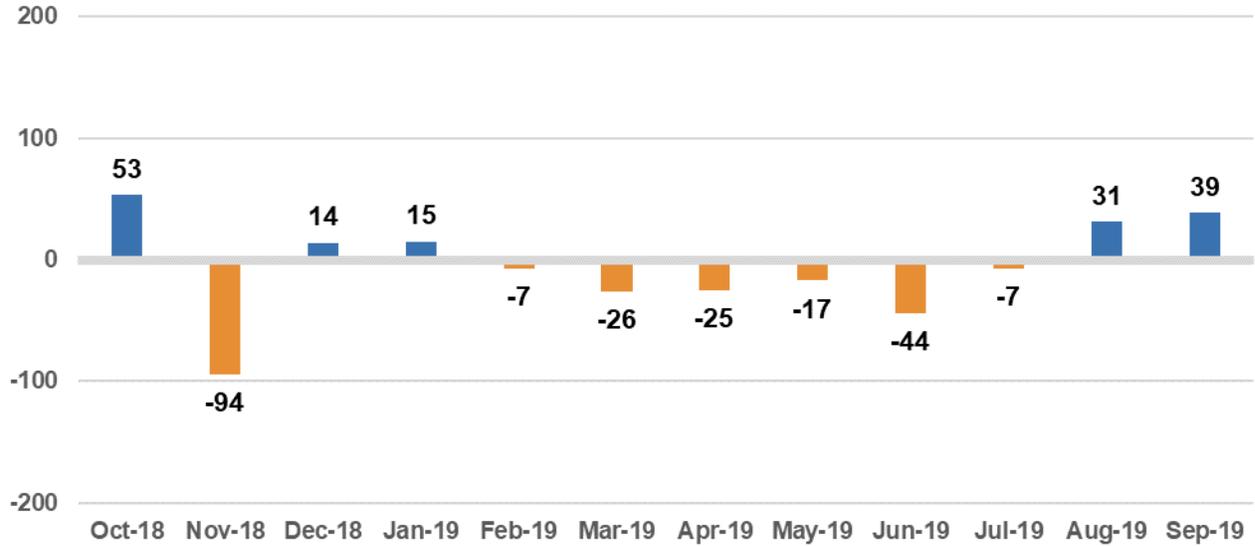


Figure 7 below simplifies the previous figure to only show the net differences between the entries and exits for each month of the last rolling year.

Figure 7: Net Changes of DHHS/CFS Involved Children



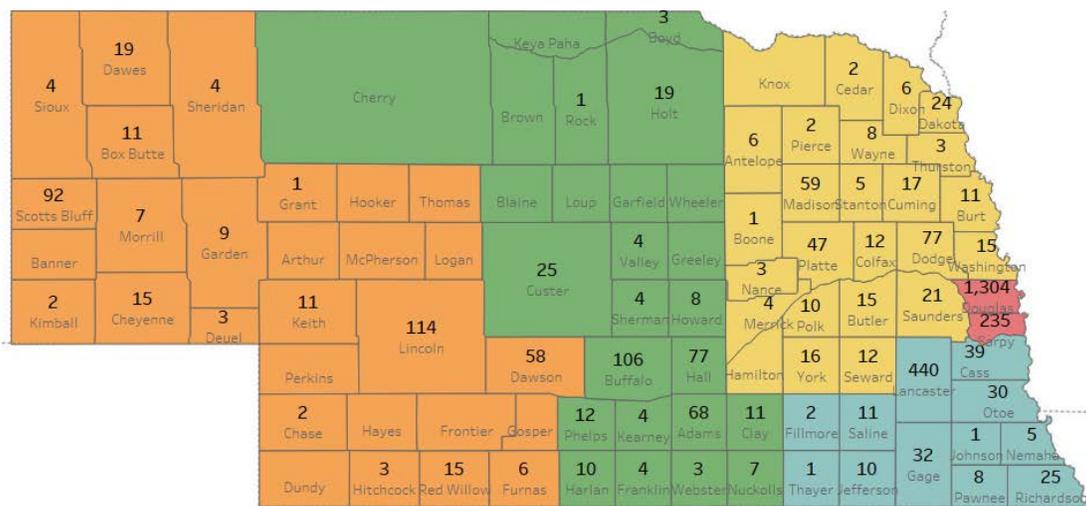
Children Solely Involved with DHHS/CFS – Point-in-time (Single Day) View

Single day data on DHHS/CFS wards in this section includes only children that meet the following criteria: 1) 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.¹³ **On 9/30/19 there were 3,261 children who met those criteria.**

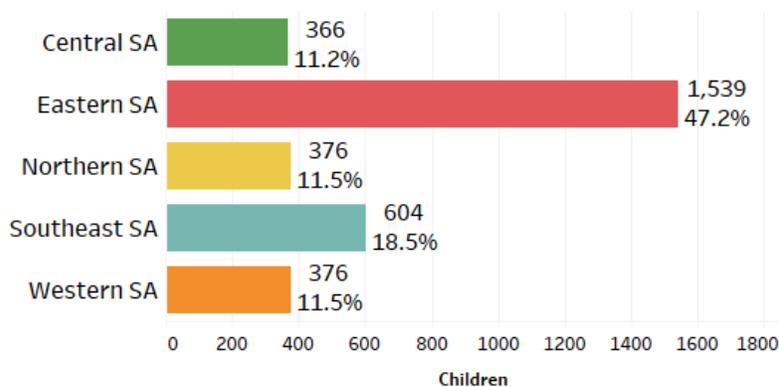
Demographics

County. Figure 8 shows the 3,261 DHHS/CFS wards by county and the region. Child abuse and neglect affects every region of the state, as shown by the distribution of children in care.

Figure 8: DHHS/CFS Wards in Out-of-Home or Trial Home Visit Placement on 9/30/19 by DHHS/CFS Service Area, n=3,261



Counties without numbers had no children in out-of-home care or trial home visit on 9/30/19.



¹³ Youth at one of the YRTC's, youth only involved with Probation, or youth dually involved with Probation 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 importantly, though, is the number of state wards from counties with relatively few children in the population (**Figure 9**).

When comparing the number of children in out-of-home care and trial home visit to the number of children in the population for the county, **the counties with the highest rates of children in out-of-home or trial home visit placement are Garden, Sioux, Richardson, Pawnee, Lincoln, Harlan, Scotts Bluff, Custer, Dawes, and Dawson.**

Figure 9: Top 10 Counties by Rate of NDHHS Wards in Care on 9/30/2019

County	Children in Care	Total Age 0-19 ¹⁴	Rate per 1,000
Garden	9	404	22.3
Sioux	4	243	16.5
Richardson	25	1,849	13.5
Pawnee	8	617	13.0
Lincoln	114	9,062	12.6
Harlan	10	797	12.5
Scotts Bluff	92	9,895	9.3
Custer	25	2,803	8.9
Dawes	19	2,137	8.9
Dawson	58	7,027	8.3

Gender. Girls and boys are equally represented in the population of children in care on 9/30/19, as has been true for several years.

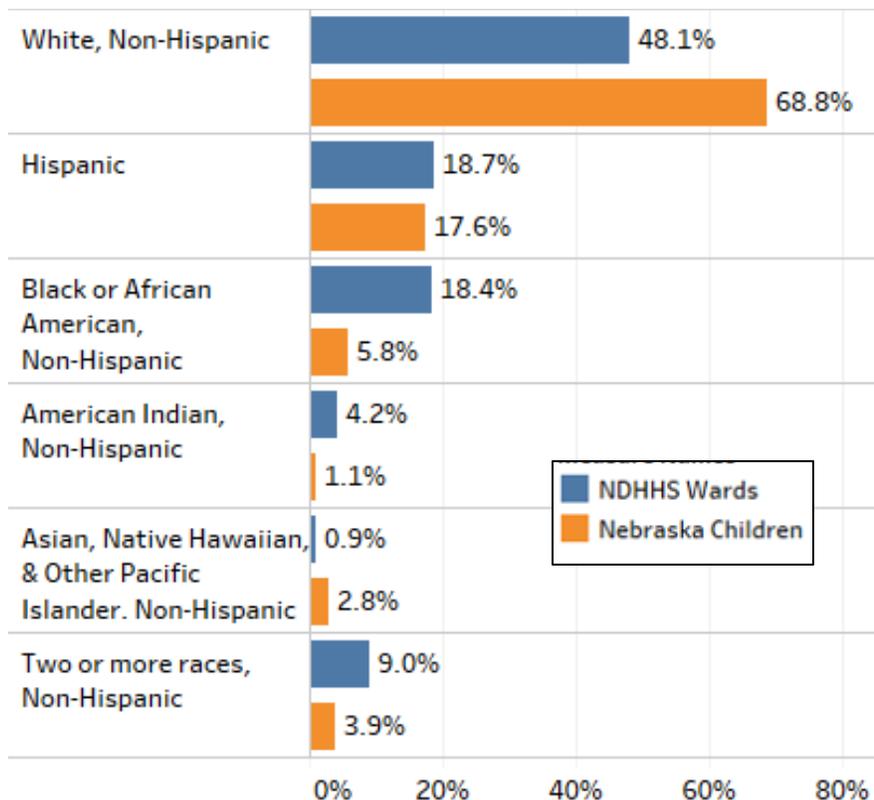
Age. Consistent with past reports, approximately:

- **40.3% of children in care are 5 and under,**
- **33.8%** are between 6 and 12, and
- **25.9%** are teenagers.

¹⁴ 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 10**). The Census estimates that 5.8% of Nebraska’s children are Black or African American, 1.1% are American Indian or Alaska Native, and 3.9% are multiracial. **Yet, for all three groups, their percent of total DHHS/CFS wards is substantially more than their representation in the general population of children.**

Figure 10: DHHS/CFS Wards in Out-of-Home or Trial Home Visit Placement on 9/30/19 by Race or Ethnicity, n=3,261

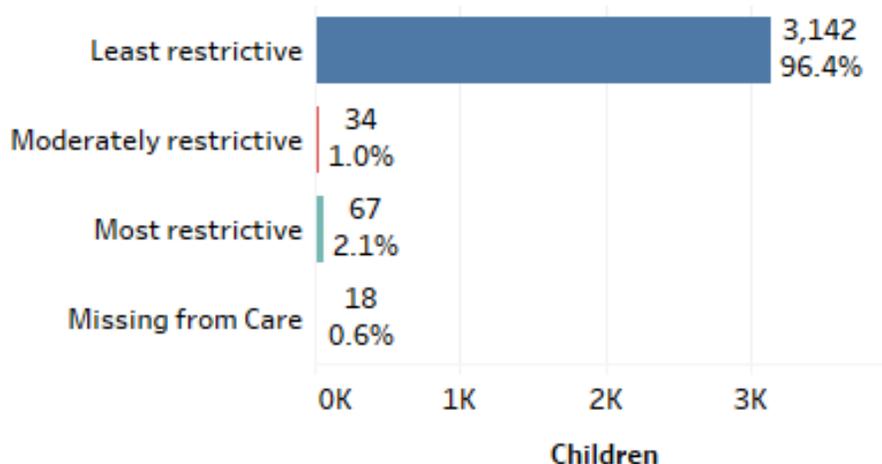


Placements

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 11 shows that most (**3,142 or 96.4%**) 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.

Figure 11: Placement Restrictiveness for DHSS/CFS Wards in Out-of-home or Trial Home Placements on 9/30/19, n=3,261



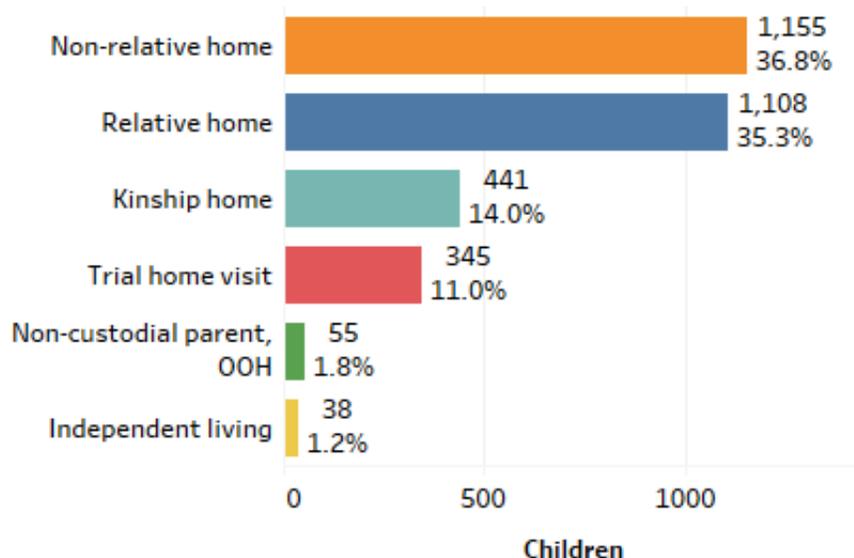
Children “**missing from care**” must always be a top priority as their safety cannot be assured. This was tragically illustrated earlier in 2019 when a teen actively missing from foster care died in a car accident.

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.
- “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.

The majority (49.3%) of children in a foster home are placed with relatives or kin (**Figure 12**). These percentages are very similar to 9/30/18.

Figure 12: Specific Placement Type for DHHS/CFS Wards in the Least Restrictive Placement Category on 9/30/19 (see Figure 11), n=3,142



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 just approving these relative placements rather than licensing them. That practice creates a twofold problem:

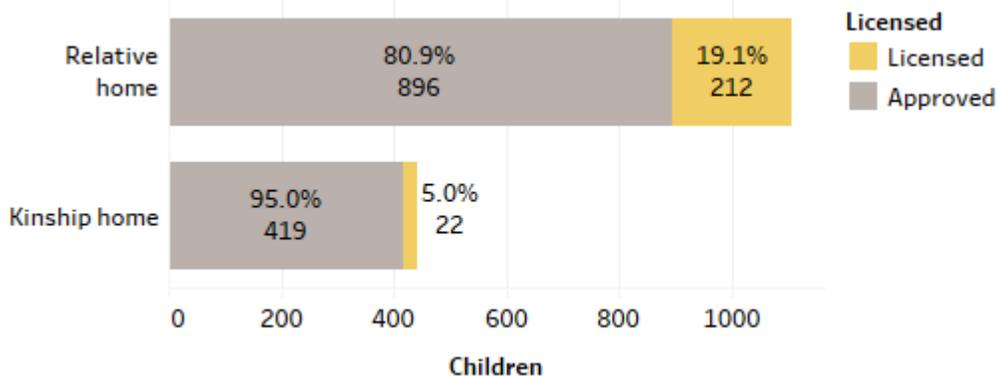
- 1) approved caregivers do not receive the valuable training that licensed caregivers get on helping children who have experienced abuse, neglect, and removal from the parents, and
- 2) in order to receive Federal Title IV-E funds, otherwise eligible children must reside in a licensed placement, so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

Kinship homes cannot receive a license waiver, but a relative can be granted a waiver of one or more of the following requirements:

- That the three required references come from no more than one relative.
- The maximum number of persons for whom care can be provided.
- The minimum square feet per child occupying a bedroom and minimum square footage per individual for areas excluding bedrooms, bathrooms, and kitchen.
- That a home have at least two exits on grade level.
- Training.

Current License Status. Due to the fiscal impact and training issues the FCRO looked at the licensing status for these specific types of placement. As shown in **Figure 13**, in keeping with the FCRO's focus on individual children, we see that few of those children are in a licensed placement.

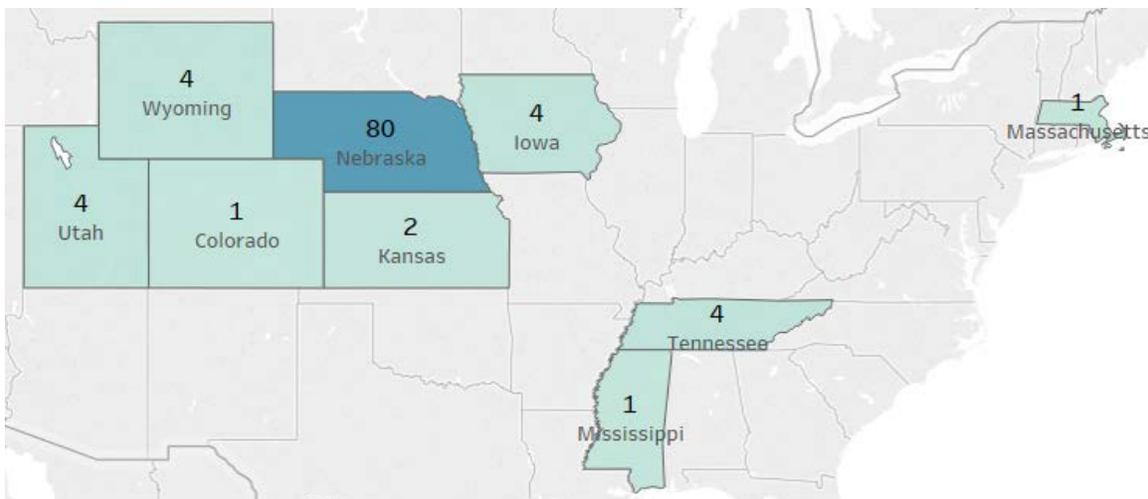
Figure 13: Licensing for DHHS/CFS Wards in Relative or Kinship Foster Homes on 9/30/19, n=1,108 (relatives) and n=441 (kinship)



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 9/30/19, 3.1% of DHHS/CFS wards were placed in moderately or most restrictive congregate care facilities. **Figure 14** shows that of the 101 DHHS/CFS wards in congregate care, **most (80, 79.2%) 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 14: State of Placement for DHHS/CFS Wards in Congregate Care on 9/30/19, n=101

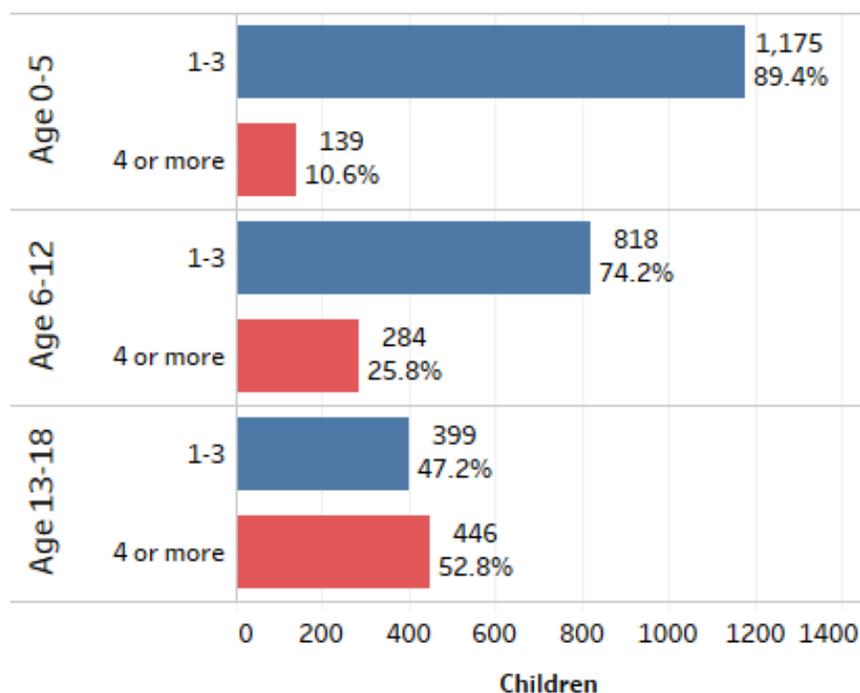


Multiple placement moves

Of the 3,261 children in care on 9/30/19, 869 children (**26.6%**) had experienced four or more placement moves over their lifetime (**Figure 15**).¹⁵ That compares to 27.5% of wards on 9/30/18. And, 210 of the 869 children had experienced 10 or more placement moves thus far in their lifetime, a lot of disruption to absorb and integrate.

It is very concerning that **10.6% of young children** have experienced a high level of placement change while simultaneously coping with removal from the parent(s).¹⁶ This is a slight increase from the 10.1% on 9/30/18. 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.

Figure 15: Lifetime Placement Moves for DHHS/CFS wards in Out-of-Home or Trial Home Visit on 9/30/19, n=3,261



Number of Workers during Current Episode of Care

Figure 16 shows the number of workers during the current episode of care for 3,261 children in out-of-home or trial home visit placement on 9/30/19 as reported by DHHS. Workers here include PromiseShip (formerly NFC) Permanency Specialists in the Eastern

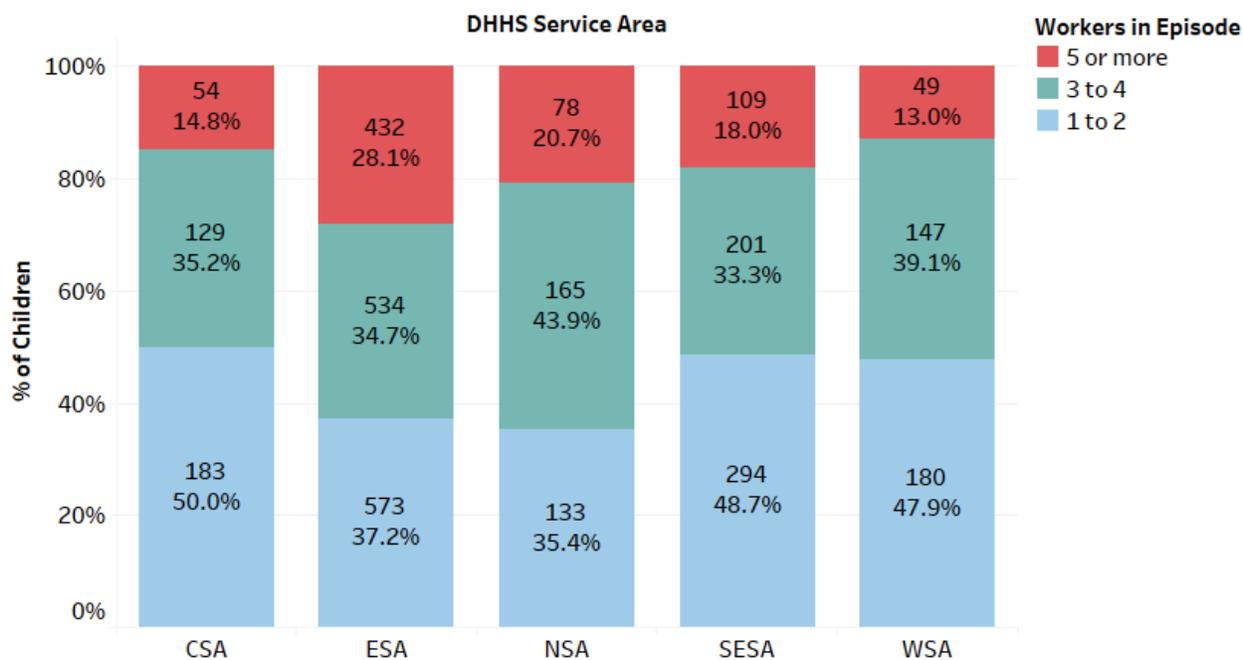
¹⁵ This does not include placements with parents, respite short-term placements (such as to allow foster parents to jointly attend a training) or episodes of being missing from care.

¹⁶ The [FCRO 2017 Annual Report](#) included information on the effects of placement changes on children, and is still valid today.

Service Area where DHHS/CFS contracts for such services, and DHHS/CFS case managers elsewhere.¹⁷

More than four workers is considered an unacceptable number of worker transfers that likely significantly delays permanency.¹⁸ Depending on the area, between 13.0% - 28.1% of the children have had five or more workers since most recently entering the child welfare system.

Figure 16: Number of Workers for DHHS/CFS Wards 9/30/2019 in Current Episode, n=3,261



Lifetime episodes involving a removal from the home

Figure 17 shows that **771 (23.6%)** of the DHHS wards in care on 9/30/19 had experienced more than one court-involved removal from the parental home. This compares to 22.5% on 9/30/18. Each removal can be traumatic and increases the likelihood of additional moves between placements.

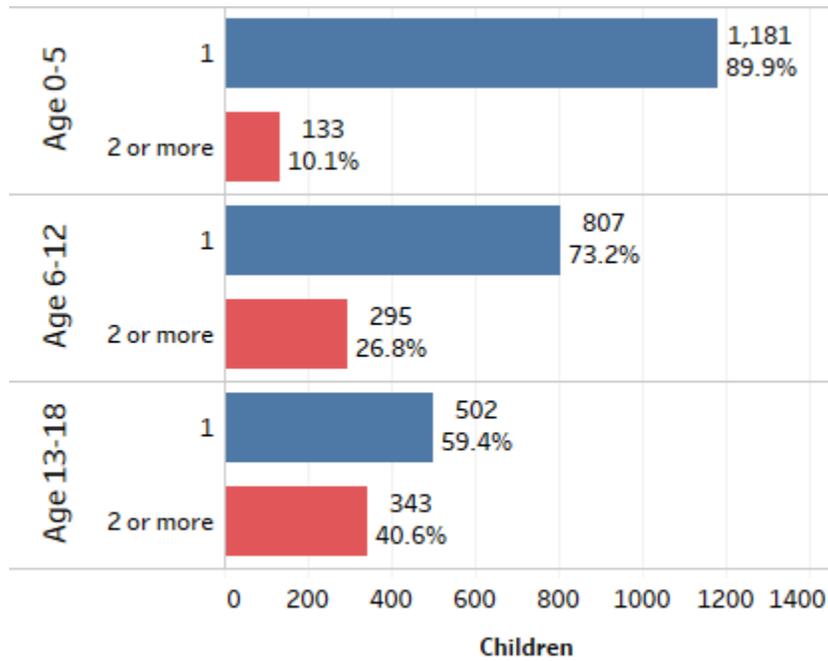
Child abuse prevention efforts need to include reducing or eliminating premature or ill-planned returns home that result in further abuse or neglect.

The State must do more to address why more than 1 in 5 children currently in the system had a prior removal, and why with so many fewer children in care this critical indicator has not improved.

¹⁷ Case transfers to St. Francis Ministries for the Eastern Service Area did not begin until after 9/30/19.

¹⁸ Review of Turnover in Milwaukee County Private Agency Child Welfare Ongoing Case Management Staff, January 2005.

Figure 17: Lifetime Removals for DHHS/CFS Wards in Out-of-Home or Trial Home Visit Placements on 9/30/19, n=3,261

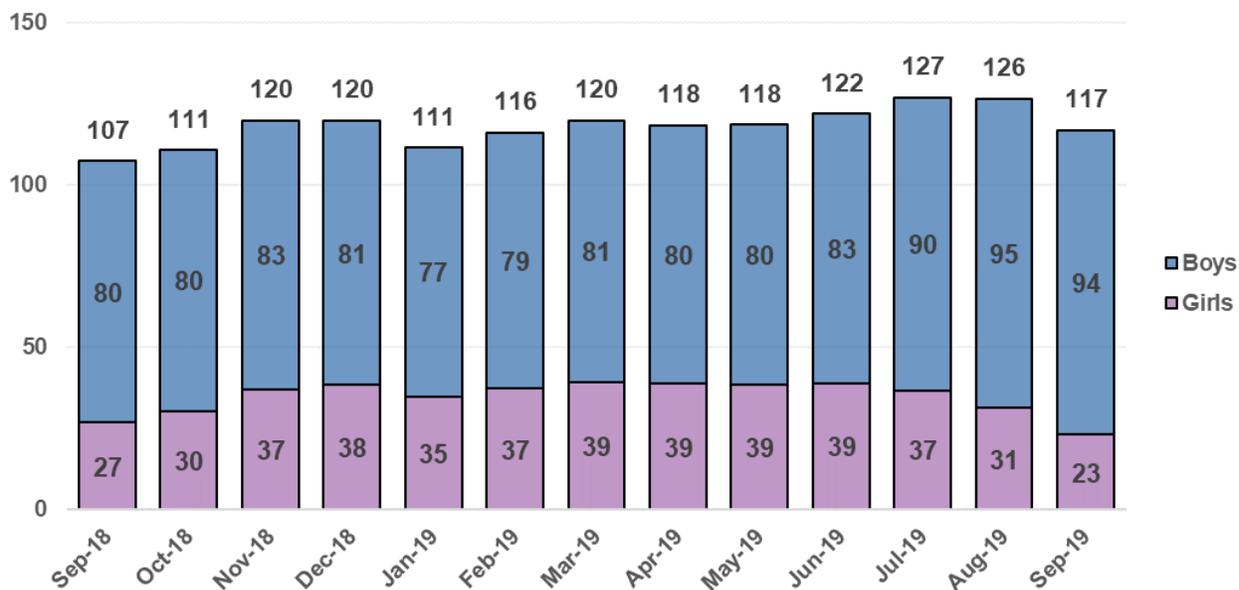


Average Daily Population of DHHS/OJS Youth Placed at a Youth Rehabilitation and Treatment Center (YRTC)

Placement at a Youth Rehabilitation and Treatment Center (YRTC) is the most restrictive type of placement, and 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.

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 Geneva, some girls were moved to the Lancaster County Youth Services Center in Lincoln and then to the Kearney YRTC, with additional girls transferred to the Kearney YRTC thereafter. On 10/21/19 DHHS-OJS announced development of a modified YRTC system with 3 facilities.¹⁹ Due to these changes, **Figure 18** shows the average daily number of DHHS/OJS wards by gender, instead of by facility location.

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



¹⁹ Changes made after 9/30/19 are outside the timeframe of this particular Quarterly Report, but will be reflected in the future.

Figure 19 shows the percentage change between Sept. 2018 and Sept. 2019. There were marked differences by gender.

Figure 19: Percent Change in Youth Placed at the YRTC

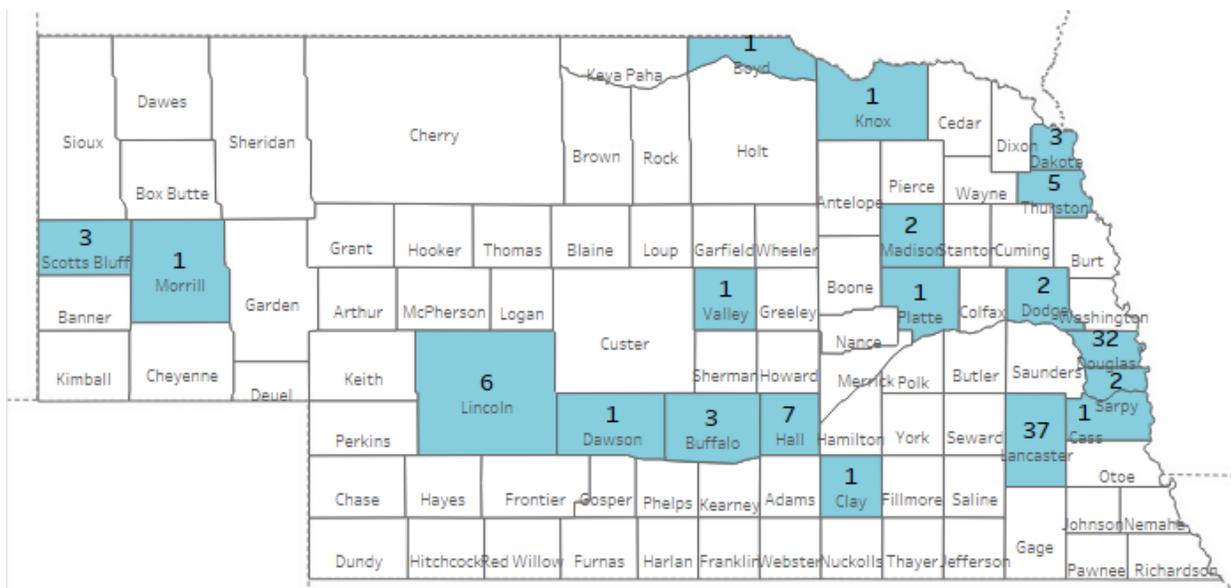
	Sep-18	Sep-19	% Change
Girls	27	23	-13.7%
Boys	80	94	16.5%
State	107	117	9.0%

DHHS/OJS Youth Placed at a YRTC – Point-in-time (Single Day) View

Demographics

County. Youth at the YRTCs come from every region of the state, as illustrated in **Figure 20**, with most coming from the more populous regions, as would be expected. On 9/30/19, there were 110 youth placed at a YRTC, the same number as on 9/30/18.

Figure 20: Boys and Girls Placed by Juvenile Court at a Youth Rehabilitation and Treatment Center under DHHS/OJS on 9/30/19, n=110



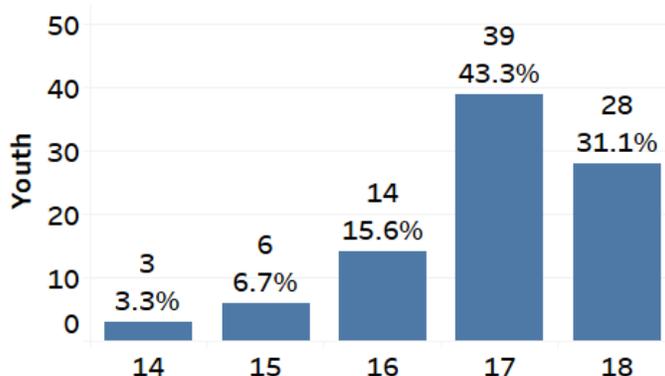
Counties with no shading had no youth at one of the YRTCs on 9/30/19.

Per Neb. Rev. Stat. §43-251.01(4), boys and girls committed to a Youth Rehabilitation and Treatment Center must be at least 14 years of age. Children can be committed to a YRTC through age 18. There can be challenges when serving troubled boys and girls from such a wide age, and therefore, developmental range. Youth are committed to a YRTC for an indeterminate amount of time to allow them to work through the program.²⁰

²⁰ See Neb. Rev. Stat. §43-286 for more details on how a court can commit a youth to a YRTC, and §43-407(2) for details on the services available.

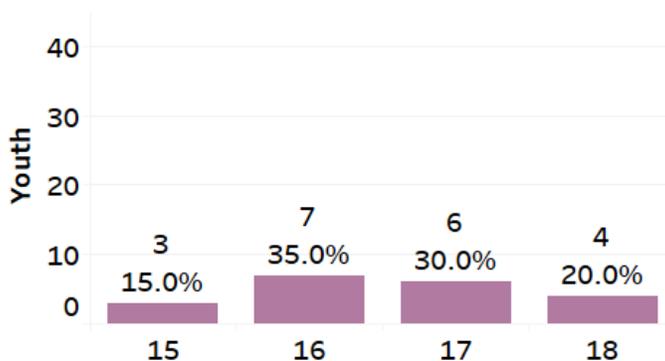
Age and Gender. On 9/30/19, 90 of the youth placed at a YRTC were boys (**Figure 21**).

Figure 21: Ages of Boys Placed at a YRTC under DHHS/OJS on 9/30/19, n=90



On 9/30/19, 20 of the youth placed at a YRTC were girls. National research indicates that girls are less likely to be a part of the juvenile justice population; the number of girls in **Figure 22** reflects this pattern when compared to the figure on boys above.

Figure 22: Ages of Girls at a YRTC under DHHS/OJS on 9/30/19, n=20



On average, the girls were slightly younger than the boys (16.6 years and 16.9 years, respectively).

Race and Ethnicity. There is significant racial and ethnic disproportionality in the YRTC populations at Geneva and Kearney (**Figures 23 and 24**).

- Black and American Indian children are disproportionately placed at a YRTC.
- Multiracial girls are disproportionately placed at a YRTC.
- Hispanic boys are disproportionately placed at a YRTC.

Figure 23: Race and Ethnicity of Boys placed at a YRTC under DHHS/OJS on 9/30/19, n=90

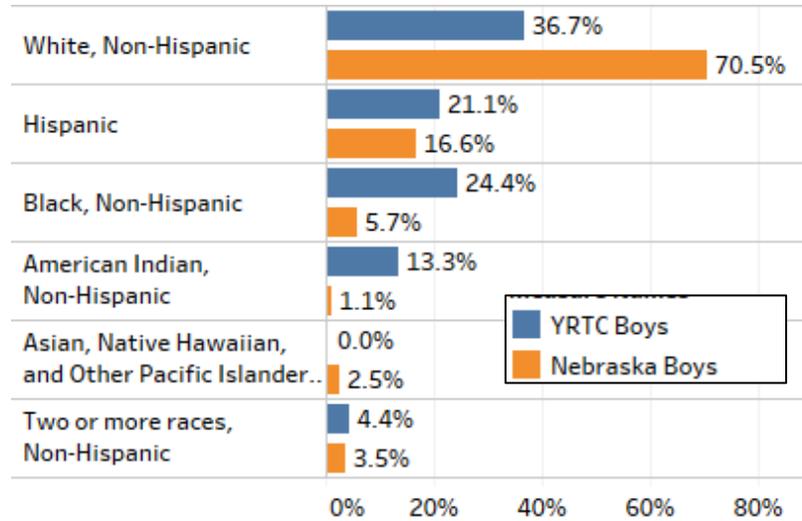
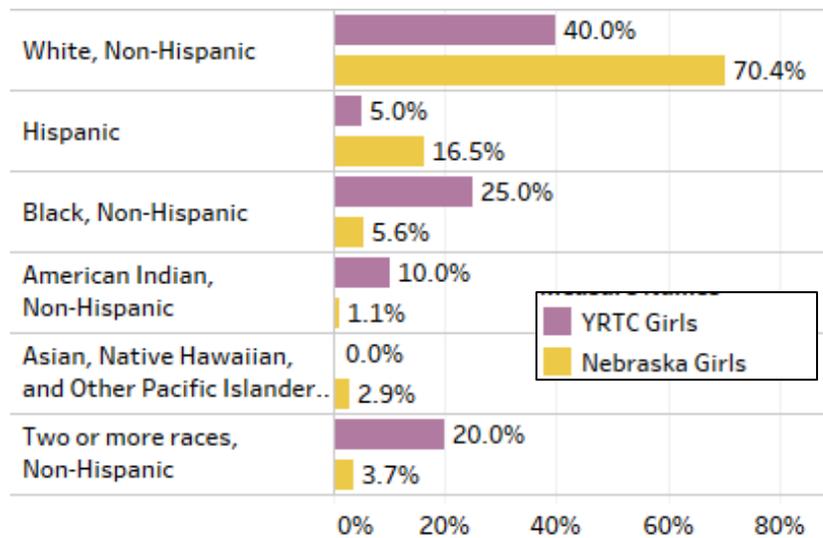


Figure 24: Race and Ethnicity of Girls placed at a YRTC under DHHS/OJS on 9/30/19, n=20



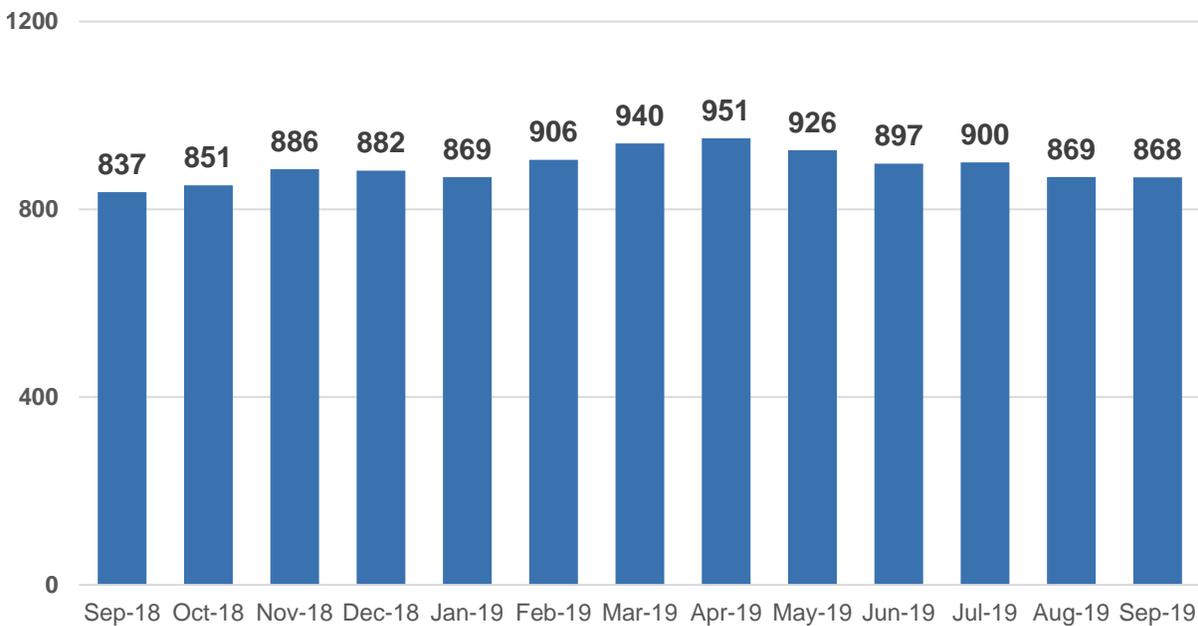
Average Daily Population for Youth Out-of-Home With Any Probation Involvement

Average daily population

Figure 25 shows the average daily population (ADP) per month of all Probation-involved youth in out-of-home placements for the last 12 months (including those with simultaneous involvement with DHHS/CFS and DHHS/OJS).

Figure 25: Average Daily Population of Youth in Out-of-Home Care Supervised by Probation

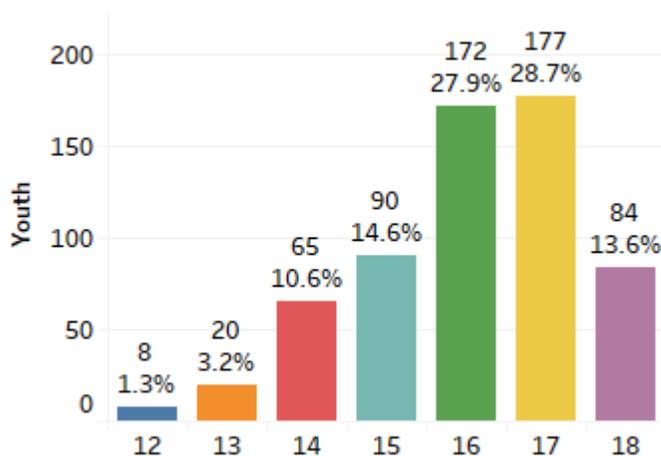
(includes children with simultaneous involvement with DHHS/CFS and DHHS/OJS)²¹



²¹ Due to major changes to the FCRO's independent computer tracking system that were not completed by the CIO's office within the requested deadlines, the percent of change by Probation District was not available for this report, but it is the FCRO's intention to have that data available in the future.

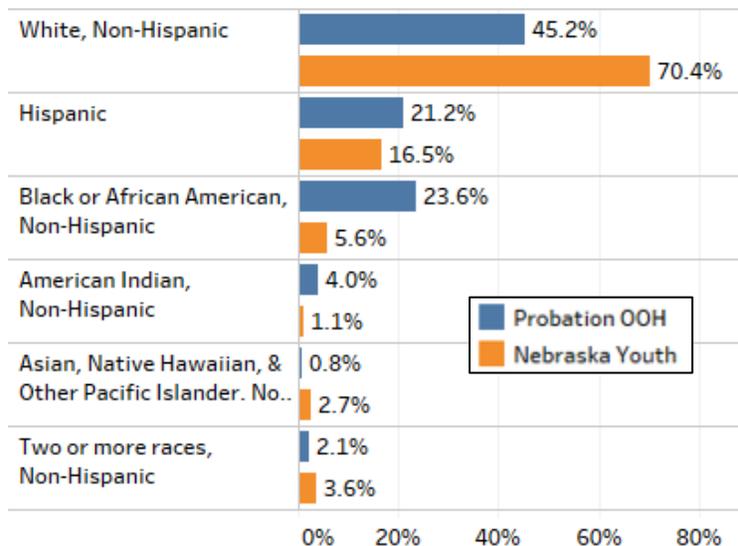
Age. Figure 27 shows the ages of Probation youth in out-of-home care on 9/30/19. The average age was 16.0 for both boys and girls, similar to last quarter. For the past two years, between 27 and 31% of probation youth have been under the age of 16, and this pattern continues to hold true for the youth out of home on 9/30/19, where **29.7% were under age 16.**

Figure 27: Age of Probation Supervised Youth in Out-of-Home Care on 3/31/19, n=616



Race and Ethnicity. Disproportionate representation of minority youth continues to be a problem (See Figure 28). Black youth make up 5.6% of the Nebraska youth population and 23.6% of the Probation youth out-of-home. Native children are also represented at a rate more than twice their proportion of the general population.

Figure 28: Race and Ethnicity of Probation Supervised Youth in Out-of-Home Care on 9/30/19, n=616



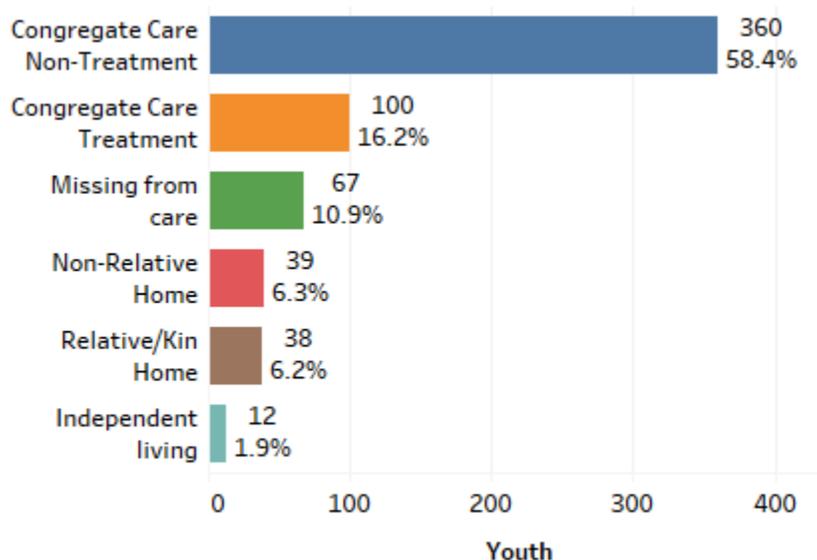
Gender. There are twice as many boys (**69.0%**) in out-of-home care served by Probation as there are girls (**31.0%**). That is similar to the numbers throughout 2017 and 2018.

Placements

Placement Type. Figure 29 shows that **16.2%** of Probation youth in out-of-home care on 9/30/19 are in congregate treatment placements, comparable to the 15.2% on 9/30/18. 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 **58.4%** of the youth were placed.

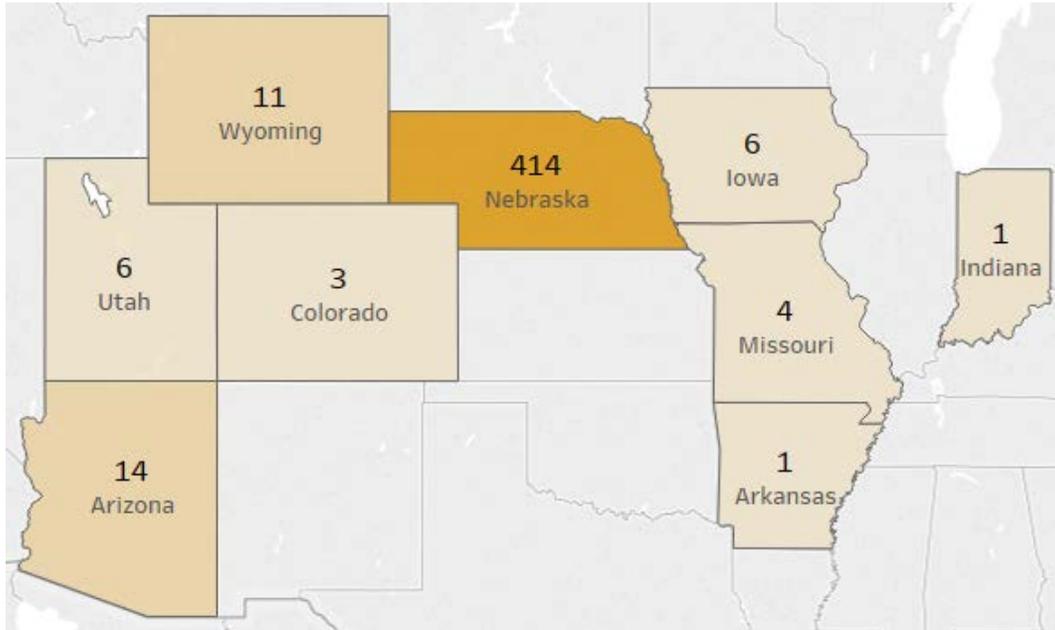
Figure 29: Treatment or Non-Treatment Placements of Probation Supervised Youth in Out-of-Home Care on 9/30/19, n=616



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 30, 90.0% of youth in congregate care were placed in Nebraska**, which is nearly the same as the 89.2% on 9/30/18.

Figure 30: State Where Youth in Congregate Care Supervised by Probation were Placed on 9/30/19, n=460



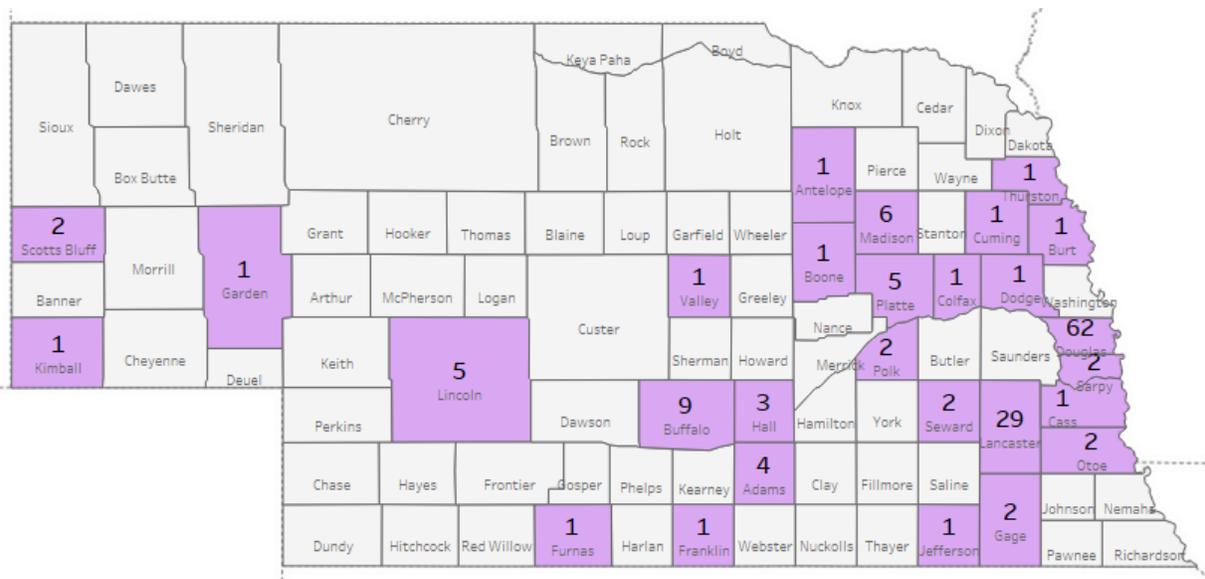
Youth in Out-of-Home Care with Simultaneous DHHS/CFS and Probation Involvement – Point-in-time (Single Day) View

On 9/30/19 **149 youth were involved with both DHHS/CFS and the Office of Juvenile Probation (dually-involved youth), which is 36.7% higher than the 109 such youth on 9/30/18.**

Demographics

County. Dually-involved youth come from all parts of the state, as illustrated in **Figure 31** below, with the majority from the most populous areas (Douglas and Lancaster counties) as would be expected.

Figure 31: Dually-Involved Youth in Out-of-Home or Trial Home Visit Placement on 9/30/19, n=149

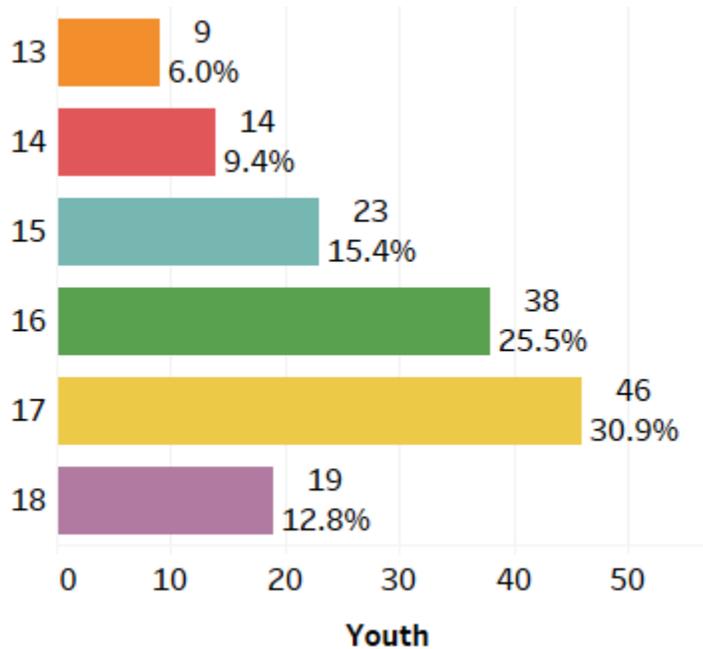


Counties without numbers have no dually-involved youth in out-of-home care on 9/30/19.

The increase in dually-involved youth is a statewide phenomenon. Compared to one year ago, the number of dually involved youth in Douglas county increased from 47 to 62, Lancaster county from 20 to 29, Buffalo county from 5 to 9, Madison county from 3 to 6, Platte county from 2 to 5, and Lincoln county from 2 to 5.

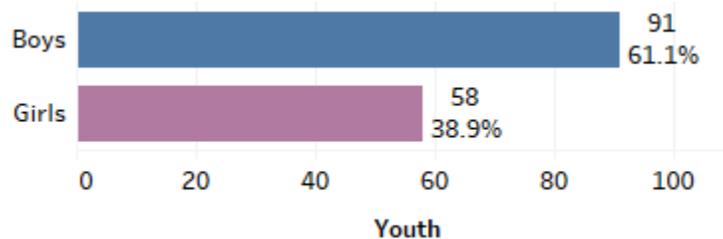
Age. Figure 32 indicates that most dual-agency youth are teenagers. As with Probation only youth, about 1/3 (30.8%) were under the age of 16.

Figure 32: Ages of Dually-Involved Youth in Out-of-Home or Trial Home Placement on 9/30/19, n=149



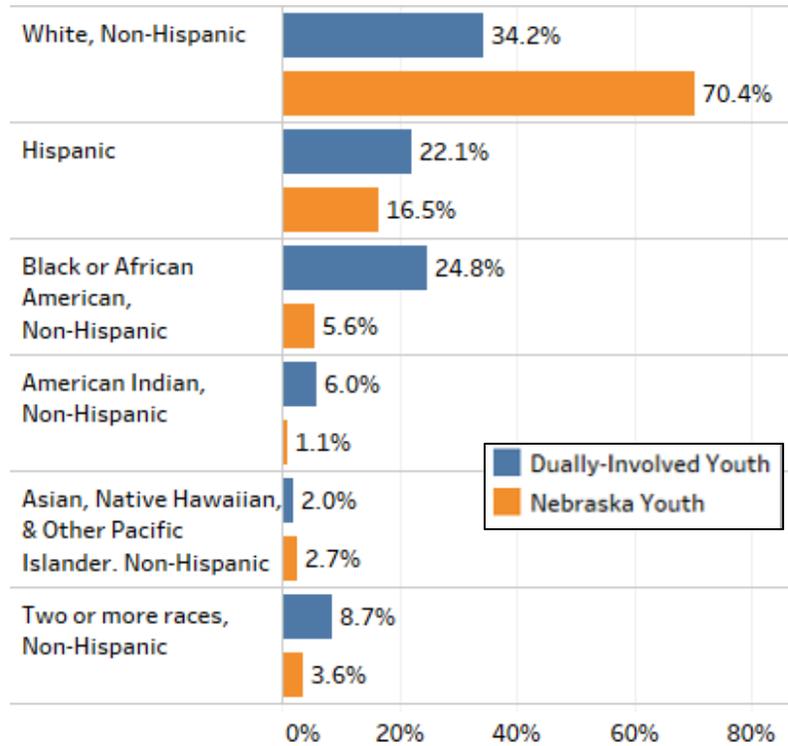
Gender. Figure 33 shows that, as is true with other juvenile justice populations, there are more boys in this group than girls. Compared to a year ago, the number of dually involved girls increased by 93.3% (30 on 9/30/2018), and the number of boys increased by 15.2% (79 on 9/30/2018).

Figure 33: Gender of Dually-Involved Youth in Out-of-Home or Trial Home Placement on 9/30/19, n=149



Race and Ethnicity. Black, American Indian, and multi-racial youth continue to be overrepresented in the dually-involved population (Figure 34). For example, 24.8% of dually-involved youth are black, compared to 5.6% in the general population of Nebraska’s children.

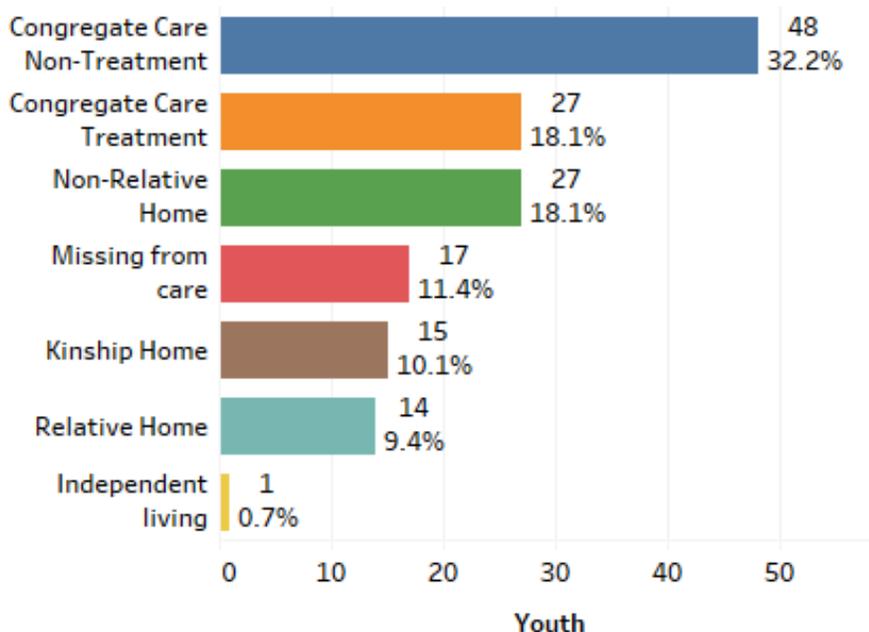
Figure 34: Race and Ethnicity of Dually-Involved Youth in Out-of-Home or Trial Home Placement on 9/30/19, n=149



Placements

Placement Type. Figure 35 shows the placement types for youth with dual agency involvement, using Probation's definitions of treatment and non-treatment.

Figure 35: Placement Types for Dually-Involved Youth in Out-of-Home or Trial Home Placement on 9/30/19, n=149



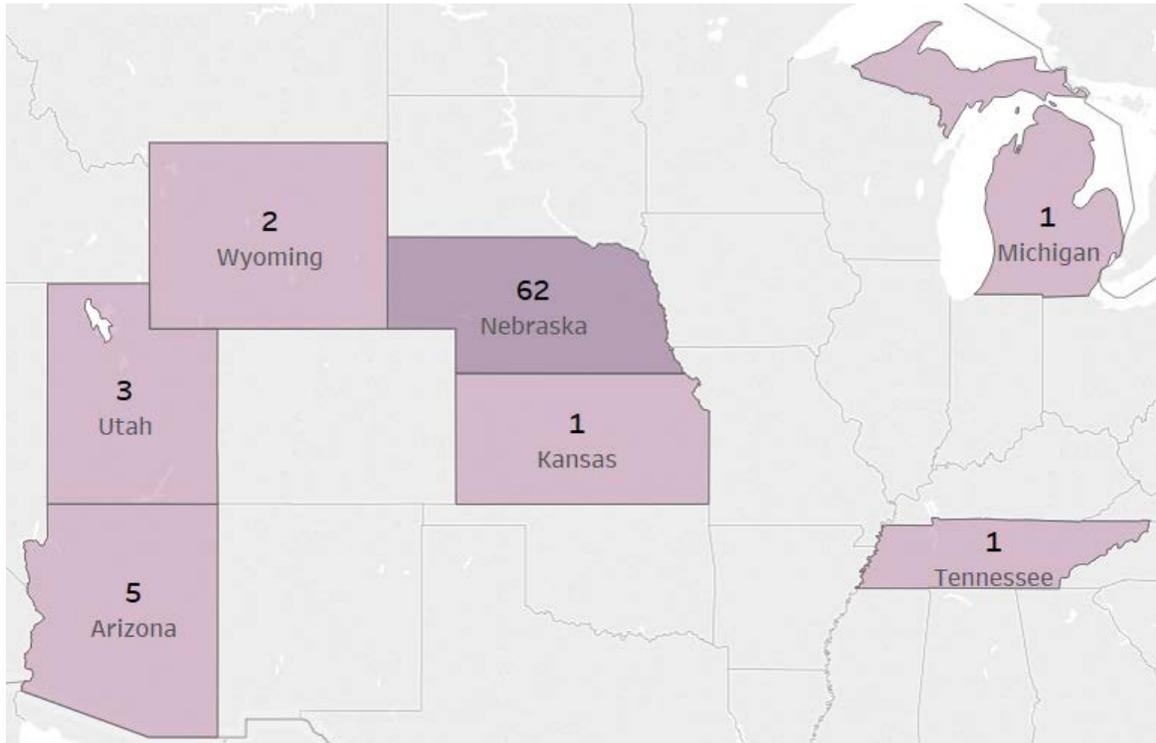
Youth missing from care must always be a top priority as their safety cannot be assured.

There are some substantial differences in the percentage in some of the placement types comparing this year to last. For example,

- **Non-Treatment Congregate Care – 32.2% now compared to 43.1% on 9/30/18.**
- **Treatment Congregate Care – 18.1% now compared to 12.8% on 9/30/18.**
- **Missing from Care – 11.4% now compared to 5.5% on 9/30/18.**

Congregate Care. Figure 36 shows the state where dual served youth in congregate care are placed. Similar to the pattern with Probation only supervised youth, the proportion of dually-involved youth placed in state has increased (**82.6%**).

Figure 36: Placement State for Youth in a Congregate Care Facility on 9/30/19 that are Served by both DHHS/CFS and Probation, n=75



APPENDIX A: 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.
- **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 in 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.
- 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.

APPENDIX B: Background on the FCRO

Role

The FCRO's role under the Foster Care Review Act is to: 1) independently track children in out-of-home care, 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 policy makers 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, PromiseShip or other contractors, Courts, the Office of Probation, OIG, 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 Probation, and child-placing agencies to report to the FCRO any child's out-of-home placement, as well as changes in the child's status (e.g., placement changes and worker changes). By comparing information from multiple sources the FCRO is able to identify discrepancies. When case files of children are reviewed, previously received information is verified, updated, and additional information is gathered. Prior to individual case review reports being issued, additional quality control steps are taken.

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

Contact Information

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