

# **FOSTER CARE REVIEW BOARD TRAINING MANUAL**

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# CHAPTER 1

## FOSTER CARE REVIEW ACT AND THE CREATION OF THE FOSTER CARE REVIEW BOARD

### I. Mission Statement

*The State Foster Care Review Board's mission is to ensure that best interests of children in out-of-home care are being met through external citizen review, monitoring facilities that house children and youth, maintaining up-to-date data on a statewide tracking system, and disseminating data and recommendations through an Annual Report.*

### II. Foster Care Review Board's Vision

The vision of the State Foster Care Review Board is that every child and youth in out-of-home care live in a safe, permanent home, experience an enduring relationship with one or more caring adults, and have every opportunity to grow up to become a responsible and productive adult.

### III. Creation of the Foster Care Review Board - LB 714

In 1980, the Congress passed PL 96-272. PL 96-272 required that a Permanency Plan be prepared for all children in out of home care. PL 96-272, also required that each child's plan be reviewed every six months.

The Nebraska Foster Care Review Board was created in 1982 by the passage of LB 714. The Nebraska Foster and Adoptive Parents' Association initiated what became LB 714 due to concerns about the condition of Nebraska's foster care system. The primary focus of LB 714 was to set up a tracking system that would encourage and facilitate proper placement of foster children consistent with their physical, psychological, and sociological needs, and to set in place citizen reviews of children's cases in out-of-home care (in response to PL 96-272).

In order to make the case for citizen reviews compelling to the legislators and the public, in 1981, a group of Nebraska advocates put together a set of statistics and graphs on foster care in Nebraska. Information was developed from a review of 183 randomly selected cases of children in care of the state—representing what was thought to be ten percent of the children in care through the Department of Social Services (now called the Department of Health and Human Services).

The group's 1981 findings were as follows:

- Nebraska taxpayers spent over \$12 million in foster care services in 1981.
- The cost of keeping one child in foster care for one month ranged from \$210 to \$5,000. This amount represented only the direct cost payable to the child care provider; addition of administrative overhead would have increased costs significantly.
- No one knew how many children were in foster care in Nebraska. The Department of Social Services estimated they had over 1,800 state wards. Children were also in foster care as wards of counties, the Department of Corrections, the Department of Institutions, the Department of Education, and private agencies. At the end of 1982, 4,071 children were on the tracking system.
- The average four-year-old child spent 26 months or 54 percent of his/her total life span in foster care.
- The typical child in care had to adjust to an average of four different locations, each with its own set of rules and values.
- Other states found that trained citizen volunteers reviewing foster care cases on a regular basis increased efficiency of the system by assisting case workers, the courts, and others involved, rather than placing an additional burden on them. For example, in Oregon an intensive review of 500 children who had been in foster care over one year resulted in 78 percent being removed from the system and placed into permanent homes. In South Carolina, caseloads averaged 150 per worker before creation of local review boards; after the creation of the boards they averaged 44 per worker. Only 4.8 percent of children entering foster care in that state left the system within that first year before review boards were initiated. After boards became active, 33 percent of entering children left within six months. In its early months of operation, an Ohio citizen review board examined cases of 99 children and caused 26 of them to be taken out of the system (25 percent).
- Those preparing the booklet included some startling specific cases that further illustrated the need for local citizen review boards. Those facts are as follows:
  - A 17-year-old boy who came into foster care when he was four had ten placements and no hearings in 13 years.
  - A 16-year-old child who had parental rights terminated at the age of one month, was never placed for adoption, and had not had a court review for 15 years.
  - A 6-year-old boy with no special needs had been in foster care since he was five months old. The plan for him was adoption, but he didn't have a court hearing for three years. He was not free for adoption.

- A 16-year-old boy who came into foster care as a 12-year-old neglected child, had been in more than ten homes and had not had a court hearing for three years.
- A 12-year-old girl had been in foster care eight years before parental rights were terminated, freeing her for adoption.

#### **IV. Why do Citizen Case Reviews**

People who care about children—in Nebraska and around the country—have become concerned about children in foster care. They found that many children who were removed from their own homes because of abuse or neglect by their parents were growing up drifting from home to foster home. Some of these children never knew the security of a permanent, caring family.

To make sure that foster children receive the attention they deserve, the Nebraska Legislature passed LB 714 in 1982. The legislature mandated that all children in out-of-home care should have a permanency plan which includes citizen reviews of all children in foster care. The goal of these reviews is to ensure that each child is currently placed in an appropriate home and he or she moves as quickly as possible into a permanent home. A permanent home could include being returned home or being placed permanently with a relative with appropriate legal status, by being freed for adoption, or by establishing a guardianship or the most desirable long-term foster care agreement.

#### **V. The Nebraska Foster Care Review Act**

The Nebraska Foster Care Review Act, Neb. Rev. §43-1301 to §43-1318 was adopted in 1982 in response to the work of the Nebraska Foster and Adoptive Parents' Association and to Federal Law P.L. 96-272, specifically 42 U.S.C. § 671, which mandates the development of permanent plans and periodic reviews of those plans for children in a foster care placement. The Act provides the following:

1. Mandates that the agency or court in charge of the child or youth establish an appropriate plan for the child. (Neb. Rev. Stat. §43-1312) The plan shall contain at least the following:
  - a. The purpose for which the child or youth has been placed in foster care;
  - b. The estimated length of time necessary to achieve the purposes of the foster care placement;
  - c. A description of the services that are to be provided in order to accomplish the purposes of the foster care placement;
  - d. The person or persons who are directly responsible for the implementation of such plan; and

- e. A complete record of the previous placements of the foster child.
- 2. Creates the Nebraska Foster Care Review Board to review the case of each child or youth in a foster care facility to determine what efforts have been made to carry out the plan for the foster child and biological family, or for permanent placement of the child or youth. (Neb. Rev. Stat. §43-1308)
- 3. Establishes a central registry and tracking system of all children in a foster care facility. (Neb. Rev. Stat. §43-1303)
- 4. Requires the court to review the dispositional order at least once every six months; (Neb. Rev. Stat. §43-1313) and
- 5. Requires the child or youth to be provided a medical examination within two weeks of removal from the parent's home. (Neb. Rev. Stat. §43-1311)

Additionally, according to the Foster Care Review Act (Neb. Rev. Stat. §43-1303), the Foster Care Review Board is responsible for establishing training programs for local board members, the evaluation and dissemination of the data it collects, and visiting and observing foster care facilities.

## **VI. Performance Standards**

The performance standards used as a baseline in the assessment of the cases the board reviews are contained in State and Federal law and regulations and thus are readily known. The child welfare system is aware of what is being measured by reviews and what each part is accountable for providing.

On each case reviewed, trained board members make 13 child-specific findings regarding the child's best interests given his or her specific circumstances. The board's findings and supporting legal cites are listed below:

1. **The Review Board's Finding: Were reasonable efforts made to prevent the child's removal from the home?**
  - This is a requirement for federal IV-E reviews.
  - HHS is required to make reasonable efforts to prevent a child's removal from his or her family, unless an exception exists. [Neb.Rev.Stat.§43-283.01 and Adoption and Safe Families Act]
  - In determining whether reasonable efforts have been made to preserve and reunify the family, the child's health and safety are of paramount concern. [Neb.Rev.Stat.§43-283.01]
2. **The Review Board's Finding: Are reasonable efforts being made to return the child home?**

3. **The Review Board's Finding: Is there is a continued need for out of home placement?**
  - HHS is required to make reasonable efforts to reunite a child with his or her family unless certain circumstances exist. [Neb.Rev.Stat.§43-533 (4), Neb.Rev.Stat.§43-283.01 and Adoption and Safe Families Act].
  - In determining whether reasonable efforts have been made to preserve and reunify the family, the child's health and safety are of paramount concern. [Neb.Rev.Stat.§43-283.01]
  - The Board is to determine whether there is a continued need for out-of-home placement. [Neb. Rev. Stat. §43-1308(1)(b)]
  
4. **The Review Board's Finding: Have sibling visitation arrangements been made and do they allow adequate sibling contact?**
  
5. **The Review Board's Finding: Have parental visitation arrangements been made and do they allow adequate parent-child contact?**
  - A visitation plan is to be developed for the child and parents to ensure continued contact when appropriate. [390 NAC 7-001.02A]
  
6. **The Review Board's Finding: Does the Board find that the current placement appears appropriate and safe?**
  
7. **The Review Board's Finding: Has the Department evaluated the safety of the child and has it taken the necessary measures in the plan to protect the child?**
  - A child's current placement is to be safe and appropriate. [Neb. Rev. Stat. §43-1308]
  - When a child cannot remain with his/her parents, relatives shall be given preference as a placement resource. [Neb.Rev.Stat.§43-533 (4)]
  - The State shall minimize the number of placement changes for children in out of home care. [Neb.Rev.Stat.§43-533 (4)]
  - The HHS case manager shall have contact with the child each month as required by HHS guidelines. [HHS Program Memo Title 390, #1-2002 issued 10-30-02 and HHS Program Memo: Title 390, #7-2004]
  - A written home study must be completed on the child's placement prior to placement. [390 NAC 6-002.04]
  - Each child's placement shall receive educational and health information at the time of placement. [Section 475 (5) of the Social Security Act (SSA)]
  - An updated health and education record shall be maintained in the department's case file. [Section 475 (5) of the Social Security Act (SSA)]
  
8. **The Review Board's Finding: Is there a written permanency plan with services, timeframes, and tasks specified?**
  - Each child in foster care shall have a case plan that is written and complete with services, timeframes, and tasks identified within 60 days of placement. [Neb.Rev.Stat.§43-1308, §43-1312, Section 475 (1) of the Social Security Act (SSA) and 390 NAC 5-004.02A, 8-001.11]
  - The plan shall contain at least the following:

- The purpose for which the child has been placed in foster care
    - The estimated length of time necessary to achieve the purposes of the foster care placement
    - The person or persons who are directly responsible for the implementation of such plan, and
    - A complete record of the previous placements of the foster child. [Neb. Rev. Stat. §43-1312]
  - The child's case plan objective shall be appropriate to the individual child's circumstances. Circumstances would include such items as the reason(s) that the child entered care, pertinent concerns uncovered after the child's removal, and the child's physical, emotional, and psychological needs.
  - If a child is 16 years of age or older, the plan shall include services designed to assist the youth in acquiring independent living skills. [Neb.Rev.Stat.§43-285(2) and 390 NAC 5-004.02A]
  - Whether the custodial agency, normally HHS, has evaluated the safety of the child and taken the necessary measures in the plan to protect the child. [Adoption and Safe Families Act]
- 9. The Review Board's Finding: Are all services in the plan presently in motion?**
- 10. The Review Board's Finding: Is progress being made towards the permanency objective? What barriers to permanency remain?**
- The Board shall review what efforts have been made to carry out the plan, including the progress or lack thereof towards meeting the case plan objective, and reasonable efforts to accomplish permanency. [Neb.Rev.Stat.§43-1308]
- 11. The Review Board's Finding: Does the Board agree with the permanency plan?**
- 12. The Review Board's Finding: If the return of the child home is unlikely, what specific alternate permanency plan does the Board recommend?**
- The Board is to determine if the child is likely to be returned to their parent's care and if not, recommend an alternative plan. [Neb.Rev.Stat.§43-1308(1)(c)]
- 13. The Review Board's Finding: Does the Board find that grounds for termination of parental rights appear to exist under the subsections of §43-292?**
- The petition filed by the county attorney affects the adjudication and all court proceedings thereafter, since the courts can only require a parent to rehabilitate on those issues found to be true. [Neb.Rev.Stat.§43-274(1)]
  - Whether all potential parents have been identified and included in the action. [HHS Program Memo: Title 390, Protection and Safety #1-2005]

- The Board must determine if grounds for termination of parental rights appear to exist and whether termination of parental rights is in the child's best interest. [Neb.Rev.Stat.§43-1308]
- The State is required to file a petition to terminate parental rights if the following conditions outlined in Neb. Rev. Stat. §43-292.02 are met:
  - (a) The parents have abandoned the juvenile for six months or more immediately prior to the filing of the petition;
  - (b) The parents have substantially and continuously or repeatedly neglected and refused to give the juvenile or a sibling of the juvenile necessary parental care and protection;
  - (c) The parents, being financially able, have willfully neglected to provide the juvenile with the necessary subsistence, education, or other care necessary for his or her health, morals, or welfare or have neglected to pay for such subsistence, education, or other care when legal custody of the juvenile is lodged with others and such payment ordered by the court;
  - (d) The parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be seriously detrimental to the health, morals, or well-being of the juvenile;
  - (e) The parents are unable to discharge parental responsibilities because of mental illness or mental deficiency and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period;
  - (f) Following a determination that the juvenile is one as described in subdivision (3)(a) of section 43-247, reasonable efforts to preserve and reunify the family if required under section 43-283.01, under the direction of the court, have failed to correct the conditions leading to the determination;
  - (g) The juvenile has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months;
  - (h) The parent has inflicted upon the juvenile, by other than accidental means, serious bodily injury;
  - (i) The parent of the juvenile has subjected the juvenile to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse; or
  - (j) The parent has (a) committed murder of another child of the parent, (b) committed voluntary manslaughter of another child of the parent, (c) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or (d) committed a felony assault that resulted in serious bodily injury to the juvenile or another minor child of the parent.

## VII. Other Elements Considered

The Board also reports in each case the following elements that affect the well-being and permanency efforts being made for a child in out-of-home care:

- Guardian ad litem Contact
  - The guardian ad litem is to make every reasonable effort to become familiar with the needs of the protected juvenile, which includes consultation with the juvenile within two weeks of appointment and every six months thereafter. [Neb. Rev. Stat. §43-272.01(d)]
- Time to Adjudication, Date of Last Court Hearing, and Timeliness of Court Hearings
  - Timely court hearings are a factor that affects the efforts to carry out the plan that the Board is to review [Neb.Rev.Stat.§43-1308(1)(a)].
  - Adjudication and court hearings are to be completed within the statutory timeframes. [Neb.Rev.Stat.§43-277]
  - The Court shall review each child's case at least once every six months. [Neb.Rev.Stat.§43-278]
  - The court shall hold a permanency hearing once a child has been in out of home care for 12 months. [Adoption and Safe Families Act]

The Board may make additional findings and recommendations and give its rationale on what would serve the child's best interests [per Neb.Rev.Stat.§43-1308(b)].

**The Board additionally follows the conditions set forth in the Adoption and Safe Families act of 1997 [US Dept. of Health and Human Services, Administration on Children, Youth, and Families, Log No: ACYF-PI-CB-98-02, issued 1/8/1998] which specifies that:**

- The safety of children is the paramount concern that must guide all child welfare services.
- Foster care is a temporary setting and not a place for children to grow up.
- Permanency planning efforts for children should begin as soon as a child enters foster care and should be expedited by the provision of services to families.
- The child welfare system must focus on results and accountability.
- Innovative approaches are needed to achieve the goals of safety, permanency, and well-being.

Additionally, according to the Foster Care Review Act (§43-1303), the Foster Care Review Board is responsible for establishing training programs for local board members, the evaluation and dissemination of the data it collects, and visiting and observing out-of-home facilities.

#### **43-1301 Terms, defined.**

For purposes of the Foster Care Review Act, unless the context otherwise requires:

- (1) Local board shall mean a local foster care review board created pursuant to section 43-1304;
- (2) State board shall mean the State Foster Care Review Board created pursuant to section 43-1302;
- (3) Foster care facility shall mean any foster home, group home, child care facility, public agency, private agency, or any other person or entity receiving and caring for foster children;
- (4) Foster care placements shall mean all placements of juveniles as described in subdivision (3)(b) of section 43-247, placements of neglected, dependent, or delinquent children, including those made directly by parents or by third parties, and placements of children who have been voluntarily relinquished pursuant to section 43-106.01 to the Department of Health and Human Services or any child placement agency licensed by the Department of Health and Human Services;
- (5) Person or court in charge of the child shall mean (a) the Department of Health and Human Services, an association, or an individual who has been made the guardian of a neglected, dependent, or delinquent child by the court and has the responsibility of the care of the child and has the authority by and with the assent of the court to place such a child in a suitable family home or institution or has been entrusted with the care of the child by a voluntary placement made by a parent or legal guardian, (b) the court which has jurisdiction over the child, or (c) the entity having jurisdiction over the child pursuant to the Nebraska Indian Child Welfare Act;
- (6) Voluntary placement shall mean the placement by a parent or legal guardian who relinquishes the possession and care of a child to a third party, individual, or agency;
- (7) Family unit shall mean the social unit consisting of the foster child and the parent or parents or any person in the relationship of a parent, including a grandparent, and any siblings with whom the foster child legally resided prior to placement in foster care;
- (8) Child-caring agency shall have the definition found in section 71-1902; and
- (9) Child-placing agency shall have the definition found in section 71-1902.

**Source:** Laws 1982, LB 714, § 1; Laws 1985, LB 255, § 40; Laws 1985, LB 447, § 36; Laws 1987, LB 239, § 1; Laws 1990, LB 1222, § 4; Laws 1996, LB 1044, § 194; Laws 1997, LB 307, § 75.

#### **43-1301.01 Entering foster care; determination of time.**

For the purpose of determining the timing of review hearings, permanency hearings, and other requirements under the Foster Care Review Act, a child is deemed to have entered foster care on the earlier of the date of the first judicial

finding that the child has been subjected to child abuse or neglect or the date that is sixty days after the date on which the child is removed from the home.

**Source:** Laws 1998, LB 1041, § 35.

**43-1302 State Foster Care Review Board; established; members; terms; expenses.**

(1) (a) Until January 1, 2006, the State Foster Care Review Board shall be comprised of nine members to be appointed by the Governor, subject to confirmation by a majority of the members elected to the Legislature. At least one member shall be an attorney with legal expertise in child welfare. Two members shall be from each of the three congressional districts as they existed on January 1, 1982. In addition to the six members representative of the congressional districts, three members shall be appointed by the Governor from a group consisting of all the chairpersons of the local boards, and one such chairperson shall be appointed from each such congressional district. The appointment of a member of a local board to the state board shall not create a vacancy on the local board. Members other than those appointed from the group consisting of all the chairpersons of the local boards shall be appointed to three-year terms, and those members appointed from the group consisting of all the chairpersons of local boards shall be appointed to two-year terms. No person shall serve on the state board for more than six consecutive years. No person employed by a child-caring agency, a child-placing agency, or a court shall be appointed to the state board.

(b) On and after January 1, 2006, the State Foster Care Review Board shall be comprised of eleven members appointed by the Governor with the approval of a majority of the members elected to the Legislature, consisting of: Three members of local foster care review boards, one from each congressional district; one practitioner of pediatric medicine, licensed under the Uniform Licensing Law; one practitioner of child clinical psychology, licensed under the Uniform Licensing Law; one social worker certified under the Uniform Licensing Law, with expertise in the area of child welfare; one attorney who is or has been a guardian ad litem; one representative of a statewide child advocacy group; one director of a child advocacy center; one director of a court appointed special advocate program; and one member of the public who has a background in business or finance.

The terms of members appointed pursuant to this subdivision shall be three years, except that of the initial members of the state board, one-third shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years, as determined by the Governor. No person appointed by the Governor to the state board shall serve more than two consecutive three-year terms. An appointee to a vacancy occurring from an unexpired term shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed and qualified. Members serving on the state board on December 31, 2005, shall continue in

office until the members appointed under this subdivision take office. The members of the state board shall, to the extent possible, represent the three congressional districts equally.

(2) The state board shall select a chairperson, vice-chairperson, and such other officers as the state board deems necessary. Members of the state board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The state board shall employ or contract for services from such persons as are necessary to aid it in carrying out its duties.

**Source:** Laws 1982, LB 714, § 2, Laws 1987, LB 239, § 2, Laws 1990, LB 1222, § 5, Laws 2005, LB 761, § 1 Effective date September 4, 2005.

**43-1303 State board; meetings; registry; reports required; rules and regulations; visitation of facilities.**

(1) The state board shall meet at least twice per year. The state board shall establish a statewide register of all foster care placements occurring within the state, and there shall be a monthly report made to the state board registry of all foster care placements by the Department of Health and Human Services, any child-placing agency, or any court in a form as developed by the state board in consultation with representatives of entities required to make such reports. For each child entering and leaving foster care, such monthly report shall consist of identifying information, placement information, and the plan or permanency plan developed by the person or court in charge of the child pursuant to section 43-1312. The department and every court and child-placing agency shall report any foster care placement within three working days. The report shall contain the following information:

- (a) Child identification information, including name, social security number, date of birth, gender, race, and religion;
- (b) Identification information for parents and stepparents, including name, social security number, address, and status of parental rights;
- (c) Placement information, including initial placement date, current placement date, and the name and address of the foster care provider;
- (d) Court status information, including which court has jurisdiction, initial custody date, court hearing date, and results of the court hearing;
- (e) Agency or other entity having custody of the child;
- (f) Case worker; and
- (g) Permanency Plan Objective.

(2) The state board shall review the activities of local boards and may adopt and promulgate its own rules and regulations. Such rules and regulations shall provide for the following:

- (a) Establishment of training programs for local board members which shall include an initial training program and periodic in-service training programs;
  - (b) Development of procedures for local boards;
  - (c) Establishment of a central record-keeping facility for all local board files, including individual case reviews;
  - (d) Accumulation of data and the making of annual reports on children in foster care. Such reports shall include
    - (i) personal data on length of time in foster care,
    - (ii) number of placements,
    - (iii) frequency and results of court review, and
    - (iv) number of children supervised by the foster care programs in the state annually;
  - (e) To the extent not prohibited by section 43-1310, evaluation of the judicial and administrative data collected on foster care and the dissemination of such data to the judiciary, public and private agencies, the department, and members of the public; and
  - (f) Manner in which the state board shall determine the appropriateness of requesting a review hearing as provided for in section 43-1313.
- (3) The state board, upon completion of a review of local board activities, shall report and make recommendations to the department and county welfare offices. Such reports and recommendations shall include, but not be limited to, the annual judicial and administrative data collected on foster care pursuant to subsection (2) of this section and the annual evaluation of such data. In addition the state board shall provide copies of such reports and recommendations to each court having the authority to make foster care placements. The state board may visit and observe foster care facilities in order to ascertain whether the individual physical, psychological, and sociological needs of each foster child are being met.

**Source:** Laws 1982, LB 714, § 3; Laws 1990, LB 1222, § 6; Laws 1996, LB 1044, § 195; Laws 1998, LB 1041, § 36; Laws 1999, LB 240, § 1.

#### **43-1304 Local foster care review boards; established; members.**

The state board shall establish local foster care review boards for the review of cases of children in foster care placement. The state board shall select members to serve on local boards from a list of applications submitted to the state board. Each local board shall consist of not less than four and not more than ten members. The members of the board shall reasonably represent the various social, economic, racial, and ethnic groups of the county or counties from which its members may be appointed. A person employed by the state board, the Department of Health and Human Services, a child-caring agency, a child-placing agency, or a court shall not be appointed to a local board. A list of the members of each local board shall be sent to the department.

**Source:** Laws 1982, LB 714, § 4; Laws 1987, LB 239, § 3; Laws 1996, LB 1044, § 196; Laws 1999, LB 240, § 2.

**43-1305 Local board; terms; vacancy.**

All local board members shall be appointed for terms of three years. If a vacancy occurs on a local board, the state board shall appoint another person to serve the unexpired portion of the term. Appointments to fill vacancies on the local board shall be made in the same manner and subject to the same conditions as the initial appointments to such board. The term of each member shall expire on the second Monday in July of the appropriate year. Members shall continue to serve until a successor is appointed.

**Source:** Laws 1982, LB 714, § 5; Laws 1999, LB 240, § 3.

**43-1306 State board; assign cases.**

The state board shall assign cases of children in foster care placement to a local board.

**Source:** Laws 1982, LB 714, § 6.

**43-1307 Child placed in foster care; court; duties.**

Each court which has placed a child in foster care shall send to the state board or designated local board:

- (1) a copy of the plan or permanency plan, prepared by the person or court in charge of the child in accordance with section 43-1312, to effectuate rehabilitation of the foster child and family unit or permanent placement of the child and
- (2) a copy of the progress reports as they relate to the plan or permanency plan, including, but not limited to, the court order and the report and recommendations of the guardian ad litem.

**Source:** Laws 1982, LB 714, § 7; Laws 1998, LB 1041, § 37.

**43-1308 State or local board; powers and duties.**

- (1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, the state board or designated local board shall:
  - (a) Review at least once every six months the case of each child in a foster care placement to determine what efforts have been made to carry out the plan or permanency plan for rehabilitation of the foster child and family unit or for permanent placement of such child pursuant to section 43-1312;

- (b) Submit to the court having jurisdiction over such child for the purposes of foster care placement, within thirty days after the review, its findings and recommendations regarding the efforts and progress made to carry out the plan or permanency plan established pursuant to section 43-1312 together with any other recommendations it chooses to make regarding the child. The findings and recommendations shall include whether there is a need for continued out-of-home placement, whether the current placement is safe and appropriate, the specific reasons for the findings and recommendations, including factors, opinions, and rationale considered in its review, whether the grounds for termination of parental rights under section 43-292 appear to exist, and the date of the next review by the state board or designated local board;
  - (c) If the return of the child to his or her parents is not likely, recommend referral for adoption and termination of parental rights, guardianship, placement with a relative, or, as a last resort, another planned, permanent living arrangement; and
  - (d) Promote and encourage stability and continuity in foster care by discouraging unnecessary changes in the placement of foster children and by encouraging the recruitment of foster parents who may be eligible as adoptive parents.
- (2) When the state board determines that the interests of a child in a foster care placement would be served thereby, the state board may request a review hearing as provided for in section 43-1313.

**Source:** Laws 1982, LB 714, § 8; Laws 1985, LB 255, § 41; Laws 1990, LB 1222, § 7; Laws 1998, LB 1041, § 38.

#### **43-1309      Records; release; when.**

Upon the request of the state board or the designated local board, any records pertaining to a case assigned to such board, or upon the request of the Department of Health and Human Services, any records pertaining to a case assigned to the department, shall be furnished to the requesting board or department by the agency charged with the child or any public official or employee of a political subdivision having relevant contact with the child. Upon the request of the state board or designated local board, and if such information is not obtainable elsewhere, the court having jurisdiction of the foster child shall release such information to the state board or designated local board as the court deems necessary to determine the physical, psychological, and sociological circumstances of such foster child.

**Source:** Laws 1982, LB 714, § 9; Laws 1990, LB 1222, § 8; Laws 1996, LB 1044, § 197.

**43-1310        Records and information; confidential; unauthorized disclosure; penalty.**

All records and information regarding foster children and their parents or relatives in the possession of the state board or local board shall be deemed confidential. Unauthorized disclosure of such confidential records and information or any violation of the rules and regulations of the Department of Health and Human Services or the state board shall be a Class III misdemeanor.

**Source:** Laws 1982, LB 714, § 10; Laws 1990, LB 1222, § 9;Laws 1996, LB 1044, § 198.

**43-1311        Child removed from home; person or court in charge of child; duties.**

Except as otherwise provided in the Nebraska Indian Child Welfare Act, immediately following removal of a child from his or her home pursuant to section 43-284, the person or court in charge of the child shall:

- (1) Conduct or cause to be conducted an investigation of the child's circumstances designed to establish a safe and appropriate plan for the rehabilitation of the foster child and family unit or permanent placement of the child;
- (2) Require that the child receive a medical examination within two weeks of his or her removal from his or her home; and
- (3) Subject the child to such further diagnosis and evaluation as is necessary.

**Source:** Laws 1982, LB 714, § 11; Laws 1985, LB 255, § 42; Laws 1998, LB 1041, §39.

**43-1312        Plan or permanency plan for foster child; contents; investigation; hearing.**

- (1) Following the investigation conducted pursuant to section 43-1311 and immediately following the initial placement of the child, the person or court in charge of the child shall cause to be established a safe and appropriate plan for the child. The plan shall contain at least the following:
  - (a) The purpose for which the child has been placed in foster care;
  - (b) The estimated length of time necessary to achieve the purposes of the foster care placement;
  - (c) A description of the services which are to be provided in order to accomplish the purposes of the foster care placement;
  - (d) The person or persons who are directly responsible for the implementation of such plan; and
  - (e) A complete record of the previous placements of the foster child.
- (2) If the return of the child to his or her parents is not likely based upon facts developed as a result of the investigation, the Department of Health and Human Services shall recommend termination of parental rights and referral

for adoption, guardianship, placement with a relative, or, as a last resort, another planned permanent living arrangement.

- (3) Each child in foster care under the supervision of the state shall have a permanency hearing by a court, no later than twelve months after the date the child enters foster care and annually thereafter during the continuation of foster care. The court's order shall include a finding regarding the appropriateness of the permanency plan determined for the child and shall include whether, and if applicable when, the child will be:
- (a) Returned to the parent;
  - (b) Referred to the state for filing of a petition for termination of parental rights;
  - (c) Placed for adoption;
  - (d) Referred for guardianship; or
  - (e) In cases where the state agency has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home,
    - (i) referred for termination of parental rights,
    - (ii) placed for adoption with a fit and willing relative, or
    - (iii) placed with a guardian.

**Source:** Laws 1982, LB 714, § 12; Laws 1998, LB 1041, § 40.

#### **43-1313      Review of dispositional order; when; procedure.**

When a child is in foster care, the court having jurisdiction over such child for the purposes of foster care placement shall review the dispositional order for such child at least once every six months. The court may reaffirm the order or direct other disposition of the child. Any review hearing by a court having jurisdiction over such child for purposes of foster care placement shall be conducted on the record as provided in sections 43-283 and 43-284, and any recommendations of the state board or a local board concerning such child shall be included in the record. The court shall review a case on the record more often than every six months and at any time following the original placement of the child if the state board requests a hearing in writing specifying the reasons for the review. Members of the state board or its designated representative may attend and be heard at any hearing conducted under this section and may participate through counsel at the hearing with the right to call and cross-examine witnesses and present arguments to the court.

**Source:** Laws 1982, LB 714, § 13; Laws 1990, LB 1222, § 10.

#### **43-1314      Review of dispositional order; right to participate; notice.**

Except as otherwise provided in the Nebraska Indian Child Welfare Act, notice of the court review and the right of participation in all court reviews pertaining to a child in a foster care placement shall be provided by the court having jurisdiction

over such child for the purposes of foster care placement either in court, by mail, or in such other manner as the court may direct. Such notice shall be provided to:

- (1) The person charged with the care of such child;
- (2) The child's parents or guardian unless the parental rights of the parents have been terminated by court action as provided in section 43-292 or 43-297;
- (3) The foster child if age fourteen or over;
- (4) The foster parent or parents of the foster child;
- (5) The guardian ad litem of the foster child; and
- (6) The state board. Notice of the court review shall also be provided to the preadoptive parent or relative providing care for the child. Notice to the foster parent, preadoptive parent, or relative providing care shall not be construed to require that such foster parent, preadoptive parent, or relative be made a party to the review solely on the basis of such notice and opportunity to be heard.

**Source:** Laws 1982, LB 714, § 14; Laws 1985, LB 255, § 43; Laws 1988, LB 948, § 1; Laws 1990, LB 1222, § 11; Laws 1998, LB 1041, § 41.

**Annotations:** Under this section and section 43-285, foster parents have standing to participate in foster care placement review hearings. In re Interest of Jorius G. & Cheralee G., 249 Neb. 892, 546 N.W.2d 796 (1996).

#### **43-1314.01 Six-month case reviews; state board; duties.**

- (1) The State Foster Care Review Board shall be responsible for the conduct of periodic reviews which shall be identified as reviews which meet the federal requirements for six-month case reviews pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272. The state board shall be fiscally responsible for any noncompliance sanctions imposed by the federal government related to the requirements for review outlined in the federal Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272. It is the intent of the Legislature that beginning October 1, 1996, the state board shall be the only state agency with the responsibility to conduct six-month case reviews pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272.
- (2) It is the intent of the Legislature that any six-month court review of a juvenile pursuant to sections 43-278 and 43-1313 shall be identified as a review which meets the federal requirements for six-month case reviews pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272.
- (3) The state board may assist the Department of Health and Human Services as to eligibility under Title IV-E for state wards and eligibility for Supplemental Security Income, Supplemental Security Disability Income, Veterans Administration, or aid to families with dependent children benefits, for child support orders of the court, and for medical insurance other than Medicaid.

**Source:** Laws 1996, LB 642, § 1; Laws 1997, LB 307, § 76; Laws 1999, LB 240, § 4.

**43-1315 Status and permanency plan review; placement order.**

In reviewing the foster care status and permanency plan of a child and in determining its order for disposition, the court shall continue placement outside the home upon a written determination that return of the child to his or her home would be contrary to the welfare of such child and that reasonable efforts to preserve and reunify the family, if required under section 43-283.01, have been made. In making this determination, the court shall consider the goals of the foster care placement and the safety and appropriateness of the foster care plan or permanency plan established pursuant to section 43-1312.

**Source:** Laws 1982, LB 714, § 15; Laws 1987, LB 635, § 4; Laws 1998, LB 1041, § 42.

**43-1316 Status review; child's needs; determination.**

The court shall, when reviewing the foster care status of a child, determine whether the individual physical, psychological, and sociological needs of the child are being met. The health and safety of the child are of paramount concern in such review.

**Source:** Laws 1982, LB 714, § 16; Laws 1998, LB 1041, § 43.

**43-1317 Training for local board members.**

The state board shall establish compulsory training for local board members which shall consist of initial training programs followed by periodic inservice training programs.

**Source:** Laws 1982, LB 714, § 17.

**43-1318 Act, how cited.**

Sections 43-1301 to 43-1318 shall be known and may be cited as the Foster Care Review Act.

**Source:** Laws 1982, LB 714, § 18; Laws 1996, LB 642, § 2; Laws 1998, LB 1041, § 44.

## **CHAPTER 2**

### **STRUCTURE OF THE FOSTER CARE REVIEW BOARD**

#### **I. Independent State Agency Status**

The Nebraska Foster Care Review Board, as established by Neb. Rev. Stat. §43-1301 - 1308, is an independent state agency; it is not affiliated with the courts or the Nebraska Department of Health and Human Services.

#### **II. The State Foster Care Review Board**

The State Board is comprised of eleven members who are appointed by the governor and approved by the legislature. The State Board is charged with hiring the director, reviewing the budget of the Foster Care Review Board, setting policy and determining courses of action for special issues.

Each State Board member is appointed to a three-year term. No person shall serve on the state board for more than six consecutive years.

#### **III. Local Foster Care Review Boards**

The State Board is charged with establishing local foster care review boards to review the cases of children in a foster care placement. Each local board shall consist of four to ten members who are appointed by the State Board. Local board members are appointed for a term of three years. All terms expire on the second Monday in July. There is no limit to the number of terms that a local board member can serve. Local boards are located in communities across the state.

#### **IV. Duties of the Foster Care Review Board**

- Collect data on children in out-of-home care, updating data on children, evaluating judicial and administrative data collected on foster care, and disseminating data on children in out-of-home care,
- Disseminate data and findings through means such as an Annual Report, community meetings, and legislative hearings,
- Visit the placements of children in out-of-home care,
- Review the plan, services, and placements of children in out-of-home care whether in out-of-home care through the Department of Health and Human Services, through the Department of Corrections, or through private placement, by trained citizen volunteers,
- Make findings based on the review,
- Submit the board's findings to all the legal parties to the case,

- Attend court hearings and testify as to the board's recommendations and concerns,
- Through legal standing, petition the court at a dispositional or permanency hearing to present evidence on behalf of specific children in out-of-home care and their families,
- Advocate for children and their families through individual case review, legislation, and pressing for policy reform,
- Organize, sponsor, and participate in educational programs.

## **V. Roles and Responsibilities of Local Review Boards**

The local review boards shall be responsible for, obtaining information concerning and making findings on the following points about the child's plan for permanency:

- The purpose for which the child has been placed in foster care.
- The estimated length of time necessary to achieve the purposes of foster care placements.
- A description of the services which are to be provided in order to accomplish the purposes of the foster care placement.
- The person or persons who are directly responsible for the implementation of such plan.
- A complete record of the previous placements of the foster child.
- If the placement is necessary.
- If the placement is appropriate.
- To list what barriers exist to the plan's success.

Local review boards are central to the review process. Local boards review the cases of children and youth who are under the care of the Nebraska Department of Health and Human Services, the courts, and private agencies. All children in out-of-home care are eligible for review by the board.

## **VI. Recruitment and Composition of Local Review Boards:**

The four to ten citizen volunteers who serve on the local boards come from a variety of disciplines and perspectives. What they share is a commitment to children and a willingness to donate their time to review children's permanency plans and to work to improve the child welfare system in Nebraska.

The Foster Care Review Board strives to recruit volunteers from different socio-economic levels, as well as a variety of racial and occupational backgrounds that reflect the makeup of the community as a whole. Ideally, the boards are

composed of persons with legal, medical, educational, and mental health backgrounds, as well as community members concerned with the well being of children.

No one employed by the State Board or a child welfare agency may be appointed to a local review board. Court personnel, agency personnel, and persons employed by a child placement agency are not eligible to serve on local review boards or the State Board.

## **VII Training:**

Prior to serving on a local review board, volunteers will be required to complete an application, submit to a Child Protective Services check, sign a Confidentiality Affidavit, and complete the training program.

Volunteers will be provided with initial and ongoing training in the following areas:

- History of the Foster Care Review Board;
- The importance of confidentiality in reviews;
- Reasonable efforts;
- The philosophy of permanency planning (PL 96-272);
- The role of the Review Board;
- Bonding and attachment/separation and loss;
- How the child or youth enters the legal system;
- How the Department of Health and Human Services becomes involved;
- Statutory guidelines; laws affecting the review process;
- Group dynamics;
- The review process and making appropriate recommendations - barriers;
- Techniques and skills required to review cases;
- Observing a board meeting.

This training is mandatory for a volunteer to participate in a review.

Local boards in some areas of the state, in cooperation with the State Foster Care Review Board, have held community-training programs on issues they believe need special attention. Some of the training topics are sexual abuse, permanency planning, child development, the Indian Child Welfare Act, cultural sensitivity, gangs etc. Local board members are strongly encouraged to attend these

workshops/seminars whenever possible to upgrade their skills and learn new information.

### **VIII. Attendance at the Local Board Meeting:**

Board members are expected to attend all scheduled meetings. If a local board member is unable to attend, the Review Specialist should be contacted. It is the local board member's responsibility to ensure that the board packet is promptly returned to the review specialist.

If a board meeting is canceled due to inclement weather (e.g., severe snow, tornado warning, etc.), the Review Specialist will attempt to notify each local board member by phone. If a board meeting is canceled or postponed for any reason, the review specialist will notify each local board member of the new date. Any material in the local board member's possession is to be delivered to the Review Specialist or returned at the next scheduled meeting time. The review specialist should also contact the Lincoln office to inform them of the canceled meeting along with the rescheduled date and time.

If a local board member is scheduled to be the lead questioner for a particular case and will not be able to attend the meeting, it is that member's responsibility to contact a fellow local board member or the board chairperson to take over the case.

### **IX Quorum:**

A quorum at a board meeting will consist of a majority of active board members assigned to the board, including the Review Specialist.

### **X. Local Board Member Participation:**

Each local board member shall actively participate in the review process by reading all information prior to the meeting, asking pertinent questions in accordance with the policies of the Review Board, and sharing thoughts and opinions with fellow local board members.

### **XI Confidentiality:**

Local board members shall, at all times, observe all applicable rules of confidentiality under penalty of law. This means that there is no discussion of cases outside of the board meetings. All employees and local board members will strive to protect the rights of all interested parties and will assure all parties that their privacy is respected. A board member can be removed from a board for divulging confidential information outside of a board meeting.

## **XII Conflict of Interest:**

Due to the variety of professions that are represented on each local board, it is inevitable that a board member may have a conflict of interest with a case that is being reviewed by their board. The following will give some direction as to the procedures to follow when a conflict does arise.

- If a board member knows a child or has had direct contact with the child or his/her family, it is the responsibility of the board member to inform the Review Specialist and excuse her/himself from that particular review and leave the meeting room for the length of time that case is being discussed.
- A board member with a conflict on a case should stop reading the information provided by the Review Specialist as soon as they become aware of the conflict. This maintains the confidentiality and objectivity of the board and protects those involved in the review process.
- It is inevitable that some of the board members will have knowledge of a child the board is reviewing, their family or foster parents. If a board member has **important** information on a case, they should notify the Review Specialist and attend the review as a participant.
- If any information is shared with the board by a board member, that board member's name must be added to the front of the recommendation as a party providing information to the board. This board member will not be allowed to participate in the board's discussion of the case and should be excused from the meeting room. Please note that the Foster Care Review Board's recommendations are sent to all legal parties in the case.
- If you have any questions regarding whether or not you have a conflict on a case, please contact your Review Specialist.

## **XIII. Grounds for Removal:**

The following are reasons a local board member can be removed from a board. They include but are not limited to:

- Divulging confidential information.
- Failure to attend mandatory training sessions.
- Missing two consecutive board meetings or four board meetings in one year without justifiable cause, as determined by the Review Specialist.
- Any action or behavior that is inconsistent with the purposes and objectives of the Foster Care Review Board.

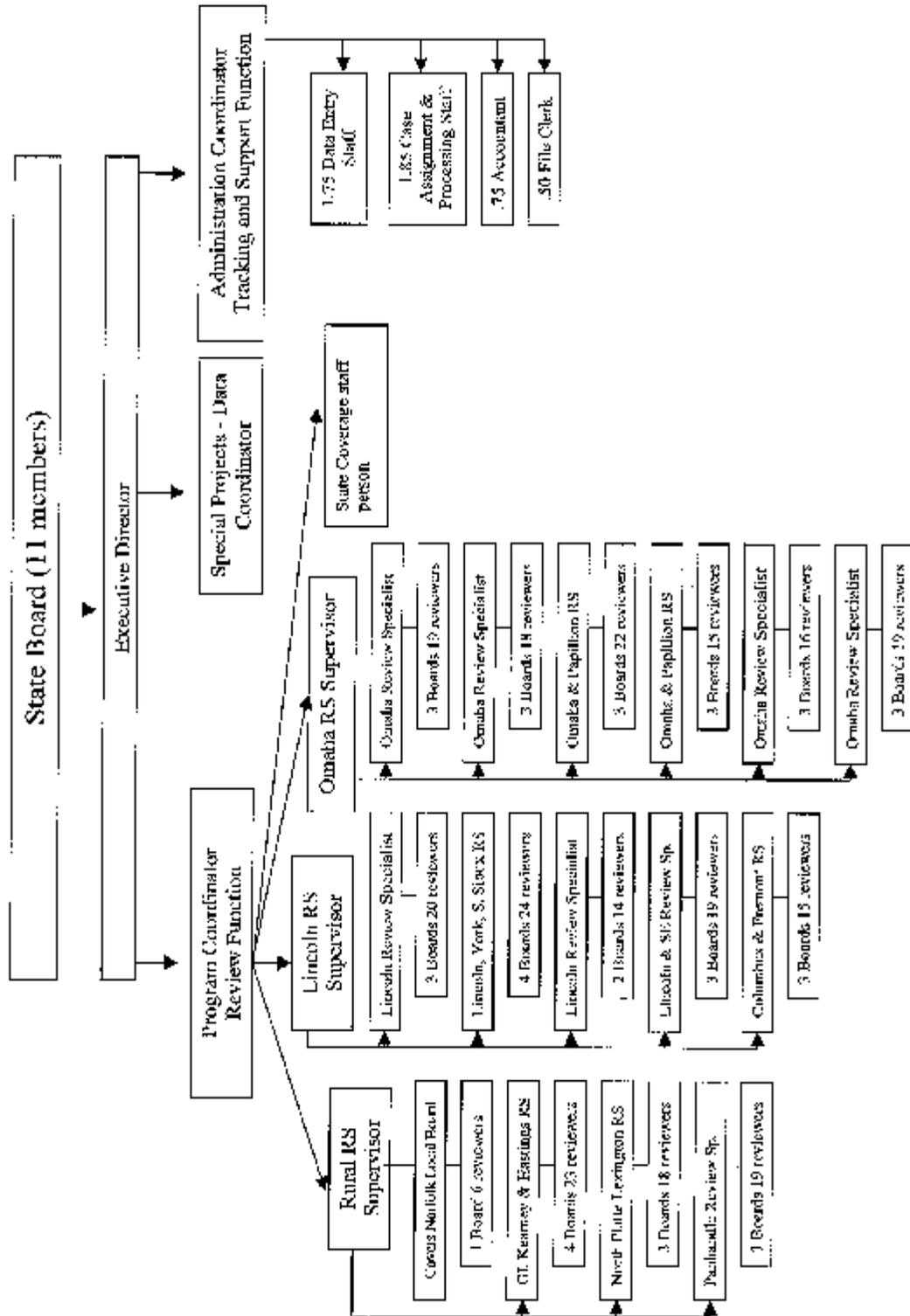
#### **XIV The Foster Care Review Board Staff:**

The State Board oversees the Director of the Foster Care Review Board who in turn is responsible for the Program Coordinator, Administrative Coordinator, Special Projects/Data Coordinator, Review Specialist Supervisors, Review Specialists, and Office Staff.

The Foster Care Review Board staff is responsible for the following:

- Carrying out responsibilities as described in Chapter 43, Sections 43-1302 to 43-1318, Neb. Stat. R.R.S.;
- Establishing statewide registry of all out-of-home placements, (an attorney general opinion defined children & youth in out of home care as foster children);
- Establishing local review boards;
- Assigning cases to local review boards;
- Establishing training programs for the local review boards to review children's cases;
- Developing procedures for local review boards;
- Establishing and maintaining a central record-keeping facility for all local review board files;
- Accumulating data and issuing an annual report on children in out-of-home care; and
- Reviewing files of all foster care placements (attorney general opinion defined children & youth in out-of-home care as foster children).

FCRB Configuration – Feb. 2009



Notes:

# CHAPTER 3

## THE REVIEW PROCESS

### **I. An Overview of The Review Process:**

The review process begins with case assignments. Using information from the tracking system, 10 to 12 families are assigned to each board each month. This may 20+ children.

A Review Specialist supports each board. The Review Specialist's duties include:

1. Preparing information on each child or youth being reviewed. This involves obtaining information from the child's file at the responsible agency, contacting the foster parents, the court, the child's guardian ad litem or other legal party, and sending questionnaires or invitations to the review to all legal parties to the case;
2. Facilitating and acting as a resource at the board meeting;
3. Preparing the board's letters and recommendations following the board meeting; and
4. Advocating for the child or youth reviewed as directed by the board.

The Foster Care Review Board reviews children and youth from the Department of Health and Human Services, and may review children and youth from private agencies.

The Review Board is the only entity that looks at the child welfare system in its entirety. The Review Board has registered concerns about County Attorneys, guardians ad litem, parent attorneys, prosecutions, service availability, and plans for the children or youth. The Review Board has thus identified a number of places where systemic breakdowns are likely to occur. This ability to look at children's cases from all perspectives demonstrates why it is critical for an independent, external source to have the ability to examine cases and make recommendations.

### **II. The Tracking System:**

The Foster Care Review Board maintains a computerized tracking system in its main office in Lincoln. Since 1983, over 80,000 children have been reported to the tracking system.

Nebraska's tracking system is the only computer system in the country that tracks all children placed in out-of-home care. The Nebraska Foster Care Review Board

receives reports from the Juvenile and county courts, the Department of Health and Human Services, and private agencies throughout the state. Nebraska remains the only state in the country that provides a comprehensive picture of the status of all children in out-of-home care.

Up to 82 pieces of information are kept on children once they enter out-of-home care. The review specialist gathers an additional 100+ pieces of data during the review process. Information on the Review Board's tracking system includes why and when the child or youth entered care, court dates and results, sibling information, adoption data, and barriers to the permanency plan. Information on the children is continually updated as changes occur.

According to the Foster Care Review Act, all courts, child-caring agencies, and child-placing agencies are to report to the Foster Care Review Board whenever a child or youth enters foster care. Later, additional information on the child must be reported, including the reason the child entered care, dates of court hearings, and the child's permanency plan. The Review Board is also to be notified when the child leaves the foster care system.

When the Foster Care Review Board reviews a child or youth's case, information from the review is entered into the tracking system. Additional information reported to the tracking system includes the number of placements, the percent of life the child has spent in out-of-home care, court dates, the name of caseworkers, types of services being offered to the child and family, and adoption information.

Data from the tracking system is summarized in the Foster Care Review Board's Annual Report. The Annual Report also includes information on the Review Board, data from the board reviews, and systemic problems as identified by the boards, and recommendations.

### **Benefits of the Tracking System:**

Before Nebraska had a tracking system, it was unknown how many children were in out-of-home care. Now it is known not only how many children there are, but also:

- Why they entered care;
- What their permanency plans are;
- How many placements they have had;
- What services they are receiving;
- Court data, including length of time to adjudication and disposition;
- Adoption information;
- Abuse information, including if the perpetrator was prosecuted, if the abuse occurred in a foster placement, and if services are being received.

The Foster Care Review Board has added a feature to its system that allows the Board to inspect the welfare of other children placed in a facility if there are allegations of abuse suffered by a child or youth in a group home or institution.

Data from the Foster Care Review Board's Tracking System has been used by:

- Girls and Boys Town, the Department of Health and Human Services, Child Savings Institute, Child Guidance, Native American Corporation, and other agencies in obtaining grants;
- Courts, to make sure all children and youth placed in care by that court are receiving timely reviews;
- New judges, to learn how many children and youth are in their counties of jurisdiction;
- Grant writers and community leaders calculating economic stress to the community from foster care, racial makeup, placement options, age, and other statistics;
- Senators, for data on children and youth in their districts;
- Congress, for data on Nebraska's children for Congressional Hearings;
- Voices for Children, "Kids Count" and foundations for information in compiling local and national statistics;
- Newspapers and television stations, for general data on children in out-of-home care;
- County attorneys, to find out which children and youth have been in out-of-home care over 15 months;
- Child placing agencies, including DHHS, to find locations of independent providers and services offered;
- Correctional facilities, for background information on the issues being dealt with by youth placed in their facilities;
- CASA's, in determining case loads and number of CASA volunteers needed.

Through the solid information derived from board reviews and from the tracking system, the Review Board has been able to advocate effectively for children. This includes:

- Working to pass state legislation requiring mandatory juvenile justice education for county attorneys;
- Creating a special unit in the Attorney General's office to investigate and prosecute criminal child abuse cases;

- Implementing a bill which requires the county attorneys to file a petition to terminate parental rights on behalf of a child if the child has been in out-of-home care for at least 15 of the most recent 22 months;
- Facilitating education opportunities for guardians ad litem, judges, county attorneys, law enforcement, the public and the Nebraska Legislature;
- Organizing and orchestrating rural caucuses across the state to focus policy makers on the plight of abused and neglected children and the response of the system to their needs.

Children and youth who have entered out-of-home care are reported to the Foster Care Review Board by Health and Human Services, the Courts and Private Agencies. This information is recorded on the Foster Care Review Board Tracking System.

Each month a group of children who are in out of home care are assigned to the local board for case review. In most cases, the records for all of these children are maintained at the same agency or department office.

### **III. How Cases Are Assigned for Review:**

The Case Assignment Coordinator is responsible for assigning the cases from the vast database of children reported to the tracking system. The coordinator creates the list of children to be reviewed from the FCRB Tracking System. Cases are prioritized for review as follows:

1. Cases where the Foster Care Review Board receives a Special Request
2. Children who are IV-E eligible (a federal funding program), have been in “foster care” for six months, have not been reviewed previously by the Board, and there is an upcoming court hearing.
3. Children who are IV-E eligible have been in “foster care” for more than six months, have been reviewed previously by the Board, and have an upcoming court hearing.
4. Children who are not IV-E eligible and have an upcoming court hearing.
5. Children who are not IV-E eligible, are in “foster care” and have been reviewed by the Foster Care Review Board previously. This includes those children who no longer have court involvement (i.e. delinquents who are in a “foster care” setting.)
6. Children who have been AWOL (runaway) for six months or more.
7. Children who are placed in closed custody (Detention Centers, YRTC etc.).

As a courtesy, a list of the children to be reviewed is sent to the agency responsible for the child or youth at least four weeks before the board meeting.

#### **IV. Information and Data is Collected**

The review specialist visits the local Health and Human Services office (or other agency) three weeks before the scheduled board meeting. While at the agency, the review specialist completes an extensive data form for each child or youth who is to be reviewed, reviews the files and copies pertinent information, and discusses the progress of each case with the case worker or case manager of the agency or department.

The review specialist also checks DHHS's computer system, N-FOCUS, for updated case information, addresses and placement information.

In addition to the review of documents, review specialists are required to contact the child's placement, guardian ad litem and case manager prior to the local board meeting. This allows the review specialist the opportunity to hear information first hand and to clarify information found in the case file.

#### **V. Notifications and Invitations are Sent**

By statute, all parents whose parental rights remain intact must be invited to attend the Foster Care Review Board's review of their child's case. In addition, Foster Care Review Board's policy states that all placements and Health and Human Services caseworkers must be invited to attend the board's review.

Approximately two weeks prior to the board meeting, notice of the meeting is sent to the parents, child's placement and HHS case manager. Other parties (such as the child's guardian ad litem, parents' attorney, school personnel, therapist, etc.) may also be invited to attend the board's review.

If a party is unable to attend the board's review, a questionnaire is provided so that information can still be shared with the board.

#### **VI. Board Packets are Completed and Sent to Local Board Members**

The review specialist will prepare a board packet for the board members summarizing the information gathered from the file review and conversations with parties. A copy of the child's Case Plan will also be provided along with the case summary.

Board packets are to be mailed/distributed to volunteer board members at least one week prior to the meeting so that board members will have ample time to prepare for the meeting.

## Contents of Board Packets

The contents of board packets will vary according to the availability of information, such as whether or not a child has previously been in the system, whether or not it is an early review, etc. In general, the board packet will contain the following:

1. Agenda: An Agenda will be sent along with the board packet. This agenda will include:
  - The date, time, and location of the board meeting;
  - A listing of the cases to be reviews.
  - The board member who is assigned to be the lead questioner for that case; and
  - The amount of time allotted for each case.
2. Case Summaries: A Case Summary is prepared by the Review Specialist based on the information obtained from a file review of the Department of Health and Human Services or the agency with planning responsibility for the child's case file. Each Case Summary will contain:
  - The reason the child entered care—a short explanation to why the child first entered care.
  - Visitation information (including sibling contact),
  - Any special needs of the child and family (medical, physical, education, psychological, etc.).
  - The child's permanency plan and the source of that plan.
  - Court information,
  - Summary of the services that have been or are being provided to the child and family, or those services which have been proposed or those services which have been offered, but refused, and
  - Relevant "other" information (i.e., paternity, Indian Child Welfare Act, etc.).
3. Case Plan: The HHS Case Plan/Court Report will be included in the Board Packet if available. Other documents may be used upon occasion.
4. Other Information: Additional information will be included in the board packet as needed. This additional information could be a psychological evaluation on the child or family, a significant therapy report, a significant school report, etc.
5. Findings Sheet/Barrier List: Each packet should contain at least one recommendation worksheet and a barriers list. Board members use these to prepare for the meeting and make preliminary findings in preparation for the meeting. Board members may make notes on specific questions, comments, or concerns that arise during the preview of the case on these

documents. The case notes may also be used for taking notes during the board meeting.

At the conclusion of the board meeting, all information will be collected to assure it is shredded.

## **VII. Board Members Preparation Prior to the Meeting**

Board members are expected to read written case material prior to the board meeting and come prepared to discuss the details of the case. Notes may be made on the board packet materials.

It is each board member's responsibility to:

**Read** the information carefully and take notes on issues that should be further addressed.

While this information is in the board member's possession, the board member must be acutely sensitive to the rules of **confidentiality**. Generally, the Review Board requires that local board members keep their packets in a closed drawer, preferably under lock and key. Information should **never** be discussed outside of the confines of the review, even with fellow board members.

**Bring** this information to the review. If a board member is unable to attend a board meeting, the board member must get the board packet to the board chairperson or the review specialist prior to the board meeting. If this is not possible, the board packet should be delivered or mailed to the review specialist as soon as possible. The review specialist keeps track of all board packets and is responsible for ensuring that all materials are returned to them for secure disposal.

## **VIII. The Board Meeting (See Chapter 4)**

A case review is a structured discussion about what has occurred in a child's life. During the discussion, the group examines the agency's plan for that child.

By law, Neb. Rev. Stat. § 43-1301 to §43-1318 and Federal law P.L. 96-272, specifically 42 U.S.C. §671, states that permanent plans for a child in out of home care must be developed within 60 days. Persons employed by the agency responsible for the child are responsible for creating this plan. It is the board's job to review that permanency plan and to make recommendations regarding that plan with the child's best interest in mind.

The Legislature has mandated the Foster Care Review Board to make findings in different areas on children's plans who are in out of home care. Those are:

- Were reasonable efforts, if required, used to prevent the child's removal from the home?

- Is there a complete written plan for permanency for the child?
- Are services in place to accomplish the plan?
- Is the current placement safe and appropriate?
- Whether medical and educational documentation has been maintained, updated and provided to the foster parents?
- What efforts have been made to carry out the permanency plan?
- Is the family making progress towards the permanency objective?
- Is there a continued need for out of home placement?
- Is visitation occurring between the child and his or her family members, especially with parents and siblings?
- Does the board agree with the plan?
- Do the grounds for termination of parental rights under §43-292 appear to exist?
- If the return of a child or youth to his or her parents is not likely, recommend referral for adoption and termination of parental rights, guardianship, placement with the relative, or, as a last resort, another planned, permanent living arrangement, Neb. Rev. §43-1308.

Each case review lasts approximately twenty to thirty minutes. During that time, everyone present has a chance to express his or her views on the child's needs and the steps which should be taken to meet those needs. The Board then makes findings on each of these points. If the Board has additional concerns, that is also noted by the review specialist.

The goals of the case reviews are to:

- Identify the top main concerns and recommendations in each case.
- Review the case and make findings on the points listed above;
- Assess whether a child who has been in out-of-home care for more than 60 days has a plan as mandated by Federal Law P.L. 96-272, the Adoption and Safe Family Act, and the State Foster Care Review Act;
- Encourage appropriate services be delivered in a timely manner;
- Advocate for what is appropriate for the child or youth during these reviews;
- Encourage a continuum of citizen involvement in the cases of children who have been removed from their families;
- Advocate for better, more timely, and appropriate actions by the child welfare system; and

- Identify system breakdowns so the systems involved can address those issues.

## **IX. Final Recommendations:**

During the board's discussion of the case, the review specialist documents the board's findings and additional concerns in a final report which is known as a recommendation. The recommendation is processed in either the Lincoln or Omaha office and then forwarded to the court that placed the child in care, the agency responsible for the child, the child's CASA, the child's guardian ad litem/attorney, the county attorney, and the parents' attorneys (and parent's guardian ad litem if applicable).

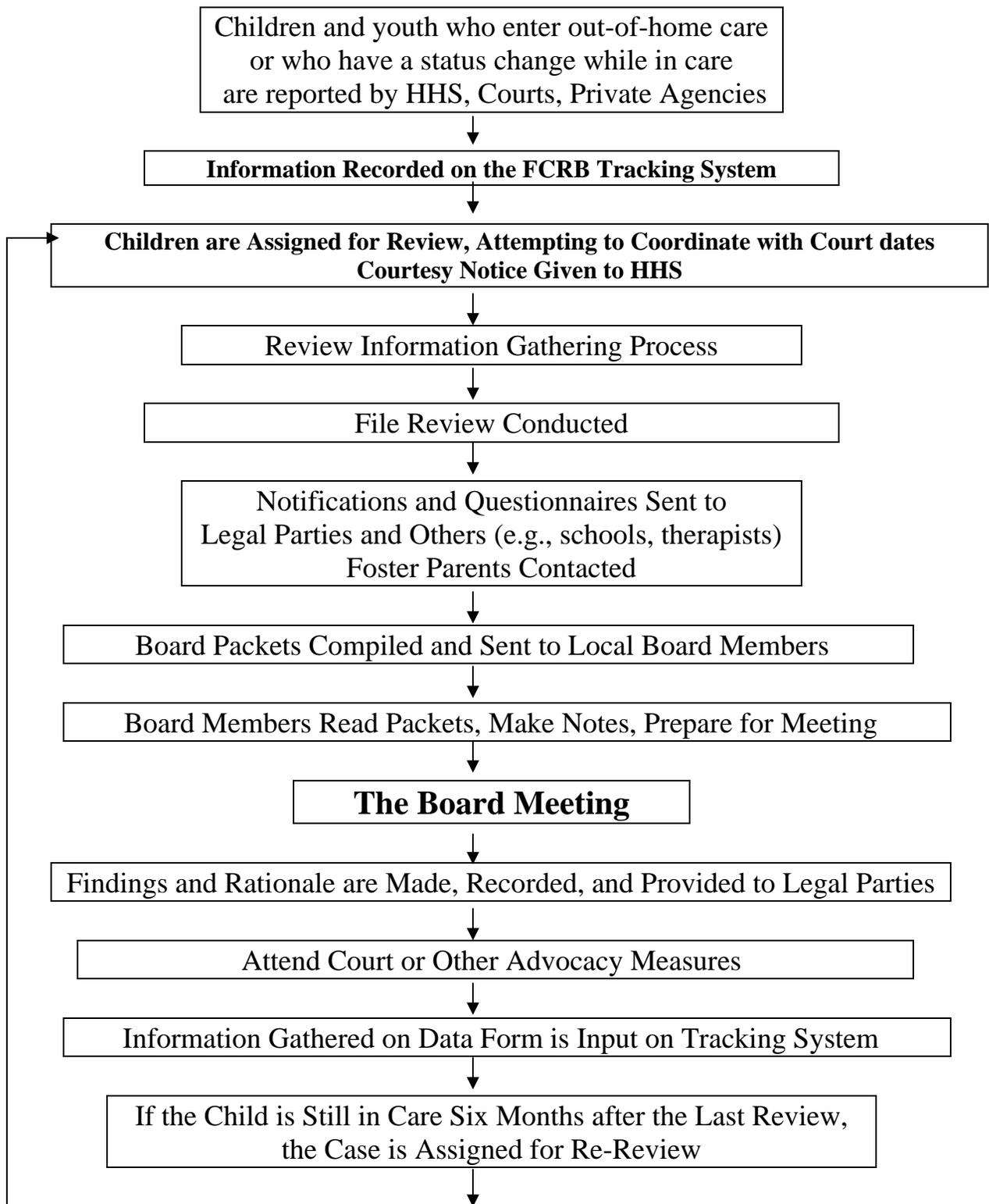
After the recommendations are processed by either the Lincoln or Omaha office they are sent to all legal parties to the case, including:

- The court that placed the child or youth in care;
- The agency responsible for the child or youth;
- The child or youth's guardian ad litem (attorney);
- The county attorney; and
- The parent's attorney.

When applicable, recommendations may also be sent to the Tribal Court, parent's guardian ad litem, the child's parole officer, the CASA, a correctional facility, or the probation officer.

All legal parties receive a copy of the board's recommendations. If any of the parties have a concern regarding the recommendation, they can contact the review specialist. The legal parties can object to the recommendation becoming part of the court record at the next scheduled court review. By providing copies of the recommendation to all legal parties, due process rights are protected.

# The Foster Care Review Board -Review Process



# CHAPTER 4

## THE LOCAL BOARD MEETING

### I. Board Meeting Schedule

Each local board is scheduled to meet once a month. The board's meetings are scheduled on the same day and time each month, i.e., the second Monday at 6:00 p.m. or fourth Tuesday at 9:00 a.m. The board meeting lasts approximately three to three and a half hours.

### II. Positions held by the Board Members

#### **Chairperson.**

The duties of the chairperson are to:

Assure that a quorum is present at the board meeting and to serve as a liaison between other board members and the review specialist,

Read the "Chairperson's Statement" aloud to all review participants, and

Meet with the other board chairs once a year to determine systematic problems and make recommendations to all aspects of the child welfare system for the annual report which is printed each year. The agencies legislative agenda is determined at this time as well.

#### **Greeter.**

The greeter shall: 1) welcome review participants as they arrive, 2) ask all participants what case they are there for, and 3) find out if any of the participants wish to speak to the board privately.

#### **Timekeeper.**

The timekeeper shall ensure that each review begins on time and the board stays on schedule.

#### **Secretary.**

The secretary shall draft any additional letters that the review board wishes to send.

## **Lead Questioner**

Board members will regularly be assigned to serve as lead questioner for a particular case or cases for each board meeting. The lead questioner leads the discussion and begins the interviewing process with the interested parties. The presence of a lead questioner does not preclude participation by other board members. Rather, the lead questioner provides structure and consistency to the review process. The duties of the lead questioner are as follows:

Begin the discussion of the assigned case at the beginning of the review and seek input from fellow board members.

Initiate the questions to participants and lead the discussion for that case.

### **III. Cases Reviewed at the Board Meeting**

The Board will review 6-8 cases during each meeting. This will involve between 6 and 20 children, depending on the number of siblings in each family group.

### **IV. Types of Participant Reviews**

In all cases, the HHS case manager and the child's placement will be invited to attend the board meeting. If parental rights remain intact (there has not been a relinquishment or a termination), the child's parents must also be invited to attend the board meeting.

Persons asked to attend the review in person are also provided a questionnaire in case they are unable to attend the review, but wish to express their views to the board. Participants can also record their answers on tape. The review board has recording facilities at both its Omaha and Lincoln office to facilitate this. The tapes are then played for the board at the review.

At participant reviews, board members ask the persons attending questions that help the board make their findings as accurate as possible.

#### **There are two types of participant reviews:**

##### **1. Full-Party Participant Reviews**

Some cases each month will be chosen to be full-party participant reviews, whereby all interested parties to the case, (including parents, foster parents, caseworkers, guardian ad litem, attorneys, teachers, therapists, family support workers, the child or youth (if the child is deemed mature enough to participate in the review), etc. are invited to attend the board's review to share pertinent information to the case.

## **2. Limited-Party Participant Reviews**

In a limited-party review, only those parties that must be invited via policy (Parents, child's placement and DHHS Case manager) are invited to attend the board's review. Other parties may be sent a questionnaire and asked to submit information to the review specialist prior to the board meeting.

### **Do's and Don'ts for Participant Reviews**

#### **Do:**

- Treat all participants as though they were guests in your home (i.e., be sensitive to seating arrangements, practice general courtesy and respect, etc.).
- Believe that every child deserves a stable "good enough" home and that every child in out-of-home care deserves a permanency plan.
- Carefully examine this plan with focus on reasonable efforts, services, time frames, etc.
- Listen to all interested parties and allow one person to speak at a time.
- Feel free to ask thoughtful, relevant questions.
- Share your opinions and perceptions with your fellow board members during case discussions.
- Be sensitive to religious, cultural, or social differences that may challenge your value system.
- Recognize achievements and make commendations as warranted.
- Be attentive to body language and other nonverbal communication.
- Be continually aware of the sensitive nature of your reviews and of the materials in your possession.
- Say something positive to every participant.
- Thank every participant for attending the review.

#### **Don't:**

- Address foster parents by name. Refer to them as foster mother and foster father as some placements are confidential.
- Counsel interested parties, give advice or use the review as a therapy session.
- Interrupt an interested party or your fellow board member.
- Judge participants or express your own opinions or values to the interested parties.
- Disclose confidential information.

- Quote from specific reports, such as a case plan or a psychiatric evaluation.
- Harass, badger, or lecture a participant on any subject matter.
- Fail to return any portion of your board packet.
- Dominate a board meeting or fail to participate.
- Get caught up in the emotion of a situation. Never say, "It's all going to be OK." That is for the judge to decide.

## V. **Bringing the Meeting to Order**

The Board chairperson or designated board member will call the meeting to order. The Review Specialist will distribute a board folder to each board member. The board folders contain a sample Recommendation Worksheet Sheet, a Barrier List, pertinent statutes and policies, as well as other needed information. The review specialist may also distribute questionnaires from invited parties who were unable to attend.

## VI. **Case Discussion**

**Prior to the Arrival of Participants:** A quick discussion should occur on the case to insure that all board members are aware of the cases main issues. Because of confidentiality issues, the review specialist and all board members must put away or cover all case materials before participants are invited into the meeting room. Questions should be written on an extra piece of paper or the back of the board packet.

**Arrival of Participants:** at the scheduled time, the review specialist or Greeter will escort participants into the meeting room. The review specialist/Greeter will then introduce the participants to the board. The board members may introduce themselves, but use only first names.

**Introduction by Chairperson:** After initial introductions have been made, the board's chairperson shall read the "Chairperson's Statement" aloud.

**Lead Questioner Initiates Discussion:** At this time, the board member who has been assigned as lead questioner shall begin questioning participants, using his or her case notes as a general guideline. Other board members may also question the interested parties at that time.

**Recording the Proceedings:** Throughout the review process, the review specialist will be taking notes and recording all the proceedings.

**Staying on Schedule:** There is a limited time scheduled for each review. The review board will at all times attempt to remain on schedule. The timekeeper will assist in ensuring that the schedule is adhered to as closely as possible.

**Conclusion of Participants:** Once the board has finished questioning the participants, each participant will be thanked. Also, each person should be given an exit questionnaire.

**Case Discussion and Findings:** After the participants have left the meeting room, The lead questioner will lead the discussion on the case, with all board members expressing their views as well. The board will identify its top main concerns and make its findings. At this time, the board will also identify any barriers and will discuss whether any additional correspondence should be drafted.

The Board is required to make 13 findings on each case.

**Determine Additional Advocacy Steps:** Local boards often wonder what steps can be taken when they have a concern about a particular case or a systems issue. The following are some suggested avenues to express the concern and advocate for change. (See Chapter 5)

**Conclusion of the Meeting:** The above procedure will be followed for every case on the agenda. After the last case is reviewed and discussed, the board will be able to decompress, e.g., make general comments, ask questions, etc. Should the board wish to write a letter to a party not affiliated with the review, this letter will be prepared at this time by the secretary.

**Preparation of the Board's Findings:** Following the board meeting, the review specialist will compile and prepare the board's findings. Using the Recommendation Worksheet (filled out at the meeting and signed by all board members) and notes taken from the meeting, the review specialist will prepare the summary of the board's findings and the board's recommendations. The review specialist will also prepare letters to the legal parties as directed by the board members.

**Dissemination of the Board's Findings:** Once the review specialist has completed the findings and correspondence, they are sent to the review specialist supervisor. They are then sent to the Foster Care Review Board's office where copies are made and sent to the appropriate parties.

Copies of the board's findings will be sent to:

- The juvenile court having jurisdiction over the child,
- The child's guardian ad litem,
- The child's CASA,
- The agency having custody of the child (If the child has both a DSS case worker and a case manager in two different offices, copies will be sent to both.),
- The county attorney of the appropriate county,
- The parents' attorneys, and if appropriate, a juvenile parole officer.

## VII. Helpful Techniques when Interviewing Participants

**Specific Questions:** Because there is only a limited amount of time to question participants, board members should come prepared with specific questions. Board members should not rehash information that they already know, but use the participant review as an opportunity to supplement and/or clarify the information provided in the board packet.

**Open-ended Questions.** Open-ended questions are helpful for gathering general information; however, they should only be asked when information cannot be gathered through a specific question.

**Indirect Questions Statements.** Direct questions, like closed questions, may be helpful in eliciting brief, direct responses. Indirect questions or statements, however, may be more helpful in getting others to talk. By all means, avoid "why" questions which tend to be threatening.

Some examples of indirect questions include:

<i>Tell me about . . .</i>	<i>I notice that . . .</i>
<i>Describe . . .</i>	<i>I sense that . . .</i>
<i>Go on . . .</i>	<i>I'm interested that . . .</i>
<i>Give me an example . . .</i>	<i>I'm hearing you say . . .</i>
<i>Say more . . .</i>	<i>If I understand correctly . . .</i>

**Seek Clarification.** If in doubt, ask questions and seek clarification about the information being provided.

**Use an Empathic Response.** Reflect the content and feeling of a participant's statement without being confronting or interpretive. For example:

*It sounds like . . .*

**Use Encouragers.** Using verbal and nonverbal communication, board members encourage participants to share information by showing that they are very involved in the review process. This means using eye contact, saying go on, etc. A board member should not, however agree (verbal or nonverbal) with what the participants are saying.

**Verbal Skills.** Use clear language during the review process. Explain the meaning of terms and offer examples. Be attentive to tone of voice and use your voice to convey interest and support. Seek feedback and restate the question in different words if necessary.

## **Examples of Questions that can be asked of these parties:**

### **Parents:**

- What is your child's plan?
- Do you agree with the case plan?
- Have you been asked to participate in any services or goals?
- What services are you receiving now or have you received? (such as counseling or parenting classes)
- Have you been given enough time to do what was asked? If not why?
- Have you been visiting with your child? Where? When? How often?
- What problems do you see in having your child returned home?
- Are you in favor of having your child returned home?

### **Foster Parents:**

- Did you receive adequate health and education information on the child prior to him/her being placed in your home?
- What services is the child or children in your care receiving?
- Are there any other services you feel the child needs?
- Do you receive respite care?
- Are there any other services you need?
- (If the child is school age) How is the child doing in school?
- How does the child react before and after visits?
- When was the last time the HHS case manager had contact with the child?
- When was the last time the child's Guardian ad Litem/CASA had contact with the child?

### **Child:**

Note: Children will be invited to the review on the advice of the caseworker and/or guardian ad litem. Consideration will be given to the child's age, intellectual status, emotional stability, etc.

Board members will need to be particularly sensitive when interviewing children to prevent the review from seeming or becoming threatening or traumatizing. It is especially important to be aware of the potential tension that may exist between the child's desire to express his concerns and his allegiance toward others present at the review.

## **Examples of some types of questions that might be appropriate with child participants are as follows:**

- Have you had visits with your parents since you have been in foster care?
- What are your feelings regarding the contacts or visits you have had with your parents since your placement?
- Do you feel safe in your foster home?

- If school age–How is school going? What is your favorite class?
- What problems are you experiencing?
- Is there anything you would like the board to know about you?

**Caseworker:**

- What was the problem that brought the child into care? (You may not want to ask this question if other parties are in the room)
- What specific services have been provided by the agency?
- Are the services still needed and are they appropriate?
- What effects have the provided services had on the involved parties?
- Describe parent participation in the services.
- In your opinion, what barriers exist or existed regarding the delivery of services?
- What time frames exist regarding future goals relative to the permanent placement of the child and/or the termination of your agency's services?
- Is there anything else you would like the board to know?

**VIII Reviewing the Permanency Plan/The Board’s Findings**

A clarification of each finding in reference to the plan follows. It is essential that we, as an agency, review the plan in a consistent and uniform manner across the state.

Each of the findings local boards make are based on federal requirements, state mandates, and/or children’s best interests. Neb. Rev. Stat. 43-1308(b) requires that we provide rationale for each finding in the report to the court and legal parties. A clarification of each finding in reference to the plan follows.

It is essential that we, as an agency, review the plan in a consistent and uniform manner across the state and communicate the issues we identify and our recommendations in the most efficient manner possible. As the Court has said, your work is valuable:

“Importantly, §43-285(6) provides that the only prerequisite for the admission in evidence of the Board’s written findings and recommendations is that they have been provided to all other parties of record. The Foster Care Review Act and the Board would be empty vessels indeed if the Board’s recommendations were not considered by the court. Thus, we do not take the Board’s emphatic stand against the DSS plan to be a meaningless gesture.” *In re Interests of John T., Court of Appeals, (1995).*

## **IX. Barriers to the Permanency Plan**

-

Barriers should focus on what currently exists that prevents permanency from occurring. The Board's Main findings and Recommendations (top concerns) should support the barriers chosen. Please limit the number of barriers you identify. The barriers should be listed in the order of their impact on the case, with the most significant barrier listed first.

## **X. Pertinent Questions to Answer When Reviewing the Permanency Plan**

The cases you will review for the Foster Care Review Board can be complicated. We have provided you with a list of questions you should be familiar with as you review each child's case. Once you read through these questions a few times you will begin to remember what it is you as a Board member should be looking for.

As an example: When a seven year old child is placed in a mental institution for a significant amount of time, the Board should question the appropriateness of that placement and should additionally recommend the development of therapeutic foster care so the child could be placed in a less restrictive setting and still receive the care the child needs.

### **When the plan is REUNIFICATION**

- What is the time frame for the return of the child?
- How long has "Reunification" been the permanency objective?
- What are the efforts (or services) to reunite the family?
- Is there a written agreement by all parties, outlining their current responsibilities?
- What is the parent supposed to be doing to have the child returned home?
- Are there reports from these services? such as current therapy reports (within the last 3 months), a report from parenting class that documents attendance, if a family support worker is assigned, family support worker notes documenting contacts and what issues were addressed, written proof in the file of attendance at AA
- When was the last time the parent visited the child?
- What are the current visitation arrangements? Are they supervised or unsupervised, and is this what the Court has ordered?
- What type of interaction occurs on visitation?
- Does the child act out after visitation with his/her biological family?
- Have the circumstances that caused placement in foster care been alleviated?
- What are the feelings of the child about returning to his/her biological family?

- Where is the child currently placed?
- Is it an appropriate placement?
- Are the child's needs (physical, educational & mental) being met by this placement?
- Will the current placement help facilitate the permanency plan for the child?

### **When the Plan is ADOPTION**

- Is the child free for adoption? (All parental rights have been addressed)
- If not, are there grounds to terminate parental rights?
- Has the county attorney filed the Termination Petition? If not, why? You could ask that a letter to the County Attorney be written requesting a petition be filed.
- Has the court hearing date of the termination been set?
- Are the parents relinquishing their parental rights?
- If they have relinquished, has the relinquishment been officially accepted by HHS or the court? (until this is done, the parents could take back the relinquishment, and the child is not legally free for adoption. Also HHS will not accept relinquishment of only one parent, the rights of the other must be terminated first, or must also be relinquished).
- Have the rights of both parents been addressed? If not, does publication need to occur on a parent whose whereabouts are unknown?
- Has the caseworker prepared the Termination of Parental Rights study for the agency?
- Has relinquishment of parental rights been pursued properly?
- Is the child in an adoptive placement?
- If the child needs to be moved, what is being done to pursue an adoptive placement?
- Has the child been waiting for an adoptive placement? How long?
- If the child is Native American, has the Indian Child Welfare Act been followed regarding placements?
- Has the adoption summary been done?
- Has an adoptive medical history been completed? Is a subsidy being pursued? Has the subsidy paperwork been started?
- Is the worker qualified to complete an adoption or does the case need to be transferred to an adoption specialist?
- What is the target date for adoption, and is it occurring in a timely manner?

- Have the adoptive parents filed a petition to adopt through the county attorney's office?

### **When the Plan is INDEPENDENT LIVING**

- Why was the child placed in foster care?
- What efforts are being made to carry out the plan if independent living?
- What type of independent living training is the youth receiving and are there reports from this?
- What is the target date for independent living?
- Is the child learning sufficient independent living skills? If not, what areas does the child need help in?
- Who is responsible for ensuring the child receives the needed skills?
- Will the current placement help facilitate the permanency plan for the child?
- Has the Former Ward program been considered or offered to the youth?
- What type of skills does the youth have for the job market?
- Does a vocational assessment need to be completed?

### **When the Plan is GUARDIANSHIP or LONG TERM FOSTER CARE**

- What is the reason for the child entering foster care?
- How long has the child been in foster care? How old is the child?
- What is the extent of the biological parent's involvement with the child?
- Is long-term foster care the least detrimental alternative for the child?
- Should the child be freed for adoption?
- Is guardianship possible? (Can the foster parents be legally responsible for the day-to-day needs of the child, which include education, physical custody, and general welfare of the child's guardianship and does not involve imposition of financial obligation on the foster parent?)
- Is the current placement willing to keep the child on a long-term basis?
- Has a long-term foster care agreement been signed?
- Has the paperwork for the guardianship been started, and will it be subsidized?
- Is this the most permanent plan for the child, or would adoption be a feasible goal?

## **XI. Information to look for on the child at all reviews**

- If the child is in therapy, how current is the most recent therapy report?
- Has the child had a physical exam in the past year, and if the child just entered care, was an exam done in the first two weeks? Are the child's immunizations up-to-date?
- What are the child's educational needs? Is there a current IEP in the file?
- Does the child have any other special needs, and is there documentation they are being met?
- Are the foster parents submitting a monthly progress summary?
- Has the caseworker make contact with the child during the past 30 days?
- Is the child's placement licensed, or is it an approved home? Is there a home study and Central Registry Check in the file on the placement?
- Has a relative placement been considered?
- Has the Indian Child Welfare Act been followed?

## **XII. Results of a Review:**

There are a number of things that happen when children receive citizen reviews:

1. When the Review Board began reviewing children in a new area, it was not unusual to find that children had not been receiving court reviews, they did not have permanency plans, and those freed for adoption either were not placed in adoptive homes or no effort was made to finalize their adoptions. As a result of Review Board reviews, court reviews are held, plans are developed and progress is made on adoptions.
2. As a result of Review Board reviews, cases are monitored on a case-by-case basis. Impractical plans are changed. Arrangements are made for children and families to receive needed services. Attention is given to visitation arrangements. Reviewed cases make faster progress moving thorough the system than cases that have not been reviewed.
3. Dr. Ann Coyne, Associate Professor of Social Work at the University of Nebraska at Omaha, did three evaluations of the Foster Care Review Board in 1985, 1986 and 1988. She compared reviewed children to children who were similar in all respects except they had not been reviewed by the Foster Care Review Board. In each evaluation, reviewed children were more likely to have adoption as their plan, to be in adoptive placements, and to have their adoptions finalized. This saves the State time and money, while, most importantly, children find permanent homes.

Dr. Coyne calculated the cost savings the Review Board was responsible for regarding children leaving out-of-home care. For example, in 1984, Dr. Coyne figured the savings the Review Board created for the state as \$236,880. This savings was figured for children who, on average, left the system at age 12. If this group of children had stayed in care until the age of majority, or for an additional 6 years, the cost to the state would have been much higher.

Instead, the savings to the state grew each year the child or youth did not spend in out of home care. Below, the savings are calculated for each year of the study, and then for the remaining 6 years the child or youth could potentially have spent in out-of-home care.

in 1984 - \$236,880	for the remaining 6 years - \$1,421,280
in 1986 - \$277,200	for the remaining 6 years - \$1,663,200
in 1988 - \$249,480	for the remaining 6 years - \$1,496,880

4. Because the Legislature mandated the Review Board to comment on the safety and appropriateness of children's placements, placements are monitored. The Board is also mandated to review child placement facilities. The Review Board visits group homes and detention facilities statewide. Program deficits and problems are addressed. In addition, the Review Board has published a Directory of Group Homes, listing the population served and programs offered.
5. As the result of concerns recognized by the boards in their reviews of children in out-of-home care, the Foster Care Review Board has sponsored workshops on such topics as bonding and attachment, child sexual abuse, ritualistic abuse, fetal alcohol syndrome, and gangs. These workshops have been attended by county and district court judges, county attorneys, guardians ad litem, state legislators, foster parents, service providers, medical personnel, educators, therapists, local board members, and interested members of the community.

## **XII. Ongoing Reviews of Children's Cases:**

Each child in out of home care is to be reviewed by the Foster Care Review Board once every six months. This is done to ensure that the child's best interest is being met by the agency responsible for the child and that progress is being made on the case.

If a child or youth returns home, is adopted, has a guardianship established, or ages out of the system at age 19, the child is no longer eligible for review unless he/she returns to foster care within six months.

Space for notes:

## CHAPTER 5

### ADVOCACY FOR THE CHILDREN REVIEWED

There are a number of different ways that a Board can further advocate for the children they review, especially when:

1. The Board strongly disagrees with the child's permanency plan,
2. The child's placement is unsafe or inappropriate,
3. The child has been restrained multiple times,
4. The visitation arrangements are not in the child's best interest, or
5. Services are not in place for the child.

**I. If the Board is concerned about a specific case concerns, local board members can:**

- Attend the court's next review hearing. Often times, just the presence of board members in the courtroom causes the judge to pay closer attention to the board's final recommendations. Nametags indicating that you are a Foster Care Review Board volunteer can be obtained from your review specialist.
- Request that the Review Specialist arrange for a Case Status Meeting with HHS, foster parents, therapists, attorneys, etc. to discuss the board's concerns in detail. Please let the Review Specialist know if you would like to attend the meeting.
- Request that the Review Specialist contact the County Attorney to present the case at the LB1184 Treatment/Investigative Team Meetings.
- If the concern involves an immediate safety issue, a letter should be written to the DHHS Director.
- Letters written to GALs or County Attorneys are also effective.
- Request that the Review Specialist pursue Legal Standing, whereby the board will hire an attorney whom will intervene in the case. The Attorney representing the Foster Care Review Board can motion the Court to hold a hearing to address the board's concerns. This option should be used as a last resort, unless there is an immediate risk to the child.

**II. If the Board is concerned about a Systems Issue (child Support not being ordered, Review hearings not occurring on a regular basis, paternity not being established, etc.), local board members can:**

- Meet with the Local County Judges/Separate Juvenile Court Judges to discuss your concerns.
- Meet with the County Attorney to discuss your concerns.
- Contact your Local State Senator.

### **III. Touring Facilities:**

Local review boards may visit and observe foster care facilities and group homes in order to ascertain whether the individual, physical, psychological and sociological needs of each foster child are being met. [Neb. Rev. §43-1303(6)]

A local review board or staff may ask that a tour of a facility be scheduled to become more familiar with the programs that are offered in their community. Board members or staff may also wish to schedule a tour of a certain facility if they become concerned for the well being of the children there through their reviews.

### **IV. Legal Standing:**

Passage of LB 1222 in 1990 gave the Foster Care Review Board authority to "participate through legal counsel at the hearing with the right to call and cross-examine witnesses and present arguments to the court". (§43-1313)

Legal standing is the process whereby the FCRB has the legal authority to hire an attorney to appear for the FCRB on behalf of a child(ren) when a board feels that the best interest of the child(ren) has not been served. Each board should be apprised of the FCRB's legal basis regarding legal standing cases and identify cases that need special attention.

With passage of LB 1222, legal standing was granted to the FCRB to request a review hearing of a dispositional order, and then to participate in any such hearing. This allows us the right to intervene at the dispositional level only. The dispositional level is the step in the juvenile justice system after adjudication (a flow chart of the juvenile justice system is included in the appendix). This does not allow us the legal right to file for termination of parental rights (TPR).

Legal standing should be considered if a board reviews a case and discovers one or more of the following situations:

- Reasonable efforts were not made to prevent a child or youth from entering care
- There is no permanency plan
- The permanency plan is inappropriate
- The placement is inappropriate
- Regular court hearings are not being held
- Appropriate services are not being offered
- The best interest of the child or youth is not being met
- The child or youth is in imminent danger
- Visitation is occurring inappropriately

## **V. Treatment Team Meetings**

The review specialist can participate in prescheduled treatment team meetings. These meetings usually include all professionals who are involved in the child's care and treatment, including the HHS caseworker, the parents, foster parents, therapist, etc.

## **VI. Case Status' Meetings**

There will be times when it will be necessary to discuss the board's concerns about a case with more of the parties involved in the case. This meeting is called a Case Status Meeting. The board does not have to hire an attorney to have a case status meeting. All the legal parties are invited to attend the meeting. This would include the county attorney, the guardian ad litem, the probation officer and/or CASA if applicable, the parent's attorney/s, the Department or other child placing agency.

The purpose of a Case Status Meeting is to bring the board's concerns to the parties and hopefully arrive at a joint resolution of those concerns. Frequently, the Review Board may have information that other parties do not have, or others may have information we do not have. It is essential that at the Case Status meeting all parties share and are operating on the same information. Other times there may be rationale behind one of the party's decision that we may not be aware of. It is essential to discuss this also.

## **VII. Referral to the Attorney's General**

A special unit in the Attorney General's Office called the 'Child Protection Division' was created by the legislature to prosecute felony child abuse cases. This unit was created to aid county attorneys across the state who may not have the expertise or the time to prosecute these difficult cases. The board may refer cases to the unit by using 'A Complaint Form--Crimes Against Children'.

This form should be used when the board believes prosecution of a case should occur or a supplemental petition to address newly discovered or recent abuse should be filed and the local county attorney refuses to file. Even if a case could not be prosecuted, the allegation would be registered and law enforcement would be notified of the alleged crime or potential crime.

Before referring a case to the AG's office, the review specialist should call and discuss it with the appropriate county attorney to find out why charges were not filed.

Another avenue that the board may wish to pursue is to have the review specialist write a letter to the appropriate law enforcement agency that should complete the investigation and send a copy to the county attorney. Keep in mind that if a matter has not been fully investigated, the county attorney will not have the necessary information to file charges.

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## CHAPTER 6

### DEFINITIONS OF THE MEMBERS OF THE CHILD WELFARE SYSTEM

#### **The Child Welfare System:**

The child welfare system can be very confusing. It is important to know something about the legal terms, the definitions of the legal parties in the system, and the process of children moving through the system. As a board member, you will need to have an understanding of this system to review it.

#### **Definition of the Juvenile Court:**

Juvenile court cases share many characteristics with cases in a regular trial court. It is these differences which require attention. First, and most importantly, the goal of juvenile court actions is significantly different than those of actions in county or district courts. The goal of the juvenile court's abuse, neglect, and dependency actions is protection of the child or youth, when such protection is warranted. To that end, language describing the court action itself is different.

Trials occur to the extent that there is due process of law, though there are no juries. The two types of proceedings are called adjudication and dispositional hearings. There are no guilty or not guilty findings. There are no sentences imposed on parents found to have abused, neglected, or endangered their child or youth. Rather, there are rehabilitation plans with which the parents must comply or face civil contempt or other consequences, the most significant being the complete loss of their parental rights to the child or youth.

The juvenile court makes findings to varying degrees. In a case of law violation there is a burden of proof and the court must be convinced beyond a reasonable doubt before proceeding. In an abuse/neglect case the court must be convinced by a preponderance of evidence. And in a termination case the court must find the evidence to be clear and convincing.

Duties of the court are to:

- Determine adjudication status of each case (for example, abuse/neglect or status offender);
- Determine initial dependency status and set a date for the judicial review of the case;
- Determine whether there is an exception to the reasonable efforts requirement under §43-283; and
- If reasonable efforts are not required, conduct a permanency hearing within 30 days of that determination;

- Adopt the agency's case plan and/or hear objections and evidence if such evidence is presented - and to rule on that evidence;
- Conduct a six month review of the child or youth's case plan;
- Conduct a hearing within 30 days after a child has been in foster care for 15 of the most recent 22 months in order to determine whether an exception to the statute which requires the County Attorney to file a petition to terminate parental rights is appropriate;
- Conduct a permanency hearing within 12 months of a child's entrance into foster care;
- Receive the local review board's case findings and advisory recommendations within 30 days of the board's last meeting;
- Utilize the Foster Care Review Board findings and recommendations as an aid in the judicial review of each case;
- Make decisions on each case relating to the child or youth returning home; and
- Hear and observe the evidence and make a ruling if a petition is filed to terminate parental rights. The court must find by clear and convincing evidence (1) that one or more of these eleven grounds exist, and (2) if the termination would be in the best interest of the child. In cases where the children are Native American the preponderance of evidence must be beyond a reasonable doubt.

The courts' responsibilities are to act as an external check on the agency's efforts on behalf of the best interests of the children. Virtually every state in the country has a provision for the courts to review the cases of children who are wards of the state.

Chapter 43, Neb. Stat., R.R.S., Section §43-1313 states: "When a child has been in foster care for a period of one year, the court having jurisdiction over such a child for the purposes of foster care placement shall review the dispositional order for such child. After the initial review the court, having jurisdiction over such child for the purposes of foster care placement shall conduct additional reviews or issue orders concerning continuing foster care once every six months. At the additional review, the court may reaffirm the order or may direct other disposition of the child."

§43-1314 states: "Notice of the court review and the right of participation in all court reviews pertaining to a child in foster care shall be provided by the court having jurisdiction over such child for the purposes of foster care placement either in court, by mail, or in such other manner as the court may direct. Such notice shall be provided to: (1) the person charged with the care of such child; (2) the child's parents or guardian, unless the parental rights of the parents have been terminated by court action as provided in Sections §43-292 or §43-297; (3) the foster child if age 14 or over; (4) the foster parent or parents of the foster child;

(5) the guardian ad litem of the foster child; and (6) the state board. Notice of the court review shall also be provided to the pre-adoptive parent or relative providing care for the child. Notice to the foster parent, pre-adoptive parent, or relative providing care shall not be construed to require that such foster parent, pre-adoptive parent, or relative be made a party to the review solely on the basis of such notice and opportunity to be heard"

§43-1315 states: "In reviewing the foster care status and permanency plan of a child and in determining its order for disposition, the court shall continue placement outside the home upon a written determination that return of the child to his or her home would be contrary to the welfare of such child and that reasonable efforts to preserve and reunify the family, if required under section 24 of this act, have been made. In making this determination, the court shall consider the goals of the foster care placement and the safety and appropriateness of the foster care plan or permanency plan established pursuant to Section 43-1412."

In Nebraska, juvenile courts are found within the county court system. Because of the higher population base and concomitant caseload, separate juvenile courts exist in Douglas, Lancaster and Sarpy counties.

### **Law Enforcement:**

In the law enforcement system there are several opportunities for officers to become involved in abuse, neglect, and dependency cases. Law enforcement officers have the primary responsibility for the initial investigation of such cases after a report is received. They may also be involved in the removal of children from their homes.

Law enforcement officers may also participate in local multi-disciplinary teams which review the case management of a particular child or family. These law enforcement personnel may come from local police departments, or sheriff or state patrol's offices. Within metropolitan areas there may also be some overlap of these departments and offices. Child abuse investigations and treatment teams, which include law enforcement personnel, are to have been formed throughout the state.

### **County Attorney:**

In Nebraska, County Attorneys are elected officials. Depending on the caseload and each county's budget, a county attorney can work either full-time for the county or part-time with their own practice and part-time for the county.

The county attorney files the petition detailing the reasons the state is intervening to protect a child or youth. The detail of information in the petition depends on how well the investigation is conducted by law enforcement, how knowledgeable the county attorney is regarding Juvenile Law and whether the county attorney will plea bargain some of the issues out of the petition in exchange for admission by the parents to the other charges against them or for relinquishment of their

parental rights. It is very important that the petition detail the most serious issues of the case.

Local board members have expressed serious concerns with certain plea bargain arrangements. These concerns are based on the removal of serious abuse allegations from petitions which makes the court unaware of such charges. The rehabilitation plan that the court and the Department of Health and Human Services subsequently set forth must limit itself to correcting conditions addressed in the petition which becomes the basis for the court to take jurisdiction over the juvenile. Therefore, the parents may not receive services to address unwritten (i.e. plea bargained) concerns which may place children in serious danger through unsupervised visits or inappropriate reunification.

For example: A child comes into care because of abuse and neglect on the part of the parents. A few months later the child discloses that her parents sexually abused her. Unless a supplemental petition addressing the sexual abuse is filed and proven in court, it will not be an issue in the case. Neither the parents nor the child will be ordered by the court to address this issue through counseling. The child can consequently be endangered by being inappropriately reunified with the parents, who may have successfully addressed the issues outlined in the petition but not the additional issue of sexual abuse.

Also, under LB 1041, the County Attorney is required to file a petition to terminate parental rights once a child has been in foster care fifteen out of the most recent 22 months, unless an exception applies.

### **Guardians ad litem:**

Guardians ad litem are appointed by the court for the child and for the child's parents when those parents are found to be mentally retarded, mentally disabled, or when the parents themselves are children. "Guardian ad litem" specifically refers to that person who is charged with representing the best interests of the child.

Under the law, guardians ad litem must file a report with the court every six months and visit the child or children they represent no less than every six months.

### **Defense Counsel:**

Provisions for defense counsel fall under Section §43-279.01(1)(b). Counsel for the defendant parents may be either a lawyer of their own choosing and retained at their own expense or a lawyer who has been appointed for the defendant parents by the court if the defendant parents are unable to afford a lawyer and are found by the court to be indigent.

The defense attorney must be committed to ensuring that an appropriate basis for the court's jurisdiction has been set forth in the petition. While the primary focus

of the juvenile court process is on rehabilitation and amelioration of the problems that led to court involvement in the family's life, the attorney must protect his or her client from involvement in the court process unless it is legally justified.

### **Probation Officers:**

Probation officers can be involved in abuse, neglect, and dependency actions in juvenile court. Their primary responsibilities are the investigation of the child's and family's circumstances, providing written reports to the court, and making recommendations to the court about the child and his or her family.

The probation officer gathers information from the child or youth, the child or youth's parents or guardians, school reports, and psychological or psychiatric information.

### **CASAs:**

Unique to juvenile court actions are volunteer Court Appointed Special Advocates for the children or youth who are the subjects of the abuse, neglect or dependency action, or for a child or youth's family. These unpaid advocates are often referred to as "CASAs".

Because each CASA's caseload is kept quite low, the CASA is often able to acquaint him or herself with the facts and circumstances of the child or youth or family to a higher degree than other professionals involved in the case. Additionally, because the CASA is a layperson, he or she may have access to parties that the lawyers are prohibited from contacting. For example, the CASA may become well acquainted with both the child or youth and the parents, while the defense counsel is not allowed independent access to the child or youth who is a represented party and the guardian ad litem is not allowed independent access to the represented defendant parties. Of course, either lawyer may instruct his or her client not to cooperate with the CASA's investigation, but such an instruction could reflect badly on the client when the judge places faith in the CASA's evenhandedness and thoroughness in investigating facts and making recommendations.

In several counties (e.g. Adams, Fillmore), CASA's are appointed to represent children in lieu of an attorney guardian ad litem. This prohibits the child from receiving legal representation, as CASA's are not qualified to present evidence, call or cross-examine witnesses, or file petitions to terminate parental rights.

### **Nebraska Department of Health and Human Services:**

**Intake workers** are responsible for the initial investigation of complaints or reports about situations involving the abuse, neglect or dependency of a minor.

**Case managers** are workers who manage the ongoing services provided to children and families and who oversee the direction and the progress of the NDHHS cases.

The services provided by NDHHS include:

- Provide and facilitate home-based, family-centered services to support family reunification;
- Provide case management;
- Provide family assessment, assessment of need for out-of-home placement and exploration of alternatives to placement;
- Develop a case plan within 60 days of the child or youth coming into care and develop service agreements for the child or youth and parents with input from all involved parties, to be consistent with the needs of the child or youth and any judicial mandates;
- Find a placement appropriate to meet the needs of individual children;
- Provide supervision and services for children in placement;
- Review and update the case plan periodically, with an assessment of the continued need for placement;
- Inform the court in regard to above-named services;
- Initiate action toward termination of parental rights, when this action is determined to be in the best interests of the child or youth;
- Attend the local Foster Care Review Board meetings, if possible, to explain the aspects of the case plan;
- Participate in the review as an information giver and as someone responsible for implementing the case plan; and
- Facilitate the court order.

When the board reviews a child or youth and the worker attends the review, the caseworker is not considered a decision-maker. The caseworker's role is to present the child or youth's case plan and to join the other participants in a discussion of how appropriate that plan is. The local review board makes the findings and recommendations in a case.

Caseworkers in conjunction with their supervisors are responsible for writing a case summary. This should be located in the child or youth's file. Copies are made by the review specialist and placed in the board packet.

**Adoption Unit** workers are transferred cases as the permanency plan changes to adoption. These workers are trained in the legal process of adoption, relinquishment and termination of parental rights, subsidized and open adoptions, and the paperwork involved with these proceedings.

**Casework supervisors** are those persons charged with supervising the case managers and intake workers.

**Staff attorneys**, located in NDHHS offices throughout the state, make occasional court appearances, usually in cases involving a difficult legal issue or a factual dispute regarding DHHS handling of a particular case. Staff attorneys do not routinely appear in court on behalf of DHHS workers to present DHHS case plans. They are also responsible for training DHHS workers and are available to these individuals when answers are needed to legal questions which affect the direction or management of a case.

### **Foster Parents:**

The legal role of the foster parent is not always clearly defined. According to law and custom, natural parents have all the rights and responsibilities for their children.

Foster Parents provide physical care for the child or youth and often times provide emotional care as well. Many children who are placed in care have experienced severe emotional trauma. Foster parents provide care, stability and security for such children.

When a child or youth enters out-of-home care, the parents lose some of their rights and responsibilities. The court can then delegate some rights and responsibilities for the child or youth to the child-placing agency. This agency can in turn delegate some or all of these rights and responsibilities to the foster parent.

According to Sanford Katz, a nationally known lawyer, the legal rights of foster parents are relatively limited under both case law and statute. He says, "foster parents probably have more responsibilities than rights."

An emerging area of law is considering what, if any, legal rights a foster parent has. In Nebraska, except for the 1982 Foster Care Review Act, statutes and case law do not define the rights of foster parents. However, under LB 1041 (§43-1314) notice of court reviews are to be provided to the foster parents, pre-adoptive parents, or relatives providing care for the child. It remains unclear who is responsible for providing this notice.

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## CHAPTER 7

### HOW CHILDREN MOVE THROUGH THE CHILD WELFARE SYSTEM

#### How Children Enter into Out-of-Home Care:

There are two ways a child or youth can enter into out-of-home care. One type of placement is voluntary, the other is court-ordered.

#### Voluntary Placements:

Parents may place their child or youth into foster care voluntarily because of an illness the child or youth suffers. It may be because of a handicap, special impairment, mental illness or uncontrollable behaviors of the child or youth. Other reasons could include the father, mother, or both parents being ill. Sometimes it is because of the death of one of the parents. Some children go into foster care because their mothers are minors and are not able to care for them.

Placements can be arranged through the Department of Health and Human Services. Sometimes placements come through private agencies or hospitals. These types of voluntary placement arrangements are those most likely to be reviewed.

#### Court Ordered Placements (See the flow chart at the end of this chapter):

A **complaint** received from a concerned party will initiate the entrance of a child into the child welfare system. Reports of suspected abuse or neglect may come from a variety of sources since state law imposes an obligation on an individual who has reasonable cause to believe that a child or youth has been subjected to abuse or neglect to report such incidents to the proper law enforcement agency or the Nebraska Department of Health and Human Services.

If a child or youth is a status offender or delinquent, the incident may be handled informally on the street or in the police station. The police may decide to take no action, and the child or youth will be returned to the parents or custodian.

If the child or youth needs protection from an abusive or inadequate parent, the matter may be investigated. In many cases after such an investigation, no further legal action is taken. Services may be offered to the family by the Department of Health and Human Services in order to remedy issues that brought about the complaint. If the parent fails to address the issues that led to the complaint, the child or youth may eventually be removed from the home.

If the police or the Department of Health and Human Services decide that a law violation by a child or parent requires further legal consideration, a complaint will go to the county attorney, who then decides if a petition should be filed in a

juvenile (or other) court. Parents who abuse or neglect their children can be tried in adult courts as well as being the subjects of petitions in juvenile court. The vast majority of abuse cases are filed in juvenile court.

The County Attorney may decide not to take legal action because there is not enough evidence to prove the case in court. If the child or youth is the offender, the county attorney may recommend a voluntary community diversion program. If the program is completed satisfactorily by the child or youth, the original complaint is dismissed. When the parent has been abusive or unfit, the county attorney may also refer the family to various community agencies or the Department of Health and Human Services for assistance, rather than take further legal action.

### **Filing a Petition in Juvenile Court:**

A problem concerning a child or youth is brought to the attention of the county attorney. If the county attorney believes the concern is valid and justified, a petition is filed. Also, any "reputable person" living in the county, with the consent of the county attorney, may file a petition on behalf of a child or youth who is suspected to be the victim of child abuse or neglect.

If the child or youth has been removed from the home by an investigating officer, the county attorney is first obligated to bring the matter before the juvenile court, and may then request that the court enter an order granting temporary custody to the Nebraska Department of Health and Human Services. This order should be requested and issued within 48 hours of the juvenile being taken into protective custody.

The county attorney may recommend that the child or youth be taken into custody. Custody for juvenile delinquents or status offenders can be at a detention facility, group home, treatment facility, a foster home, or, in rare cases, a jail where they must be separated from adult offenders. An abused, neglected, or abandoned child or youth may be placed in a shelter, foster home, group home, or treatment facility.

### **Petition Definitions:**

Sections §43-247 (1) (2) of the Nebraska Juvenile Code describe delinquents and §43-247 (3) describes children in need of assistance. Delinquent children are those who have exhibited behavior problems.

- Subsection (1) includes juveniles who have committed an act other than a traffic offense which would constitute a misdemeanor or an infraction under state or local laws.
- Subsection (2) includes juveniles who have committed an act which would constitute a felony under Nebraska law.

- Subsection (3a) refers to children generally referred to as neglected, abused, or abandoned. Subsection (a) also includes children that are dependent. In this category, children are defined as dependent through no fault of the parent;
- Subsection (3b) refers to children who have exhibited behavior problems by being incorrigible, runaway, or truant, and are called status offenders;
- Subsection (3c) refers to a juvenile who is mentally ill and dangerous as defined in §83-1009.

The petition must contain specific allegations, not merely conclusions, regarding each child or youth that is the subject of the petition and of the court's potential jurisdiction and the parent's alleged deficits in caring for each child or youth. This mandate applies to every initial, amended or supplemental petition that may be filed.

Delinquents generally come before separate juvenile or county courts; but when the crime is committed by an older youth (16 or 17), or if a serious crime is committed (e.g., loss of life is involved), a juvenile can be tried as an adult in district court.

### **Initial Placement:**

Depending on the nature of the petition, the child or youth is placed in the temporary care of the Department of Health and Human Services. The least restrictive or most family-like placement is sought for the child or youth. The hierarchical listing of placements are parents, other relatives, friends - persons known or familiar to the child or youth, foster parents, group homes, child-placing agencies, child-caring institutions, inpatient residential treatment centers, hospitals, and detention centers.

The child or youth and the parents are offered services at this time. Many times parents do not accept services before the court orders them to participate because such acceptance may be seen as an admission of guilt regarding the petition.

Each case progresses sequentially through three steps of court hearings: detention; adjudication; and disposition. These steps can be combined and heard simultaneously or heard individually over a span of weeks or months. Depending on the case load of the juvenile court, a case may be heard immediately after the child or youth comes into care, or it may continue over many months.

### **The Arraignment, Pre-Adjudication or Detention Hearing:**

At the pre-adjudication, arraignment or detention hearing, the legal rights of the child or youth and/or parent are explained. At this time, the child or parent can admit to or deny the allegation(s) in the petition. The purpose of the pre-

adjudication or arraignment hearing is to inform the child or youth offender, or the alleged abusive or unfit parent, of his or her legal rights.

### **Adjudication:**

The adjudication hearing is where the facts are presented to prove the allegations in the petition. The adjudication is similar to a trial where witnesses are called and other evidence is submitted to the judge. A delinquent child or youth has a statutory right to counsel, to call witnesses on his own behalf, to a speedy adjudication, and to appeal. At the present time, a status offender has the same procedural rights as a delinquent.

The purpose of this hearing is to find out if the petition filed by the county attorney against either the child or the parents is true.

After the parents have been informed of their rights, the court may accept an in-court admission, an answer of "no contest," or a denial by the parents to all or any part of the allegations in the petition. The burden of proof is on the state, through the county attorney.

### **Plea Bargaining:**

Because the allegations in an abuse case can be very hard to prove, many serious allegations are sometimes removed from the petition in an agreement between the County Attorney and the parents so that parents will admit to lesser charges.

Local board members have expressed serious concerns with certain plea bargain arrangements. These concerns are based on the removal of serious abuse allegations from petitions which makes the court unaware of such charges. The rehabilitation plan the court and the Department of Health and Human Services subsequently set forth must limit itself to correcting conditions addressed in the petition which becomes the basis for the court to take jurisdiction over the juvenile. Therefore, the parents may not receive services to address unwritten (plea bargained) concerns which may place children in serious danger through unsupervised visits or inappropriate reunification.

Where the petition alleges abuse, neglect, or abandonment, parents are entitled to counsel, fair hearings, and appeal.

After an adjudication by the court that has jurisdiction over the child or children who are the subject(s) of a petition, a date is set for a dispositional hearing. At that hearing, decisions will be made regarding placement of the child or youth and directives will be given to the parents as to how to correct the conditions that led to the court's involvement with the family.

## **Dispositional Hearing:**

If it is found that a child or parent committed the acts as alleged in the petition, or they admit to the acts, a disposition hearing is held. Since juries are not required in Nebraska juvenile courts, the judge decides what disposition, or orders, will be in the "best interest of the child."

The court may order the Nebraska Department of Health and Human Services to prepare and file with the court a proposed plan for the care, placement and services which are to be provided to such juvenile and his or her family. There is a statutory presumption that the case plan the Department of Health and Human Services develops for the juvenile is in the child's best interests. The onus is put on any other party to the proceedings to prove that such a plan is not in the child's best interests.

The juvenile, unless otherwise ordered, then becomes a ward of the state. The Department of Health and Human Services has the authority to determine, with the assent of the court, the care, placement, medical services, psychiatric services, training, and expenditures to be received by each juvenile committed to it.

When the parents are found to be neglectful or unfit, a court order may involve local agencies in providing services for the children or parents. The children may also be committed to the Department of Health and Human Services, which may supervise the children in the family home, or, in other cases, furnish foster care.

Status offenders may be supervised by the court with probation, or committed to the Department of Health and Human Services for residential or other services. Under current Nebraska law, status offenders cannot be placed in an adult correctional facility, the secure youth confinement facility operated by the Department of Corrections, or the Youth Rehabilitation and Treatment Centers. Under LB 1073 [§43-250 (3)(f)], a status offender accused of violating a valid court order may be securely detained in a juvenile detention facility if he or she is afforded a detention hearing before a court within 24 hours. However, because of the unresolved family conflicts which bring status offenders to court to begin with, many of them are placed in foster care or groups homes.

If the child or youth is adjudicated a delinquent, he or she is generally placed on probation residing at home, in a foster care or group home, in a juvenile detention center, or committed to the youth rehabilitation and treatment centers (YRTC) at Geneva or Kearney.

## **Review Hearings:**

After the initial dispositional hearing, review hearings are held every six months thereafter for every child or youth under the jurisdiction of the juvenile court. The department, association or individual who has care of the juvenile shall file a report with the court once every six months, or at shorter intervals if ordered by

the court or deemed appropriate by the department, association, or an individual [§43-285 (3)].

The State Foster Care Review Board also has legal standing as a party to file any pleading or motion to be heard by the court with regard to such filings and to be granted any review or relief requested in such filings consistent with the Nebraska Juvenile Code.

The Foster Care Review Board reviews the child or youth's plan and makes recommendations concerning that plan as it relates to the best interests of the child and the permanency for that child.

After the dispositional decision and throughout the duration of the court's jurisdiction, the guardian ad litem should monitor the implementation of the service plan contained in the dispositional order, in order to ensure that court-ordered services are being provided and are effective for the intended purpose. The guardian ad litem should inform the court if services are not being made available or are not achieving their purpose. Any changes in the child or youth's circumstances or new developments should be brought to the court's attention.

### **Termination of Parental Rights:**

In Nebraska, the legal grounds which govern termination of parental rights are as follows:

- Abandonment of the child or youth for six months or more immediately prior to the filing of the complaint;
- Substantial, continuous, or repeated neglect of the child or youth, or a sibling, and refusal to give the child or youth the necessary parental care and protection;
- Despite the financial ability to do so, the willful failure to provide the child or youth with the subsistence, education, and other care necessary for his or her health, morals, or welfare;
- The willful failure to pay for the subsistence, education, and other necessary care when legal custody of the child or youth has been placed with others and such payment has been ordered by the court;
- The unfitness of parents by reason of "debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be seriously detrimental to the health, morals or well-being of the juvenile;"
- Inability to discharge parental responsibilities because of mental illness or mental deficiency, where reasonable grounds exist to believe that the parents' mental condition will continue for a prolonged, indeterminate period;

- When there is a determination that the child or youth is one described in the subdivision (3)(a) of section §43-247, and reasonable efforts, if required, under the direction of the court have failed to correct the conditions leading to that determination;
- When the juvenile has been in an out-of-home placement for fifteen or more of the most recent twenty-two months;
- When the parent has inflicted upon the juvenile, by other than accidental means, serious bodily injury;
- When the parent of the juvenile has subjected the juvenile to aggravated circumstances, including abandonment, torture, chronic abuse, or sexual abuse;
- When the parent has committed murder, voluntary manslaughter, or a felonious assault that resulted in serious bodily injury either against the juvenile or another child of the parent.

Under Nebraska law (§43-292.02), if a child has been in out of home care for 15 of the most recent 22 months or if the Court determines that reasonable efforts are not required, the County Attorney must file a petition to terminate parental rights unless an exception applies. Exceptions include:

- The child is being cared for by a relative;
- The Department of Health and Human Services has documented in the case plan a compelling reason for determining that terminating parental rights would not be in the child's best interest; or
- The child's parents have not been given a reasonable opportunity to avail themselves of the services deemed necessary in the case plan.

Parents have the right to counsel at termination of parental rights hearings. The role of this defense counsel is adversarial—that is, he or she has the ethical obligation to defend the client against the allegations in the petition. If the parent is incapacitated (mental illness, etc.), he or she is also entitled to the appointment of a guardian ad litem in order to protect his or her interests. Defense counsel and guardian ad litem will resist efforts to terminate parental rights. The parents also have the right to appeal a decision by the juvenile or county court.

The Nebraska Supreme Court has upheld termination of parental rights by a juvenile or county court under the following circumstances:

- Where the "consistently poor sanitary conditions and deficient personal hygiene could and did work to the physical injury of the child" [204 Neb. 509 (1979)];
- Because of mental illness of the mother, the children suffered from poor hygiene and were not properly fed or clothed [208 Neb. 375 (1981)];

- Sexual molestation of a young child by the father for three and one-half years. The mother's parental rights were also terminated because she refused to give the child necessary parental care and protection [208 Neb. 579 (1981)];
- Termination of parental rights of both parents where the mother showed inability to protect her children from the father's drinking habits and physical abuse, "irreparably affecting children's health, morals, and well-being" [298 Neb. 256 (1980)];
- Throughout the court proceedings of 22 months, children were continually neglected and the court and county provided an abundance of guidance, supervision, encouragement, and discipline to no avail [204 Neb. 286 (1979)];
- Mother abandoned the children within the meaning of the statute by visiting only three times in seven years with two of eight children [199 Neb. 286 (1977)];
- Mother was violent toward the child and uncooperative with attempts to solve her problems. The seven-year-old daughter had been in foster care for four years and was doing well [196 Neb. 795 (1976)];
- The mother had abandoned the children and failed to provide proper parental care for four years [204 Neb. 204 (1979)].

The Nebraska Supreme Court refused to terminate parental rights in the following case:

- Where the mother was bothersome or aggressive as long as there was no harm to the children because of the mother's unfitness. It was insufficient grounds to terminate parental rights because the adoptive parents had more education or income [207 Neb. 234 (1980)].

### **Post-Termination Procedures:**

A termination of parental rights is not an end unto itself but rather a means to meet another permanency objective. The objective of preference is always adoption, because it provides the greatest degree of legal protection for the child and family, on a short-term and long-term basis, including establishment of all parent-child rights and responsibilities.

### **Adoption:**

If adoption is sought, the department determines an appropriate adoptive family for the child or youth and continues to provide services and supervision to assist integration of the child or youth into the family, including assisting the family to be prepared to meet the future needs of the child or youth. When determination is made by the case manager and family that the family is ready for the actual adoption to occur, the case manager prepares the necessary paperwork, including

the agency's consent to adoption, and provides it to the family's attorney, for filing of the adoption petition and obtaining the decree. Until the decree is issued, NDHHS continues to have guardianship responsibility and authority.

### **Guardianship:**

A guardianship is typically established with the consent of the parents of the child or youth, though it can also be court-ordered. The parental rights remain intact so visitations, input on major decisions for the child or youth, and financial support can be part of the guardianship arrangement dictated by the court. Court and agency involvement typically ends at this time, though guardianships can be subsidized.

The Guardian is empowered to facilitate the ward's education, social and other activities, and to authorize medical or other professional care, treatment, or advice. A guardian may consent to the marriage or adoption of his or her ward. This legally-sanctioned relationship is not broken except by court order or when the child reaches age of majority.

### **Long Term Foster Care:**

In these cases, NDHHS prepares a long-term foster care agreement, signed by the foster family, DHHS, and child or youth if appropriate, which states that DHHS will not remove the child from this family, nor will the family request removal of the child. The agreement is not legally binding so that if abuse or neglect by the family should occur, or if the family decides that they no longer can parent the child or youth, the agreement can become void.

### **Independent Living:**

The Department will continue to serve as guardian for the child until the court discharges the child from custody, the child reaches age 19, or, in a small number of cases, the Department administratively discharges the child. During the time the child is in custody the Department must continue to meet the child's needs and plan for the child, including preparation for independent living.

### **Relinquishing Parental Rights:**

Often parents are aware that they are unable to parent their children and are satisfied with the placement that has been made for their children. Rather than resort to a termination of parental rights proceeding, many parents willingly relinquish their rights if they are assured of maintaining contact with the children, or of receiving information through an exchange of information contract.

### **Open Adoption:**

It is possible to have a legally enforceable exchange of information contract between biological and prospective adoptive parents. It is only applicable to

adoptions involving children who are state wards. The conditions of the contract are agreed upon by the relinquishing parents and the adoptive parents.

### **NDHHS Requirements for Relinquishment**

The following are the Department of Health and Human Services requirements for relinquishment of parental rights:

- Both parents sign relinquishments or there is an alternative plan to assure that rights of both parents can be terminated either by the court or by voluntary relinquishment, or that there is no other parent with legal rights to the child or youth;
- The person signing is competent to relinquish;
- The relinquishment not involve fraud. The parent must be fully informed of the results of relinquishment and of signing the form;
- The relinquishment not involve duress. The decision must be that of the parent rather than the result of pressure from within the system, by relatives of the parent, by pending legal action, etc.;
- Relinquishment be in the best interest of the child or youth;
- Relinquishment not occur less than 48 hours after birth of the child; and
- The parent has been provided with the opportunity for adequate counseling to ensure that the parent is making an informed decision, including other options which might assist in parenting the child and other agencies which could provide relinquishment services.

# CHAPTER 8

## PERMANENCY PLANNING: PHILOSOPHY

### The Framework

Perhaps the most dramatic change in the field of child welfare is the formal recognition—in law and in policy—of what many parents and child advocates already knew that **children need roots in order grow**; and specifically, that foster children need families they can count on, not just today but always.

To the social work practitioner—and certainly to the case reviewer—the notion of permanency planning brings up a host of related and difficult questions.

- What does "permanent" mean?
- How can anyone ensure permanence?
- Is a permanent home in the best interest of every foster child?

To try to define "permanence," researchers with the Oregon Permanency Planning Dissemination Project broke the concept down into four major components. These are:

1. Intent: A permanent placement is overtly expected to last until the child's maturity. A child may spend many years in a placement and not feel that it is home unless all parties agree that it will not be changed.
2. Commitment and continuity in relationships: A permanent family is a family forever. Permanency assumes a quality which ensures that the relationships formed during placement will last beyond the placement—will, in fact, be ties which see a child through his/her adolescence and into adulthood, parenthood and the aging process.
3. A sense of belonging, rooted in cultural norms and definitive legal status: In American culture biological or adoptive parents are expected to be a child's primary caretakers and protectors. This special relationship is protected by law. Without legal sanction, caretaking relationships are ultimately fragile.
4. A respected social status: Both biological and adopted children are seen by the community as "real" members of a family. Other types of relationships may stigmatize children as "different" or "strange."

In the videotaped lecture, The American Family: Who Cares?, Dr. Urie Bronfenbrenner captures the essence of permanence in a less formal but equally eloquent manner. All children, he stated, require the same thing:

*. . .the enduring, irrational involvement of one or more adults. Someone who is crazy about the kid. . .a love affair that lasts a lifetime.*

What both definitions share is an attempt to capture a quality of relationship that is the spirit of the permanency planning movement. It is the search for this quality that guides both the delivery of the child welfare services and the case review effort in Nebraska today.

Yet, if defining permanency is hard, putting it into practice is even more difficult. Two unanswered (and perhaps unanswerable) questions remain:

- How can permanence be ensured?
- Is permanency the right plan for everyone?

## **The Challenge**

The final piece of the permanency puzzle is the question: Is it for everyone? Does every child need a permanent home? The answer is yes. But it's a "yes" that challenges everyone who cares about children to think creatively.

For many children the answer comes relatively easy. Many will find a home with their own families, with adoptive families, with caring foster parents, or custodians. But for some, none of the simple solutions work.

But for some children, long-term, continuous relationships are too difficult, too threatening to maintain. For these children, the challenge may be to develop a permanency network—a combination of people and elements who together can become the child's community and provide stability in a chaotic world.

The key to the success of permanency planning is the commitment of caring individuals to consider each child as an important human being with a unique history and needs.

*Yes, what else but home?  
It all depends on what you mean by home. . .  
Home is the place where, when you go there,  
They have to take you in.  
I should have called it  
Something you somehow haven't to deserve.*

Robert Frost  
"The Death of the Hired Man"

## **Definition of Permanency Plan**

A permanency plan is intended to assure permanence in a child's living arrangements and continuity of relationships.

The plan must:

- Identify a permanency home (or other setting) as specifically as possible.
- Specify an appropriate legal relationship between the child and his or her care giver.
- Set a clear time limit for achievement.
- Include a discharge plan which meets all other requirements of a permanency plan.

Chapter 43, Neb. Stat., R.R.S. states the plan shall contain at least the following:

- The purpose for which the child has been placed in foster care.
- The estimated length of time necessary to achieve the purposes of foster care placement.
- A description of the services which are to be provided in order to accomplish the purposes of the foster care placement.
- The person or persons who are directly responsible for the implementation of such plan.
- A complete record of the previous placements of the foster child.
- Documentation regarding the appropriateness of the placement.
- Address if out-of-home care is necessary.

These elements characterize the main aspects of all the different types of permanency plans. The permanent placement plan indicates (to the extent possible) exactly where the child will live when the permanency plan is achieved. The legal status specifies who will have the rights to make decisions regarding various aspects of the child's life. With rare exceptions the plan should not vest these rights in a government agency.

## **Timeline**

The timeline is the agency's best estimate of when the plan will be achieved. Ideally, it will include time estimates (target date) of when the plan will be achieved. Ideally, it also will include time estimates for critical intermediate actions which the agency must take to reach its goal. The requirement of a clear discharge plan creates pressure for the agencies to work with children regarding suitable living arrangements and continuity of relationships prior to closing the

case. Discharge plans are determined not only by the case, but by the action of the court, the child, and a number of other factors that are involved in child welfare cases. A discharge plan can be for adoption or incarceration.

- How long do the biological parents have to rehabilitate?
- Does each service identified have a timeframe for completion?
- What percentage of the life span of the child is this rehabilitation plan?
- Is the rehabilitation plan reasonable or feasible?

Local review board members should assert themselves to clarify each of these four elements during each individual child review. Failure to do so will make it more difficult to reach an answer and to monitor progress at subsequent reviews.

It is important that each case plan goal or service ordered also have a timeframe for completion. For example if one of the goals in the permanency plan states that a parent is to address chemical dependency issues, how the parent will go about addressing that issue and the timeframes set for the achievement of that goal should be clearly laid out in the child's permanency plan.

Each child's permanency plan should be developed in light of his or her unique circumstances. For the purposes of training and evaluation, however, it is useful to classify plans.

The selection of one option in no way denies the agency flexibility to work towards a different option as circumstances change, nor does it reflect blindness to the complexity of many case situations. Rather, the fact that there is a single-option permanency plan at any given time facilitates communication between agency and clients and focuses attention on the concrete tasks which must be done.

The agency is responsible for continuing a smooth permanency planning process when workers change or when cases are transferred between units and also for changing the plan if and when circumstances warrant. A change in the plan is a major decision but one which the participants in the process can see as the outgrowth of non-achievement of the old plan. Thus, the permanency plan, as defined here, becomes the centerpiece of a logical process. The goal is for the child to be a stable member of a stable family.

### **Permanent Planning Process**

The permanent planning process shall be used to reduce "foster care drift" and to place children in permanent care as soon as possible. The process is as follows:

- The process begins when a decision is made that a child must be placed away from his or her birth parents or guardians.

- A permanent plan must be formulated within 6 months of placement (or sooner) and clearly stated in the record.
- The plan must include the service goals and objectives, the barriers, the steps to be taken to achieve the goals, and the time frame for goal achievement.
- The plan shall be detailed in a written service agreement, which has been discussed with the parents, unless profound incapacitation or absence.
- The permanent plan shall be accomplished as soon as possible, but no later than 15 months after child has entered foster care.

### **Implications for Local Review Board Members**

The review process is founded upon the belief, that for the vast majority of cases, it will be better for the agency to adopt a clear plan with firm time limits, communicate its plan to all interested parties, and push hard to accomplish a high priority plan before too many months have passed. Local board members should be comfortable in pressing for clarity and firmness, recognizing them as distinct from oversimplification and inflexibility.

The State Foster Care Review Board has adopted the following classification system:

- Return home to parents or legal guardians,
- Placement with relatives with appropriate legal status,
- Adoption,
- Guardianship to the foster parents,
- Independent living, and
- Long-term foster care,

The first three types of plans listed are considered to be in order of priority and to be more desirable than the other plans listed. When all three of the high priority options have been ruled out, necessitating continuing foster care status for the child, the local review boards should be selecting appropriately from the next three options.

Inclusion of long-term foster care does not represent endorsement of this type of plan but reflects a necessary element of realism.

### **Concurrent Permanency Planning**

The adoption of the Nebraska Adoption and Safe Families Act now allows the Department of Health and Human Services to develop a concurrent plan, whereby a contingent permanency plan is stated. In cases where Concurrent Planning is

taking place, there will be a primary plan and a secondary plan in place. The primary plan is most important and will be the plan that the Department is actively working towards.

For example, the HHS Case Plan may have reunification as its primary goal, but with a concurrent plan of guardianship. If the primary plan is not accomplished, parties will have had notice of what direction the Department intends to go with the case. Concurrent planning has allowed the case manager to start planning now for an alternate permanent solution for the child, shortening the time the child will spend in foster care.

### **Permanency Planning—A Dynamic Process**

As the idea of permanency planning has swept across the nation, lack of attention to defining the concept and the process has created some confusion. The phrase "permanent planning" may have suggested to some that review boards are expecting agencies to commit themselves to a plan on a once-and-for-all basis. **It cannot be overemphasized that permanency planning is a dynamic process in which the agency strives to adopt the specific plan which would create the most physical, psychological, and legal stability for the child and which might feasibly be achieved.**

The State Foster Care Review Board's policy is that each case needs to be assessed based on the extent of the abuse the child has suffered. **Case plans need to be family specific, with primary concern given to child safety, rather than Nebraska's current practice of making reunification a blanket policy no matter what abuse has been suffered by the children.**

## CHAPTER 9

### STUMBLING BLOCKS TO PERMANENT PLACEMENT AND PROPOSED SOLUTIONS

By Barbara Chappel

Beyond the Best Interests of the Child by Goldstein, et. al., stresses that the child needs to have:

1. A permanent family because of the emotional scarring of multiple placements.
2. The psychological parents as the child's permanent family if that parents is fit.
3. A continuity of relationships throughout childhood.
4. Expedient and expeditious planning for a permanent home according to "a child's sense of time."
5. Expedient and expeditious permanent placement in order to preserve the child's greatest asset, his "childlikeness."

The following situations illustrate several typical stumbling blocks to permanent placement and some proposed solutions.

#### **Situation #1**

Susie, age three years, has been living with her foster family for one and one-half years and has now been freed for adoption. The foster parents wish to adopt her and would be suitable; the agency, however, plans to place Susie with another family. Reasons the agency gives for this may include: the agency wishes to discourage foster parents from using foster care as a shortcut to adoption; the biological parents live in the same area as the foster parents; or the foster parents should not have become emotionally involved.

Proposed Solution: Once a child has developed a psychological parent who is a fit parent, that relationship should prevail above all other relationships. The psychological parents might be a relative or a foster parent. Severe emotional damage can be inflicted upon children by disrupting their relationship with the psychological parent. Also, such disruption might prevent the child from forming meaningful emotional ties with another family.

#### **Situation #2**

After two years in foster care, Billy returns home. His parents will not allow him to visit his previous foster parents who have been a meaningful part of his life.

Every time Billy asks about his foster parents, his parents become angry, feel threatened, and discourage his continued interest.

Proposed Solution: We tend to be suspicious about those whom we do not know and have not personally met. We should help foster parents and biological parents to have a meaningful relationship in joint parenting. This would help the biological parents to give permission for the child to continue the relationship with former foster parents. Caseworkers should work with the biological parents to help them understand the child's need for a gradual tapering of the foster-parent relationship and for a continuity of some relationship with those foster parents. (Similar casework should take place with adoptive parents of children who have had meaningful relationships with former foster parents and others.)

### **Situation #3**

Mary, age five years, has been in foster care for two and one-half years. Mary's parents need at least one more year for rehabilitation.

Proposed Solution: *A child's sense of time must be allowed to dictate how long the parent can be given to rehabilitate.* Two and one-half years is half of Mary's life which would seem to Mary as long as 15 years would seem to a 30-year-old. While keeping a child waiting for a permanent placement, we must keep in mind the anxiety and emotional problems that are being set up on the child because of the child's sense of time and the child's inability to wait very long for permanence.

According to Dr. Alexander Zaphiris of the Graduate School of Social Work at the University of Denver, who does extensive training for social service agencies across the country, *no child should be left in foster care for more than nine months.* We must ask ourselves and come to grips with the question, "What good is reuniting the family if the child is emotionally destroyed in the process?"

According to the Child Welfare League of America, *if a parent has not rehabilitated in 18 months, it is unlikely that the parent ever will rehabilitate.* As recommended by many child welfare professionals, contracts for rehabilitation—including enforced time limits—should be implemented.

According to Martha L. Jones, author of "Aggressive Adoption: A Program's Effect on a Child Welfare Agency," (Child Welfare, June, 1977) specific plan goals should be made with families at the time of the child's placement. These plans should outline in detail what is to be done by the agency and what must be accomplished by the family in order to allow return of the children to their home. Ms. Jones also states that a time limit of six months should be written into the goal plan with a statement that after that time the agency will pursue an adoptive plan. All progress, or lack of it, toward achieving the stated goal plan should be documented by letter for possible later court use. An agency which used such contracts experienced sharp increases in both the number of children returning to their biological families and the number adopted.

## **Situation #4**

Linda, age four years, was placed in foster care because she was left with a neighbor and her mother did not return. The record shows that Linda's mother deserted the child twice in the past—once for two months and once for four months. Linda is now in foster care with a military family who has told the agency that will be transferred to a different state in 12 months.

Proposed Solution: The severity of abuse or neglect and the parents' prognosis for rehabilitation should be assessed as soon as the child enters foster care. If a child's chances of returning home permanently are slim, he or she should be placed with a foster family who would be willing to adopt if parental rehabilitation does not occur within a specific period of time. Such homes should be aggressively recruited in order to prevent multiple placements of those children for whom permanent return home appears unlikely. When such children are placed with foster parents who are not willing to adopt them, subsequent adoptive placement with another family may be difficult for the child if the child has come to regard the foster parents as his or her parents.

## **Implications for Board Members**

These stumbling blocks to permanency have been pointed out because it is of critical importance that you recognize "stumbling blocks" to permanency in the plans you examine and the cases you review.

In your position, you will be able to speak out for the "best interest" of the child and recognize the importance of clear planning and awareness of time lines by the agency.

In many cases, the work towards rehabilitation of the biological family is of critical importance for the plan. As local citizen review board members, you may find yourselves pressing the agency to work more extensively with the family.

## **Minimum Requirements for Returning a Child Home**

As you address the issue of barriers, you must have an idea of the minimum sufficient level of functioning required of parents. Infants and younger children need much more care than a pre-teen or adolescent. A child removed for physical neglect at age four will require less constant attention when he or she is fourteen. The increased ability of the child to meet his or her own needs must be taken into consideration when evaluating the return of a child.

## **Minimum Standards for Return Home—Parent**

A child should be returned to parents if the following basic criteria are met:

- The original reasons for placement have been overcome or adequately diminished.

- There will be no physical abuse of the child.
- There will be no sexual abuse of the child.
- The parents are capable of providing (or public assistance is providing) food, clothing, and shelter.
- The parents ensure that the child will attend school.
- The parents can provide supervision adequate to meet the child's safety needs.

It can be required that the parent provide stability in parent/child relationships and in the child's living arrangements. It cannot be required that the mother or father get married (or divorced) before returning the child. To do so would violate the civil rights of parents.

### **Minimum Standards for Return Home—Child**

In order to return an older, more self-sufficient child to parents who are functioning minimally, it is necessary to look at what the child can do for himself or herself:

- Assess with the child, foster parents, and school counselor the child's ability to function.
- Get a medical and psychological evaluation if appropriate.
- Evaluate the child's ability to meet personal hygiene needs.
- Determine the efficiency of the child in getting up in the morning and preparing for school.
- Judge the child's skills in using community and relative supports upon returning home.

Sometimes permanency plans, that the local review boards will review, have little to do with the original reason for the foster placement or to other evidence of risk to the child. Agreements that seem directed towards the general rehabilitation of the parent can be beneficial to the child but time lines should be included with the plan to insure the child's permanency as a priority.

Parents' failure to act in accordance with the terms of service agreements (plans for the return of the child) may be their unspoken way of expressing that they do not have the child's best interest as a priority at this time. Or it may simply be true that they are not able to make the necessary changes for the best interest of the child. In any case, broken agreements must be taken very seriously.

## **Implications for Local Review Board Members in Returning the Child Home**

Public opinion on the proper policy towards returning neglected and abused children to their parents tends to follow the headlines. At most times a policy favoring return home is perceived as "pro family." But following reports of child deaths, a punish-the-parent approach more nearly describes the public mood.

As local review board appointees, your job is to steer a steady course while storms of public opinion wax and wane.

A proper policy must be adopted with a clear understanding that there are risks on both sides for children. Policies leading to too few returns home will damage children by unnecessarily cutting them off from their roots. Policies leading to too many returns home will subject children to many forms of permanent harm.

We must also recognize that child welfare professionals will never be able to have perfect knowledge as they make plans for children. Local review board members must learn when to press social workers to investigate more thoroughly and when to accept an irreducible level of uncertainty.

The prior information was a first step towards helping you as a local review board member to evaluate plans in a methodical fashion. This information is not meant as a substitute for your own values and beliefs, which must be applied within the board framework of review board policy and law.

Sometimes we all feel that saying "return home is the highest priority plan" has no meaning whatsoever. It simply means that this type of plan must be ruled out before others can be accepted. But when should we rule it out?

### **Exploring Parents' Choices**

Social workers should be helping both parents of a foster child to reach a decision about whether they really want their child on a day-to-day basis. The options should be explored with each parent as objectively as possible. The circumstances of foster care always create emotional turmoil. Both social workers and local review board members must avoid superficial interpretations of parents' statements. With this caution, however, we can establish our first criterion for ruling out return to parents.

*Return can be ruled out when parents do not want the child or when their proposed time frame for return would be detrimental to the child.*

## Protecting the Child

The criterion here is straightforward:

*Return can be ruled out when there is clear and convincing evidence that the risk of harm to the child cannot be reduced sufficiently within a reasonable amount of time.*

You, as a local review board member, must be aware of why the child entered care. There are cases where the reason for entry into care does not suggest the parent(s) is a danger to the child. For example, some children are in foster care while their parents are hospitalized. The reunification plan for this child would be much different than a child sexual abuse case.

Previous unsuccessful return home is a clear danger signal. There should be convincing evidence that the previous problems are solved before risking return again in such cases.

Harm may mean different things to different people. In context of unwanted government interference in family affairs, harm ought to mean permanent harm—the physical or psychological impact of returning the child would likely have a life-long detrimental effect. Harm ought also to mean serious harm. Failure to correct orthodontic problems is not serious enough. Failure to provide separate bedroom is not serious enough. Living on public assistance is not serious enough. Local review boards should, in each case, weigh the potential for harm to the child against the real risks of not returning him or her. The potential harm is a combination of the seriousness and permanence of the harm, on the one hand, and the likelihood of harm, on the other.

Local review board members should examine contracts to see that they bear a reasonable relationship to plans for return home. Do the tasks assigned to the parent relate to sufficient reduction of the risk to the child? If not, the local review board members should point out the deficiencies in the contracts and clearly state why the existing plan is unacceptable.

## The Importance of Recommending

What is the role of the local review board? Local review board members are not under the same constraints as agency staff. Certain real world considerations must be taken into account by social workers such as budgets, resource scarcity, time constraints, location appropriateness for placements, etc. Local review board members can overlook some of these considerations in order to speak out clearly for "the best interest of the children."

Attitudes of agency counsel and judges must affect agency decisions but need not affect the local review board's recommendations. You are advising and making your recommendations to judges and lawyers as well as to social workers in the best interest of the child. The best interest of the child is to insure permanency in

the life of the child. To accomplish this, the local review board's first concern should be to the family unit. If that is not possible, the recommendation should move towards a permanency plan for the child that would identify a permanent home other than the original family unit.

The State Foster Care Review Board expects you to speak your minds when making recommendations for the children you review. You are the advocates for the children and your recommendations should clearly state what is in the best interest of the child.

Local review board members are bound by the Nebraska State Foster Care Review Board policy which is focusing on the best interest of the child and not by other agency policy. You may quote child placement policies when you agree with it and recommend against policy when you do not. The child's best interest and the policy developed by the State Foster Care Review Board must be the only basis for your recommendations.

For example, when parents do not want the child but the agency is planning a return home, this may be an example of when you, as a local review board member, would strongly disagree with such a policy. Such scenarios may become more frequent as the effects of cutbacks sharpen. As a local review board member, you must put the child first. You have the responsibility for listing the scarcity of resources as a barrier. An example may be when a child is in need of services for which the agency says there are not enough funds. If it is the "best interest of the child," it is your responsibility to recommend the services needed and identify why these services are necessary.

### **Considering Placement Plans**

There are valid and important monitoring functions that the local review board can serve. Placement decisions involve many factors, and, in each case, the various factors play a different role depending upon the individual circumstances.

The local review board's purpose, in general, is to assure that all appropriate factors have been given due consideration and that agencies have used a conscious, rational process in weighing all sides of the situation.

In monitoring placement planning, the philosophical foundation is set by the law establishing the review system. The Legislature when putting citizen review in place, stressed that the reviews are carried out to determine what efforts have been made to carry out the plan for rehabilitation and if rehabilitation isn't possible, what permanent placement is being planned.

Space for notes:

# CHAPTER 10

## PERMANENCY PLANNING: SEPARATION AND LOSS

By Barbara Sparks

It's sad that a chapter in a manual on permanency planning for children is on the pain of separation and the damage done to children as a result of family breakdown. It is also essential that we begin here. Studies on child development are in agreement that it is in a child's best interest to be raised in a permanent, stable home. According to Goldstein, Freud, and Solnit, once there is a family breakdown and separation of the child and parent, we are "beyond the best interests of the child." Damage has been done, it is serious and permanent, and the best that child welfare workers can do is to choose the least detrimental alternative which shall reestablish permanence and stability in that child's life.

### Development of Attachments

Attachment must continue unbroken for a long period of time and must involve both physical caretaking as well as physical and verbal interactions. From this secure base, a healthy child will explore the world and over a period of years will develop into a separate individual who can care for herself/himself, think clearly, and form close relationships. Problems that occur when separation occurs due to external causes can be permanent and serious.

The process of a child's development in terms of attachment to a parent is a long and involved one, and it is crucial that this occurs at the child's pace. There are many things that can go wrong, and the damage to a child as a result of a specific trauma is hard to predict. However, certain general guidelines can be used to understand the potential problems arising for separations occurring at particular stages in a child's life.

### Separation During Infancy

The first time when a problem might occur would be in the initial period when attachment is formed. Some parents do not respond to a child's cries of discomfort, at least not in a predictable way. They may physically care for a child but not interact by cuddling and talking, or may give child care responsibilities to a number of other care givers.

Under these circumstances, a child will be slower in identifying someone who is special to him/her. If a child is not cared for consistently, she/he has trouble learning the sequence of pain, action and relief from pain. This early thinking pattern, which in healthy situations gives the infant some sense of controlling her/her life, is crucial to later ability to learn. (Jacqui Schiff et. al., Cathekis Reader, Transactional Analysis Treatment of Psychosis, Harper and Row, 1975)

The need for cuddling and verbal interactions with infants has been well documented (John Bowlby, *Attachment and Loss*, Vol. II, Separation, Basic Books, Inc., 1973). Physically adequate care with other physical and verbal interaction missing leads to withdrawal of the child or failure to interact with his/her environment. Some infants have been known to die, even with an adequate diet, as a result of this withdrawal. **Finally, if a lot of different people care for an infant, that child will be noticeably slower in forming an attachment to one person. However, once an attachment is made, it is much more intense and clinging than in healthier children. These children tend to be less willing to go out to explore the world as a result of their early anxiety about separation.**

Early problems in the development of a parent-child attachment can be evident throughout the child's development. Some of the schizophrenia disorders and many other mental illnesses are believed to have their roots in these early traumas. If parenting from this point on is caring and consistent, the early problems may be largely overcome. However, if inconsistent, rejecting or abusive parenting continues, severe emotional disorders are likely to develop.

Regardless of the early situation, all but a very few children form an attachment to one or more caretaking adults. (Those who do not form attachments are generally diagnosed as autistic and do not relate to people except as objects.) Once the attachment is formed, any prolonged and/or sudden separation can be severely traumatic to the child's ability to relate to others, and to his/her own self-image.

Studies of children who have been separated from their parents have shown that there are certain typical responses to separation. For example, in a child's first year they perceive parents as not separate but as someone who appears when they cry, or crawl to, or when they open their eyes. Furthermore, in a child's frame of reference those people are essential for survival. If parents are suddenly taken from a child—as in an accident—a child could only understand this in the context of his or her limited knowledge of the world.

Specifically, young children, even up through early school age years, believe that they are responsible for parents' leaving. To a very young child, the loss of parents can be terrifying. In an infant who has developed an attachment the world, and hence survival, depends upon the feeling of need by crying or crawling and thus making the caretaker appear and then being cared for. When this pattern suddenly stops working and someone else appears and provides care in a different way, the infant's whole concept of the universe is shaken and he or she must reshape that concept.

### **Separation During Early Childhood**

As a child becomes older, they begin exploring the world. However, a child does this only by maintaining regular contact with their parents. Suppose a child goes exploring one day and his or her parents go away. A young child does not

understand going and coming. People exist or don't exist (Selma H. Frailberg, The Magic Years, Charles Scribner's Sons, 1959). When a parent "disappears" to a child that may mean many things. One common meaning to a child is that it is not safe to explore the world (learn things) or parents will disappear. Related to this is a fear that "if I go out in the world I will disappear." **A child who experiences a sudden or prolonged separation may be very fearful of exploring and thus learning about the world.**

The healthy child also does things to please and be like the loved parent. A child's identity is with the parent or parents. When there is a separation, a child is threatened in two crucial areas. First, the child who has begun to trust that the parents will provide nurturing and stability is suddenly in a position where this "trust" in the world is seriously challenged (Erik H. Erikson, Childhood and Society, Second Edition, W. W. Norton, and Co., Inc., 1963).

A child experiencing a prolonged separation in these early years may well conclude that the world, and the people in it, are not to be trusted. Secondly, the child's self-concept is based on how he or she is treated, and in identifying with those who for care for them. Separations are often interpreted by the child as meaning that he or she is not worthy of being cared for or that there is something wrong with them that drove the parent away. As a result of this strain on the trusting relationship and the emerging self-concept, children who have been separated often show setbacks in accomplishments. For example, a child recently toilet trained will usually lose sphincter control when a parent is no longer around to please. Most difficult to assess, however, are setbacks to the child's emotional development.

**Children who have been separated from parents show their distress through crying, anger, and withdrawal. Future attachments, even with the same parent, are frequently more shallow and less trusting with considerable displays of anger. It appears that these children decide that it is not safe to get close to anyone and future relationships will take longer to develop or will develop at a superficial level only. With each subsequent separation the chance of the child deciding that it is not safe to trust others is increased dramatically.**

Separation anxiety is, in many ways, similar to grief experienced as a result of the death of a loved one. This is especially true for children since children have difficulty comprehending the difference between death and a long separation. Given the child's time frame, a few months is the same as if the missing had died. There are five major stages in the grieving process as identified by Kubler-Ross<sup>1</sup>:

- 1) denial and isolation,
- 2) anger,
- 3) bargaining,
- 4) depression, and
- 5) acceptance.

---

<sup>1</sup> Elizabeth Kubler-Ross, On Death and Dying, MacMillan Publishing Co., New York, 1969

Grieving is a painful and lonely process. Unfortunately, we have been guilty of preventing resolution of the grief through our attempts to take away or cover up that pain. The following is a description of each stage of grief and possible behaviors which may be observed in both parents and children:

### **Stage One: Denial and Isolation**

Immediately following the separation, there is usually a period of shock during which time the person may go through the motions of a daily schedule, but will do so woodenly or as if in a daze. This period of shock is related to the first stage of the grieving process, which is denial and isolation. Child and adult alike may appear to act inappropriately to the separation. For example, the child may appear happy and content and talk as though the parent is still around despite clear statements about the separation. Likewise, the parent or foster parent who has lost a child may frequently deny the loss by setting an extra place at the table or by failing to cry and show sadness at the loss.

Denial is an important defense mechanism, protecting people from pain at the time when they are least able to handle it. Workers and foster parents frequently support denial as the only way to deal with grief by encouraging its use. Thus, it may seem easier not to confront a child or parent with the hard facts of the loss, rather than to bring on the grief that follows. However, if the person does not move through to a state of acceptance, each subsequent loss will be more difficult for that person to handle.

### **Stage Two: Anger**

The second stage of grief is anger. In children the anger may be directed towards any number of sources. They frequently lash out with physical and/or verbal assaults against other children, care taking adults, or themselves. As discussed earlier, the child assumes that he or she is responsible for the loss of the parent, so may turn their anger inward. However, the child also feels anger towards the missing parent and may take that out on the new parent figure or other people around them. The violence of this anger can be very frightening to a child who may equate his/her anger with the cause of the parent's disappearance. Since the anger is seldom focused on the grief process, it can be hard to identify.

One child, in her anger, very carefully broke fifteen window panes in a shed; others hit and bit other children, and many find fault with the foster parents or provoke them in some way so as to receive discipline. Stealing, lying, and bed-wetting may all be acts related to the angry phase of grief.

In biological parents and foster parents there is also an angry stage when each may criticize and complain about the parent, the agency, or even the child. When you recognize the source of the anger and help focus it as part of the grieving process, then people can usually move on to other stages. Nevertheless, there is

seldom an orderly progression from stage one through stage five, and children and parents alike may move back into anger after having appeared to have given it up.

### **Stage Three: Bargaining**

In stage three, bargaining, the child believes they are the cause of the loss and may begin to bargain for return of the lost parent. This is seldom done verbally, but children can usually be observed to try very hard to adapt to the rules and regulations of a new home and to "be good" in an attempt to win approval. The bargain is usually inside the child's mind and does not come true. Thus, bargaining is usually seen as a period of time during which the child alternately behaves well and is a joy to the foster family, followed by periods of temper tantrums or sneaky and angry behavior. These swings in behavior can be very trying for foster families, and children are often moved while in this stage; thus, creating a second layer of grieving while the first situation has not yet been resolved.

Parents at the bargaining stage may demonstrate similar behavior. Previously neglecting parents may make agreements to do all sorts of "good" things to get their child home. Unfortunately, these promises are usually grandiose and unrealistic and thus doomed to failure and more anger. It is crucial for you to be aware of this stage when parents will do "anything" to get their child home and to keep contacts or bargains to realistic, achievable goals.

### **Stage Four: Depression**

The stages of anger and bargaining gradually give way to the stage of depression. In this stage, the child or adult will appear listless and apathetic with behavior geared towards withdrawal from the world. Child and adult alike will exhibit difficulty in initiating any activity and will appear to have very little energy.

Children during this stage of depression, will often seem sad and resigned. They make few demands or responses to their environment. Efforts to keep them busy or get them interested in an activity are generally of little use and they will make only token efforts to get involved. The nature of the depression, at this stage, is closer to despair than to sadness and there is considerable pain and hopelessness to the victim.

It is during this stage that children will show considerable regression in previous accomplishments. Achievements in toilet training, table manners and schoolwork will frequently be lost and the child will seem to have no desire to improve.

Adults suffering from a loss also go through this stage of despair or depression. For the parents who have lost their child to foster care, this period may be characterized by regression in progress toward return of the child. Where previously they agreed to do "anything" to get the child back, now the feeling is clear that "nothing" they do would be enough. They have little energy, do not

function much during the day, and may show signs of regression in previously achieved tasks such as housekeeping and personal grooming.

### **Stage Five: Acceptance**

The move to the final stage of acceptance may take months or years. Whatever the time period, this stage of acceptance is marked by an increase in energy and the re-establishment of contact with people and the outside world. In adults and children who are verbal, acceptance can be noted by an ability to talk about both the good and bad memories of the lost person.

Although there may still be a sadness about the person who has been lost, the significant difference in this stage is the ability to plan for the future. Children will begin to make attachments to those people around them, to pick up in achievements previously lagging such as toilet training or schoolwork, and to have fun again. Adults will demonstrate this same shift in energy from self-centered grief to an ability to relate to others and plan for the future in spite of the loss.

When a person has reached this level of acceptance we generally say that the grief has been successfully resolved. However, there may be periods of regression, especially during time of stress. An anniversary of the loss, another separation, or fear of another loss can precipitate more grieving. Also during each developmental stage, children may need to deal with their previous loss again.

People do not make clean transitions from one stage of grief to the next, and an understanding of the five stages can merely make one sensitive to what to look for, and how to recognize the symptoms. The process described is for long-term separation or a sudden, permanent separation. For older children and adults, however, there can be some differences.

First, adults and children who are verbal can be prepared for a separation by talking about the plans ahead of time. In these situations the grieving process will start prior to the actual separation in what is known as anticipatory grief. The stages remain similar but occur while the loved person is still around to help in comforting about the impending loss. Differences also occur during shorter separations for adults and older children who can anticipate the future and delay gratification. For example, a ten year old who knows he will see his mother in two days may miss her but not in the same desperate way as if she were gone forever.

Through all the stages of grief or separation anxiety there are certain typical behaviors that we can observe. With some separations there are disturbances in eating and sleeping patterns. There is also particular vulnerability to infections and many children in foster care develop upper respiratory ailments shortly after placement. The fact of a separation results in a special sensitivity to and anxiety about the potential loss of safety and protection available in the world. This anxiety is evidenced in various forms of distancing from other people either

through obvious behaviors which drive people away (kicking, name calling, or biting) or through more subtle techniques (superficial smiling, over adaptation to expectations or keeping busy).

## **Separation and Placement**

Separation experiences in childhood can be disrupting to a child's normal growth. Separation of a child from his family is, therefore, warranted only when the subsequent placement can better meet the child's needs. If children are to benefit from placement, their anxieties must be recognized, understood, and dealt with. Agency staff and local review board members should be geared towards minimizing the potential disturbances, and techniques should be used which are appropriate to the ages and situations of the children and adults involved. The following material has been compiled to help the emergency intake worker, emergency foster family worker, emergency foster family parents, and local review board members understand the traumatic effects of separation and to provide suggested techniques for minimizing these effects.

## **Psychological Tasks a Child is Faced with During Separation and Placement**

- The child must master those feelings which are caused by being separated from his or her parents.
- In addition, the child has to master those feelings created by being placed with new parents.
- The child must also deal with subsequent separations from these new parents.
- Finally, the child has to deal with the problems of overcoming the threat of being close to new parents.

## **Meaning of Separation and Placement to the Child**

When a child is separated from biological parents, the child usually experience feelings of abandonment.

The child often feels as though they are totally responsible for being abandoned by their parents.

By a child blaming himself or herself for the parent abandonment usually helps the child deny the anger at their parents.

The child usually believes separation from their parents is due to some problem the child is having within the particular stage of development they are going through. For instance, a two year old child might believe being abandoned by his or her parents because they were not learning to be toilet trained as quickly as parents wished.

The separated child, as a result, tends to fear punishment for his or her misdeeds. The younger child may expect to be totally abandoned by his/her parents and then to die, while the older child may fear being physically attacked and mutilated.

### **Anxiety Symptoms**

Because children repress these feelings and fears to varying degrees, a number of anxiety symptoms may become evident. The emergency foster care worker and parents should be familiar with such anxiety symptoms as restlessness and hyperactivity, tenseness, vomiting, sleep disturbances, crying, eating and bowel upsets, thumb-sucking, bed-rocking, head-banging, and masturbation. Varying degrees of resentment, withdrawal, depression, and despair may also be evident.

### **How the Child Attempts to Overcome the Feelings Caused by Separation and Placement**

Children often try to cope with new situations in the same way they handled similar problems in the past.

When some children anticipate being treated painfully, they try to overcome their fear by being the one to do the hurting.

Some children will actively cause the thing they fear the most in an effort to overcome their fear about what they expect their new parents to do to them.

Some children will reproduce situations in which anger toward their parents first occurred so as to punish themselves and relieve their guilt feelings.

Children will often manipulate the feelings of their new parents in order to make them angry. This will effectively create distance between the child and his/her new parents and prevent emotional closeness.

Only when a child lets him or herself become aware of his or her anxieties is she/he able to test them against his/her present situation. She/he then can be reassured that she/he will not be rejected or punished by his or her new parents.

### **Traumatic After-effects of Separation**

The age of the child at separation and the amount of anxieties she/he represses influence the degree to which she/he will be permanently affected from separation and placement. The child under age six seems to be most vulnerable to scarring. There are seven types of personality scars which could result from repression of anxieties over separation and placement.

- The child might continue to expect all future relationships to result in abandonment and rejection.

- The child might expect all future separation experiences to occur in a similar way to what happened when she/he was separated from his/her own parents.
- Future situations where separation might occur could arouse anxiety and cause the child to use his/her old patterns of mastering anxiety.
- The child might fear being emotionally close to others.
- The child might also have an unconscious need to be rejected.
- The child may have a future tendency to reproduce himself or herself in their own children and do to them what has been done to him/her.
- Repression of separation anxieties will prevent the child from functioning at his/her full physical, intellectual, and emotional capacities.

## Conclusion

Children form attachments to parenting figures as a result of the early interplay of adult and child during the daily routine of caretaking and play. These attachments are essential to the child's development of identity, the ability to learn and explore, and the development of future emotional attachments. Separation of a child from his/her "psychological parent" leads to a feeling of loss and grief. The child's sense of time, which is based on needs—no clocks—makes this period of separation crucial and frequently damaging to the attachment process.

*Any separation can lead to a lessening in the child's ability to form future attachments, and several separations can permanently restrict a child's ability to develop close personal relationships.*

The symptoms of the reactions to separations are unique to each person, but follow the five stages of grief which are:

- (1) denial and isolation,
- (2) anger,
- (3) bargaining,
- (4) depression, and
- (5) acceptance.

Sleeping and eating disturbances are frequent symptoms of separation anxiety as well as a wide range of behaviors related to denial and anger.

Finally, work with families separated by placement should focus on honest, open communication with all parties about the reasons for placement and plans and time frames for reunification. Maintenance of the parent-child attachment through frequent visits is strongly encouraged with follow-up casework services to biological and foster families as well as to children about the effects of separation and grief on all parties.

## **Implications for Local Review Board Members**

As advocates for children, it is very important that you are aware of the trauma the child suffers when she/he is moved. As Local Review Board members, your responsibility is "the best interest of the child." Having this information will help you to **stress** and **support** your recommendations. This section also emphasizes appropriate placements which are very important if the agency is to avoid any future moves of the child, thus **avoiding** the further trauma of separation and loss.

The many of the findings are the same for both early reviews and regular reviews. The major difference is that instead of focusing the boards attention on the permanency plan for the child, the board focuses on whether reasonable efforts have been made to prevent the removal of the child and since the child has been removed, if reasonable efforts have been made to reunite the child with his or her parents, to provide the child with a permanent placement or an appropriate plan for permanency.

# **Appendix A**

## **Reviewing the Plan**

The most current version of, “Reviewing the Permanency Plan” is currently listed separately on the FCRB Website under Local Board Resources.

# **Appendix B**

## **Legal Resources**

## **Comparison of the Role of the Foster Care Review, HHS, and the Courts**

### **Role of Citizen Review**

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

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

#### **Review Function**

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

#### **Tracking Function**

- Track all children in out-of-home care per statute (FCRB Tracking System)
- Provide statewide picture of all children in out-of-home care

### **Role of HHS**

#### **Risk Assessment**

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

#### **Case Management Planning**

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

#### **Places Children**

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

#### *Provides Assessments & Services*

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

#### **Reports to the FCRB**

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

### **Role of the Court**

#### **Due Process**

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

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

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

## The Juvenile Court Process For Abuse or Neglect Cases

**Note:** The Foster Care Review Board has the authority to review children's cases any time after the removal from the home. Typically the Board schedules reviews so that information gathered from the review can be shared with all legal parties just prior to a Court hearing, so that the Court can address the Board's concerns.

**Report of abuse or neglect** (also called a complaint)– is made by medical personnel, educators, neighbors, foster parents, social workers, policy, and/or others. State law requires anyone with reason to believe abuse or neglect is occurring to report this to authorities. This may be reported to the Department of Health and Human Services (DHHS-CPS) or a local law enforcement agency. Each of these agencies is to cross report to the other.

**Report accepted or screened out** – after CPS receives a report, it assesses the nature of the complaint and assigns a prioritization for investigation. Serious flaws in this system exist. (See the section on CPS response to child abuse reports for additional details.)

**Investigation**– law enforcement and/or CPS (child protective services division of DHHS) investigates the allegations or concerns in the report. The investigation provides the evidence for the County Attorney to file a petition. The child may be removed from the home if an emergency situation exists.

**County Attorney files a petition** – detailing all of the abuse or neglect allegations. This is done within 48 hours of an emergency removal; if not an emergency removal, the County Attorney files a petition requesting removal from the home or requesting DHHS supervision of the home. Nothing is determined, found, or ordered at this point, that is done at the hearings described below. Parents who abuse their children can be tried in adult courts for the criminal part of their actions as well as being involved in a juvenile court action about the child and the child's future.

**Petition definitions** – petitions must contain specific allegations related to specific statutes in the Nebraska Juvenile Code. These are:

- §43-247 (3a) – children who are neglected, abused, or abandoned.
- §43-247 (3b) – children who have exhibited behaviors problems such as being disobedient, truant, or runaways
- §43-247 (3c)– juveniles who are mentally ill and dangerous as defined in §83-1009.
- §43-247 (1)– juveniles who have committed a misdemeanor other than a traffic offense.
- §43-247 (2)– juveniles who have committed a felony.

**Detention hearing is held** – legal rights are explained to the parents, a Guardian ad litem (special attorney) is appointed to represent the child's best interests, counsel may be appointed for the parents. This hearing determines if probable cause exists to

warrant the continuance of Court action or the child remaining in out-of-home care. The Court can only rule on the allegations in the petition. Affidavits and testimony can also be used.

If an emergency removal did not occur, the child may be removed from the home or may remain in the home under the supervision of DHHS. Services may be offered to the child and/or the parents after the detention hearing. Parents are frequently advised by their counsel not to accept services, as this may be an admission of guilt for the adjudication hearing to come.

**DHHS is given custody at the detention hearing** – and is then responsible for the child's placement, plan, and services, if the court finds grounds for adjudication. DHHS is responsible for developing the child's case plan, submitting the plan to the court, and updating the plan at least every six months while the child remains in care. The Court must adopt the DHHS case plan unless other legal parties present evidence that the plan is not in the child's best interest or the Court amends the case plan based on its own motion.

**DHHS makes a placement** – the child's needs are to be evaluated and the child is to be placed in the most home-like setting possible that meets the child's needs, whether through direct foster parents, relatives, or agency-based care. This may occur either before or after the detention hearing, depending on circumstances.

**Plea-bargaining** – because allegations can be hard to prove, many serious allegations are sometimes removed from the petition in an agreement between the County Attorney and the parents so that parents or youth will admit to lesser charges.

**Adjudication hearing is held** – facts are presented to prove the allegations in the petition. The burden of proof is on the state, through the County Attorney. If the parents deny the allegations, then a fact-finding hearing like a trial is held, where the parents have a right to counsel.

At this hearing the finding of fact occurs, the allegations in the petition are found to be true or false, and the child is either made a state ward or not. The Court cannot order the parents to services prior to completion of the adjudication hearing. By law this must occur within 90 days of the child entering out-of-home care. In practice the 90-day rule is not always followed.

**Dispositional hearing is held** – the Court sets the adjudication status for the case, if the parent admits the allegations or is adjudicated, the Court adopts the DHHS rehabilitation plan for the parents (case plan) and orders services based on this plan. There is a statutory presumption that the DHHS plan is in the best interests of the child. The onus is put on any other party to the proceedings to prove that a plan is not in the child's best interests.

**Dispositional review hearings** – these court hearings occur at least once every six month to determine whether any progress is being made towards permanency for the child. The child's plan should be updated to reflect the current situation. The State

Foster Care Review Board has legal standing to file as a party to any pleading or motion to be heard by the court at these hearings. The Review Board attempts to schedule its reviews in advance of this court hearing so that the Court can act on the Board's concerns.

**Permanency hearings** -- After the child has spent 12 months in foster care, the Court is to hold a special dispositional hearing to determine the most appropriate permanency plan for the child.

**When a child has been in care for 15 of the last 22 months** – the County Attorney is required to file a motion for a hearing either for a termination of parental rights, or to explain why termination is not in the best interest of the child.

**Permanency** – is obtained through any of the following: 1) a safe return to the parent's home, 2) adoption, 3) guardianship, 4) a long-term foster care agreement, or 5) by reaching adulthood. Adoption or guardianship can occur following either a relinquishment of parental rights or by a Court-ordered termination of parental rights.

**Termination of parental rights hearings** – if the state through a county attorney proceeds to a termination of parental rights action, the parents have the right to counsel. In such a trial the burden of proof is greater than the level of proof needed in juvenile court proceedings. Many county attorneys have equated the time to establish grounds and proceed to trial as being equal to involvement in a murder trial. The role of the defense counsel is adversarial—that is the parental attorney has an obligation to defend the client against the allegations in the petition. There is a right to appeal, and many parental attorneys automatically appeal any decision to terminate parental rights.

**Relinquishments** – relinquishments are actions of the parents to give DHHS the rights to the child. DHHS will only accept relinquishments if both parents sign, or the other parent's parental rights have been terminated, or the other parent is deceased. This is sometimes done to facilitate an open adoption.

**Open adoption** – a legally enforceable exchange of information contract between biological parents who have relinquished rights and adoptive parents, that is agreed to by both parties. This is only applicable for children who are state wards.

**LANGUAGE IN REPORTS**  
Christine Costantakos, Attorney at Law

**REPLACE**

"The Board is *appalled* at.....;"  
"The Board is *frustrated* with...."  
"The Board *fails to understand* why....."

**WITH**

"The Board is concerned about...."

---

**REPLACE**

"Reunification with the mother is *not appropriate or in Sarah's best interests.*"

**WITH**

"Reunification with the mother is not appropriate because she has failed to substantially comply with the orders of the juvenile court in the following respects:...

or--she has failed to correct the circumstances which brought this matter into the juvenile court, namely...

or the child has been in an out-of-home placement for 15 of the most recent 22 months, and based upon, it is in her best interests not to be reunified with the mother."

---

**ADD**

With Finding 5C "The Board cannot agree or disagree with the permanency objective due to the lack of a current written plan." add the following:

"Neb. Rev. Stat. §43-285 requires the Nebraska Department of Health and Human Services to prepare and file with the court a proposed plan for the care, placement, services and permanency which are to be provided to the juvenile and his or her family. Because this has not been done, the Board cannot agree or disagree...or make a finding as to-----due to the lack of a written plan."

---

**If the Finding is:**

"It is *unclear what reasonable efforts are being made in this case to promote reunification.*"

**The following language could be added.**

"Neb. Rev. Stat. § 43-283.01 requires the State (including the Department) to make reasonable efforts to preserve and reunify the family, absent a judicial finding that aggravated circumstances exist which would eliminate the need to make such reasonable efforts in a particular case. Because no such judicial finding has been made to date in this case, it appears to the Board that reasonable efforts are, in fact, required to be made by the State. However, the Board has been unable to determine what, if any, reasonable efforts have been made by the State, including the Department, during this most recent review period...or- the Board has found no evidence that reasonable efforts have been made by the State during this last review period."

---

**REPLACE**

"The Board *wonders if Mr. and Mrs. Jones truly do want their children to return to their home, despite what they say.*"

**WITH**

"The fact that the parents have made minimal effort to comply with the plan of rehabilitation in this case, raises a serious question as to whether or not they are sincere in their request to have the children reunified with them."

---

**REPLACE**

"*We would appreciate it if a homestudy were done at this time.*"

**WITH**

"The Board recommends that a homestudy be done at this time to ascertain the appropriateness of XYZ as a possible placement for Jeremy."

---

**REPLACE**

"It appears to the Board that *Mr. ABC is trying to control every aspect of this case* and many of the professionals have withdrawn due to the intensity of their conflicts with him."

**WITH**

"Although the orders of the juvenile court require Mr. ABC to cooperate with all of the case professionals, he has substantially failed to obey the court's order in this regard, as evidenced by the following:

- 1) Outburst and aggressive behavior of Mr. ABC resulted in termination of psychiatric evaluation (See letter from Dr. Ima Shrink, dated December 6, 2001);
- 2) Sixteen of thirty-seven possible visits with his children were canceled by visitation specialist due to threatening and verbally abusive behaviors exhibited by Mr. ABC (See visitation documents dated 8/9, 8/16, 9/12, 9/16, 10/14/ 10/21. etc. etc.)
- 3) Notice of change of case manager filed by NDHHS on 12-14-01, due to threat made by Mr. ABC to kill the previous case manager (See case plan and court report dated 12-16-02)

**STATE JUST THE FACTS, NOT CONCLUSIONS.**

---

**REPLACE**

"*Once again, the Department appears to be ignoring the best interest of this child by placing him in an institution which is harmful to his well-being.*"

**WITH**

"On January 9, 1999, the juvenile court granted the motion to change Roger's placement and in so doing, made the following finding, 'Placement at the Harper House is inappropriate and harmful to the minor child, insofar as he has sustained bruises, scrapes, and emotional trauma from inappropriate application of physical restraint, which has been utilized with him on an almost daily basis. The Department is hereby directed to remove said child immediately and place him in a suitable placement which will promote his best interest.'

"On May 14, 1999, the Court again granted another motion to change Roger's placement and in so doing, made the following finding, 'Placement at the Charles Institute is inappropriate and harmful to the minor child, insofar as he has sustained bruises, and further emotional trauma from having been locked in his room for a period of eight days. The Department is hereby directed to remove said child immediately and place him in a suitable placement which will promote his best interest.'

"The Board has communicated its concerns directly to the Department that Roger's current placement at Last Hope is adverse to his best interest and well-being, based upon that institution's inappropriate use of chemical restraints. (See letters to case manager, dated ...). These communications have failed to result in either any response from the Department or any action being taken by the Department to remove Roger from Last Hope.

"The Board respectfully recommends that proceedings be initiated at this time to require the Department to show cause as to why it should not be held in contempt of court for violation of the orders of the juvenile court, as well as additional proceedings to remove Roger from Last Hope."

---

## **REPLACE**

*"According to the maternal grandmother for the children, her own daughter has stolen from her on several occasions. She also stated that her daughter was in the habit of "taking off" and thought she did so most recently because the gas and water might have been shut off at the daughter's house."*

## **WITH**

### **Nothing.**

The basis for the adjudication in this case was the mother's incarceration and her continued usage of illegal drugs. The inclusion of the information from the grandmother that her daughter has stolen from her is irrelevant. The author might have chosen to include this information in an effort to imply to that the mother is stealing items in order to sell them to obtain money to buy drugs; or at a minimum, to convince the reader that the mother is a bad person because she would stoop so low as to steal from her own mother. The additional information regarding the daughter's habit of "taking off" is also not helpful, and potentially problematic as being reliable information, depending upon the grandmother's opinions and attitudes toward her daughter. Finally, the information regarding the reason why the daughter most recently "took off" is speculative, at best, and would not likely be received into evidence if the grandmother testified in court.

### **When assessing whether or not to include certain information in reports, try to determine:**

1) Is there any link between the information being reported and the factual bases for the adjudication in the case, or the actual requirements contained in the court-ordered plan of rehabilitation? If not, ask yourself, what purpose does the inclusion of this information serve? Does it underscore the validity of the factual basis upon which the Board's recommendations rest, or is it an attempt to characterize the parent(s) or any party in an adverse light? Remember, the judge can only read the actual

recommendations of the FCRB reports, not the factual bases or history underlying your recommendations.

2) When considering information which has been provided to you, be aware of the possibility that the providing of negative information could be motivated by bias or hostility, especially when such information is volunteered by a grandparent, parent or step-parent, or other collateral relative, or even a foster parent. Find out whether the party volunteering the information is himself/herself trying to obtain custody, visitation or certain legal status or rights in relation to the child who is the subject of the juvenile court proceeding. Try to determine whether there has been any history of hostility or hard feelings between the reporting party and the party about whom the information is volunteered. Attempt to verify the information you receive, and if you cannot, it might not be appropriate to include it in the FCRB report. If you do receive information indicating that there is or has been hostility between the reporting party and the party about whom the negative allegation has been volunteered, it might be best not to include the negative allegation unless you are prepared to give equal time to addressing the other version given by the defending party. However, unless the conflicting information has a direct link to the one of the relevant issues of the case, it would seem best to disregard it. In other words, what purpose is served by including in the FCRB report the grandmother's allegation that her daughter is in the habit of "taking off," and the daughter's corresponding denial of that accusation along with a counter-allegation that her mother is a drunk who imagines things?

3) Differentiate between what is factual from what is speculative. Statements such as "I thought," "I believe "or "I heard..." or "Probably she left because the utilities were shut off" do not establish any fact other than the speaker's own belief. Be leery of allegations such as:

"The neighbor told me she had heard they were selling their food stamps in order to get money to buy drugs."

"The grandmother reports that the girls cry each time they return home from a visit with their mother, and hopes that the court will act soon to stop the visits so that the girls will not become further traumatized."

"The foster parent reports that Jeremy continues to have difficulty with wetting the bed, nightmares, and focusing on sexual vocabulary, all indications that he has been the victim of sexual abuse."

\*\*\*\*\*

## **12-Month Permanency Hearings**

These hearings are required by law to occur in all cases when children have been in foster care for 12 months, and must focus on appropriate permanency in order that children can move out of the foster care system.

Local boards can recommend what permanency direction they believe to be appropriate, and identify the factors that support their decisions. The following are some language examples:

**Example 1: The Board does not support the permanency objective of reunification and recommends that a permanency objective of adoption be ordered for these young children. Ms. “Black” and Mr. “Brown” have made little progress to correct the issues that led to adjudication.**

- **Ms. “Black” and Mr. “Brown” have not complied with any Court Ordered services. They have not participated in individual therapy, substance abuse programs, or AA/NA meetings as ordered by the court.**
- **Ms. “Black” and Mr. “Brown” did not comply with drug and alcohol testing from August of 2007 until they were Court ordered in December of 2007 to submit to random testing prior to visits with the children. All drug screens since that time have been positive.**
- **The children have been in out-of-home care for nearly one year, with little progress made, and it is in their best interest that permanency be established.**

**Example 2: The Board does not agree with the permanency objective of reunification and recommends that the Court order a permanency objective of adoption.**

- **Ms. “Jackson” has had 11 months to work on her case plan goals, however has not complied with any of her court-ordered services.**
  - **She has not completed a chemical dependency evaluation.**
  - **She has not regularly participated in supervised visitation.**
    - **From October 2007 until December 2007 she had no contact with her daughter.**
  - **She has not submitted to regular random UA testing.**
  - **It is unclear if she has abstained from drugs and alcohol due to her lack of participation in random UA’s.**
  - **She has not obtained safe and adequate housing despite having been ordered by the court to do so since (DATE).**
  - **She has not maintained consistent contact with the caseworker.**

## **Guardian ad Litem Representation**

The Nebraska Supreme Court's Guidelines for guardian ad litem representation are attached. These guidelines are designed to improve the quality of representation and advocacy that foster children receive from their guardians ad litem.

**Local board members should be familiar with these Guidelines and use them when making recommendations regarding guardians ad litem. The following are some language examples:**

**Example 1:** The Board recommends that the Guardian ad Litem visit the children in their placement as soon as possible to ensure their safety and well-being and to insure the effectiveness of the guardian ad litem's advocacy for the children in the court proceedings.

- As stated in the Guardian ad Litem guidelines adopted by the Supreme Court, *"The guardian ad litem should make every effort to see the juvenile in his or her placement at least once, with respect to each such placement"*

**Example 2:** The Board recommends that the Guardian ad Litem have in-person contact with the children prior to the upcoming Court hearing. In-person contact is especially important in this case because.....

The guardian ad litem should make such contact before the next hearing because.....

- As stated in the Guardian ad Litem guidelines adopted by the Supreme Court, *"In addition to the statutorily required intervals for consulting with the juvenile, when possible, the guardian ad litem should consult with the juvenile...prior to any hearing at which substantive issues affecting the juvenile's legal or best interests are anticipated to be addressed by the court"*

**Example 3:** The Board finds that the Guardian ad Litem has not had contact with the children as required by statute. The Board recommends that the Guardian ad Litem make in-person contact with the children as soon as possible.

- Neb. Rev. Stat § 43-272.01 (2)(d) requires that the guardian ad litem consult with the juvenile within the two weeks after his or her appointment and once every six months thereafter.

## Legal/Judicial terminology/sequence in working with the Courts

**Evidence:** Any sort of proof submitted to a court for the purpose of influencing the court's decision. FCRB recommendations are admissible in any Court proceedings concerning the juvenile if the findings or recommendations have been provided to all other parties of record or legal parties. §43-285 (6)

**Types of Proof:** In different Judicial proceedings, there are varying proof requirements.

Beyond a reasonable doubt-99%

Clear and Convincing-75%

Preponderance of Evidence-It is more likely than not, 51%

**Petition** – done by County Attorney

43-247 (3a) abuse/neglect

43-247 (3b) status offender

43-247 (3c) mental health hold

43-247 (1) (2) misdemeanor/felony offenses

At this time the allegations of the problem/crime are stated, nothing is determined, found or ordered. The petition sets forth the allegations which, if proven true, form the basis for court intervention. A petition must be filed within 48 hours of a child being removed or the child goes home. Docket number is usually listed in the upper right hand corner. Track to see if both parents are listed in the petition in 3(a) cases.

**Detention hearing** – hearing which is to find if probable cause exists to warrant the continuance of court action, or the child remaining in foster care. At this time the case is either set for adjudication or the child is returned home or charges dropped. A Guardian ad litem should be appointed at this time. Neb. Law and Federal Law PL 96-272 require that any child in Court Proceedings have a guardian ad litem.

**Adjudication hearing** – by law must occur within 90 days of the child entering foster care. An adjudication hearing can be either contested or non-contested. If it is contested that means the parents deny the allegations of the petition and full trial with evidence ensues. At this time the findings of fact occurs, either the allegations of the petition are found to be true or false, the child is either made a state ward or not. Rules of evidence apply which means hearsay is not allowed. The FCRB can not intervene at the adjudication level, only once a case has reached disposition. The burden of proof is based on the preponderance of evidence. The Court should make a finding if reasonable efforts have been made to prevent removal from the home.

**Dispositional hearing** – At this time a plan is ordered which addresses the reason a child or youth came into care. (i.e. if the child is in foster care due to abuse/neglect a rehabilitation plan for the parents is ordered) If the adjudication was for a misdemeanor or felony of the child the Court will enter a dispositional order for the child such as probation, 30 day evaluation, community service, placement at the HRO program, etc. The Court is limited by the allegations adjudicated in the petition as to what it can order at Disposition. (i.e. the child entered care for neglect then sexual abuse is later disclosed by the child. The Court cannot order the parents to participate in treatment for sexual offenders if it has never been adjudicated) Rules of evidence do not apply which means letters from doctors, school records, etc. are accepted.

**Dispositional review hearings** – Per Federal Law PL 96-272 this hearing is to occur by the court every 6 months to review the progress made on the dispositional order. The focus should be if progress is being made to correct whatever the problem was. A Journal entry should be filed recording what was ordered. Also a finding should be made as to whether there is a continued need for out of home care at these hearings.

#### **OTHER TERMS:**

**Supplemental petition** – this is an additional allegation added onto an existing petition that uses the same docket number. This would be in cases where the original petition was for example due to neglect then it is disclosed there was abuse. It is necessary for the new allegations to be adjudicated (found to be true) in order for the Court to order services for the offense.

Other petitions can also be filed under new dockets. This can occur if a child was originally adjudicated under 3(a) then runs away, steals a car or as you have recently seen perpetrates on someone. The child is then adjudicated under 3(b) or (1) or (2) and this is usually under a new docket. You want to track this.

The type of hearing that is occurring or type of motion is usually listed in the upper right hand corner of the document.

**Journal Entry** – This is the court's order/statement of what occurred at a hearing, usually from a regular dispositional review.

**Ex parte** – hearing without parties present, by review of records only.

**Motion to recuse** – when one of the parties has a conflict and wants to be removed from the case.

**Motion to continue** – file when one party cannot be at court on the date set. It is not so important to list all the motions to continue as it is to note the dates and number of continuances prior to the court hearing actually taking place.

Watch specifically for Court orders that may state one piece of evidence is not to be disclosed to parties without consent of the Court or for Court orders banning re-disclosure of certain information. This information would NEVER be included in the Board's recommendations.

**Termination of Parental Rights** – A legal proceeding to free a child from the parent's claim. The rules of Evidence apply and the burden of proof is by clear and convincing except for Indian Children where the burden of proof is beyond a reasonable doubt that serious emotional or physical damage will occur if parental rights remain intact.

A petition is again filed by the County Attorney. Sometimes you will see this referred to as a supplemental petition in that it is an allegation onto the original reason the child entered care. (i.e. the parent has continuously/repeatedly neglected or abandoned the child)

The **arraignment hearing** is held where the petition is read and the parents are explained their rights. Following that the case is set for trial, this is usually set for over a few days period of time. Sometimes you may see this referred to as the adjudication on the supplemental petition. Always watch to make sure that the rights of any and all parents are addressed in the termination petitions. If a parent cannot be located then a motion to publish is filed. The Court will then have to receive evidence as to why the parent cannot be located to be served with the petition in person. The Court can then order the parent be notified of the termination proceedings by publication in the newspaper.

**18 Month Requirement:** As per LB 1184 the County Attorney must review the case of child who has been in foster care for 18 consecutive months for the appropriateness of termination. This has been added as one of the grounds for termination. Other grounds for TPR are:

1. The parents have abandoned the juvenile for 6 months or more immediately prior to the filing of the petition.
2. The parents have substantially and continuously or repeatedly neglected the juvenile and refused to give the juvenile the necessary parental care and protection.
3. The parents, being financially able, have willfully neglected to provide the juvenile with the necessary subsistence, education, or the care, or failed to pay child support when ordered by the court.
4. The parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which is found by the Court to be seriously detrimental to the well-being of the juvenile.

5. The parents are unable to discharge parental responsibility because of mental illness or mental deficiency and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period of time.
6. Reasonable efforts under the direction of the court have failed to correct the conditions leading to the determination.
7. Child being placed in foster care for 18 consecutive months.

**Appeal:** This is when the parents resort to a higher Court in the attempt to have the decision of the trial Court changed. The Adjudication, Disposition, or termination may be appealed. The appeal may first go to the District Court if it is on Adjudication or Disposition. If the appeal is on termination, it may first go to the Court of Appeals.

**Visitation:** Watch for the Court order to address visitation in every case applicable, especially whether visits are to be supervised or unsupervised. Sometimes you will see a separate letter sent to the Judge asking him to approve visitation or a change in visitation. The Nebraska Supreme Court has found that: **The Department of Social Services does not have the authority to determine or place restrictions on visitations. The Court has the judicial authority to determine visitations.** In Re: CA, 1990, 235 Neb. 893,900)

## **FOSTER CARE REVIEW BOARD MISSION STATEMENT**

The State Foster Care Review Board's mission is to ensure the best interests of children in foster care are being met through external citizen review, monitoring facilities that house children and youth, maintaining up-to-date data on a statewide tracking system, through legal standing, and by disseminating data and recommendations through an Annual Report.

### **The Board accomplishes this mission by:**

- Reviewing the plan, services, and placements of children in foster care by multi-disciplinary, community based, trained citizen volunteers. (Neb. Rev. Stat.43-1308, 43-1312)
- Making findings based on the review and the specific rationale for these findings. (Neb. Rev. Stat.43-1308,(1)(b))
- Sharing the findings with all legal parties to the case. (Neb. Rev. Stat.43-1308, (1)(b))
- Maintaining a computerized tracking system on all children and youth in foster care. (Neb. Rev. Stat .43-1303)
- Collecting and verifying information on children and youth in foster care. (Neb. Rev. Stat.43-1303)
- Disseminating information on children in foster care. (Neb. Rev. Stat. 43-1303)
- Releasing an annual report containing the data collected, an evaluation of such data and recommendations. (Neb. Rev. Stat. 43-1303)
- Promoting safety, security and permanency for children. (Neb. Rev. Stat. 43-1303, 43-1308)
- Improving the foster care experience for children, (Neb. Rev. Stat. 43-1308), which includes working to obtain appropriate, safe, and permanent placements for children, reduce the number of placements children experience, reduce the number of times children enter care, and reduce the time children spend in out-of-home care.
- Maintaining a higher level of case advocacy and involvement through legal standing (Neb. Rev. Stat. 43-1313)
- Visiting facilities for children in foster care (Neb. Rev. Stat. 43-1303(6))
- Organizing, sponsoring and participating in educational programs. (Neb. Rev. Stat. 43-1317)

### **AGENCY VISION**

The vision of the State Foster Care Review Board is that every child and youth in out-of-home care live in a safe, permanent home, experience an enduring relationship with one or more caring adults, and have every opportunity to grow up to become a responsible and productive adult.

## **Public Reporting of Suspected Child Abuse or Neglect**

State law requires any person who has reason to suspect abuse or neglect to report this to law enforcement, an HHS local office, or the child abuse/neglect reporting number at **1-800-652-1999**. All reports are confidential.

**Child abuse** is any behavior directed toward a child age birth through 18 by a parent, guardian, or other adult that endangers the child's physical or emotional health. Children of all ages may be affected, but young children who see few adults outside the home are often at particular risk.

**Possible signs of physical abuse include:** intentional, unexplained or repeated injuries like bruises, welts, burns and cuts; injuries inconsistent with the explanation given; verbal assaults; withholding of positive emotional support needed for a child's development; and physical violence in the home.

**Possible signs of neglect include:** depriving children of necessary food, clothing, shelter, or care; verbal assaults; withholding of positive physical and emotional support needed for a child's development; leaving a child under the age of six in a car unattended; and parental incapacitation due to drug/alcohol abuse or parental mental health issues. Nationally, more children die each year from neglect than from physical abuse.

**Sexual abuse and exploitation** is when an adult touches or uses a child for sexual stimulation of themselves or others. Possible signs of this can include excessive fearfulness of particular individuals, injuries in the genital area, or behaviors indicating sexual knowledge beyond the norm for the child's age.

## **Selected Supreme Court Rulings And Quotes from Research**

### **Adjudication delays, delay case planning and permanency for children:**

“The fact that a parent may be indicted or charged in criminal court in connection with alleged conduct toward a child is no excuse for prolonged delays of an adjudication hearing.” See: *In Re Interests of D.M.B.* 481 N.W.2d905, 240 Neb. 349(1992)

A parent and a child, both being parties, have a right to a speedy adjudication hearing. “A delay of 8 months between the time a child is temporarily taken from the child’s parent until the child and parent are given the evidentiary safeguards of an adjudication hearing cannot be condoned, even when, as here, the parties agreed to repeated continuances.” See: *In Re Interests of D.M.B.* 481 N.W.2d905, 240 Neb. 349(1992)

“Keeping a child in limbo for 8 months by way of a temporary custody order on the basis of hearsay does not instill confidence in the integrity and fairness of our juvenile justice system. To preserve the integrity of the juvenile justice system, a juvenile court judge must control his or her docket to prevent long delays in the processing of juvenile cases.” See: *In Re Interests of D.M.B.* 481 N.W.2d905, 240 Neb. 349(1992)

“A child should not be left suspended in foster care and should not be required to exist in a wholly inadequate home. Further, a child cannot be made to await uncertain parental maturity.” *In Re Interest of JS, SC, and LS*, 224 Neb 234 (1986).

### **Case Plans are needed to keep children from lingering in foster care:**

Unless the provisions of the Case Plan “tend to correct, eliminate, or ameliorate the situation or condition on which the adjudication has been obtained” a Court-ordered plan “is nothing more than a plan for the sake of a plan, devoid of corrective and remedial measures.” *In Re Interest of J.S, A.C., and C.S.*, 227 Neb. 251, 268, 417 N.W. 2d 147, 158 (1987).

"Neb. Rev. Stat. §43-285 requires the Nebraska Department of Health and Human Services to prepare and file with the court a proposed plan for the care, placement, services and permanency which are to be provided to the juvenile and his or her family.

Include foster parents in Court; they know the children and their needs:

Foster parents are to be notified of Court reviews, and have the right to be heard at review hearings. [see:§43-1314 (6)]

**Children should not be subjected to repeated severe abuse:**

The right of the parent to custody and control of her or his children is not an inalienable right. The public has paramount interest in the protection of children from neglect. *In Re Interest of M.L.B.*, 221 Neb 396 (1985)

"It is not necessary that the court await until the child shows permanent physical scars before the court can act to terminate parental rights." *In re Interest of J.B. and A.P.* 235 Neb 74, 453 N.W.2d477 (1990)

"It is true that, fortunately, neither the father nor the mother has had an opportunity to have this child in his or her care. Therefore, there is no evidence of any harm having as yet befallen the minor. However, a court need not await certain disaster to come into fruition before taking protective steps in the interest of a minor child". *See In re Interest of S.L.P.*, 230 Neb 635,639 (1988)

"Even though the father has had no unsupervised contact with the child, it is not necessary that the Court await the time the child shows permanent scars of the father's anger and impulsivity before acting to terminate the relationship." *In re interest JDM* 230 NE 272, (1988)

"While there are indeed many child maltreators who can be helped to be competent parents with timely and effective services, other parents can not be assisted to be caring and nurturing parents." "Research clearly indicates that there is not a continuum of abuse with severe abuse occurring because of increased stress and disadvantage. Instead there seem to be distinct categories of maltreatment. Thus, parents who inflict severe harm on their children or kill offspring are categorically different from those parents whose maltreatment does not involve life-threatening harm to children." "With some kinds of maltreatment, one strike is sufficient to warrant terminating parental rights." (Gelles, 1991; Wolfner and Gelles, 1993)

### **Children need permanency:**

Neb. Revised Statutes § 43-533 (5) mandates that when families cannot be reunited, and when active parental involvement is absent, adoption shall be aggressively pursued.

“Proceedings in juvenile court involve impressionable children in their formative years, not impersonal flotsam and jetsam adrift on a sea of indecision, or much worse, societal insensitivity or apathy.” *In re Interest of L.D. et al.*, 224 Neb. 249, 398 N.W.2d91(1986).

Indefinite foster care is not acceptable where the evidence suggests the need for a fixed and permanent home. *In re Interest of J.A. and T.A.*, 229, Neb 359 (1988).

Parental obligation is a positive duty which encompasses more than a financial obligation. It requires continuing interest in the child and a genuine effort to maintain communication and association with that child. Abandonment is not an ambulatory thing, the legal effects of which a parent may dissipate at will by token efforts at reclaiming a discarded child. *In re Interests of J.M.D.*, 233 Neb 540 (1989).

"Although termination of parental rights may sometimes appear cruel or harsh, experience has shown that failure to terminate parental rights in appropriate cases simply punishes the child for the uncorrectable deficiency of the parents, thereby extending the same problems and conditions into successive generations." *In Re Interest of C.A.A. and V.S.A.*, 229 Neb 135, 138-39 (1988).

Where a parent is unable or unwilling to rehabilitate himself or herself within a reasonable time, the best interests of the children require termination of the parental rights. *In re Interest Ty M. & Devon M.* 265 Neb. 150, 665 N.W.2d 672 (2003).

### **Children need attachments:**

“Adults must remember that once new attachments are formed, separation from these substitute parents is no less painful and no less damaging to the child than separation from birth or adoptive parents.” *Goldstein, J. Freud, A. and Solnit, A.J. Beyond the Best Interests of the Child. 1973.*

“Moves from foster home to foster home should be limited to all but the most unavoidable situations. Every loss adds psychological trauma and interrupts the tasks of child development.” *Vera I. Fahlberg, M.D., A Child’s Journey Through Placement, page 176. Perspectives Press, c. 1991.*

“Insecure attachment is not equivalent to mental disorder, but rather creates a risk of psychological and social dysfunction. Disorganized/disoriented attachments are sometimes associated with dissociative symptomology, which, if such individuals are exposed to overwhelming experiences later in life, may make them prone to developing post traumatic stress disorder. Persons in this group also have deficits in attention and the regulation of emotion and impulse control.” *Daniel J. Siegel, The Developing Mind: Toward a Neurobiology of Interpersonal Experience, c. 1999.*

“The stronger the attachment between child and previous caregiver, the more important the process of transferring attachment will be. Although we have found that sometimes verbal or written communications, without accompanying direct contact between the parenting adults, may be successful in aiding the transfer of attachment in children of school age, it is not enough for the infant, toddler, or preschooler. The younger the child, the more important it is that there be direct contact between past and future caregivers. We noted in the last chapter that after only several days of separation from parents, toddlers show marked distress.” *Vera I. Fahlberg, M.D., A Child’s Journey Through Placement, page 178. Perspectives Press, c. 1991.*

One example of risk for emotional disturbance is seen in the experience of children who experience trauma at an early age. Allan Schore writes “Although the critical overproduction on synapses in the brain is genetically driven, the pruning and maintenance of synaptic connections are environmentally driven. Developmental over pruning refers to a toxic effect of overwhelming stress on the young brain.” *Daniel J. Siegel, The Developing Mind: Toward a Neurobiology of Interpersonal Experience, c. 1999.*

“During the toddler years, the primary aim during the moving process is to transfer attachment from previous caregivers to the new parenting persons as much as possible. The two sets of parents must have contact and the parents the child is leaving need to actively transfer the day-to-day care taking tasks and routines to the new parents.” *Vera I. Fahlberg, M.D., A Child’s Journey Through Placement, page 182. Perspectives Press, c. 1991.*

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“Planned transitions are less harmful to children than abrupt moves...in general, it takes more time to correct the harm done by inadequate pre-placement work than to do the work in the first place.” *Vera I. Fahlberg, M.D., A Child’s Journey Through Placement, page 177. Perspectives Press, c. 1991.*

The presence of even one positive attachment figure can be a protective factor to promote resilience in children who suffer trauma or separation. *Susan Downs, et al, Child Welfare and Family Services Policies and Practice, c. 1991, page 280.*

## **Consequences of child abuse and neglect**

The U. S. Advisory Board on Child Abuse and Neglect in 1995 released results from a two and one half year study that showed that abuse and neglect in the home is a leading cause of death for young children in the United States. The report also states that child abuse fatalities have risen 50% over the past eight years.

Nationally, almost as many children die each year from neglect as from physical abuse. *National Clearinghouse on Child Abuse and Neglect, 2003.*

“The impact of abuse is far greater than its immediate, visible effects. Abuse and neglect are associated with short-and long-term consequences that may include brain damage, developmental delays, learning disorders, problems forming relationships, aggressive behavior, and depression. Survivors of child abuse and neglect may be at greater risk for problems later in life—such as low academic achievement, drug use, teen pregnancy, and criminal behavior—that affect not just the child and family, but society as a whole.” *U. S. Health and Human Services, Administration for Children and Families, Aug. 2003.*

“The risk of maltreatment is highest for children under four years of age. Moreover, children with a prior history of victimization were more than three times as likely to experience recurrence compared with children without a prior history.” *National Clearinghouse on Child Abuse and Neglect, July 2003.*

“Over half of the babies who come before dependency [juvenile] court have significant cognitive, language, and developmental delays stemming from the neglect and mistreatment they have experienced.” *A Scientific Approach to Child Custody, National Public Radio broadcast, March 3, 2003.*

43-292

**Termination of parental rights; grounds.**

**The court may terminate all parental rights between the parents or the mother of a juvenile born out of wedlock and such juvenile when the court finds such action to be in the best interests of the juvenile and it appears by the evidence that one or more of the following conditions exist:**

- (1) The parents have abandoned the juvenile for six months or more immediately prior to the filing of the petition;
- (2) The parents have substantially and continuously or repeatedly neglected and refused to give the juvenile or a sibling of the juvenile necessary parental care and protection;
- (3) The parents, being financially able, have willfully neglected to provide the juvenile with the necessary subsistence, education, or other care necessary for his or her health, morals, or welfare or have neglected to pay for such subsistence, education, or other care when legal custody of the juvenile is lodged with others and such payment ordered by the court;
- (4) The parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be seriously detrimental to the health, morals, or well-being of the juvenile;
- (5) The parents are unable to discharge parental responsibilities because of mental illness or mental deficiency and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period;
- (6) Following a determination that the juvenile is one as described in subdivision (3)(a) of section 43-247, reasonable efforts to preserve and reunify the family if required under section 43-283.01, under the direction of the court, have failed to correct the conditions leading to the determination;
- (7) The juvenile has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months;
- (8) The parent has inflicted upon the juvenile, by other than accidental means, serious bodily injury;
- (9) The parent of the juvenile has subjected the juvenile to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse; or
- (10) The parent has (a) committed murder of another child of the parent, (b) committed voluntary manslaughter of another child of the parent, (c) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or

abetted voluntary manslaughter of the juvenile or another child of the parent, or (d) committed a felony assault that resulted in serious bodily injury to the juvenile or another minor child of the parent.

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- 1. Abandonment:** The parents have abandoned the juvenile for six months or more immediately prior to the filing of the petition;
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Even though a juvenile court ordered a mother to have no visitation with her children approximately 7 weeks before the State filed a petition to terminate her parental rights based on abandonment, it was determined that the mother did abandon her children within the meaning of subsection (1) of this section where the mother failed to present any evidence which would show a continuing interest in the children or a genuine effort to maintain communication and a meaningful relationship with the children. In re Interest of Dustin H. et al., 259 Neb. 166, 608 N.W.2d 580 (2000).

In the context of subsection (1) of this section, "abandonment" is defined as a parent's intentionally withholding from a child, without just cause or excuse, the parent's presence, care, love, protection, maintenance, and the opportunity for the display of parental affection for the child. Under subsection (1) of this section, the question of abandonment is largely one of intent, to be determined in each case from all the facts and circumstances. Under subsection (1) of this section, if a parent voluntarily, but unreasonably or unjustifiably, departs from the state of residence of the parent's child or children, such departure may constitute parental abandonment of the child or children. Under subsection (1) of this section, abandonment is not an ambulatory thing, the legal effects of which a parent may dissipate at will by token efforts at reclaiming a discarded child. With respect to cases arising under subsection (1) of this section, parental obligation requires a continuing interest in the child and a genuine effort to maintain communication and association with that child. Under subsection (1) of this section, small tokens of parental affection for a child are an inadequate substitute for parental presence in a child's life. In re Interest of Sunshine A. et al., 258 Neb. 148, 602 N.W.2d 452 (1999).

Mother abandoned her children when she voluntarily left the State of Nebraska temporarily to look for her common-law husband's children. In re Interest of C.K., L.K., and G.K., 240 Neb. 700, 484 N.W.2d 68 (1992).

Parental incarceration may be considered in reference to abandonment as a basis for termination of parental rights under subsection (1) of this section. "Abandonment," for the purpose of subsection (1) of this section, is a parent's intentionally withholding from a child, without just cause or excuse, the parent's presence, care, love, protection, maintenance, and opportunity for the display of parental affection for the child. The question of abandonment is largely one of intent, to be determined in each case from all of the facts and circumstances. In re Interest of L.V., 240 Neb. 404, 482 N.W.2d 250 (1992).

A father who makes no effort to secure his parental rights for over 3 years has abandoned his child within the meaning of subsection (1) of this section. In re Interest of K.M.S., 236 Neb. 665, 463 N.W.2d 586 (1990).

"Abandonment," for the purpose of subsection (1) of this section, is a parent's intentionally withholding from a child, without just cause or excuse, the parent's presence, care, love, protection, maintenance, and the opportunity for the display of parental affection for the child. In re Interest of C.A., 235 Neb. 893, 457 N.W.2d 822 (1990).

Whether a parent has abandoned a child within the meaning of subsection (1) of this section is a question of fact and depends on parental intent, which may be determined by circumstantial evidence. In re Interest of C.A., 235 Neb. 893, 457 N.W.2d 822 (1990).

A parent who has voluntarily chosen to violate the law so as to have been convicted of five separate felonies may have placed himself in a position where he has effectively abandoned the child pursuant to subsection (1) of this section. In re Interest of B.A.G., 235 Neb. 730, 457 N.W.2d 292 (1990).

"Abandonment" under subsection (1) of this section is a parent's intentionally withholding from a child, without just cause or excuse, the parent's presence, care, love, protection, maintenance, and the opportunity for the display of parental affection for the child. In re Interest of J.L.M. et al., 234 Neb. 381, 451 N.W.2d 377 (1990).

Pursuant to subsection (1) of this section, if a parent voluntarily, but unreasonably or unjustifiably, departs from the state of residence of the parent's child or children, such departure may constitute parental abandonment of the child and cannot be used as an excuse for noncompliance with a court-ordered plan for parental rehabilitation. In re Interest of J.L.M. et al., 234 Neb. 381, 451 N.W.2d 377 (1990).

Under subsection (1) of this section, abandonment is an intentional withholding from the child, without just cause or excuse, by the parent of the parent's presence, care, love, and protection; maintenance; and the opportunity for the display of filial affection. Abandonment is not an ambulatory thing the legal effects of which a parent may dissipate at will by token efforts at reclaiming a discarded child. In re Interest of J.M.D., 233 Neb. 540, 446 N.W.2d 233 (1989).

A specific condition of termination of parental rights under subsection (1) of this section is that the parent abandon the child for at least six months preceding the filing of the petition. In re Interest of M.B., R.P., and J.P., 222 Neb. 757, 386 N.W.2d 877 (1986).

Abandonment, for purposes of this section, is a parent's intentionally withholding from a child, without just cause or excuse, the parent's presence, care, love, protection, maintenance, and opportunity for display of parental affection for the child. In re Interest of Joseph L., 8 Neb. App. 539, 598 N.W.2d 464 (1999).

A parent who has voluntarily chosen to violate the law, who has been imprisoned for the vast majority of his child's life, and who will continue to be imprisoned for several years

may have placed himself in a position where he has effectively abandoned the child pursuant to subsection (1) of this section. A juvenile court may consider evidence of a parent's conduct prior to the birth of the child in proceedings to terminate parental rights pursuant to subsection (1) of this section. In re Interest of Theodore W., 4 Neb. App. 428, 545 N.W.2d 119 (1996).

Evidence did not support juvenile court's finding that father abandoned children for 6 months prior to termination hearing, pursuant to subsection (1) of this section, when in fact visitations were discouraged by Department of Social Services until court order denying visitation was granted 2 months prior to termination hearing. In re Interest of B.J.M. et al., 1 Neb. App. 851, 510 N.W.2d 418 (1993).

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**2. Neglect:** The parents have substantially and continuously or repeatedly neglected and refused to give the juvenile or a sibling of the juvenile necessary parental care and protection;

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One need not have physical possession of a child to demonstrate the existence of neglect contemplated by subsection (2) of this section. In re Interest of Kalie W., 258 Neb. 46, 601 N.W.2d 753 (1999).

Trial court did not err in terminating parental rights where the children were traumatized to an extent that the mere presence of the parents sent them into a panic and the parent-child relationships were effectively destroyed by the neglect and cruelty of the parents. It is only when the State seeks to terminate parental rights pursuant to subsection (6) of this section that the State is required to prove that it has instituted a reasonable plan for rehabilitation of the parents and that they have failed to comply. In the absence of any reasonable alternative and as the last resort to dispose of an action brought pursuant to the Nebraska Juvenile Code, termination of parental rights is permissible when the basis for such termination is provided by clear and convincing evidence. In re Interest of S.B.E. et al., 240 Neb. 748, 484 N.W.2d 97 (1992).

Because of mother's lack of insight and her lack of motivation to place the interests of her children ahead of her own, the trial court did not err in finding there was clear and convincing evidence to establish that the mother had substantially, continuously, and repeatedly neglected her children and had refused to give them the necessary parental care and protection. In re Interest of B.B. et al., 239 Neb. 952, 479 N.W.2d 787 (1992).

A parent's failure to take proper measures to protect children from abuse by another furnishes sufficient cause to terminate parental rights under subsection (2) of this section. In re Interest of C.P., 235 Neb. 276, 455 N.W.2d 138 (1990).

A parent's fright does not, by itself, excuse his or her failure to extricate children from a dangerous environment. In re Interest of C.P., 235 Neb. 276, 455 N.W.2d 138 (1990).

A parent's failure to take proper measures to protect children from abuse by another furnishes sufficient cause to terminate parental rights under subsection (2) of this section. In re Interest of J.B. and A.P., 235 Neb. 74, 453 N.W.2d 477 (1990).

When a parent fails to protect some but not all children from the physical abuse by another, a court may terminate parental rights in the children not physically abused. In re Interest of J.B. and A.P., 235 Neb. 74, 453 N.W.2d 477 (1990).

Where poor housekeeping degenerates into a continuing health hazard, the best interests of the children require termination of parental rights. In re Interest of E.R., J.R., and A.R., 230 Neb. 646, 432 N.W.2d 834 (1988).

One need not have physical possession of a child to demonstrate the existence of the neglect contemplated by this provision. In re Interest of J.N.V., 224 Neb. 108, 395 N.W.2d 758 (1986).

Under this statute, to justify the termination of parental rights, the state must prove by clear and convincing evidence that a parent has substantially and continuously or repeatedly neglected the child. In re Interest of L.J., J.J., and J.N.J., 220 Neb. 102, 368 N.W.2d 474 (1985).

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**3. Mental illness or deficiency:** The parents are unable to discharge parental responsibilities because of mental illness or mental deficiency and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period;

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Subsection (5) of this section authorizing termination of parental rights for mental illness or mental deficiency means only those mental illnesses or mental deficiencies which render the parents unable to discharge their parental responsibilities. In re Interest of Michael B. et al., 258 Neb. 545, 604 N.W.2d 405 (2000).

Under subsection (5) of this section, when a natural parent suffers from a mental deficiency and cannot be rehabilitated within a reasonable period of time, the best interests of the child require that a final disposition be made without delay. A "mental deficiency", as used in subsection (5) of this section, includes an impairment in capacity such that a parent is unable to profit from instruction and acquire parenting skills. Under subsection (5) of this section, the State must show that termination of parental rights is in the best interests of the children. In re Interest of Natasha H. & Sierra H., 258 Neb. 131, 602 N.W.2d 439 (1999).

When a natural parent suffers from a mental deficiency and cannot be rehabilitated within a reasonable period of time, the best interests of the children require that a final disposition be made without delay. In re Interest of D.A.B. and J.B., 240 Neb. 653, 483 N.W.2d 550 (1992).

A borderline personality disorder is a mental illness or deficiency for purposes of statute. In re Interest of B.M., 239 Neb. 292, 475 N.W.2d 909 (1991).

A guardian ad litem appointed for a parent pursuant to subsection (5) of this section is entitled to participate fully in the proceeding to terminate parental rights. In re Interest of D.S. and T.S., 236 Neb. 413, 461 N.W.2d 415 (1990).

The parental rights of a parent who is unable to discharge parental duties because of a mental illness or deficiency may be terminated under subdivision (5) of this section, while the parental rights of a parent who is unable to discharge parental duties because of a physical illness or deficiency may be terminated under subdivision (2) or (6) of this section; thus, the statutory scheme for termination of parental rights does not unconstitutionally differentiate between a parent with a mental deficiency and one with a physical deficiency. In re Interest of S.L.P., 230 Neb. 635, 432 N.W.2d 826 (1988).

"Mental deficiency", as used in subdivision (5) of this section, includes an impairment in learning capacity such that one is unable to profit from instruction and acquire parenting skills. In re Interest of D.L.S., 230 Neb. 435, 432 N.W.2d 31 (1988).

Appointment of a guardian ad litem for parents whose parental rights are sought to be terminated under subdivision (5) of this section is mandatory. Failure to appoint a guardian ad litem to protect the interests of such a parent is plain error which requires that the judgment be reversed. In re Interest of M.M., C.M., and D.M., 230 Neb. 388, 431 N.W.2d 611 (1988).

While no absolute definition of the term "mental deficiency" as used in subdivision (5) of this section is adopted, where a personality disorder is manifested by acts of extraordinary violence, the mental condition certainly rises to the level of mental deficiency. In re Interest of J.D.M., 230 Neb. 273, 430 N.W.2d 689 (1988).

Parental rights were properly terminated under subdivision (5) of this section where parents, who were both of limited intellectual ability, were unable to care for their daughter, who was developmentally and physically handicapped and required an extraordinary amount of care. In re Interest of A.M.K., 227 Neb. 888, 420 N.W.2d 718 (1988).

Supreme Court urges appointments of an attorney and of a guardian ad litem under subsection (5) of this section be separated. In re Interest of C.W., 226 Neb. 719, 414 N.W.2d 277 (1987).

Record supported termination of parental rights as in the best interests of the child where the parent was unable due to a mental deficiency to discharge her responsibilities and there existed reasonable grounds to believe that this condition would continue for a prolonged and indefinite period. In re Interest of Fant, 214 Neb. 692, 335 N.W.2d 314 (1983).

A trial court has discretionary authority to appoint a guardian ad litem in termination proceedings for a parent with a mental deficiency, regardless of whether mental illness or

deficiency is pled as a ground for termination. In re Interest of Michael B. et al., 8 Neb. App. 411, 594 N.W.2d 674 (1999).

The presence of a mental deficiency in a parent does not preclude the State from seeking, or the courts from granting, termination of parental rights under subsections (2) and (4) of this section. In re Interest of Michael B. et al., 8 Neb. App. 411, 594 N.W.2d 674 (1999).

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- 4. Rehabilitation or reunification plan:** Following a determination that the juvenile is one as described in subdivision (3)(a) of section 43-247, reasonable efforts to preserve and reunify the family if required under section 43-283.01, under the direction of the court, have failed to correct the conditions leading to the determination;
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The Legislature intended that the issue of reasonable efforts required under section 43-283.01 must be reviewed by the juvenile court (1) when removing from the home a juvenile adjudged to be under subsections (3) or (4) of section 43-247 pursuant to section 43-284, (2) when the court continues a juvenile's out-of-home placement pending adjudication pursuant to section 43-254, (3) when the court reviews a juvenile's status and permanency planning pursuant to section 43-1315, and (4) when termination of parental rights to a juvenile is sought by the State under subsection (6) of this section. In re Interest of DeWayne G., Jr. & Devon G., 263 Neb. 43, 638 N.W.2d 510 (2002).

Pursuant to subsection (2) of this section, termination of parental rights under this subsection does not require proof that a parent has failed to comply with a rehabilitation plan. In re Interest of Clifford M. et al., 261 Neb. 862, 626 N.W.2d 549 (2001).

In order to terminate parental rights under subsection (6) of this section, the State must prove by clear and convincing evidence that (1) the parent has failed to comply, in whole or in part, with a reasonable provision material to the rehabilitative objective of the plan and (2) in addition to the parent's noncompliance with the rehabilitative plan, termination of parental rights is in the best interests of the child. In order to terminate parental rights under subsection (6) of this section, the State is required to prove that the parents have been provided with a reasonable opportunity to rehabilitate themselves according to a court-ordered plan and have failed to do so. The State is not required to show that noncompliance with a court-ordered rehabilitation plan is willful in order to prove that termination of parental rights should be ordered under subsection (6) of this section. In re Interest of Kassara M., 258 Neb. 90, 601 N.W.2d 917 (1999).

Pursuant to subsection (6) of this section, the State need not prove in an action to terminate parental rights, that a parent's failure to comply with a court-ordered rehabilitation plan was willful. The purpose of subsection (6) of this section is to advance the best interests of the child by giving the juvenile court power to terminate parental rights where the grounds for adjudicating the child within section 43-247(3)(a) have not been corrected. Whether a parent is willful or not in his or her noncompliance

with a rehabilitation plan is not directly relevant to this purpose. Mother's failure to comply with rehabilitation plan's requirement that she end contact with man who had sexually assaulted one of her children was sufficient evidence for termination of her parental rights under subsection (7) of this section. In re Interest of Joshua M. et al., 251 Neb. 614, 558 N.W.2d 548 (1997).

In order to terminate parental rights pursuant to subsection (6) of this section, the State is required to prove that the parents have been provided with a reasonable opportunity to rehabilitate themselves according to a court-ordered plan and have failed to do so. Fact that parent partially complied with one provision of a rehabilitative plan does not prevent termination of his or her parental rights. In re Interest of L.H. et al., 241 Neb. 232, 487 N.W.2d 279 (1992).

A rehabilitation plan is a court-ordered plan, judicially fashioned and judicially determined. The court may not delegate this authority to evaluators, counselors, social workers, child protection workers, or probation officers. In re Interest of D.M.B., 240 Neb. 349, 481 N.W.2d 905 (1992).

In order to terminate parental rights, the requirement is not that all possible alternatives be exhausted, but that reasonable efforts be made to reunite the juvenile and his or her family. In re Interest of S.R., D.R., and B.R., 239 Neb. 871, 479 N.W.2d 126 (1992).

Under subsection (6) of this section, the court is not limited to reviewing the efforts of the parent under the reunification plan last ordered by the court; rather, the court looks at the entire reunification program and the parent's compliance with the various plans involved in the program, as well as any effort not contained within the program which would bring the parent closer to reunification. In re Interest of L.J., M.J., and K.J., 238 Neb. 712, 472 N.W.2d 205 (1991).

A period of 1 year 2 months is a reasonable amount of time for a parent to comply with a plan of rehabilitation. In re Interest of C.E.E., 238 Neb. 260, 469 N.W.2d 782 (1991).

Under subsection (6) of this section, "reasonable efforts, under the direction of the court" means efforts in relation to a court-ordered plan for parental rehabilitation, not an extrajudicial agreement between a parent and an administrative agency. In re Interest of A.H., 237 Neb. 797, 467 N.W.2d 682 (1991).

Under subsection (6) of this section, the fact of participation in certain elements of the court-ordered plan of reunification does not necessarily prevent the court from entering an order of termination where the parent has not made satisfactory progress toward reunification. In re Interest of A.M.Y., F.E.Y., and K.C.Y., 237 Neb. 414, 466 N.W.2d 93 (1991).

Under subsection (6) of this section, there is no requirement that the parent's failure to comply with the plan for rehabilitation be willful. In re Interest of A.B. et al., 236 Neb. 220, 460 N.W.2d 114 (1990).

It is only to terminate parental rights pursuant to subsection (6) of this section that the State is required to prove that the parents have been provided with a reasonable opportunity to rehabilitate themselves according to a court-ordered plan and have failed to do so. *In re Interest of L.C., J.C., and E.C.*, 235 Neb. 703, 457 N.W.2d 274 (1990).

A judgment terminating parental rights pursuant to subsection (6) of this section will be affirmed where the State has proved by clear and convincing evidence that (1) the parent has willfully failed to comply, in whole or in part, with a material provision of the rehabilitative plan, and (2) termination of parental rights is in the best interests of the children. *In re Interest of L.K.Y. and A.L.Y.*, 235 Neb. 545, 455 N.W.2d 828 (1990).

A judgment terminating parental rights pursuant to subsection (6) of this section will be affirmed where the State has proved by clear and convincing evidence that (1) the parent has willfully failed to comply, in whole or in part, with a material provision of the rehabilitative plan, and (2) termination of parental rights is in the best interests of the children. *In re Interest of L.B., A.B., and A.T.*, 235 Neb. 134, 454 N.W.2d 285 (1990).

Under subsection (6) of this section, participation in a court-ordered plan does not necessarily prevent the court from entering an order of termination where parent made no progress toward rehabilitation. *In re Interest of M.*, 235 Neb. 61, 453 N.W.2d 589 (1990).

Pursuant to subsection (6) of this section, a parent's failure to make reasonable efforts to comply with a court-ordered plan of rehabilitation presents an independent reason justifying termination of parental rights. A judgment terminating parental rights will be affirmed when the State has established by clear and convincing evidence that the parent has willfully failed to comply, in whole or in part, with a material provision of a plan, and termination of parental rights is in the best interests of the children. Where a parent is unable or unwilling to rehabilitate herself within a reasonable time, the best interests of the children require termination of the parental rights. *In re Interest of C.C. and E.C.*, 234 Neb. 218, 450 N.W.2d 392 (1990).

Under subsection (6) of this section, the record supports termination of parental rights where parent willingly failed to comply with reasonable plan of rehabilitation. *In re Interest of R.T. and R.T.*, 233 Neb. 483, 446 N.W.2d 12 (1989).

Regarding parental compliance with a court-ordered rehabilitative plan, under subsection (6) of this section, as a ground for termination of parental rights, the State must prove by clear and convincing evidence that the parent has willfully failed to comply in whole or in part with a reasonable provision material to the rehabilitative objective of the plan and the termination of parental rights is in the best interests of the child. *In re Interest of Q.R. and D.R.*, 231 Neb. 791, 438 N.W.2d 146 (1989).

Under subsection (6) of this section, a juvenile court has the discretionary power to prescribe a reasonable plan for parental rehabilitation to correct the conditions underlying the adjudication that a child is a juvenile within the Nebraska Juvenile Code. This court has held that to terminate parental rights under subsection (6) of this section, the State must prove by clear and convincing evidence that the parent has willfully failed to

comply, in whole or in part, with a reasonable provision material to the rehabilitative objective of the plan and termination of parental rights is in the best interests of the child. In re Interest of P.M.C., 231 Neb. 701, 437 N.W.2d 786 (1989).

A parent's failure to make reasonable efforts to comply with a court-ordered plan of rehabilitation designed to reunite the parent and child presents an independent reason justifying termination of parental rights under subdivision (6) of this section. The state must prove this failure by clear and convincing evidence. In re Interest of P.D., 231 Neb. 608, 437 N.W.2d 156 (1989).

A parent's failure to make reasonable efforts to comply with a court-ordered plan of rehabilitation designed to reunite the parent and child presents an independent reason justifying termination of parental rights under subdivision (6) of this section. In re Interest of D.L.S., 230 Neb. 435, 432 N.W.2d 31 (1988).

Regarding parental noncompliance with a court-ordered rehabilitative plan, under subdivision (6) of this section, as a ground for termination of parental rights, the State must prove by clear and convincing evidence that the parent has willfully failed to comply, in whole or in part, with a reasonable provision material to the rehabilitative objective of the plan and, in addition to the parent's noncompliance with the rehabilitative plan, termination of parental rights is in the best interests of the child. In re Interest of A.Z., B.Z., and R.Z., 230 Neb. 291, 430 N.W.2d 901 (1988).

As grounds for termination, the State must prove by clear and convincing evidence that the parent has willfully failed to comply with a reasonable provision material to the rehabilitative objective of the plan, and, in addition to the parent's noncompliance, termination is in the best interests of the child. In re Interest of L.O. and B.O., 229 Neb. 889, 429 N.W.2d 388 (1988).

Regarding parental noncompliance with a court-ordered rehabilitation plan under subdivision (6) of this section as a ground for termination of parental rights, the State must prove by clear and convincing evidence that (1) the parent has willfully failed to comply, in whole or in part, with a reasonable provision material to the rehabilitative objective of the plan and (2) termination of parental rights is in the best interests of the child. In re Interest of J.S., A.C., and C.S., 227 Neb. 251, 417 N.W.2d 147 (1987).

When a rehabilitation plan is implemented, the plan must be reasonable and conducted under the direction of the juvenile court before failure to comply with the plan can be an independent reason for termination. In re Interest of K.L.N. and M.J.N., 225 Neb. 595, 407 N.W.2d 189 (1987).

The primary consideration in termination proceedings is the best interests of the child and, while termination of parental rights should be considered as a last resort, this section requires that the best interests of the child and evidence of fault or neglect be considered together in reaching such a determination. The failure to comply with a court-ordered plan of rehabilitation, where a parent is ordered to make reasonable efforts to rehabilitate, presents an independent reason justifying termination of parental rights. In re Interest of J.W., 224 Neb. 897, 402 N.W.2d 671 (1987).

The failure of a parent to follow a rehabilitation plan which is not conducted under the direction of the court is not sufficient reason to terminate parental rights under this statute. In re Interest of M.L.B., 221 Neb. 396, 377 N.W.2d 521 (1985).

Parental rights terminated of mother who failed to comply with a plan of rehabilitation and who suffered from a personality disorder likely to last for an indefinite period. In re Interest of R.L.T., 221 Neb. 251, 376 N.W.2d 310 (1985).

The state need not show harm to the child in order to terminate parental rights. The failure of the parent to follow a plan of rehabilitation is sufficient grounds for termination. In re Interest of S.P., N.P., and L.P., 221 Neb. 165, 375 N.W.2d 616 (1985).

The trial court did not abuse its discretion by terminating the parental rights of a parent who failed to rehabilitate herself within a reasonable time after the adjudicative hearing. In re Interest of S.W., 220 Neb. 734, 371 N.W.2d 726 (1985).

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## **5. Appeal**

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The right to appeal from orders of a county court sitting as a juvenile court, insofar as that right is vested in the child's custodian, is vested only in individuals or entities having legal custody of such a child, and not in those persons having only possession of the child. In re Interest of S.R., 217 Neb. 528, 352 N.W.2d 141 (1984).

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## **6. Miscellaneous**

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In order to terminate parental rights with respect to a child on the basis of neglect under subsection (2) of this section, as amended, the State must prove by clear and convincing evidence that (1) the parents have substantially and continuously or repeatedly neglected and refused to give the child or a sibling of said child necessary parental care and protection and (2) termination of parental rights is in the best interests of the child. In re Interest of Lisa W. & Samantha W., 258 Neb. 914, 606 N.W.2d 804 (2000).

In order to terminate parental rights, the State must prove by clear and convincing evidence that one of the statutory grounds enumerated in this section exists and that termination is in the children's best interests. In re Interest of Michael B. et al., 258 Neb. 545, 604 N.W.2d 405 (2000); In re Interest of Kalie W., 258 Neb. 46, 601 N.W.2d 753 (1999).

The fact that children benefit from foster placement after they are removed from the custody of a natural parent does not lend support to an argument that termination of parental rights is not in their best interests. Where a parent is unable or unwilling to rehabilitate himself or herself within a reasonable time, the best interests of the child require termination of the parental rights. A significant piece of evidence bearing on the issue of whether termination of parental rights is in the best interests of the child is the fact that while in foster care, the child's "arrested state of development" at the time of removal from custody is being reversed. Children cannot, and should not, be suspended in foster care or be made to await uncertain parental maturity. The concept of permanency is not simply a "buzzword", but, rather, a recognition that when there is no reasonable expectation that a natural parent will fulfill his or her responsibility to a child, the child should be given an opportunity to live with an adult who has demonstrated a willingness and ability to assume that responsibility and has a permanent legal obligation to do so. In re Interest of Sunshine A. et al., 258 Neb. 148, 602 N.W.2d 452 (1999).

The language of this section imposes two requirements before parental rights may be terminated. First, requisite evidence must establish the existence of one or more of the circumstances described in subsections (1) to (10) of this section. Second, if a circumstance designated in subsections (1) to (10) of this section is evidentially established, there must be the additional showing that termination of parental rights is in the best interests of the child, the primary consideration in any question concerning termination of parental rights. Each of the requirements imposed by this section must be proved by clear and convincing evidence. In re Interest of Sunshine A. et al., 258 Neb. 148, 602 N.W.2d 452 (1999).

Through the plain language of this section, the Legislature has demonstrated its intent that under certain circumstances, prior court action or an adjudication may be required before parental rights can be terminated. The plain and ordinary meaning of this section and section 43-291, taken together, is that parental rights may be terminated in an original proceeding. In re Interest of Joshua M. et al., 256 Neb. 596, 591 N.W.2d 557 (1999).

Pursuant to subsection (3) of this section, a court cannot deny a natural parent custody based on the fact that he or she has limited resources or financial problems, or because the parent's lifestyle is different or unusual. Pursuant to subsection (4) of this section, the children need not be present while the parent commits acts described in the section for this section to apply. Gomez v. Savage, 254 Neb. 836, 580 N.W.2d 523 (1998).

A court may terminate parental rights when such action is in the best interests of the child and one or more of the statutorily specified conditions exist. The special needs of the child in question do not provide a basis for terminating parental rights if the record does not clearly and convincingly establish that the parent is not capable of providing the required special attention. In re Interest of Constance G., 254 Neb. 96, 575 N.W.2d 133 (1998).

Before parental rights may be terminated, requisite evidence must establish existence of one or more of the circumstances described in subsections (1) to (6) of this section, and there must be an additional showing that termination is in the best interests of the child.

In re Interest of C.K., L.K., and G.K., 240 Neb. 700, 484 N.W.2d 68 (1992); In re Interest of L.V., 240 Neb. 404, 482 N.W.2d 250 (1992).

In the absence of any reasonable alternative and as the last resort to dispose of an action brought pursuant to the Nebraska Juvenile Code, termination of parental rights is permissible when the basis for such termination is proved by clear and convincing evidence. In re Interest of M.P., 238 Neb. 857, 472 N.W.2d 432 (1991); In re Interest of C.C., 226 Neb. 263, 411 N.W.2d 51 (1987); In re Interest of T.C., 226 Neb. 116, 409 N.W.2d 607 (1987).

A juvenile court may terminate parental rights under the various grounds specified in subsections (1) through (5) of this section without providing the parent with a reasonable opportunity to rehabilitate himself or herself. In re Interest of L.C., J.C., and E.C., 235 Neb. 703, 457 N.W.2d 274 (1990).

In order to terminate parental rights, it must be shown that termination of parental rights is in the child's best interests and that at least one of six bases provided in this section exists. In re Interest of J.B. et al., 235 Neb. 530, 455 N.W.2d 817 (1990).

In order to terminate parental rights, the State must prove by clear and convincing evidence that termination of parental rights is in the child's best interests and that at least one of the six bases provided in this section exists. In re Interest of C.D.C., 235 Neb. 496, 455 N.W.2d 801 (1990).

In order to terminate parental rights under this section, there must be clear and convincing evidence of the existence of one or more of the circumstances described in subsections (1) to (6), and if one of the conditions described in subsections (1) to (6) has been evidentially established, there must be an additional showing by clear and convincing evidence that termination of parental rights is in the child's best interests. In re Interest of J.B. and A.P., 235 Neb. 74, 453 N.W.2d 477 (1990).

Subsection (6) of this section does not require the court to proceed under that subsection whenever a determination has been made under section 43-247; the court may terminate parental rights when it appears that any one of the six conditions under this section has been met. In re Interest of J.A. and T.A., 229 Neb. 271, 426 N.W.2d 277 (1988).

Language of this section imposes two requirements before parental rights may be terminated: First, requisite evidence must establish existence of one or more of the circumstances described in subdivisions (1) to (6); and second, there must be the additional showing that termination of parental rights is in the best interests of the child, the primary consideration in any question concerning termination of parental rights. The standard of proof for each of the two preceding requirements is evidence which is "clear and convincing." In re Interest of J.S., A.C., and C.S., 227 Neb. 251, 417 N.W.2d 147 (1987).

Clear and convincing evidence was before the trial court to show that reasonable efforts, under the court's direction, had failed to correct the conditions which had led to the

determination that the child in question was a child as defined in section 43-247(3)(a). In re Interest of J.W., 224 Neb. 897, 402 N.W.2d 671 (1987).

Section 43-1505 provides specific statutory requirements for proving a case for termination of parental rights in a juvenile court action involving an Indian child, and the petition for termination of parental rights must include sufficient allegations of the requirements of section 43-1505 as well as this section to survive a demurrer. In re Interest of Sabriena B., 9 Neb. App. 888, 621 N.W.2d 836 (2001).

In order to justify termination of parental rights pursuant to subsection (6) of this section, the State must prove by clear and convincing evidence that (1) the parent has failed to comply, in whole or in part, with a reasonable provision material to the rehabilitation objective of the plan and (2) that termination of parental rights is in the best interests of the child. In re Interest of Joseph L., 8 Neb. App. 539, 598 N.W.2d 464 (1999).

Pursuant to this section, a court may terminate parental rights when such action is in the best interests of the child and one or more of the statutorily specified conditions exist. In re Interest of Joseph L., 8 Neb. App. 539, 598 N.W.2d 464 (1999).

Parental incarceration is a factor which may be considered in determining whether parental rights should be terminated. A parent's failure to change a lifestyle of chemical dependency may constitute neglect under subsection (2) of this section. In re Interest of Joshua M. et al., 7 Neb. App. 872, 587 N.W.2d 131 (1998).

A parent's parental rights may not be terminated pursuant to the provisions of this section based solely upon the parent's refusal to waive his or her constitutional and statutory protections against self-incrimination. In re Interest of Clifford M. et al., 6 Neb. App. 754, 577 N.W.2d 547 (1998).

In the absence of an adjudication petition and hearing in compliance with section 43-247, an order purporting to terminate parental rights pursuant to this section is a nullity. In re Interest of Joelyann H., 6 Neb. App. 472, 574 N.W.2d 185 (1998).

Termination of parental rights is protected by due process under the U.S. and Nebraska Constitutions, and in the absence of a valid waiver by all parties to such proceedings, a verbatim transcript of those proceedings shall be made and preserved in the separate juvenile court. In re Interest of M.W. and R.W., 1 Neb. App. 378, 497 N.W.2d 396 (1992).

## **The Juvenile Court Process for Abuse or Neglect Cases**

**Note: The Foster Care Review Board has the authority to review children's cases any time after the removal from the home. Typically the Board schedules reviews so that information gathered from the review can be shared with all legal parties just prior to a Court hearing, so that the Court can address the Board's concerns.**

**Report of abuse or neglect** (also called a complaint)– is made by medical personnel, educators, neighbors, foster parents, social workers, policy, and/or others. State law requires anyone with reason to believe abuse or neglect is occurring to report this to authorities. This may be reported to the Department of Health and Human Services (HHS-CPS) or a local law enforcement agency. Each of these agencies is to cross report to the other.

**Report accepted or screened out** – after CPS receives a report, it assesses the nature of the complaint and assigns a prioritization for investigation. Serious flaws in this system exist. (See the section on CPS response to child abuse reports for additional details.)

**Investigation**– law enforcement and/or CPS (child protective services division of HHS) investigates the allegations or concerns in the report. The investigation provides the evidence for the County Attorney to file a petition. The child may be removed from the home if an emergency situation exists.

**County Attorney files a petition** – detailing all of the abuse or neglect allegations. This is done within 48 hours of an emergency removal; if not an emergency removal, the County Attorney files a petition requesting removal from the home or requesting HHS supervision of the home. Nothing is determined, found, or ordered at this point, that is done at the hearings described below. Parents who abuse their children can be tried in adult courts for the criminal part of their actions as well as being involved in a juvenile court action about the child and the child's future.

**Petition definitions** – petitions must contain specific allegations related to specific statutes in the Nebraska Juvenile Code. These are:

- §43-247 (3a) – children who are neglected, abused, or abandoned.
- §43-247 (3b) – children who have exhibited behaviors problems such as being disobedient, truant, or runaways
- §43-247 (3c) – juveniles who are mentally ill and dangerous as defined in §83-1009.
- §43-247 (1) – juveniles who have committed a misdemeanor other than a traffic offense.
- §43-247 (2) – juveniles who have committed a felony.

**Detention hearing is held** – legal rights are explained to the parents, a Guardian ad litem (special attorney) is appointed to represent the child's best interests, counsel may be appointed for the parents. This hearing determines if probable cause exists to warrant the

continuance of Court action or the child remaining in out-of-home care. The Court can only rule on the allegations in the petition. Affidavits and testimony can also be used.

If an emergency removal did not occur, the child may be removed from the home or may remain in the home under the supervision of HHS. Services may be offered to the child and/or the parents after the detention hearing. Parents are frequently advised by their counsel not to accept services, as this may be an admission of guilt for the adjudication hearing to come.

**HHS is given custody at the detention hearing** – and is then responsible for the child’s placement, plan, and services, if the court finds grounds for adjudication. HHS is responsible for developing the child’s case plan, submitting the plan to the court, and updating the plan at least every six months while the child remains in care. The Court must adopt the HHS case plan unless other legal parties present evidence that the plan is not in the child’s best interest or the Court amends the case plan based on its own motion.

**HHS makes a placement** – the child’s needs are to be evaluated and the child is to be placed in the most home-like setting possible that meets the child’s needs, whether through direct foster parents, relatives, or agency-based care. This may occur either before or after the detention hearing, depending on circumstances.

**Plea-bargaining** – because allegations can be hard to prove, many serious allegations are sometimes removed from the petition in an agreement between the County Attorney and the parents so that parents or youth will admit to lesser charges.

**Adjudication hearing is held** – facts are presented to prove the allegations in the petition. The burden of proof is on the state, through the County Attorney. If the parents deny the allegations, then a fact-finding hearing like a trial is held, where the parents have a right to counsel.

At this hearing the finding of fact occurs, the allegations in the petition are found to be true or false, and the child is either made a state ward or not. The Court cannot order the parents to services prior to completion of the adjudication hearing. By law this must occur within 90 days of the child entering out-of-home care. In practice the 90-day rule is not always followed.

**Dispositional hearing is held** – the Court sets the adjudication status for the case, if the parent admits the allegations or is adjudicated, the Court adopts the HHS rehabilitation plan for the parents (case plan) and orders services based on this plan. There is a statutory presumption that the HHS plan is in the best interests of the child. The onus is put on any other party to the proceedings to prove that a plan is not in the child’s best interests.

**Dispositional review hearings** – these court hearings occur at least once every six months to determine whether any progress is being made towards permanency for the child. The child’s plan should be updated to reflect the current situation. The State Foster Care Review Board has legal standing to file as a party to any pleading or motion to be heard by the court at these hearings. The Review Board attempts to schedule its

reviews in advance of this court hearing so that the Court can act on the Board's concerns.

**Permanency hearing** – after the child has spent 12 months in foster care, the Court is to hold a special dispositional hearing to determine the most appropriate permanency plan for the child.

**When a child has been in care for 15 of the last 22 months** – the County Attorney is required to file a motion for a hearing either for a termination of parental rights, or to explain why termination is not in the best interest of the child.

**Permanency** – is obtained through any of the following: 1) a safe return to the parent's home, 2) adoption, 3) guardianship, 4) a long-term foster care agreement, or 5) by reaching adulthood. Adoption or guardianship can occur following either a relinquishment of parental rights or by a Court-ordered termination of parental rights.

**Termination of parental rights hearings** – if the state through a county attorney proceeds to a termination of parental rights action, the parents have the right to counsel. In such a trial the burden of proof is greater than the level of proof needed in juvenile court proceedings. Many county attorneys have equated the time to establish grounds and proceed to trial as being equal to involvement in a murder trial. The role of the defense counsel is adversarial—that is the parental attorney has an obligation to defend the client against the allegations in the petition. There is a right to appeal, and many parental attorneys automatically appeal any decision to terminate parental rights.

**Relinquishments** – relinquishments are actions of the parents to give HHS the rights to the child. HHS will only accept relinquishments if both parents sign or the other parent's parental rights have been terminated or the other parent is deceased. This is sometimes done to facilitate an open adoption.

**Open adoption** – a legally enforceable exchange of information contract between biological parents who have relinquished rights and adoptive parents, that is agreed to by both parties. This is only applicable for children who are state wards.

## **Definition of Restraint/Seclusion**

**Restraint**-The application of of physical force without the use of any device, for the purposes of restraining the free movement of a resident's body. The term personal restraint does not include briefly holding without undue force a resident in order to calm or comfort him or her or holding a resident's hand to safely escort a resident from one area to another.

**Chemical Restraint**-1)Drugs are administered to manage a resident's behavior in a way that reduces the safety to resident and others; 2)Has the temporary effect of restricting the resident's freedom of movement, 3)Is not a standard treatment for the resident's medical or psychiatric condition.

**Mechanical Restraint**-Means any device attached or adjacent to the resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

**Seclusion**-The involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

**FOSTER CARE REVIEW BOARD  
AGENDA**

Review Specialist: \_\_\_\_\_ Board: \_\_\_\_\_  
 Chairperson: \_\_\_\_\_ Date: \_\_\_\_\_  
 Meeting Place: \_\_\_\_\_ Time: \_\_\_\_\_

FCRB Business/Discussion:

DATE OF NEXT MEETING: \_\_\_\_\_

<b>Children's Last name (bold), First name, &amp; FCRB Person #</b>	<b>Rev #</b>	<b>Perm. Obj.</b>	<b>IVE Status</b>	<b>Time of Review</b>	<b>Lead Questioner</b>	<b>Next Court</b>	<b>Next Review</b>
<b>EXAMPLE:</b> 1. <b>SMITH</b> , Sarah (1234), Sue (4566), Sally (56739), Joe (303030) <b>JONES</b> , Ginger (484849)	3	Reunification with father, concurrent with adoption	IV-E	6:15	Bob	10-10- 2009	10/09
2.							
3.							
4.							
5.							
6.							
7.							

**Total # of Cases**

**Total # of Children**

<b>Board Member Name</b>	<b>Present at meeting</b>	<b><u>Absent</u></b>	<b><u>Board Packet sent?</u></b>	<b>Board Packet information Returned?</b>
1.				
2.				
3.				
4.				
5.				
6.				
7.				

## Board Findings Worksheet

Children's		Names
FCRB	Board	Number/Location
Meeting		Date of Board

### Recommendations and Findings

Safety:

Well-being:

Permanency:

Other:

### Board's Findings and Rationale

- A1** Reasonable efforts were made to prevent the child's removal from the home.
- A2** Reasonable efforts could not have been made to prevent the child's removal due to \_\_\_\_\_.
- A3** Reasonable efforts were not made to prevent the child's removal from the home.
- A4** Reasonable efforts to prevent removal were not necessary due to a judicial determination of aggravated circumstances.
- A5** It is unclear what efforts were made to prevent the child's removal from the home.
- 
- B1** The child's current placement appears appropriate and safe.
- B2** The child's current placement appears unsafe and therefore inappropriate.
- B3** The Board is unable to make a finding on the appropriateness and/or safety of the child's current placement due to a (lack of documentation/homestudy or due to \_\_\_\_\_).
- B4** The child's current placement appears safe, but is inappropriate due to:
- B5** The Board is unable to make a finding on the appropriateness and/or safety of the child's current placement because the child is AWOL/runaway.
- 
- C<sub>1</sub> 1** The Board finds that all services regarding the mother are included in the plan as required by Neb. Rev. Stat. 43-285.
- C<sub>1</sub> 2** The Board finds that some services regarding the mother are included in the plan as required by Neb. Rev. Stat. 43-285.

- C<sub>1</sub> 3 The Board finds that services regarding the mother do not need to be described in the plan as required by Neb. Rev. Stat. 43-285 due to \_\_\_\_\_.
- C<sub>1</sub> 4 The Board finds that services regarding the mother are not in the plan as required by Neb. Rev. Stat. 43-285 because there is no plan.
- C<sub>1</sub> 5 The Board finds that services regarding the mother are not included in the plan as required by Neb. Rev. Stat. 43-285
  
- D<sub>1</sub> 1 The Board finds that all services regarding the father are included in the plan as required by Neb. Rev. Stat. 43-285.
- D<sub>1</sub> 2 The Board finds that some services regarding the father are included in the plan as required by Neb. Rev. Stat. 43-285.
- D<sub>1</sub> 3 The Board finds that services regarding the father do not need to be described in the plan as required by Neb. Rev. Stat. 43-285 due to \_\_\_\_\_.
- D<sub>1</sub> 4 The Board finds that services regarding the father are not in the plan as required by Neb. Rev. Stat. 43-285 because there is no plan.
- D<sub>1</sub> 5 The Board finds that services regarding the father are not included in the plan as required by Neb. Rev. Stat. 43-285
  
- E<sub>1</sub> 1 The Board finds that all services regarding the child are included in the plan as required by Neb. Rev. Stat. 43-285.
- E<sub>1</sub> 2 The Board finds that some services regarding the child are included in the plan as required by Neb. Rev. Stat. 43-285.
- E<sub>1</sub> 3 The Board finds that services regarding the child do not need to be described in the plan as required by Neb. Rev. Stat. 43-285 due to \_\_\_\_\_.
- E<sub>1</sub> 4 The Board finds that services regarding the child are not in the plan as required by Neb. Rev. Stat. 43-285 because there is no plan.
- E<sub>1</sub> 5 The Board finds that services regarding the children are not included in the plan as required by Neb. Rev. Stat. 43-285

**In addition to choosing C<sub>1</sub>, D<sub>1</sub>, and E<sub>1</sub> findings, also choose a C<sub>2</sub>, D<sub>2</sub> and E<sub>2</sub> finding.**

- C<sub>2</sub> 1 The Board finds that all needed services are in place for the mother.
- C<sub>2</sub> 2 The Board finds that some needed services are in place for the mother.
- C<sub>2</sub> 3 The Board finds services are being offered but not utilized by the mother.
- C<sub>2</sub> 4 The Board finds it is unclear what services are in place for the mother.
- C<sub>2</sub> 5 The Board finds that services for the mother are not applicable due to \_\_\_\_\_.
  
- D<sub>2</sub> 1 The Board finds that all needed services are in place for the father.
- D<sub>2</sub> 2 The Board finds that some needed services are in place for the father.
- D<sub>2</sub> 3 The Board finds services are being offered but not utilized by the father.
- D<sub>2</sub> 4 The Board finds it is unclear what services are in place for the father.
- D<sub>2</sub> 5 The Board finds that services for the father are not applicable due to \_\_\_\_\_.
  
- E<sub>2</sub> 1 The Board finds that all needed services are in place for the child.
- E<sub>2</sub> 2 The Board finds that some needed services are in place for the child.

- E<sub>2</sub>3** The Board finds services are being offered but not utilized by the child.
- E<sub>2</sub>4** The Board finds it is unclear what services are in place for the child.
- E<sub>2</sub>5** The Board finds that services for the child are not applicable due to \_\_\_\_\_.

- F1** There is a written permanency plan with services, timeframes, and tasks specified.
- F2** There is a written plan, but it is incomplete.
- F3** The Board finds that there is no plan.
- F4** There is a written plan but it is more than 6 months old.

- G1** Progress is being made towards the permanency objective.
- G2** No progress is being made towards the permanency objective.
- G3** It is unclear what progress is being made toward the permanency objective due to \_\_\_\_\_.

- H1** The Board agrees with the permanency objective.
- H2** The Board does not agree with the child's permanency objective.
- H3** The Board cannot agree or disagree with the permanency objective due to the lack of a current written plan.
- H4** The Board cannot agree or disagree with the permanency objective due to \_\_\_\_\_.

- I1** The Department has evaluated the safety of the child and has taken the necessary measures in the plan to protect the child.
- I2** The Department has *not* taken the necessary measures in the plan to protect the child. [explanation]
- I3** A finding can not be made on whether the Department has evaluated the safety of the child and has taken the necessary measures in the plan to protect the child due to \_\_\_\_\_.

If there is a finding of a safety concern, it should be recorded in the top concerns section

- J1** Reasonable efforts by the Department are being made towards the plan of reunification.
- J2** Reasonable efforts by the Department are currently not being made towards reunification.
- J3** Reasonable efforts by the Department to return the child home are no longer required due to (plan is no longer reunification or due to a judicial determination).

- K1** Parental visitation is occurring with the Mother as ordered.
- K2** Parental visitation is not occurring with the Mother as ordered.
- K3** The court has ordered that there be no contact with the mother.
- K4** [no longer in use]
- K5** Parental visitation with the Mother is unclear.
- K6** Parental visitation is not applicable due to \_\_\_\_\_. (Mother's parental rights are not intact or mother is deceased, child's adjudication status is such that parents are not subject to a court order, etc.)

- K7** The Board finds that the court has not addressed parental visitation for the mother.
- L1** Parental visitation is occurring with the Father as ordered.
- L2** Parental visitation is not occurring with the Father as ordered.
- L3** The court has ordered that there be no contact with the father.
- L4** [no longer in use]
- L5** Parental visitation with the Father is unclear.
- L6** Parental visitation is not applicable due to \_\_\_\_\_. (Father's parental rights are not intact or father is deceased, child's adjudication status is such that parents are not subject to a court order, etc.)
- L7** The Board finds that the court has not addressed parental visitation for the father.
- M1** Sibling visitation is occurring.
- M2** Sibling visitation is not occurring.
- M3** Sibling visitation is not applicable due to \_\_\_\_\_. (Child has no siblings or siblings are placed together or there was no pre-existing relationship).
- M4** Information regarding sibling visitation was not available.
- M5** Sibling visitation is not occurring per court order.
- N1** There is a continued need for out of home placement.
- N2** There is no longer a need for out of home placement and the child should be returned to parent(s).
- N3** There is no longer a need for out of home placement and the child's (adoption, guardianship, or other permanency) should be finalized.
- O1** The return of the children to the parents is likely or possible.
- O2** The return of the children to the parents is not likely and recommends referral for termination of parental rights and/or adoption.
- O3** The return of the children to the parents is not likely and recommends referral for guardianship.
- O4** The return of the children to the parents is not likely and recommends placement with a relative.
- O5** The return of the children to the parents is not likely and recommends a planned, permanent living arrangement other than adoption, guardianship, or placement with a relative.

**Finding "O" must be consistent with the "P" finding**

- P1** Grounds for termination of parental rights *appears* to exist under the following subsections of §43-292 and termination of parental rights is in the child's best interest. (List all that apply. For best interest parental unfitness must exist.)
- (a) 43-292 (1) abandonment prior to filing petition
  - (b) 43-292 (2) substantially and ...repeatedly neglected and refused to give the juvenile or a sibling... parental care and protection
  - © 43-292 (3) parents are financially able but willfully neglected to provide...
  - (d) 43-292 (4) parents unfit...debauchery...liquor...drugs...lewd and lascivious behavior...
  - (e) 43-292 (5) parents unable...mental illness or mental deficiency...
  - (f) 43-292 (6) is a 3a case...reasonable efforts...under section 43-283.01 ...failed to correct...

- (g) 43-292 (7) ... in an out-of-home placement for 15 or more months of the most recent 22 months
- (h) 43-292 (8) parent has inflicted upon the juvenile, by other than accidental means, serious bodily injury
- (i) 43-292 (9)... aggravated circumstances of juvenile or other child, ...abandonment, torture, chronic abuse, or sexual abuse
- (j) 43-292 (10) parent has (a) committed murder of another child of the parent, (b) committed voluntary manslaughter of another child of the parent, (c) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or (d) committed a felony assault that resulted in serious bodily injury to the juvenile or another minor child of the parent
- (k) 43-292 (11) One parent has been convicted of felony sexual assault of the other parent under section 28-319.01 or 28-320.01 or a comparable crime in another state.

- P2** Grounds for termination of parental rights under §43-292 do not *appear* to exist.
- P3** Grounds for termination of parental rights *appears* to exist; however, termination of parental rights is not in the best interests of the child due to\_\_\_\_\_.
- P4** A finding on whether grounds for termination of parental rights appears to exist is not applicable. (Parents are deceased, parental rights have already been relinquished or terminated)

**Barriers to Permanency (Codes)**

**ADVOCACY (LETTERS, MEETINGS, ETC.)**

<b>Board Members Assenting</b>	<b>Board Members Dissenting</b>

**Board Members Abstaining Due to Conflict of Interest:**

--	--

Prepared by Review Specialist

\_\_\_\_\_  
(Signature)

## Barriers List (rev. 1-1-2007)

### Regarding the case plan, select one of the following:

- |     |                  |     |                    |
|-----|------------------|-----|--------------------|
| 100 | No Plan Barriers | 103 | Plan is Incomplete |
| 101 | No Case Plan     | 104 | Other _____        |
| 102 | Plan is Outdated |     |                    |

### If the plan is Reunification, identify all of the following barriers that apply:

- |     |   |     |   |
|-----|---|-----|---|
| 200 | No Barriers to Reunification                    | 240 | Lack of parental visitation   |
| 201 | No current written case plan                    | 241 | Lack of parental willingness/ability                                |
| 210 | Parents need more time to complete services     | 242 | History of family abuse/violence                                    |
| 211 | Services have not been provided to parents      | 243 | Severity of abuse makes safe reunification unlikely                 |
| 212 | Lack of home based services – substance abuse   | 244 | Not in best interests due to child's attachments                    |
| 213 | Lack of home based services – mental health     | 245 | Length of time in foster care                                       |
| 214 | Lack of home based services – other             | 250 | HHS/Agency lacks documentation regarding progress                   |
| 215 | Economic – housing issues                       | 251 | Caseworker changes or turnover                                      |
| 216 | Economic-employment issues                      | 252 | HHS pressure to return home prematurely                             |
| 217 | Public assistance needed before child goes home | 260 | Court continuances  |
| 220 | Low functioning parent                          | 270 | Child's illness   |
| 221 | Parental mental illness                         | 271 | Child's disability  |
| 222 | Parental illness or health issues               | 272 | Child's mental health issues  |
| 223 | Parental substance abuse                        | 273 | Child's behavioral issues   |
| 224 | Parental incarceration                          | 274 | Child's substance abuse issues                                      |
| 225 | Parental whereabouts unknown                    | 275 | Child's educational needs/lack of special education in child's area |
| 226 | Paternity not established                       | 276 | Child's history of violent and/or abusive behaviors                 |
| 227 | Parent not been notified                        | 299 | Other _____   |
| 230 | Parent/purported parent's immigration status    |     |   |
| 231 | Cultural barriers                               |     |   |
| 232 | Language barriers                               |     |   |

**If the plan is Adoption, identify all of the following barriers that apply**

- |     |  |     |   |
|-----|--|-----|---|
| 300 | No barriers to adoption  | 323 | Court did not terminate parental rights             |
| 301 | No current written case plan   | 324 | Court continuances                                  |
| 310 | A request to file a petition to terminate parental rights has not been sent to the County Attorney | 325 | Issues regarding separating the siblings            |
| 311 | A request to file was given to the County Attorney, but a petition was not filed                   | 330 | Child is not in a placement willing to adopt        |
| 312 | A petition to terminate parental rights has been filed and the hearing is pending                  | 340 | HHS policy  |
| 313 | Parents whereabouts is unknown   | 341 | Adoption paperwork not complete                     |
| 314 | Paternity has not been addressed   | 350 | Child's illness                                     |
| 320 | County Attorney lacks evidence to terminate parental rights  | 351 | Child's disability                                  |
| 321 | HHS lacks documentation regarding the lack of parental progress                                    | 352 | Child's mental health issues                        |
| 322 | Mental health professional unwilling to testify TPR in child's best interests                      | 353 | Child's behavioral issues                           |
|     |  | 354 | Child's substance abuse issues                      |
|     |  | 355 | Child's education issues                            |
|     |  | 356 | Child's history of violent and/or abusive behaviors |
|     |  | 399 | Other _____   |

**If the plan is Guardianship, identify all of the following barriers that apply**

- |     |   |     |   |
|-----|---|-----|---|
| 400 | No barriers to Guardianship   | 411 | Child's disability                                  |
| 401 | No current written case plan  | 412 | Child's mental health                               |
| 402 | Placement not willing to accept guardianship  | 413 | Child's behavioral issues                           |
| 403 | An exception to guardianship has not been made by the Dept (child is younger than 13) | 414 | Child's substance abuse issues                      |
| 404 | Guardianship subsidy paperwork not completed  | 415 | Child's educational issues                          |
| 410 | Child's illness   | 416 | Child's history of violent and/or abusive behaviors |
|     |   | 499 | Other _____   |

**If the plan is Independent Living Skills, identify all of the barriers that apply**

- |     |  |
|-----|--|
| 500 | No barriers to independent living                                  |
| 501 | No current written case plan                                       |
| 510 | No independent living skills training                              |
| 511 | Case plan does not address a permanency goal of independent living |
| 520 | Child's illness  |
| 521 | Child's disability   |
| 522 | Child's mental health issues                                       |
| 523 | Child's behavioral issues  |
| 524 | Child's substance abuse issues                                     |
| 525 | Child's educational issues   |
| 526 | Child's history of violent and/or abusive behaviors                |
| 599 | Other _____  |

# **Appendix C**

## **Forms and Lists**



Nebraska Foster Care Review Board – If more space is needed to answer the following questions, please use the back of this form.

### ATTORNEY QUESTIONNAIRE

Name of Child(ren): \_\_\_\_\_ Return by: \_\_\_ / \_\_\_ / \_\_\_

1. What do you understand to be this child's permanency plan? \_\_\_\_\_  
\_\_\_\_\_
2. Can you think of any problems or barriers that are keeping this plan from succeeding? \_\_\_\_\_  
\_\_\_\_\_
3. How long do you think it will take to accomplish the plan? \_\_\_\_\_  
\_\_\_\_\_
4. What additional services do you feel could or should be provided to this family? \_\_\_\_\_  
\_\_\_\_\_
5. What problems that precipitated the problem still exist? \_\_\_\_\_  
\_\_\_\_\_
6. Have any of the conditions that caused the child to come into foster care changed?    Yes    No  
Please explain: \_\_\_\_\_  
\_\_\_\_\_
7. Do you feel that the child could return home at this time with appropriate support services?    Yes    No  
If so, what services do you feel would be needed? \_\_\_\_\_
8. What new problems, if any, have developed since the initial intervention? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Is there anything else about the child(ren) or family that you would like the Board to know? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Form completed by: \_\_\_\_\_ Date: \_\_\_\_\_

Relationship to this case: \_\_\_\_\_

#### THANK YOU! PLEASE RETURN THIS FORM TO:

FOSTER CARE REVIEW BOARD  
Executive Building – 521 S. 14<sup>th</sup> Street, Suite 401  
Lincoln, NE 68508-2707  
FAX: (402) 471-4437

*What you report in this questionnaire may be included in the Board's final recommendations.*

## CASA Questionnaire

Name of Child(ren): \_\_\_\_\_ Board #: \_\_\_\_\_ Return by: \_\_\_/\_\_\_/\_\_\_

When did you first become involved in this case?    /    /			
What is your understanding of why the child(ren) has entered care?	<input type="checkbox"/> Physical Abuse <input type="checkbox"/> Sexual Abuse <input type="checkbox"/> Neglect	<input type="checkbox"/> Child's Emotional Problems <input type="checkbox"/> Parents Incarceration <input type="checkbox"/> Child's Behaviors	<input type="checkbox"/> Parents Drug/Alcohol Abuse <input type="checkbox"/> Child's Medical/Special Needs <input type="checkbox"/> Child's Drug/Alcohol Abuse
Other: _____			

Case Plan and Services	
What do you understand the permanency objective for the child(ren) to be?	<input type="checkbox"/> reunification <input type="checkbox"/> long-term foster care <input type="checkbox"/> guardianship <input type="checkbox"/> adoption <input type="checkbox"/> independent living <input type="checkbox"/> self-sufficiency <input type="checkbox"/> in transition <input type="checkbox"/> no plan
What problems if any, are keeping this plan from succeeding?	<input type="checkbox"/> lack of parental compliance <input type="checkbox"/> services not available in the area <input type="checkbox"/> lack of funding for services <input type="checkbox"/> child's behaviors/needs <input type="checkbox"/> legal delays due to criminal charges <input type="checkbox"/> on waiting list for services <input type="checkbox"/> legal delays in filing for permanency <input type="checkbox"/> parental mental limitations/deficiency
Do you believe that the child(ren) could return home safely at this time?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If no, please explain)
How much contact do you have with the Case manager?	<input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> None apply <input type="checkbox"/> Other
How much contact do you have with the GAL?	<input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> None apply <input type="checkbox"/> Other

What services have the biological parents participated in or do they need to participate in?						
	Not needed	Needed, not provided	Provided	Completed	Refused	On Waiting list
Alcohol/Drug Treatment						
Co-dependency Treatment						
In-home Services						
Psychological Evaluation						
Housing						
Sex Offender Treatment						
Family Counseling						
Domestic Violence Program						
Family Support Worker						
Homemaker Services						
Parenting Classes						
Transportation Services						
Support Groups						
In-patient Treatment						
Individual Counseling						
Language Translator Services						
Other:						

Visitation	
Is visitation occurring with the parents? <input type="checkbox"/> Both parents <input type="checkbox"/> Mom only <input type="checkbox"/> Dad only <input type="checkbox"/> Neither	Is there sibling visitation? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Some <input type="checkbox"/> N/a
How frequent are visits to occur?	
How are visits supervised?	<input type="checkbox"/> Supervised <input type="checkbox"/> Monitored <input type="checkbox"/> No Supervision *List person/agency supervising visits here:
Do you feel that the visitation is in the child(ren)'s best interest? <input type="checkbox"/> Yes <input type="checkbox"/> No (If no, why not)	

**Child Specific Concerns**

What are the child(ren)'s special needs? (medical, dental, psychological, educational)
When was the most recent in-person contact you've had with the child(ren): ___ / ___ / ___
What is the date of the most recent visit to the child's placement you've made: ___ / ___ / ___
Do you believe that the child(ren)'s placement is safe and appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No

**What services does the child participate in or need to participate in?**

	Not Needed	Needed, not provided	Provided	Completed	Refused	On Waiting List
Alcohol/Drug Treatment						
Individual Counseling						
Psychological Evaluation						
Sex Offender Treatment						
Community Treatment Aid						
Family Support Worker						
Support Groups						
Transportation Services						
Other:						

Please include here any other information that you would like the Board to know; feel free to add extra pages if you need more room.	
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Form completed by: \_\_\_\_\_ Date completed: \_\_\_ / \_\_\_ / \_\_\_

**THANK YOU, PLEASE RETURN THIS FORM TO:**

<p align="center">To respond by taped questionnaire, call 1-800-577-3272</p>
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## Case Manager Questionnaire

Name of Child(ren): \_\_\_\_\_ Board #: \_\_\_\_ Return by: \_\_/\_\_/\_\_

When did your agency first have contact with the child(ren)?

What was reason the child(ren) entered care?

Is the child(ren) IV-E eligible?  Yes  No

### Case Plan and Services

What is the permanency objective for the child(ren)?  reunification  long-term foster care  guardianship  adoption  independent living  self-sufficiency  in transition  no plan

Date of the most recent Case plan and Court report: \_\_/\_\_/\_\_ Expected Achievement Date: \_\_/\_\_/\_\_

Date of Adjudication: \_\_/\_\_/\_\_ Date of Disposition: \_\_/\_\_/\_\_ Next Review Hearing: \_\_/\_\_/\_\_

Were the parents involved in developing the plan?  yes  no  refused

What problems if any, are keeping this plan from succeeding?

lack of parental compliance  services not available in the area  
 lack of funding for services  legal delays in filing for permanency  
 child's behaviors/needs  parental mental limitations/deficiency  
 on waiting list for services  legal delays due to criminal charges

### What services have the biological parents participated in or do they need to participate in?

	Not needed	Needed, not provided	Provided	Completed	Refused	On Waiting list
Alcohol/Drug Treatment						
Co-dependency Treatment						
In-home Services						
Psychological Evaluation						
Housing						
Sex Offender Treatment						
Family Counseling						
Domestic Violence Program						
Family Support Worker						
Homemaker Services						
Parenting Classes						
Transportation Services						
Support Groups						
In-patient Treatment						
Individual Counseling						
Language Translator Services						
Other:						

### Visitation

Is there a written visitation plan?  Yes  No      Is there sibling visitation?  Yes  No  
 No  Some  N/a

How frequent are visits to occur?

How are visits supervised?  Supervised  Monitored  No Supervision  
 \*List person/agency supervising visits here: \_\_\_\_\_

Is visitation occurring with the parents?  Both parents  Mom only  Dad only  Neither

Child Specific Concerns			
Has the child(ren) been restrained in their placement?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Isolation <input type="checkbox"/> Physically <input type="checkbox"/> Chemically	Frequency: _____
Were you notified of the restraint?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, by whom?	
When was the child(ren)'s first physical exam upon entering care? ____ / ____ / ____			
Please list the dates of the following exams: ____ / ____ / ____ Physical ____ / ____ / ____ Dental ____ / ____ / ____ Eye			

What services does the child participate in or need to participate in?						
	Not Needed	Needed, not provided	Provided	Completed	Refused	On Waiting List
Alcohol/Drug Treatment						
Individual Counseling						
Psychological Evaluation						
Sex Offender Treatment						
Community Treatment Aid						
Family Support Worker						
Support Groups						
Transportation Services						
Other:						
What medications is the child currently taking?						
Is the child authorized for daycare			<input type="checkbox"/> Yes	<input type="checkbox"/> No		
What is the date of the most recent in-person contact with the child: ____ / ____ / ____						

Barriers to the Permanency Objective	
What issues that led to out of home placement still exist?	
Have any new issues developed since the initial intervention?	<input type="checkbox"/> new live-in companion <input type="checkbox"/> parental law violations <input type="checkbox"/> new child born/due <input type="checkbox"/> incarceration of parent <input type="checkbox"/> frequent parental moves <input type="checkbox"/> lost housing <input type="checkbox"/> parental whereabouts unkn <input type="checkbox"/> sexual abuse allegations have been made <input type="checkbox"/> child unwilling to return home <input type="checkbox"/> criminal charges filed on abuse/neglect <input type="checkbox"/> Other
How are the new issues being addressed?	
Please include here any other information that you would like the Board to know; feel free to add extra pages if you need more room.	

Form completed by: \_\_\_\_\_ Date completed: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

To respond by taped questionnaire, call 1-800-577-3272

## Concerned Party Questionnaire

Name of Child(ren): \_\_\_\_\_ Board #: \_\_\_\_ Return by: \_\_/\_\_/\_\_

What is your understanding of why the child(ren) has entered care?	<input type="checkbox"/> Physical Abuse <input type="checkbox"/> Sexual Abuse <input type="checkbox"/> Neglect	<input type="checkbox"/> Child's Emotional Problems <input type="checkbox"/> Parents Incarceration <input type="checkbox"/> Child's Behaviors	<input type="checkbox"/> Parents Drug/Alcohol Abuse <input type="checkbox"/> Child's Medical/Special Needs <input type="checkbox"/> Child's Drug/Alcohol Abuse
Other: _____			
What do you understand the permanency objective of the child(ren) to be?	<input type="checkbox"/> Reunification <input type="checkbox"/> Guardianship <input type="checkbox"/> Long-term foster care <input type="checkbox"/> Adoption <input type="checkbox"/> Self-sufficiency <input type="checkbox"/> Independent living <input type="checkbox"/> In transition <input type="checkbox"/> Unknown		
What problems if any, are keeping this plan from succeeding?	<input type="checkbox"/> lack of parental compliance <input type="checkbox"/> services not available in the area <input type="checkbox"/> lack of funding for services <input type="checkbox"/> legal delays in filing for permanency <input type="checkbox"/> child's behaviors/needs <input type="checkbox"/> parental mental limitations/deficiency <input type="checkbox"/> on waiting list for services <input type="checkbox"/> legal delays due to criminal charges		
Have any new problems developed since the initial intervention?	<input type="checkbox"/> alcohol/drug abuse <input type="checkbox"/> parent arrested <input type="checkbox"/> incarceration of parent <input type="checkbox"/> lost housing <input type="checkbox"/> new child born or is due <input type="checkbox"/> child unwilling to return home <input type="checkbox"/> new live-in companion <input type="checkbox"/> criminal charges file on abuse/neglect		

What are the child(ren)'s special needs?
What additional services could or should be provided to the child(ren) or family?
Describe the contact that you have with the child(ren) or family:
Do you feel that the child(ren) could return home safely at this time with appropriate services?    Yes    No
What services would be necessary?

Please include here anything else that you would like the Board to know; feel free to add extra pages if you need more room.

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Form completed by: \_\_\_\_\_ Date completed: \_\_/\_\_/\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

To respond by taped questionnaire, call 1-800-577-3272

## County Attorney/Special Prosecutor Questionnaire

Name of Child(ren): \_\_\_\_\_ Board #: \_\_\_\_ Return by: \_\_/\_\_/\_\_

What do you understand to be the child(ren)'s permanency plan to be?	<input type="checkbox"/> Reunification	<input type="checkbox"/> Guardianship	<input type="checkbox"/> Long-term foster care
	<input type="checkbox"/> Adoption	<input type="checkbox"/> Unclear	<input type="checkbox"/> Independent Living
	<input type="checkbox"/> No plan	<input type="checkbox"/> Self-sufficiency	<input type="checkbox"/> Plan in transition

### Court Information

Date the child(ren) was adjudicated: __/__/__					
If the child(ren) has not been adjudicated, please explain why here:					
Please check here, the type of adjudication. If the child(ren) have more than one adjudication, please indicate that as well.	<input type="checkbox"/> (3a)	<input type="checkbox"/> (3b)	<input type="checkbox"/> (3c)	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
Are both biological parents named in the current Court action if this is a 43-247 3(a) case?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If no, why not?)				
Were any of the original petition allegations plea-bargained out?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, which ones?)				
Has a permanency hearing been held?	<input type="checkbox"/> Yes: __/__/__ <input type="checkbox"/> No				
Date of the most recent Court review: __/__/__					
When is the next Court review scheduled? __/__/__					
Is there a currently ordered Case plan?	<input type="checkbox"/> Yes <input type="checkbox"/> No				
If modifications were made to the Case plan, please indicate here:					
_____					
_____					
_____					
Please check here any pending criminal charges in this case. If there were no charges filed, please indicate why, here.	specify	Mother	Father	Other party (Please	
	Drug abuse	_____	_____	_____	
	Physical abuse	_____	_____	_____	
	Neglect	_____	_____	_____	
	Sexual Abuse	_____	_____	_____	
	Ongoing Investigation	_____	_____	_____	
	Insufficient Evidence	_____	_____	_____	

	Compliance	Partial Compliance	Resistant to Court order	Progress towards Goal	No progress towards Goal
Mother					
Father					
Other					
Other					

Do you believe the child(ren) could safely be returned home at this time?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes, but would require services (please indicate services needed here)
If the child(ren) has been in foster care for 15 of the most recent 22 months, has a TPR been filed?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If no, what exception applies?)
Have any new issues or disclosures surfaced since the initial intervention that would precipitate filing of a new or supplemental juvenile petition?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, what issues?)
Have any new circumstances occurred since initial intervention that impact the plan?	<input type="checkbox"/> Loss of housing <input type="checkbox"/> Lack of parental employment <input type="checkbox"/> Parental law violations <input type="checkbox"/> Frequent parental moves <input type="checkbox"/> Parental whereabouts unknown <input type="checkbox"/> New live-in companion <input type="checkbox"/> Child unwilling to return home <input type="checkbox"/> Youth is pregnant <input type="checkbox"/> New baby born or expected <input type="checkbox"/> Parental incarceration <input type="checkbox"/> Other, please explain: _____ _____ _____

Please include here anything else that you would like the Board to know; feel free to add extra pages if you need more room.

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Form completed by: \_\_\_\_\_ Date completed: \_\_\_/\_\_\_/\_\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

To respond by taped questionnaire, call 1-800-577-3272

## Foster Parent Questionnaire

Name of Child(ren): \_\_\_\_\_ Board #: \_\_\_\_\_ Return by: \_\_\_/\_\_\_/\_\_\_

When did the child(ren) come to your home? ___/___/___		How many children are currently in the home? ___	
Date of child(ren)'s last physical exam? ___/___/___		Dental Exam: ___/___/___	
What is your understanding of why the child(ren) has entered care?	<input type="checkbox"/> Physical Abuse	<input type="checkbox"/> Child's Emotional Problems	<input type="checkbox"/> Parents Drug/Alcohol Abuse
	<input type="checkbox"/> Sexual Abuse	<input type="checkbox"/> Parents Incarceration	<input type="checkbox"/> Child's Medical/Special Needs
	<input type="checkbox"/> Neglect	<input type="checkbox"/> Child's Behaviors	<input type="checkbox"/> Child's Drug/Alcohol Abuse
Other: _____			

### Services

How much contact do you have with the Case manager? <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> None apply <input type="checkbox"/> Other	How much contact does the child(ren) have with the Case manager? <input type="checkbox"/> Daily <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly Most recent date of phone contact? ___/___/___ Most recent date of in-person contact? ___/___/___
How much contact do you have with the child(ren)'s Guardian ad litem (GAL)? <input type="checkbox"/> Every month <input type="checkbox"/> Every six months <input type="checkbox"/> None apply	How much contact does the child(ren) have with the GAL? <input type="checkbox"/> Daily <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly Most recent date of phone contact? ___/___/___ Most recent date of in-person contact? ___/___/___
Do you receive ongoing updates regarding the progress of the child(ren)'s case?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you feel adequately informed of the child(ren)'s current health and education status?	<input type="checkbox"/> Yes, Both <input type="checkbox"/> No, Both <input type="checkbox"/> Health Only <input type="checkbox"/> Education Only
Did you receive enough background information on the child(ren) to meet his/her needs? If no, indicate what would have been helpful.	<input type="checkbox"/> Yes <input type="checkbox"/> No Comments: _____
Is the foster care payment you receive enough to care for the child(ren) and his/her needs?	<input type="checkbox"/> Yes <input type="checkbox"/> No
What do you understand the permanency objective of the child(ren) to be?	<input type="checkbox"/> Reunification <input type="checkbox"/> Guardianship <input type="checkbox"/> Long-term foster care <input type="checkbox"/> Adoption <input type="checkbox"/> Self-sufficiency <input type="checkbox"/> Independent living <input type="checkbox"/> In transition <input type="checkbox"/> Unknown
Are you willing to keep the child(ren) on a long-term basis should it become necessary?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Too early to tell <input type="checkbox"/> Had not considered at this time Comments: _____

### Have you, as a foster parent, requested services, and are they being provided

	N/A	Requested	Provided	Provided by/Frequency	Not Provided
Respite Care					
Transportation Assistance					
Clothing Allowance					
Family Support Worker					
Day Care					
Other:					

Please check the following that apply to your foster home:	<input type="checkbox"/> Licensed Home <input type="checkbox"/> Approved Home <input type="checkbox"/> Traditional Foster Home <input type="checkbox"/> Agency-based/Therapeutic Foster Home *Agency Name: _____
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### Visitation

Is visitation occurring with the parents? <input type="checkbox"/> Both Parents <input type="checkbox"/> Mom only <input type="checkbox"/> Dad only <input type="checkbox"/> Neither	Is there sibling visitation? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Some <input type="checkbox"/> N/a
What is the visitation arrangement as you understand it?	
How is the child's behavior prior to and after visits?	

### Child's Services

	N/A	Needed, not provided	Provided	Frequency	Completed	Refused	On Waiting List
Alcohol Drug Treatment							
Individual Counseling							
Psychological Evaluation							
Sex Offender Treatment							
Community Treatment Aid							
Family Support Worker							
Support Groups							
Transportation Services							
Family Counseling							
Day Care Services							
Behavior Management							
Special Education							
Educational Assessment							
Physical Therapy							
Play Therapy							
Other:							
Please list any medications the child is taking here:							

Have you had to restrain the child in your home?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Physically <input type="checkbox"/> Chemically	Frequency: _____
What methods were used to calm the child down?  Was medical attention needed? If yes, please explain.			
Was the Case manager notified of the restraint? How?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Please include here how the child(ren) is doing in your home and anything else that you would like the Board to know; feel free to add extra pages if you need more room.

Form completed by: \_\_\_\_\_ Date completed: \_\_\_/\_\_\_/\_\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

To respond by taped questionnaire, call 1-800-577-3272

## Guardian ad Litem/Child's Attorney Questionnaire

Name of Child(ren): \_\_\_\_\_ Board #: \_\_\_\_ Please return by: \_\_\_/\_\_\_/\_\_\_

Court Information	
What do you understand to be the child(ren)'s permanency plan?	<input type="checkbox"/> Reunification <input type="checkbox"/> Guardianship <input type="checkbox"/> Adoption <input type="checkbox"/> Independent living <input type="checkbox"/> Long-term Foster Care <input type="checkbox"/> Self-sufficiency <input type="checkbox"/> Plan in transition <input type="checkbox"/> Unclear <input type="checkbox"/> No plan
What problems, if any, keep this plan from succeeding?	<input type="checkbox"/> Lack of parental compliance <input type="checkbox"/> Funding problem for services <input type="checkbox"/> On waiting list for services <input type="checkbox"/> Parental mental limitations/deficiency <input type="checkbox"/> Services needed, not available in this area <input type="checkbox"/> Legal delays in filing for permanency <input type="checkbox"/> Legal delays due to criminal charges <input type="checkbox"/> Child's behavior/needs <input type="checkbox"/> Permanency goal inappropriate Other: _____
Date of the most recent Court hearing: ___/___/___	
Date of the next scheduled Court review: ___/___/___	

Services	
What additional services could or should be provided to the <u>family</u> ?  <input type="checkbox"/> Domestic violence worker <input type="checkbox"/> Family support <input type="checkbox"/> More visitation <input type="checkbox"/> In-home services <input type="checkbox"/> Parenting classes <input type="checkbox"/> Homemaker services <input type="checkbox"/> Incest treatment <input type="checkbox"/> Family Counseling <input type="checkbox"/> Co-dependency treatment <input type="checkbox"/> Psychological evaluations <input type="checkbox"/> Alcohol/drug treatment <input type="checkbox"/> Other: _____	What additional services could or should be provided to the <u>child(ren)</u> ?  <input type="checkbox"/> Counseling <input type="checkbox"/> Incest treatment <input type="checkbox"/> Dental care <input type="checkbox"/> Medical treatment <input type="checkbox"/> Special education <input type="checkbox"/> Independent living <input type="checkbox"/> Tutoring <input type="checkbox"/> Educational testing <input type="checkbox"/> In patient treatment <input type="checkbox"/> Psychological evaluation <input type="checkbox"/> Alcohol/drug treatment <input type="checkbox"/> Other: _____

Visitation	
Is visitation with the parents occurring?	<input type="checkbox"/> Both parents <input type="checkbox"/> Mom only <input type="checkbox"/> Dad only <input type="checkbox"/> Neither parent
How are visits supervised?	<input type="checkbox"/> Supervised <input type="checkbox"/> Monitored <input type="checkbox"/> No supervision
Is visitation with siblings occurring?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Some <input type="checkbox"/> N/a *Please indicate here if child is visiting any other relatives: _____ _____
Do you believe that the current visitation arrangement is in the child(ren)'s best interest?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If no, please explain) _____ _____

Placement	
Do you believe that the child(ren)'s current placement is appropriate	<input type="checkbox"/> Yes <input type="checkbox"/> No (If no, please explain) _____
Have you been informed of the child(ren) being placed in any restraints at his/her placement?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, by whom and when were you informed) _____
Have you ever visited the child(ren)'s placement?	<input type="checkbox"/> Yes Date ___/___/___ <input type="checkbox"/> No
When was the last time you visited personally with the child(ren)? ___/___/___	

Do you believe that the child(ren) could safely be returned home at this time?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If no, please explain why here) _____ _____		
Have any new issues developed since the initial intervention?	<input type="checkbox"/> new live-in companion <input type="checkbox"/> parental law violations <input type="checkbox"/> new child born/due <input type="checkbox"/> incarceration of parent <input type="checkbox"/> frequent parental moves <input type="checkbox"/> lost housing <input type="checkbox"/> parental whereabouts unkn <input type="checkbox"/> sexual abuse allegations have been made <input type="checkbox"/> child unwilling to return home <input type="checkbox"/> criminal charges filed on abuse/neglect Other _____		
Do you believe that communication is adequate between the parties is adequate?			
	Yes	No	N/a
Case manager			
CASA			
County Attorney			
Foster parents			
Services providers			
Please describe any communication barriers here: _____ _____			
Please include here any other information that you would like the Board to know; feel free to add extra pages if you need more room.   			

Form completed by: \_\_\_\_\_ Date completed: \_\_\_/\_\_\_/\_\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

To respond by taped questionnaire, call 1-800-577-3272

## Parent Questionnaire

Name of Child(ren): \_\_\_\_\_ Board #: \_\_\_\_ Return by: \_\_\_/\_\_\_/\_\_\_

Describe why your child(ren) are in care:

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### Case Plan and Services

What do you understand to be permanency objective for the child(ren)?	<input type="checkbox"/> Reunification <input type="checkbox"/> Long-term foster care <input type="checkbox"/> Guardianship <input type="checkbox"/> Adoption <input type="checkbox"/> Self-sufficiency <input type="checkbox"/> In transition <input type="checkbox"/> No plan <input type="checkbox"/> Independent living <input type="checkbox"/> Unclear
Please check which of the following people explained to you what you need to do.	<input type="checkbox"/> The Court <input type="checkbox"/> The Case manager <input type="checkbox"/> Your Attorney <input type="checkbox"/> Other <input type="checkbox"/> You have not been told
Were you involved in developing the plan?	<input type="checkbox"/> Yes <input type="checkbox"/> No

### Have you requested or been asked to participate in services, and are they being provided?

	Not needed	Needed, not provided	Provided	Completed	Refused	On Waiting list
Alcohol/Drug Treatment						
Co-dependency Treatment						
In-home Services						
Psychological Evaluation						
Housing						
Sex Offender Treatment						
Family Counseling						
Domestic Violence Program						
Family Support Worker						
Homemaker Services						
Parenting Classes						
Transportation Services						
Support Groups						
In-patient Treatment						
Individual Counseling						
Language Translator Services						
Other:						
Are you on the waiting list for any of these services, please describe.						
Please describe any problems you have had in following through with what you need to do according to the Case plan.						
Please indicate here how often you visit with your case manager including the last date of contact: ___/___/___						

**Visitation**

Please describe how often you visit with your child(ren) and how you feel the visits generally go:


Are visits supervised, monitored, or unsupervised? (Please circle which applies)  
Please indicate who is supervising the visits:

Are you attending all scheduled visitation?	__ Yes __ No
Is sibling visitation occurring?	__ Yes __ No __ Unknown
Do you maintain phone contact with the child(ren)?	__ Yes __ No

What do you see as the thing that needs to happen to have your child(ren) return home.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="height: 20px;"> </td></tr> </table>					
Please include here any other information that you would like the Board to know; feel free to add extra pages if you need more room.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="height: 20px;"> </td></tr> </table>					

Form completed by: \_\_\_\_\_ Date completed: \_\_\_/\_\_\_/\_\_\_

**THANK YOU, PLEASE RETURN THIS FORM TO:**

To respond by taped questionnaire, call 1-800-577-3272
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## Parent's Attorney Questionnaire

Name of Child(ren): \_\_\_\_\_ Board #: \_\_\_\_\_ Return by: \_\_\_/\_\_\_/\_\_\_

What do you understand to be permanency objective for the child(ren)?	<input type="checkbox"/> Reunification <input type="checkbox"/> Long-term foster care <input type="checkbox"/> Guardianship <input type="checkbox"/> Adoption <input type="checkbox"/> Self-sufficiency <input type="checkbox"/> In transition <input type="checkbox"/> No plan <input type="checkbox"/> Independent living <input type="checkbox"/> Unclear
What problems if any, are keeping this plan from succeeding?	<input type="checkbox"/> lack of parental compliance <input type="checkbox"/> services not available in the area <input type="checkbox"/> lack of funding for services <input type="checkbox"/> legal delays in filing for permanency <input type="checkbox"/> child's behaviors/needs <input type="checkbox"/> parental mental limitations/deficiency <input type="checkbox"/> on waiting list for services <input type="checkbox"/> legal delays due to criminal charges other, please describe:

### What services has your client participated in or would your client like to participate in?

	Not needed	Needed, not provided	Provided	Completed	Refused	On Waiting list
Alcohol/Drug Treatment						
Co-dependency Treatment						
In-home Services						
Psychological Evaluation						
Housing						
Sex Offender Treatment						
Family Counseling						
Domestic Violence Program						
Family Support Worker						
Homemaker Services						
Parenting Classes						
Transportation Services						
Support Groups						
In-patient Treatment						
Individual Counseling						
Language Translator Services						
Other:						
Is your client on the waiting list for any of these services, please describe.						

### Visitation

In your opinion, are the current visitation arrangements for your client appropriate, please describe:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Are visits supervised, monitored, or unsupervised? (Please circle which applies)

Is your client attending all scheduled visitation?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
--	---

<p>Have any conditions that caused the child(ren) to come into foster care changed? Please explain.</p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>Do you feel the child(ren) could return safely home?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes, but with services (Please describe)</p> <hr/> <hr/> <hr/>
<p>Have any new issues developed since the initial intervention?</p>	<p><input type="checkbox"/> New live-in companion <input type="checkbox"/> parental law violations <input type="checkbox"/> new child born/due  <input type="checkbox"/> incarceration of parent <input type="checkbox"/> frequent parental moves <input type="checkbox"/> lost housing  <input type="checkbox"/> parental whereabouts unkn <input type="checkbox"/> sexual abuse allegations have been made  <input type="checkbox"/> child unwilling to return home <input type="checkbox"/> criminal charges filed on abuse/neglect  <input type="checkbox"/> Other</p>

<p>Please include here any other information that you would like the Board to know; feel free to add extra pages if you need more room.</p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
---	-------------------------------------

Form completed by: \_\_\_\_\_ Date completed: \_\_\_ / \_\_\_ / \_\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

Foster Care Review Board  
 Executive Building, 521 S. 14<sup>th</sup> St. Suite 401  
 Lincoln, NE 68508-2707  
  
 Fax # 1-402-471-4437

## Placement Questionnaire

Name of Child(ren): \_\_\_\_\_ Board #: \_\_\_\_\_ Return by: \_\_\_/\_\_\_/\_\_\_

When did the child(ren) come to your facility? ___/___/___			
When was the child(ren)'s last physical exam? ___/___/___ Dental Exam: ___/___/___ Eye Exam: ___/___/___			
What is your understanding of why the child(ren) has entered care?	<input type="checkbox"/> Physical Abuse <input type="checkbox"/> Sexual Abuse <input type="checkbox"/> Neglect	<input type="checkbox"/> Child's Emotional Problems <input type="checkbox"/> Parents Incarceration <input type="checkbox"/> Child's Behaviors	<input type="checkbox"/> Parents Drug/Alcohol Abuse <input type="checkbox"/> Child's Medical/Special Needs <input type="checkbox"/> Child's Drug/Alcohol Abuse
Other: _____			

### Services

How much contact do you have with the Case manager? <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> None apply Other _____	How much contact does the child(ren) have with the Case manager? <input type="checkbox"/> Daily <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly Most recent date of phone contact? ___/___/___ Most recent date of in-person contact? ___/___/___
How much contact do you have with the child's Guardian ad litem (GAL)? <input type="checkbox"/> Every month <input type="checkbox"/> Every six months <input type="checkbox"/> None apply	How much contact does the child(ren) have with the GAL? <input type="checkbox"/> Daily <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly Most recent date of phone contact? ___/___/___ Most recent date of in-person contact? ___/___/___
Do you receive ongoing updates regarding the progress of the child(ren)'s case?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you feel adequately informed of the child(ren)'s current health and education status?	<input type="checkbox"/> Yes, Both <input type="checkbox"/> No, Both  <input type="checkbox"/> Health Only <input type="checkbox"/> Education Only
Did you receive enough background information on the child(ren) to meet his/her needs? If no, indicate what would have been helpful.	<input type="checkbox"/> Yes <input type="checkbox"/> No  Comments: _____
What do you understand the permanency objective of the child(ren) to be?	<input type="checkbox"/> Reunification <input type="checkbox"/> Long-term foster care <input type="checkbox"/> Guardianship <input type="checkbox"/> Adoption <input type="checkbox"/> Self-sufficiency <input type="checkbox"/> Independent living <input type="checkbox"/> In transition <input type="checkbox"/> Unknown

Have you had to restrain the child in this placement?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Isolation <input type="checkbox"/> Physically <input type="checkbox"/> Chemically	Frequency: _____
What types of de-escalation techniques were implemented prior to the restraint?			
Was the child injured during the restraint?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If Yes, what type of injury occurred and was medical attention sought?)		
Was the Case manager notified of the restraint?	<input type="checkbox"/> Yes via phone call <input type="checkbox"/> Yes via incident report <input type="checkbox"/> No		

Visitation	
Is visitation occurring with the parents? <input type="checkbox"/> Both Parents <input type="checkbox"/> Mom only <input type="checkbox"/> Dad only <input type="checkbox"/> Neither	Is there sibling visitation? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Some <input type="checkbox"/> N/a
What is the visitation arrangement as you understand it?	
How is the child(ren)'s behavior prior to and after visits?	

What services have been offered to or are needed for the child(ren) to be successful?	
What types of services does your agency provide? Please check all that apply.	<input type="checkbox"/> Individual Therapy <input type="checkbox"/> Group Therapy <input type="checkbox"/> Family Therapy <input type="checkbox"/> Support Groups <input type="checkbox"/> Behavior Management <input type="checkbox"/> Education <input type="checkbox"/> Independent Living Skills    Other: _____
Does your agency provide any of the above services to the child? Please check all that apply.	<input type="checkbox"/> Individual Therapy <input type="checkbox"/> Group Therapy <input type="checkbox"/> Family Therapy <input type="checkbox"/> Support Groups <input type="checkbox"/> Behavior Management <input type="checkbox"/> Education <input type="checkbox"/> Independent Living Skills    Other: _____

	N/A	Needed, not provided	Provided	Frequency	Completed	Refused	On Waiting List
Alcohol/Drug Treatment							
Individual Counseling							
Psychological Evaluation							
Sex Offender Treatment							
Community Treatment Aid							
Family Support Worker							
Support Groups							
Transportation Services							
Family Counseling							
Day Care Services							
Behavior Management							
Special Education							
Educational Assessment							
Physical Therapy							
Play Therapy							
Other:							
Please list any medications the child is taking here:							

Please include here how the child(ren) is doing in your placement and anything else that you would like the Board to know; feel free to add extra pages if you need more room.	
--	--

Form completed by: \_\_\_\_\_ Date completed: \_\_\_/\_\_\_/\_\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

To respond by taped questionnaire, call 1-800-577-3272

## Probation/Parole Officer Questionnaire

Name of Child \_\_\_\_\_ Board #: \_\_\_\_ Return by: \_\_\_/\_\_\_/\_\_\_

Describe the problem that brought the child into care:
_____
_____
_____



What do you understand to be permanency objective for the child?	<input type="checkbox"/> Reunification <input type="checkbox"/> Long-term foster care <input type="checkbox"/> Guardianship <input type="checkbox"/> Adoption <input type="checkbox"/> Independent living <input type="checkbox"/> Self-sufficiency <input type="checkbox"/> In transition <input type="checkbox"/> No plan <input type="checkbox"/> Unclear
If the child is a ward of HHS, have you received a copy of the written HHS Case plan?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Were you involved in formulating the Case plan?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the child is not a ward of HHS, have you developed a permanency plan for the child?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the Court order reflect the permanency plan?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please estimate how long you think it will take to accomplish the plan.	
Please describe any barriers you think exist to that might keep this plan from succeeding.	
_____	
_____	
Please describe any services that you feel need to be provided to the family.	
_____	
_____	
Please describe any problems that still exist that precipitated placement outside of the home.	
_____	
_____	
Do you feel the child could return home safely at this time?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes, with services (Please describe)
_____	
_____	
What are the conditions the youth must abide by as a condition of their probation /parole	_____ _____ _____ _____

Is the youth meeting the conditions of their probation/parole?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If no, please explain) <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
Has the youth committed any new law violations?	<input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, please explain) <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
When did you last visit the youth you are assigned? ___/___/___	
Has the child been restrained in their placement either chemically or physically or by isolation?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
If yes, when and by whom were you notified?	

Please include here any other information that you would like the Board to know; feel free to add extra pages if you need more room.	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
--	---

Form completed by: \_\_\_\_\_ Date completed: \_\_\_/\_\_\_/\_\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

To respond by taped questionnaire, call 1-800-577-3272

## School Questionnaire

Name of Child: \_\_\_\_\_ Board #: \_\_\_\_\_ Return by: \_\_\_/\_\_\_/\_\_\_

How long has this child been enrolled this school? ___ years ___ months			
What is the current grade level of the child?			
What is your understanding of why the child has entered care?	<input type="checkbox"/> Physical Abuse	<input type="checkbox"/> Child's Emotional Problems	<input type="checkbox"/> Parents Drug/Alcohol Abuse
	<input type="checkbox"/> Sexual Abuse	<input type="checkbox"/> Parents Incarceration	<input type="checkbox"/> Child's Medical/Special Needs
	<input type="checkbox"/> Neglect	<input type="checkbox"/> Child's Behaviors	<input type="checkbox"/> Child's Drug/Alcohol Abuse
Other: _____			

Do you feel there is adequate communication between the child's Case manager and school personnel?	___ Yes ___ No
Do you feel communication is adequate between the child's biological parents and school personnel?	___ Yes ___ No
Do you feel communication is adequate between the child's placement and school personnel?	___ Yes ___ No
Do you feel that the child's current placement is meeting his/her needs?	Yes No
Do you feel that you received enough background information on this child to meet his/her educational needs?	___ Yes ___ No
Describe any special needs this child has related to his/her education.	
What types of special education is the child receiving?	
What is the date of the most recent IEP? ___/___/___	
Did the child's parents attend the IEP meeting?	Yes No
Did the child's foster parents attend the IEP meeting?	Yes No
Please describe any acting out behaviors this child might have displayed.	
What has the school done to prevent or control the behavior?	
Please include here anything else that you would like the Board to know; feel free to add extra pages if you need more room.	

\*A copy of the child's most recent grade/progress report would be helpful in reviewing this case.

Form completed by: \_\_\_\_\_ Date completed: \_\_\_/\_\_\_/\_\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

To respond by taped questionnaire, call 1-800-577-3272

### Therapist Questionnaire

Parent name(s): \_\_\_\_\_ Board #: \_\_\_\_ Return by: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Names of Child(ren): \_\_\_\_\_

What is your understanding of why the child(ren) has entered care? Other: _____	<input type="checkbox"/> Physical Abuse <input type="checkbox"/> Sexual Abuse <input type="checkbox"/> Neglect	<input type="checkbox"/> Child's Emotional Problems <input type="checkbox"/> Parents Incarceration <input type="checkbox"/> Child's Behaviors	<input type="checkbox"/> Parents Drug/Alcohol Abuse <input type="checkbox"/> Child's Medical/Special Needs <input type="checkbox"/> Child's Drug/Alcohol Abuse
What do you understand the permanency objective of the child(ren) to be?	<input type="checkbox"/> Reunification <input type="checkbox"/> Guardianship <input type="checkbox"/> Long-term foster care <input type="checkbox"/> Adoption <input type="checkbox"/> Self-sufficiency <input type="checkbox"/> Independent living <input type="checkbox"/> In transition <input type="checkbox"/> Unknown		
What problems if any, are keeping this plan from succeeding?	<input type="checkbox"/> lack of parental compliance <input type="checkbox"/> services not available in the area <input type="checkbox"/> lack of funding for services <input type="checkbox"/> legal delays in filing for permanency <input type="checkbox"/> child's behaviors/needs <input type="checkbox"/> parental mental limitations/deficiency <input type="checkbox"/> on waiting list for services <input type="checkbox"/> legal delays due to criminal charges		

Has the Case manager discussed therapy goals/ outcomes with you?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you been given a copy of the current HHS Case plan?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you feel you were given adequate information regarding your client(s)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is there contact between you and other mental health professionals regarding this case?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please identify what, if any, medication your client(s) is currently taking:	

Please identify the current therapy schedule:	<input type="checkbox"/> Weekly <input type="checkbox"/> Bi-weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other
Please identify the type of therapy being provided:	<input type="checkbox"/> Marital <input type="checkbox"/> Family <input type="checkbox"/> Individual <input type="checkbox"/> Drug/Alcohol <input type="checkbox"/> Sexual Perpetrator <input type="checkbox"/> Incest
Who is present during the sessions?	<input type="checkbox"/> Child <input type="checkbox"/> Both parents <input type="checkbox"/> Mom only <input type="checkbox"/> Dad only <input type="checkbox"/> Case manager <input type="checkbox"/> FSW <input type="checkbox"/> Foster parents <input type="checkbox"/> Other: _____
Are appointments regularly attended by your client(s)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you believe your client (s) is progressing in therapy? Please describe:	
<hr/>	



## Youth Questionnaire

Name: \_\_\_\_\_ Board #: \_\_\_\_\_ Return by: \_\_\_/\_\_\_/\_\_\_

How long have you been in your current home?	
Do you feel safe where you living now? If no, please explain. _____	
Are you happy in your current home? If no, please explain. _____	
What do you understand the plan is for you and your future?	
How much contact do you have with your Case manager?	<input type="checkbox"/> Daily <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly Most recent date of phone contact? ___/___/___ Most recent date of in-person contact? ___/___/___
How much contact do you have with your Guardian ad litem/Attorney?	<input type="checkbox"/> Daily <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly Most recent date of phone contact? ___/___/___ Most recent date of in-person contact? ___/___/___
Are you receiving services at this time? (therapy, preparation for adult living, family support, mentor, etc.) <input type="checkbox"/> Yes (If yes, please explain) <input type="checkbox"/> No (If no, please explain what services you need and why) _____	
Have you been physically restrained in your placement?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, how often?
Did you receive medical treatment after the restraint?	<input type="checkbox"/> Yes <input type="checkbox"/> No
How are you doing in school?	
How are things going with your friends?	
Are you visiting with your parents? <input type="checkbox"/> Both Parents <input type="checkbox"/> Mom only <input type="checkbox"/> Dad only	Are you visiting with your siblings? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Some <input type="checkbox"/> N/a
Have you missed any visits? <input type="checkbox"/> Yes (If yes, please explain.) <input type="checkbox"/> No _____	
How do you feel these visits go? _____	
Please include here anything else you would like the Board to know about you, your placement or anything else; feel free to attach extra pages if you need more room. _____ _____	

Form completed by: \_\_\_\_\_ Date completed: \_\_\_/\_\_\_/\_\_\_

THANK YOU, PLEASE RETURN THIS FORM TO:

To respond by taped questionnaire, call 1-800-577-3272

# **Appendix E**

## **Other**



## **Does placing a child in foster care have risks?**

Just as there are risks to leaving a child in the parental home, there are risks to placing a child in foster care. As Dr. Ann Coyne of the University of Nebraska Omaha, School of Social Work so eloquently stated:

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

## Common Abbreviations and Acronyms

- 1 or 2 Adjudication Status 43-247 (1)—delinquent – misdemeanor or felony
- 3a Adjudication Status 43-247 (3a)—abused/neglected/dependant
- 3b Adjudication Status 43-247 (3b)—status offender
- 3c Adjudication Status 43-247 (3c) – mental health hold of juvenile

### A

- AA Alcoholics Anonymous
- AABD Aid to Aged, Blind, and Disabled
- ACA Adult Children of Alcoholics
- ADC Aid to Dependent Children
- ADD Attention Deficit Disorder
- Adj. Adjudication
- AFCARS Adoption and Foster Care Analysis and Reporting System (federally required)
- AG Attorney General
- Atty Attorney

### B

- Bd Board
- BD Behaviorally Disordered or birth date, depending on context
- BI Behaviorally Impaired
- BT Boys Town
- BTI Boys Town Institute (now BTNRH)
- BTNRH Boys Town National Research Hospital

### C

- CA County Attorney
- CARF Children at Risk Field (DSS form)
- CAPTA The Child Abuse Prevention and Treatment Act (PL 108-36), which is the federal law governing Protection and Safety (P&S, formerly known as CPS, Child Protective Services) programs across the country.
- CASA Court Appointed Special Advocate
- CD Chemical Dependency
- CGC Child Guidance Center
- CMH Center for Mental Health (e.g. St. Joseph CMH)
- CP/CR Case Plan & Court Report
- CPS Child Protective Services
- Cnsg Counseling
- Ct Court (Judge)
- CUMC Creighton University Medical Center
- cw Caseworker
- CWI 4 Form used for Case Plan/Court Report

CWI 5 Form used for Permanency Planning Review  
CWI-10 Old HHS forms used prior to N-FOCUS

## **D**

DCC Douglas County Court  
DCH Douglas County Hospital  
DCJC Douglas County Juvenile Court  
DCYC Douglas County Youth Center  
Disp Disposition  
DSU Daughters and Sons United

## **E**

ENCOMH Eastern Nebraska Community Office on Mental Health  
ENCOR Eastern Nebraska Community Office of Retardation  
ER Emergency Room

## **F**

FCRB Foster Care Review Board  
FDS Family Development Services  
FH Foster Home  
FITS Family Intensive Treatment Services (Intensive in-home therapy)  
FP Foster Parent  
FSW Family Support Worker  
FT Family Teacher

## **G**

GA General Assistance  
GAL Guardian ad litem  
GED General Equivalency Diploma

## **H**

HRC Hastings Regional Center  
HX History

## **I**

ICPC Interstate Compact  
ICWA Indian Child Welfare Act  
IEP Individual Educational Program  
IL Independent Living  
IM Income Maintenance  
IPP Individual Program Plan  
ISC Individualized Study Center

## **L**

LD	Learning Disability/Learning Disabled
LFS	Lutheran Family Services
LGH	Lincoln General Hospital
LRC	Lincoln Regional Center

## **M**

MCRI	Meyer's Children's Rehabilitation Center
MHC	Mental Health Center (e.g. Immanuel MHC)
MOLD	Mothers & Offspring Living & Developing (York Program)
MR	Mentally Retarded
MSU	Medical Support Unit (Part of ENCOR residential program)
MSW	Master's Degree of Social Work

## **N**

NACDC	Native American Community Development Corporation
NAFCR	National Association of Foster Care Reviewers
NBR	Nebraska Boys Ranch
NCCY	Nebraska Center for Children and Youth
NCH	Nebraska Children's Home
NDC	Nebraska Department of Corrections
NDSS	Nebraska Department of Social Services (former name of DHHS)
N-FOCUS	Nebraska Family Online Client User System (HHS computer)
NPI	Nebraska Psychiatric Institute (now UPS)
NOVA	New Options and Values Agency (alcohol treatment center)

## **O**

OHA	Omaha Housing Authority
OHB	Omaha Home for Boys
OIC	Omaha Instructional Center
OPD	Omaha Police Department
OPS	Omaha Public Schools

## **P**

PD	Public Defender
PKCC	Peter Kiewit Conference Center
PO	Probation Officer
PPR	Permanency Planning Review
PSW	Protective Services Worker
Psych	Psychological evaluation
PTSD	Post Traumatic Stress Disorder
PU	Parents United

## **R**

Rec Recommendation(s)

## **S**

SA Substance Abuse  
SOB State Office Building  
SS Social Security  
SSI Supplemental Security Income  
STD Sexually Transmitted Diseases

## **T**

TLC Teaching and Learning With Children (part of YSS)  
TMH Trainable Mentally Retarded  
TPR Termination of Parental Rights  
TPU Treatment Plan Update  
TX Treatment

## **U**

UA Urinalysis  
UCSS United Catholic Social Services  
UH Uta Halee  
UNMC University Nebraska Medical Center  
UPS University Psychiatric Services (formerly NPI)

## **V**

VNA Visiting Nurses Association  
Voc Rehab Vocational Rehabilitation  
VS Visitation Specialist

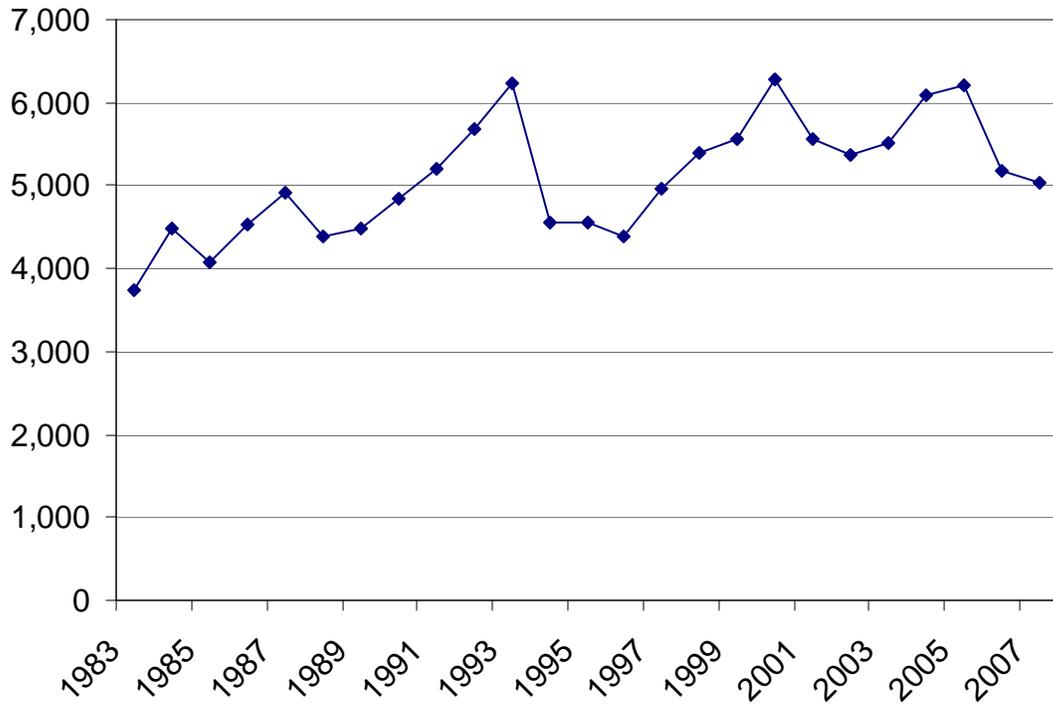
## **W**

WIC Women, Infant & Children Program  
WI|CS Women In Community Services

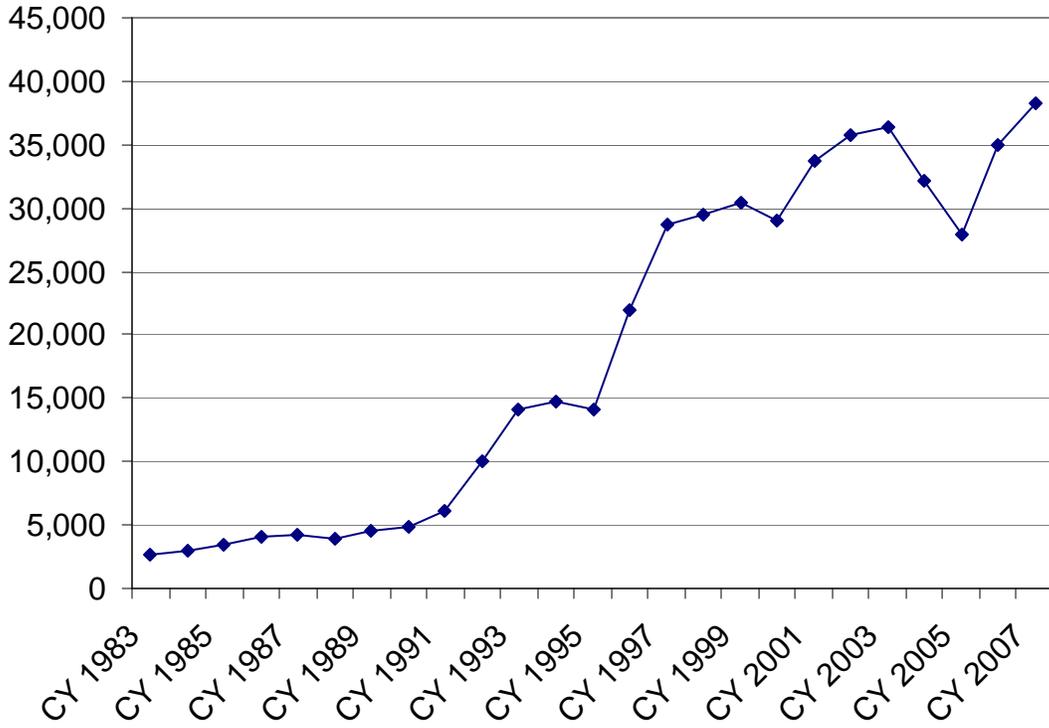
## **Y**

YRTC Youth Rehabilitation and Treatment Center (Kearney or Geneva)  
YES Youth Emergency Services  
YSS Youth Services System

### Nebraska Children in out-of-home care on Dec. 31st



## Volunteer Hours Donated Reviewing Children's Cases



## **“Best Practices for Guardians ad Litem”**

### **Supreme Court Sets New Standards for Guardians ad litem, Requests Our Assistance**

In July 2007, the Nebraska Supreme Court adopted guidelines to define what were guardian ad litem “best practices” to ensure effective representation of children’s legal and best interests in dependency and abuse/neglect proceedings in juvenile court. Chief Justice Mike Heavican has asked citizen reviewers to identify cases where guardians ad litem are not following the Supreme Court’s Guidelines, and include this in the Review Board’s Recommendation in the top concerns section. The Chief Justice has asked Judges to hold Guardians ad litem accountable when they do not follow the Supreme Court’s guidelines.

### **Guardian Ad Litem Defined:**

The guardian ad litem is an attorney appointed by the court for the child who is to represent the juvenile’s legal interests and advocate for the juvenile’s best interests. A guardian ad litem is under a legal duty to conduct an *independent determination* as to the juvenile’s best interests and must take the necessary actions to advocate and protect the best interests of the juvenile

### **Guardian Ad Litem Best Practices**

The Supreme Court Guidelines recommend that as a best practice Guardians ad Litem should:

- Consult with the juvenile when required by statute (“consult” means meeting in person with the juvenile, unless prohibited or made impracticable by exceptional circumstances):
  - within the first two weeks of appointment, and at least once every six months thereafter.
  - In addition, the Guidelines *suggest* that the guardian ad litem also consult with the juvenile as follows:
    - When the juvenile requests that the guardian ad litem meet with him or her; and
    - When the guardian ad litem has received notification of any emergency, or other significant event or change in circumstances affecting the juvenile, including a change in the juvenile’s placement;
- Make every effort to see the juvenile in his or her placement at least once, with respect to each such placement.
- Submit a written report to the court at every dispositional hearing and review hearing. This report should include, but is not limited to, the following information
  - Dates of, and description of, the type of contact and communication with the juvenile;
  - Listing of documents reviewed;
  - The guardian ad litem’s concerns regarding any specific matters or problems which, in the opinion of the guardian ad litem, need special, further, or other attention in order to protect or facilitate the juvenile’s legal and best interests; and
  - The guardian ad litem’s independent assessment of and recommendations regarding the juvenile’s placement, in light of his or her needs and legal and best interests.

### **Examples of how a Guardian Ad Litem Concern Will be Documented in a FCRB Recommendation**

- “Contrary to Section V.A.3.d. of the Supreme Court’s guidelines on best practice, the guardian ad litem has not seen Billy in his placement, even though he has been there for two years.”
- “The guardian ad litem report shows no contact or communication with the child in the past eight months. Statute §43-272.01(2)(d) requires that contact occur at least every six months.”

## Quotes from Research On Separations and Grief

*“Moves from foster home to foster home should be limited to all but the most unavoidable situations. Every loss adds psychological trauma and interrupts the tasks of child development.”<sup>2</sup>*

*“Adults must remember that once new attachments are formed, separation from these substitute parents is no less painful and no less damaging to the child than separation from birth or adoptive parents.”<sup>3</sup>*

*“Although the critical overproduction on synapses in the brain is genetically driven, the pruning and maintenance of synaptic connections are environmentally driven. Developmental overpruning refers to a toxic effect of overwhelming stress on the young brain.”<sup>4</sup>* The Foster Care Review Board interprets this to mean that if a child has thrived in a particular home, disruptions should not be a consideration.

*“Insecure attachment is not equivalent to mental disorder, but rather creates a risk of psychological and social disfunction. Disorganized/disoriented attachments are sometimes associated with dissociative symptomology, which, if such individuals are exposed to overwhelming experiences later in life, may make them prone to developing post traumatic stress disorder. Persons in this group also have deficits in attention and the regulation of emotion and impulse control.”<sup>5</sup>*

*“The stronger the attachment between child and previous caregiver, the more important the process of transferring attachment will be. Although we have found that sometimes verbal or written communications, without accompanying direct contact between the parenting adults, may be successful in aiding the transfer of attachment in children of school age, it is not enough for the infant, toddler, or preschooler. The younger the child, the more important it is that there be direct contact between past and future caregivers. We noted in the last chapter that after only several days of separation from parents, toddlers show marked distress.”<sup>6</sup>*

*“During the toddler years, the primary aim during the moving process is to transfer attachment from previous caregivers to the new parenting persons as much as possible. The two sets of parents must have contact and the parents the child is leaving need to actively transfer the day-to-day caretaking tasks and routines to the new parents.”<sup>7</sup>*

*“Planned transitions are less harmful to children than abrupt moves...in general, it takes more time to correct the harm done by inadequate pre-placement work than to do the work in the first place.”<sup>8</sup>*

---

<sup>2</sup> Vera I. Fahlberg, M.D., *A Child's Journey Through Placement*, page 176. Perspectives Press, c. 1991.

<sup>3</sup> Goldstein, J. Freud, A. and Solnit, A.J. *Beyond the Best Interests of the Child*. 1973.

<sup>4</sup> Daniel J. Siegel, *The Developing Mind: Toward a Neurobiology of Interpersonal Experience*, c. 1999.

<sup>5</sup> Daniel J. Siegel, *The Developing Mind: Toward a Neurobiology of Interpersonal Experience*, c. 1999.

<sup>6</sup> Vera I. Fahlberg, M.D., *A Child's Journey Through Placement*, page 178. Perspectives Press, , c. 1991.

<sup>7</sup> Vera I. Fahlberg, M.D., *A Child's Journey Through Placement*, page 182. Perspectives Press, c. 1991.

<sup>8</sup> Vera I. Fahlberg, M.D., *A Child's Journey Through Placement*, page 177. Perspectives Press, , c. 1991.