

CHAPTER 7-000

OUT-OF-HOME PLACEMENT

Out-of-home placement is considered to be the most intrusive level of service provided to a family by the division of Protection and Safety. All families will have reasonable opportunities to assure the safety of their child within their home and community. When safety cannot be assured in the home or community, a determination may be made that an out-of-home placement is necessary if this is determined to be in the best interest of the child.

When a determination has been made that the child will be placed out of the home, the Department will consider the placement resources and place the child:

- in the least restrictive, most family-like setting;
- closest to the family, to meet the child's best interest and special needs; and
- in a setting that provides for continuity for the child in school, church and other community relationships whenever possible while also considering the safety of the community.

The use of Youth Rehabilitation and Treatment Centers is found in 390 NAC 7-004.04A.

7-001

ROLES AND RESPONSIBILITIES

This section outlines the roles and responsibilities of the Department, staff, parents and temporary care givers.

7-001.01

DEPARTMENT ROLE

The Department has three distinct roles when children are in out-of home placement. The roles are as a custodian, as a guardian, and for referrals for evaluations.

Role as Custodian for children in an abuse or neglect situations:

The Department assumes the role of a custodian in two situations:

1. Where a law enforcement pickup has occurred; or
2. The parent(s) or legal guardian(s) of a child signs a "Voluntary Placement Agreement".

For the duration of the law enforcement hold, the Department will secure and supervise a temporary placement and consent to any necessary emergency medical, psychological or psychiatric treatment for the child. The Department as custodian will not make decisions regarding the child's marriage, adoption or enlistment in the armed forces.

Once a placement has been located, specific worker responsibilities are:

- Share information on an ongoing basis with the care provider regarding the child's behavior, history, specific needs, risks, case plan, etc.;
- When possible, prepare the child, family and care provider for placement;
- In child welfare cases only, notify all parties (parents, court, county attorney, guardian ad litem, parents' attorney(s), tribal authority, etc.) in writing seven days in ADVANCE of a change in placement. According to statute, when advance notice is not possible, notice must be sent to all parties within the next working day after the placement occurs;
- In juvenile offender cases, notify the court of transfers to a different level of placement in writing 15 days in advance of an anticipated placement change. See 390 NAC 8-001.12 for specific requirements.
- Create opportunities for family involvement and contact (this includes sibling contact);
NOTE: If the child's parents live separately and each parent's rights are intact, contact and involvement will be established for both parents.
- Establish a written visitation plan for the child and family to ensure continued contact when appropriate; develop the plan with the family and foster parents for review and response;
- Initiate payment process for providers;
- Ensure a plan for permanence is developed;
- Provide coordinated services to child and family;
- Provide support services to care giver;
- Provide relevant information and notice of placement to service providers, that is, schools, medical providers and therapists;
- Document activities and decisions;
- Complete the necessary placement forms;
- Continually assess the child's need for placement and inform the parent(s) of the child's progress in out-of-home care;
- Take away the child's liberty, when appropriate, in Juvenile services cases; and
- Participate in administrative hearings in Juvenile services cases.

Further worker responsibilities are to use supervisory staff or teams to help in placement development, consultation, and technical assistance. Key consultation points are listed in 390 NAC 2-001.

7-001.02B

SUPERVISOR ROLE

Supervisory staff will provide consultation and support to the worker during the placement decision-making process. The supervisory staff is responsible to assure that families are receiving consistent case management during out-of-home placement.

Specific supervisory staff tasks include but are not limited to:

- Assist in locating or developing a placement,
- Assist in locating or developing services to prevent the need for out-of-home placement,
- Team coordination and development and participation, and
- Conduct administrative hearings for children in the custody of HHS-OJS.

7-001.02C

ROLE OF TEAMS

Teams will be used to effectively and efficiently provide a means for consultation, technical expertise, support and problem-solving.

The Department will participate in the investigative and treatment teams formed in each county or area. The Department will participate to create a cooperative, complementary response to reports of child abuse and neglect and to juvenile offenders with law enforcement, and other agencies designed to protect children and the community.

7-001.03 PARENTAL RESPONSIBILITY FOR CHILD IN OUT-OF-HOME CARE

When a child is in out-of-home care the parent(s) will maintain the following responsibilities:

- Communicate and work cooperatively as a team member with the worker and service providers toward the goals of the case plan;
- Communicate and work cooperatively with the care giver toward the goals of the case plan;
- Maintain regular contact with the child and promote ongoing sibling contact as decided jointly with the worker;
- Retain financial responsibility, including insurance, and purchasing clothing and personal needs for the child to the extent possible based on resources and income; and
- Work toward the goal of permanence for the child based on the child's needs. Reunification may not always be in the best interest of the child.

In situations where there is disagreement with the Department's decision:

- In child welfare cases, the parent or child may address the issue to the court through their attorney; and
- In Juvenile services cases, the parent or child may file a grievance and then an appeal.

7-001.04

NON-CUSTODIAL PARENT'S ROLE

If a child who is a Department ward is placed in an out-of-home setting in situations other than law enforcement pick-up for temporary custody, the worker will make reasonable efforts to notify the non-custodial parent. The worker should consult with him/her regarding his/her ability and willingness to care for the child. The following issues should be considered:

- Placement with the non-custodial parent will not hinder reunification with the custodial parent,
- The child's preference,
- The child's attachment to the non-custodial parent,
- There is no history of abuse or neglect by the non-custodial parent, and
- The placement is not detrimental to the child.

7-001.05 ROLES AND RESPONSIBILITIES OF TEMPORARY CARE GIVER

- Communicate and work cooperatively as a team member with the worker, parents and service providers toward the goals of the case plan;
- Communicate and work cooperatively as a team member with the parents;
- Work toward the goal of permanence as outlined in the case plan;
- Regularly discuss with the worker the child's progress, needs and behaviors;
- Notify the worker of law violations by the child or law enforcement contact with the child;
- Notify the worker of emergencies including medical problems and runaway behavior;
- Arrange for routine and emergency medical care for the child and advise the worker. Use the medical provider covered by the parents' insurance, if applicable, or the provider identified by the worker;
- Secure specific care and treatment for the child such as medical, psychological or school evaluations, under the guidance of the worker as outlined in the case plan;
- Recognize respite care as a necessary support to provide quality care to the child;
- Cooperate with the development and implementation of the visitation plan;
- Advocate for the child's educational rights and help the school staff understand the child's emotional and educational needs;
- Arrange for or provide transportation for the child;
- To the workers, provide written documentation regarding the child's progress and contacts with parents and other family members; and
- Attend pre-service and ongoing training if licensure is involved.

7-001.06 ASSESSMENTS OF FAMILIES INTERESTED IN BECOMING FOSTER OR ADOPTIVE PARENTS

The Department will assess all persons who are interested in becoming foster or adoptive parents. This process includes:

- * home visits;
- * interviews with all the applicants, their children and other persons living in the home;
- * a written home study, using the Department's format;
- * a self-study completed by the applicants;
- * references from three persons;
- * Background checks with the Adult Protective Services Central Registry and the Central Register of Child Protection Cases;
- * Criminal records check; and
- * A medical summary for each family member.

In addition, persons caring for children from one or more families must be licensed as foster parents. An approval study is completed for relatives or persons known to the child before placement. If an approval study indicates placement is appropriate, children from one or more families who are related to the caregiver, may be placed without the care giver's being licensed to provide foster care. (See 7-004.02 for Approval of Unlicensed Homes (Non-Emergency Situations.) Families interested in becoming adoptive parents will have an adoptive home study. See 6-002.04 for adoptive home study policy.

The Department will conduct a home study when a family contacts the Department expressing interest in becoming a foster or adoptive parent. (See Out of Home Care Guidebook for the home study format and process.) The Department will not place a child in a home not known to the child before wardship before the home is licensed, has completed the home study process and has completed required pre-service training.

Applicants for providing foster or adoptive care must at least meet the following requirements in these areas:

- * Age: The applicant must be at least 19 years of age. Generally, at least one parent should be within the normal child-bearing age for the child to be placed.
- * Health: An applicant must be in such physical and mental condition that it is reasonable to expect him/her to be able to fulfill parenting responsibilities. If there appears to be a health condition which might affect parenting ability, a medical report may be requested. A negative report may be the basis for denial of an application at any point in the home study process.
- * Religion, race and gender: The application of all persons will be considered regardless of race, gender, ethnic group or religion.
- * Income: The applicant must be able to budget his/her financial resources in such a way that a child placed can be reasonably assured of minimum standards of nutrition, health, shelter, clothing and other essentials.
- * Needs of the Children: Applicants must be willing to consider accepting children in the Department's custody or likely to enter the Department's custody.

The Department will consider all the information and take into consideration the needs of the children in the Department's custody to determine whether a family should become a foster or adoptive family. The home study will include the recommendation.

The foster or adoptive family will be given the opportunity to review the home study and attach written comments if they wish. Copies of the completed home study will not be provided to the family, the family's attorney or the guardian ad litem. Copies will be given to the court upon request.

7-001.07 MAINTAIN ADOPTIVE OR FOSTER FAMILY CASE RECORD

The Department will maintain a family case record for each adoptive or foster family. The record will include:

- A copy of the complete home study including:
 - The worker's written summary and recommendation;
 - A summary of the responses from each reference;
 - A summary of the family's medical information from DSS-913, "Medical Report"; and
 - Results of the criminal records, APS Central Registry, and Central Register_checks.

The Self-Study Form DSS-913, "Medical Report" and Assessments on the Family, if applicable will be maintained in the foster or adoptive family's file.

7-001.08 COMPLAINT AND GRIEVANCE POLICY FOR FOSTER PARENTS

The worker and foster parents will strive to resolve differences together regarding actions taken related to the placement, care, or removal of children from a foster home. If the situation cannot be resolved, there are two categories of complaints: general complaints and grievances.

General complaints concern policies or practice. Grievances are disagreements about procedures or actions taken by the Department, related to the placement, care or removal of children from a foster home. Complaint and grievance procedures are limited to foster parents and do not apply to group or residential care. Foster parents will be given a copy of the grievance policy and procedures.

7-001.08A GENERAL COMPLAINTS

7-001.08A1 COMPLAINTS CONCERNING POLICY

When the complaint is about the content of policy, a team consisting of representatives of workers and supervisory staff from more than one area will be formed (Policy and Practice Team). A central office representative may also serve on the team. The team will review the complaint along with the policy and consider the statewide implications of the policy and potential changes in policy. The team will make a recommendation for action to the statewide planning, coordinating and evaluation team. This team will make the final decision. Written complaints will be responded to in writing.

7-001.08A2 COMPLAINTS CONCERNING PRACTICE

When the complaint regards specific practice or a casework decision, it must be first addressed to the worker and supervisor. See 390 NAC 2-007. A plan to resolve the complaint will be developed as necessary. The foster parent will be advised in writing of the general content of the plan or reasons for no action. If the foster parent does not agree with the decision of the team, the foster parent has recourse to contact the Director. The decision of the Director is final.

7-001.08A3

GRIEVANCES

Grievances are limited to the following areas:

1. The Department's decision not to approve a foster parent to adopt a child residing in the foster home.
2. Removal of a foster child for placement if the child has resided in the foster home for six months or longer. Situations that cannot be grieved:
 - a. There is a report of child abuse or neglect, and the allegations or findings indicate -
 - (1) Allegations of sexual abuse;
 - (2) Visible or apparent physical signs of abuse or neglect; or
 - (3) The abuse or neglect is or could be life threatening;
 - b. Removal is for the purpose of a direct adoptive placement;
 - c. Removal is to a less restrictive environment or, in cases in which reunification is the plan, to a placement closer to the home of the birth parent(s);
 - d. Removal is requested by birth parent(s) or child(ren), and the request is supported by the placement worker;
 - e. Removal is court-initiated;
 - f. The child is returning to the physical custody of the birth parent(s);
 - g. Removal results from a licensing action; and
 - h. Removal is to the Youth Rehabilitation and Treatment Center or detention center.
3. Failure of the agency to follow conditions of a contract, Nebraska statutes, or Department of Health and Human Services policy and regulations.
4. The decision not to use the Foster Care Payment Checklist or concerns about the accuracy of the list.

NOTE: The child will remain in the foster home while an appeal of the removal of a child is pending except as described above in Statement 2, a thru h.

A grievable issue will first be addressed by the worker and supervisor. If resolution is not reached, an informal short-term team made up of non-involved workers, supervisors and a foster parent representative will address the issue. This team is responsible for reviewing the information, meeting with the involved foster parent and staff, resolving and taking action on the issue, and notifying in writing the foster parent and staff of action taken and the reason for the action.

If the foster parent is not satisfied with the decision of the local team, the foster parent may forward a copy of his/her grievance and the report from the team to the director. The director will review all the information and make a decision. The decision of the director will be provided in writing to the foster parent(s), worker and supervisor. The Director's decision is final.

See Out-of-Home Placement Guidebook for Procedures on Complaints and Grievances.

7-001.09 SUPPORT TO GROUP HOMES AND CHILD CARING AGENCIES

Support will be provided to group homes and child caring agencies in order to provide quality care for children. These supports include:

1. Payment for the care of the child according to the contract or if no contract based on the level of need according to the Foster Care Payment Determination.
2. Training as requested by the provider.
3. Accessibility to the case manager and other Department staff.
4. Timely licensing.
5. Membership on the team. Joint information sharing, problem-solving and planning among the parent, provider, worker, child and other team members.

7-001.10 SUPPORT TO FOSTER PARENTS

Support will be provided to foster parents or relative foster parents in order to provide quality care for children. These supports include:

1. Respite care used on a regular basis, especially in cases where the child's needs are high or foster parents have several children. Respite can be provided by a family member of the foster parent or by a provider. Time the child spends with the biological parent will also provide a respite for the foster parent and child.
2. Payment for the care of the child is based on the child's needs and behaviors. This includes payment for supervision, child care, respite care, transportation, clothing and personal needs.
3. Counseling through a program such as the Foster Parent Assistance Program.
4. Foster parent insurance.
5. Support groups or a "buddy foster parent."
6. Training - preservice and ongoing training to address the needs of the foster parents.
7. Accessibility to the case manager and other Department staff.
8. Timely licensing or approval.
9. Membership on the team. Joint information on sharing, problem-solving and planning among the foster parent, parent, worker, child and other team members.
10. Family support provider or additional staff for exceptional needs children, based on the needs of the foster parent and child(ren).

Child care providers used for children who are wards must be licensed or approved by HHS. Central Register and law enforcement checks will be done on all respite providers. Relatives of the foster parents are eligible for reimbursement for respite care to the child in the foster home. Payment for respite may be to the foster parent or the provider, based on the foster parents' choice. Payment for child care will be made to a provider as billed, up to child care subsidy rates (except payment may be made based on enrollment if the provider charges other families on that basis). See 474 NAC 7-000 for child care subsidy policy and Case Management Guidebook for child care fee schedule.

7-002

OVERVIEW OF DECISION-MAKING

The determination to use an out-of-home placement for a child who is a ward of the Department is made under the following conditions:

- The completed risk assessment and safety determination indicate that out-of-home placement is necessary to control the child's, community's and family's safety;
- A court order, ordering out-of-home placement is received; (Refer to 390 NAC 7-003.03, Court Ordered Placement)
- An emergency law enforcement hold; or
- The parents have signed a voluntary placement agreement.

See Restrictive Settings (7-004.04A) for use of Youth Rehabilitation and Treatment Centers.

7-002.01

DECISION MAKER

The determination to place a child out of the parent's home is made by the assigned worker in consultation with the supervisory staff. The worker who is responsible for coordinating service delivery to the parent(s) is the case manager. The family will be involved to the maximum extent possible. The case manager is responsible to make decisions within the support of the team.

7-003 **CONDITIONS WHEN PLACEMENT CAN OCCUR**

7-003.01 VOLUNTARY PLACEMENT

A voluntary placement is an option once in-home service efforts have been explored and placement is not expected to exceed six months. Voluntary placement cannot be used for juvenile or status offenders.

Voluntary placement should be considered when a parent has no other option for the care of his/her child and:

- requires short-term hospitalization; or
- has a short-term jail sentence; or
- needs short-term respite care while in-home services are being arranged.

Refer to Voluntary Placement Process in Out-of-Home Placement Guidebook for further guidelines, forms and forms instructions.

7-003.01A **CONDITIONS FOR COMPLETING A VOLUNTARY PLACEMENT**

1. Before making a voluntary placement

The parent(s) will:

- Be fully advised and understand the process;
- Both agree to place the child unless:
 - a. one parent cannot be located; or
 - b. contacting a parent would be contrary to child's best interest;
- Agree to assume financial responsibility for cost of placement to the fullest extent possible;
- Agree to participate in specific case plan activities and services; and
- Sign the "Voluntary Placement Agreement" Form (custodial parent only).

2. After completing a Voluntary Placement Agreement

- The parent(s) and case manager will review the family's progress according to the time frames of the case plan.
- The parent(s) has the right to terminate the agreement at any time, and the child must be returned home.
- If at any time, a risk determination indicates the need for court intervention, a referral will be made to the county attorney for possible filing of a petition. (See 390 NAC 2-008).
- If the child does not return home within six months and the presenting situation still exists, a referral will be made to the county attorney for possible filing of a petition (See 390 NAC 8-001, Court and Legal Issues).

7-003.01B

NATIVE AMERICAN CHILDREN

Any voluntary placement of a Native American child is required by Neb. Rev. Stat. 43-1506(1) and the Indian Child Welfare Act (ICWA) to be executed in writing and recorded before a judge of a court of competent jurisdiction. The written consent must be accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully understood by the parent or Native American custodian.

7-003.02

EMERGENCY CUSTODY PLACEMENT (POLICE HOLD)

When a child is placed in emergency protective custody by the authority of a law enforcement officer, and the officer places the child into the temporary custody of the Department for placement and care, the Department has the responsibility to provide the child with:

- Temporary placement in the least restrictive environment consistent with her/his needs;
- Supervision of care; and
- Consent for necessary emergency medical, psychological or psychiatric treatment.

Emergency protective custody ends after 48 hours, and the child must return to the parent or legal guardian if a court order for continued Department custody is not issued by the time the 48 hours expire. The Department is responsible only for transportation while the child is in the custody of the Department.

Statutory Reference: Neb. Rev. Stat. 43-250(4).

The child is eligible for payment upon emergency custody. The payment process for emergency custody placement will be one of the following:

- Emergency shelter or foster care contract,
- Foster Care Payment Determination, or
- Group home contract rate. (See Out-of-Home Guidebook process and forms)

(See Out-of-Home Placement Guidebook for process and forms)

7-003.03

COURT-ORDERED PLACEMENT

The Department will follow orders issued by the court regarding placement of children. If the caseworker determines that the order for placement is inadequate, factual supporting information will be brought to the attention of the county attorney and guardian ad litem with a request to modify the court order for placement. A copy of this request will be sent to the Department legal staff. If either the guardian ad litem or county attorney does not seek to modify the court order within a reasonable time, the System legal staff will be contacted to pursue legal action. (Refer to 390 NAC 8-000, Court and Legal Issues, for time frames and further legal information.)

7-003.04

MEDICAL CARE FOR WARDS

The worker will gather information about the child's health from his/her parents. Children in out-of-home care, including children at YRTC's, will receive a health examination during the first 14 days of placement. Children committed to HHS-OJS for an evaluation will also receive a health examination. The purpose of the examination, will be to determine the physical condition, including growth and development status, of the child at the time of placement and whether the child has any contagious diseases that may affect placement. Information regarding the presence of any contagious or communicable disease will be shared with the physician and prospective home or facility before placement.

Children in out-of-home care will receive ongoing coordinated medical care under the direction and supervision of the worker.

The caregiver is responsible for:

- Insuring that the child receives age-appropriate immunizations;
- Informing the worker of all illnesses, accidents, injuries and other accidents requiring medical attention;
- Insuring that the child receives regular medical care and medical care based on the child's needs; and
- Updating the Child's Health Record.

To assure continuity in medical care, if a child has a primary care physician when entering care the Department will attempt to use this provider whenever possible.

Children in out-of-home care will receive an annual health exam. The caregiver will use the Health Check (EPSDT) program for the child's annual health check.

7-004

TYPES OF PLACEMENT

7-004.01A

DETERMINATION OF PLACEMENT TYPE

The least restrictive placement setting will always be considered first when selecting a placement. Placement selection is further based on the child's:

- needs,
- behaviors,
- risks,
- age,
- placement history, and
- permanency goal.

NOTE: For Native American Children see "Special Considerations for Native American Children" (7-004.07).

The Department will consider placement for non-medical reasons of a child based upon the following order:

- Non-custodial parent;
- Approved relative*;
- Approved home, known to child*;
- Licensed foster home;
- Approved home, not known to child*;
- Agency-based foster care; and
- Group home or child-caring agency.

(See 7-004.04, Restrictive Settings for Access to Psychiatric Settings and YRTCs.)

Note: If an approval study indicates placement is appropriate, children from two or more families who are related to the caregiver can be placed without the caregiver's being licensed to provide foster care.

*See "Approval of Unlicensed Home" and "Approval of Emergency Placements in Unlicensed Relative Homes".

Placement decisions are based upon the needs of the child, ability of the placement to meet the needs of the child, and the availability of placement resources.

7- 004.01B PLACEMENT LEVELS FOR JUVENILE OFFENDERS

There are three levels of placement ("levels of treatment") for juvenile offenders identified by the Department:

- * Home (least restrictive):
child is placed in the home of a parent or legal guardian
- * Out-Of-Home Placement in the Community:
child may be placed by the Department with a relative home, foster family home, Agency Based Foster Care, Group home, emergency shelter center or home, residential treatment center, treatment group home, or in-patient treatment setting; or
- * Self-contained staff-secure residential facility (most restrictive):
Child is placed by the Department in a Youth Rehabilitation Treatment Center (YRTC) or similar setting identified by the Department.

Pursuant to Section 43-408(2), the committing court will order the initial level of placement ("level of treatment") when a juvenile offender is committed to the Department (Office of Juvenile Services), specifically one of three levels set out above. The Department will then designate a suitable placement based upon the level specified in the court order.

See 390 NAC 8-001.10 for court process.

7-004.02 APPROVAL OF UNLICENSED HOMES (NON-EMERGENCY SITUATIONS)

Placement with a relative is always the first consideration when out-of-home care is necessary. It is the expectation that all wards will be placed in licensed homes for foster care or adoption. This expectation includes relatives and persons known to the child. Children may be placed in the home of a relative or friend previously known to the child, if the home is approved or licensed.

In the case of any placement of a child into an unlicensed home of someone known to the child, an approval study and the "Request for Approved Status" form will be completed before the placement. The request form must be signed by the service area designee and the Protection and Safety Central Office designee. The child's best interest is the first and foremost concern in the approval process.

To assure a home can meet a child's needs and is appropriate for placement of the child, the following safety plan will be completed before a placement of a child into an approved home in a non-emergency:

- a. A visit to the home to assure adequate housing, including documentation of appropriate sleeping accommodations and that the child's safety is not at risk;
 - b. All adult household members will be met and their child care practices reviewed and documented;
 - c. Positive references will be secured (either orally or in writing), documented, and checked from at least three credible, non-relative sources who can provide reliable information as to the person's ability to provide care to the child; and
 - d. Background checks on each household member age 13 or older with the Central Register of Child Protection Cases and background checks on each household member age 18 or older with the Adult Protective Services Central Registry, the appropriate local law enforcement agency, the State Patrol Sexual Offenders Registry, and the State Patrol for a National Criminal History Check with the Identification Division of the Federal Bureau of Investigation.
1. A "Request for Approved Status" form must be signed by the service area Chief Executive Officer (CEO) and the Protection and Safety Central Office designee if a background check reveals that a household member has been identified as a perpetrator on the Central Register of Child Protection Cases or the APS Central Registry.
 2. A "Request for Approved Status" form must be signed by the service area CEO if a background check reveals that a household member has been convicted in the last five years for any of the following crimes:
 - (a) Burglary;
 - (b) Driving under the influence;
 - (c) Misdemeanor controlled substances offenses; or
 - (d) Misdemeanor contributing to the delinquency of a child.

3. A "Request for Approved Status" form must be completed and submitted for signature by the service area CEO and the Protection and Safety Central Office designee if a background check reveals a current charge, conviction, or pending indictment for any of the following crimes:
 - (a) Aggravated or armed robbery;
 - (b) Arson;
 - (c) Assault, first or second degree;
 - (d) Child abandonment;
 - (e) Child abuse;
 - (f) Child molestation or debauching a minor;
 - (g) Child neglect;
 - (h) Commercial sexual exploitation of a minor;
 - (i) Criminal non-support;
 - (j) Domestic violence;
 - (k) Exploitation of a minor involving drug offenses;
 - (l) Felony controlled substances offenses;
 - (m) Felony violation of custody;
 - (n) Incest;
 - (o) Kidnapping;
 - (p) Murder, first or second degree;
 - (q) Robbery;
 - (r) Sexual abuse of a minor;
 - (s) Sexual assault;
 - (t) Sexual exploitation of a minor, including child pornography; or
 - (u) Voluntary manslaughter.

NOTE: See corresponding licensing regulation in 474 NAC 6-003.14.

When this information has been assessed and appropriate approvals have been received, the home is approved. All documentation related to the process is maintained in the child's case file. A copy of the "Request for Approved Status" form is also maintained in the resource development file and the Central Office.

7-004.03 APPROVAL OF UNLICENSED HOMES (EMERGENCIES)

In case of an emergency placement in an unlicensed foster care home the following will be completed before placement of a child.

- a. Visit the home to assure adequate housing prior to or at the time of placement or the next working day if law enforcement makes the placement choice;
- b. Background checks on each household member age 18 or older with the Central Register of Child Protection Cases, the Adult Protective Services Central Registry, the appropriate local law enforcement agency, and the State Patrol for a National Criminal History Check with the Identification Division of the Federal Bureau of Investigation. The checks may be completed orally or in writing; and
- c. Complete the Approval Process of Unlicensed Homes in Non-emergency Situations in no less than 30 days. (See Out-of-Home Care Guidebook for Approval Study Format.)

NOTE: In an emergency, law enforcement has the discretion to place the child in any setting without the immediate involvement of Department staff.

7-004.04

RESTRICTIVE SETTINGS

Youth in the custody of HHS-OJS adjudicated as a juvenile offender may be held at a locked detention center on a temporary basis.

7-004.04A YOUTH REHABILITATION AND TREATMENT CENTERS

The YRTC can only be used by HHS staff when one of the following conditions are met:

- The youth is between 12 and 18 years of age. (Commitment may occur after age 18 if offense occurred before the youth's 18th birthday.), and
- The youth is adjudicated as a juvenile offender and committed to the custody of HHS-OJS, or
- The youth is referred by court order for a residential evaluation at a YRTC, or
- The youth who is a ward of HHS-OJS is detained for safe-keeping before the hearing process for juvenile offenders, or
- The youth who is a ward of HHS-OJS has his/her condition of liberty (parole) revoked.

The court may order a youth to the YRTC under the following conditions:

- For youth with adjudication of delinquency evaluation between ages of 12 to 18 years of age,
- For safekeeping pending further action.

Youth who are adjudicated as status offenders or abused, neglected or dependent will not be placed at YRTC facilities for "safekeeping."

7-004.04B JAILS AND LOCKED DETENTION CENTERS

Under Nebraska statute, youth may be detained in a locked facility pending an adjudication only through a law enforcement officer or by court order.

If law enforcement places a Department ward in a locked facility, the worker will advocate for a plan to best meet the child's needs. The court may order a youth to the YRTC under the following conditions:

- ! For youth with adjudication of delinquency evaluation between ages of 12 and 18 years of age,
- ! For safekeeping pending further action.

Youth who are adjudicated as status offenders or abused, neglected or dependent won't be placed at YRTC facilities for "safekeeping".

Payment for County Detention Centers and Jails

HHS-OJS will pay for the detention of a youth in a county detention center or jail only in the following conditions:

- a youth is picked up by law enforcement because of a Apprehension and Temporary Detention request by HHS-OJS; and
- if law enforcement picks up a juvenile offender on a new allegation of criminal behavior and the HHS-OJS Juvenile Services Officer consents to the detention or requests such detention.

If a juvenile offender is arrested for committing a new crime, law enforcement is responsible for deciding whether to detain the youth. If law enforcement chooses to detain the youth, the law enforcement agency is responsible for payment.

Based on the Nebraska Court of Appeals decision in the David C. case, juvenile courts cannot order a juvenile offender in the custody of HHS-OJS into a detention facility over the objections of HHS-OJS.

7-004.04C OUT-OF-STATE PLACEMENTS

The worker in consultation with supervisory staff will consider an out-of-state placement when:

- There is not an appropriate placement available in Nebraska to meet the child's identified needs and there is one identified in another state; or
- The closest appropriate resource is out of state and the family will be involved in the child's treatment.

An Interstate Compact for the Placement of Children or Interstate Compact for Juvenile must be followed before placement is made. (See 10-000, Interstate Compact for details.)

7-004.04D INPATIENT PSYCHIATRIC HOSPITALIZATIONS

Inpatient psychiatric hospitalizations will be used only for psychiatric treatment, care and observation when out-patient psychiatric services will not meet the needs of the child or are not available in the community. The decision to hospitalize a child is made by a psychiatrist. If the child is seeing a psychiatrist, the psychiatrist will be involved during the inpatient admission process. The worker will consult with supervisory staff. The Medical Services Regulations for inpatient service will be followed for admission, payment and review of care and length of stay. (See Service Provision Guidebook for procedure.)

7-004.05 FOSTER CARE PAYMENTS

Foster care payments are made for the care of children in foster family homes, private child care institutions, or public child care institutions accommodating no more than 25 children, which are licensed by the State in which they are situated or have been approved by the agency in such State having responsibility for licensing or approving foster family homes or child care institutions. Federal reimbursement is not available for children who are in detention facilities, forestry camps, training schools or any other facility operated primarily for the detention of delinquent children. 7-004.05

Payment for the care of a Department ward in a foster home without a contract with the Department is based on the child's needs and behaviors. The payment rate is determined by the use of the Foster Care Payment Determination Checklist plus child care, respite care, transportation, and other needs based on the guidelines as found in the Out-of-Home Placement Guidebook.

The foster care payment includes all usual costs of maintaining a child including but not limited to:

- Board and room;
- Personal needs, including recreation and activities;
- School needs, including school trips and graduation expenses;
- Transportation to meet the child's needs;
- Clothing;
- Respite care for non-relative approved providers;
- Child care; and
- Allowance.

7-004.06 SPECIAL PAYMENT CIRCUMSTANCE

7-004.06A BEDHOLDING

A bedholding fee may be authorized to a child's foster parent, group home or child caring agency when there is a plan for the child to return to the placement and one of the following circumstances applies:

1. The child is on extended, planned stay away from the foster care placement that has been pre-authorized by the child's worker; or
2. The child has run away and the holding of a bed has been authorized by the child's worker.

NOTE: Bedholding will not be authorized when the child's stay away from the foster care facility is a result of the foster care provider's plans.

When there is an existing contract with a foster care home or facility, bedholding may be authorized according to the contract.

7-004.06A1 FOR BEDHOLDING UP TO THIRTY DAYS:

The worker may authorize a bedholding fee equal to the per diem cost of care or current payment level for up to 15 days when the above circumstances exist.

If a child's situation as described above continues after 15 days, the worker may authorize a bedholding fee for up to 30 days. The worker will negotiate a lower rate of care based on the cost to the foster care provider and her/his level of involvement in the child's situation (for example, visits to child, transportation and other costs, participation in treatment, attempts to locate runaway child).

7-004.06A2 FOR BEDHOLDING LONGER THAN THIRTY DAYS:

Bedholding in foster care homes, group homes or child caring facilities beyond 30 days may be authorized only for hospitalization or inpatient psychiatric care when there is a plan for the child to return to the provider in the near future.

The worker will consult with supervisory staff or a team to determine whether to continue a bedhold and, if so, the rate of payment and length of time. The rate of payment will be based on the costs of the foster care provider and that person's involvement.

NOTE: Caution should be used in extending a bedhold beyond 30 days because beds are being used for one child. The limited resources and the needs of other children in the state should be considered. The best interest of the child should be considered but weighed against the needs of other children needing placement.

7-004.07 SPECIAL CONSIDERATIONS FOR NATIVE AMERICAN CHILDREN

This only applies to children adjudicated as 43-247 Subdivision 3 or 8.

Before any change in placement of a Native American child, the Department will notify the child's parents or former Indian custodian and the tribal court.

For Native American children, placement will be based upon the following order of preference:

1. Members of the child's extended family specified by the tribe or approved by the Department; then
2. Foster homes licensed, approved or specified by the child's tribe; then
3. A Native American foster home licensed by a non-Indian authorized licensing authority; and finally
4. A child caring agency, institution, or group home for children approved by an Indian tribe or operated by a Native American organization and with a program suitable to meet the child's needs.

If all of the above are unavailable, refer to 390 NAC 7-004, Types of Placement.

The Department may depart from the established order of placement for a Native American child based upon one or more of the following:

1. The request of biological parents or of the child (if the child is age 12 or older) for a specific placement;
2. Extraordinary physical, medical, cultural, educational, or emotional needs of the child, as established through the written report or testimony of a person with the following qualifications:
 - a. A member of the child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organizations and child-rearing practices; or
 - b. A lay person having substantial expertise in delivery of children's and family services to Native Americans, and extensive knowledge of the prevailing social and cultural standards and child-rearing practices within the child's tribe.
3. The unavailability of suitable families for placement after a diligent search completed for families, including at minimum but not limited to:
 - a. Contacting the child's tribal social service program;
 - b. Searching of list of all licensed foster homes in the state; and
 - c. Contacting nationally known Native American programs known to have available placement resources.

In order to use good cause to depart from the placement preference, the Department will fully document the justification in the child's case record.

Statutory Reference: Indian Child Welfare Act of 1978, 25 U.S. Code, Title XXV, Section 1901. Neb. Rev. Stat. 43-101.