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Next Steps for Child Welfare Reform in Nebraska

By Lisa Snell

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I. Introduction

In 2009, the state of Nebraska began contracting with private companies and nonprofits to provide child welfare and juvenile justice services after national indices showed Nebraska removes too many children from their homes. Moreover, Nebraska received low marks from the Federal Child and Family Services Review which evaluates how well states provide safety, permanency, and wellbeing for children. A comparison of federal FY2009 data by Casey Family Programs showed the rate of Nebraska children removed from their homes was 12 percent more than doubles the national average of 5.6 percent. Nebraska has rated either first or second highest in this category for at least 10 years.¹ In January 2011, the Department of Health and Human Services (DHHS) took child welfare privatization further and turned over case management to the two lead agencies in the Eastern and Southeastern child welfare regions. The implementation of child welfare privatization and reform has been difficult and was implemented without clear benchmarks or indicators of performance for the state or the lead agencies.

Since January 2011, Nebraska legislators have been investigating the state's implementation of child welfare privatization. Three of five lead agencies selected in July 2009 to manage services to children and families had withdrawn from the privatization effort by November 2010. In addition, a November 2011 Nebraska Performance Audit Committee report found that while DHHS initially insisted that "privatization would be accomplished within existing resources, by August 2011 it had, in fact, paid the contractors \$30.3 million more than originally planned."² In Nebraska the private contractors and the state agencies underestimated the cost of foster care and the private providers misjudged the scope of work to be done. The report by the Legislative Fiscal Office on October 18, 2011 noted that the cost information and other projections provided to the contractors were inaccurate from the beginning of the privatization efforts.³ The lead contractors signed the contracts based on information that severely underestimated the level of care and number of children that would be referred to the agencies. As the report says, it was "universally stated that the costs were substantially higher than anticipated based on information provided prior to signing the contracts. Areas where projected costs exceeded those projections were in three areas: 1) youth in foster care, 2) non-court involved cases and 3) treatment costs ordered by the court and not covered by Medicaid."⁴

On December 15, 2011, the Health and Human Services Committee released the comprehensive final report for Legislative Resolution 37: *A Review Investigation and Assessment of Child Welfare Reform*.⁵ In the introduction to the report they introduced the notion that "Privatization is a tool, not an end in itself, to child welfare reform." It is in this spirit that this policy brief reflects on child welfare reform in Nebraska. The recommendations in this report are written within a framework that prioritizes the need for a system-wide culture shift to right-size child welfare in Nebraska and keep more children with their own families wherever possible and bring Nebraska more in line with national norms for foster care and child welfare services. The purpose of this report is not to reanalyze the comprehensive and convincing evidence that privatization and child welfare reform has been poorly implemented in the state of Nebraska, but to offer suggestions about how to prioritize the system-wide improvements as the Nebraska legislature reviews the recommendations of the Health and Human Services Committee. Counter intuitively, this report rejects the overarching recommendation by the Health and Human Services Committee that Nebraska abandon child welfare privatization altogether and reorganize child welfare services into a new state agency. Instead, it calls on the legislature to prioritize and embrace action-oriented recommendations that will immediately impact service provisions to children and families and calls for a collaborative approach in implementing these recommendations with both DHHS and the lead agencies.

Other states that have had similar difficulties with privatization did not reverse

the privatization process once started. Instead stakeholders worked through the fundamental issues that were contributing to negative outcomes for both the private and public sectors. In turn, rather than trying yet another disruptive reorganization, the legislature should engage DHHS and the lead contractors in a collaborative process to initiate the same changes that they would make as if creating a new state agency.

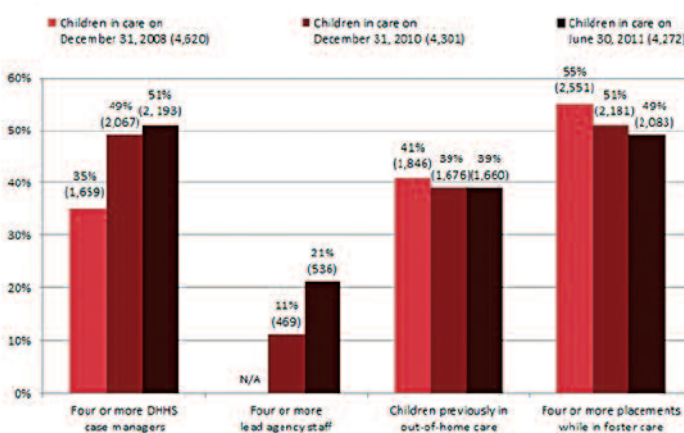
The Nebraska legislature should move ahead with the hands-on childwelfare recommendations rather than getting caught up yet again in agency reorganization which will ensure that the child welfare system remains in transition and chaos for some time without guaranteeing better outcomes. The immediate focus should be on reforms that will have the greatest impact on outcomes for children by both DHHS and the lead agencies.

II. The State of Nebraska Does Not Have a Better Child Welfare Service Record

The reports aggregated by the Health and Human Services Committee for the December 2011 legislative report show very similar difficulties for regions where the state handles case management and service provision and for regions where case management is handled by private contractors. For example, in the Nebraska Foster Care Review Board 2010 Annual Report—which analyzes data through June 2011—both the state and lead agencies had similarly negative outcomes for children. One indicator that has been focused on by the media and the committee showed more than half of all children in out-of-home care had four or more state DHHS workers assigned to manage their cases during their time in the system. That's up from 35 percent in 2008. In those areas of the state where reform has contracted case management to private agencies, 21 percent of children had four or more staff assigned to their cases. The report indicates that the lead-agency rate of staff changes for children might be underreported. Even so, the state's negative outcome for this indicator is nearly double the lead agencies and impacts a much larger number of children.⁶

The chart below shows that the state and lead contractors have a serious issue with turnover in case management for individual children, but the state is actually doing much worse in case management outcomes than the lead agencies. The data from the Foster Care Review Board below also shows that since child welfare reform began, the state actually has made a small amount of progress system wide in the number of placements that kids have while in foster care and the number of children who re-enter foster care. In other words, children in state care actually have fewer foster care placements and there are fewer children re-entering foster care now than before privatization began in 2009.

Figure 1. Foster Care Review Board Findings: Children in State Care



In the original survey research that the Health and Human Services Committee undertook to determine foster and biological parents' "level of satisfaction" with the system, a variety of specific questions were asked about various areas of the system, particularly about the state and lead agency provisions of child welfare services; respondents to the survey found the performance of the state and the lead agencies was almost identical. In fact, the lead agencies had a somewhat better score than the state in all but two of the eleven areas in the survey.⁷ Foster and biological parents were not having a superior experience with state provided case management.

In addition, when you examine current data from the DHHS performance measures, Children's Outcomes Measured in Protection and Safety Statistics (COMPASS) reports, the Eastern and Southeastern service divisions are performing at very similar levels as the state-run service areas. First, COMPASS data reveals that the Eastern and Southeastern service areas are scoring better on COMPASS reports across multiple measures than they were before privatization in January 2009. For example, for the Eastern service area,

placement stability for children had a score of 88.7 in January 2009 and 97.2 in October 2011 with a target of 101.5. For both the Eastern and Southeastern service areas, higher scores are found across multiple COMPASS measures when comparing pre and post privatization. See figures 2 and 3.

In addition, the Eastern and Southeastern service areas with privatized case management are outscoring the state average on several current Compass measures (see figures 4, 5, and 6). For example, in November 2011 the Eastern service area scores better than the state average on COMPASS measures in four out of six measures including "Absence of Maltreatment Recurrence, Timeliness of and Permanency of Reunification, Permanency of Children in Foster Care, and Placement Stability. Similarly, the Southeastern service area scores better than the state in November 2011 on absence of maltreatment in foster care, timeliness of adoption, and placement stability. In other words, the regions with privately managed care are scoring better on COMPASS measures than they did before privatization and they are outscoring the state average on several individual COMPASS measures.

Figure 2. COMPASS Measures - Eastern Service Area

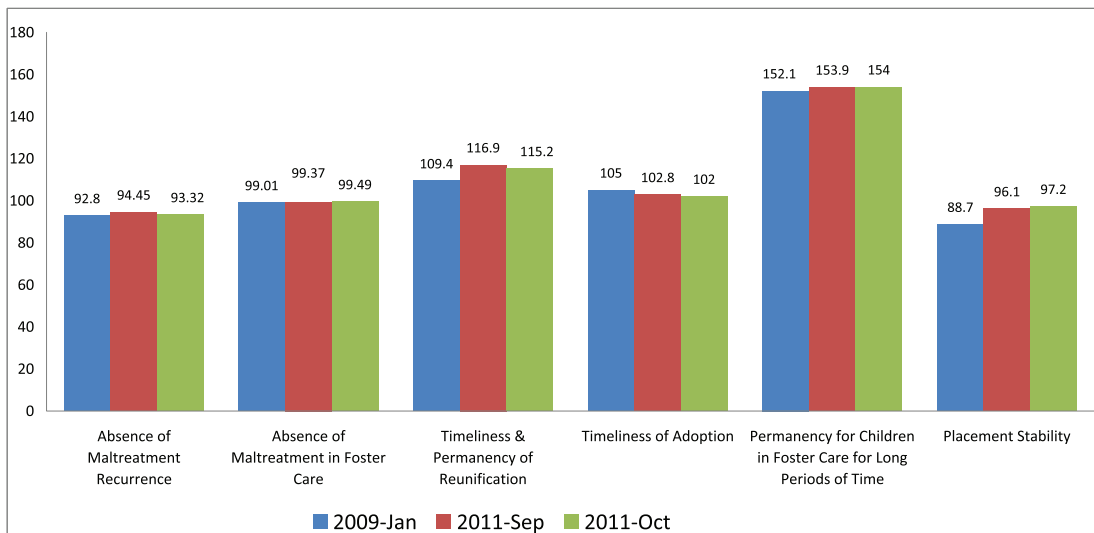


Figure 3. COMPASS Measures - Southeast Service Area

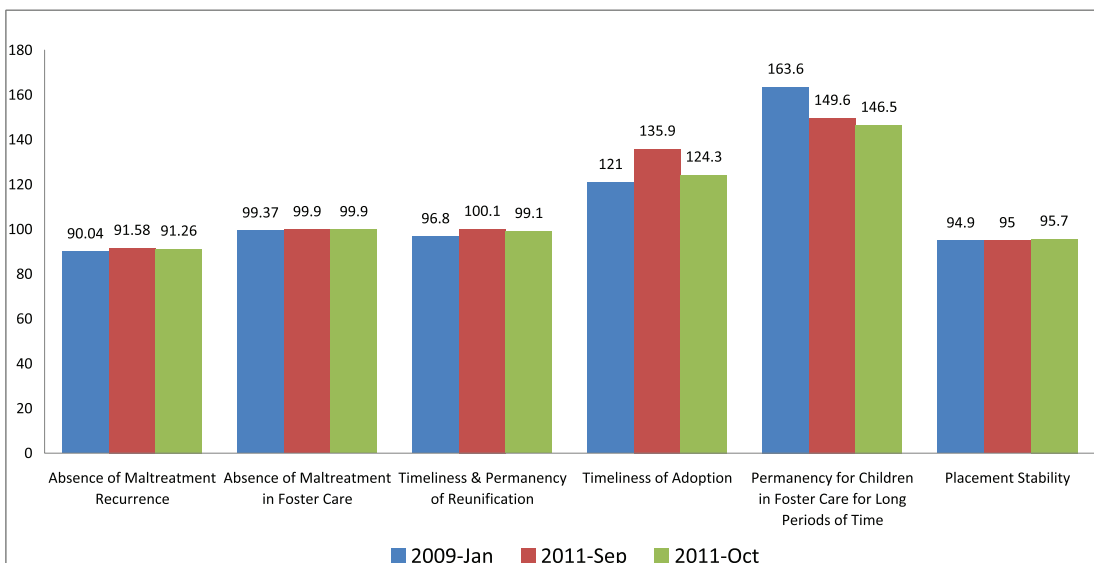


Figure 4. COMPASS - Statewide

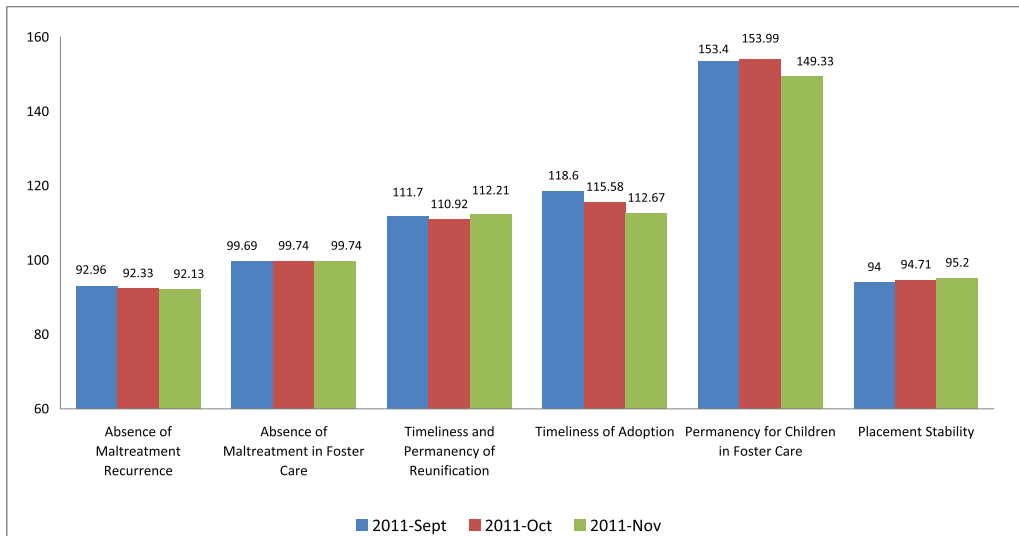


Figure 5. COMPASS - Eastern Service Area

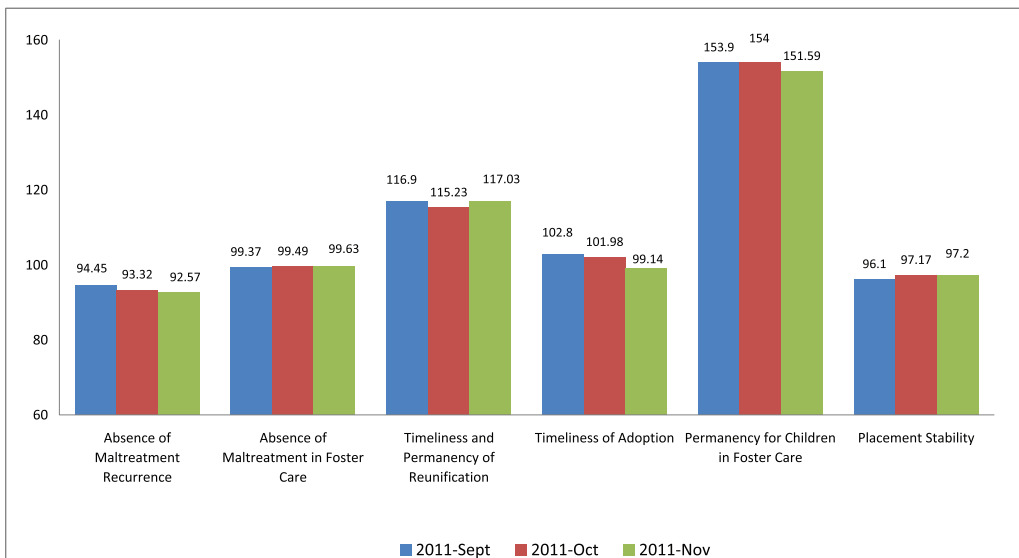
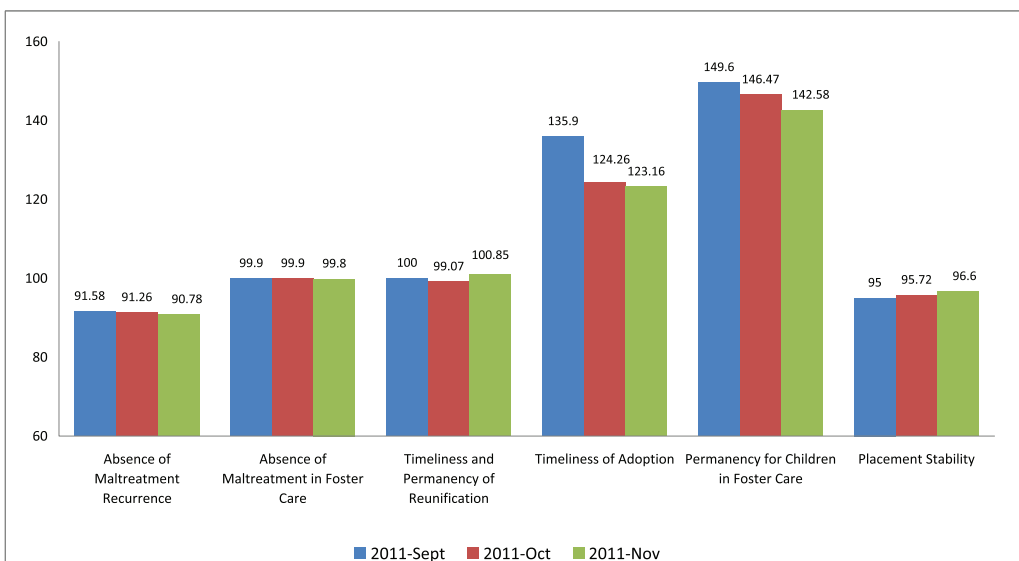


Figure 6. COMPASS - Southeast Service Area



The bottom line is that if the state and lead agencies both have room for improvement and score similarly on various performance indicators, and the state is doing worse in terms of case worker turnover and slightly worse than the lead agencies in terms of foster and biological parent satisfaction with the system, why is the number one recommendation to abandon the lead agencies and return all child welfare work back to the equally low performing system by January 2012? This does indeed feel like a step back for childwelfare reform in Nebraska.

When state care has a similar group of negative outcomes through DHHS, it seems suspect to call for the end of lead agencies and to return care to the state that is having the same or greater difficulty with managing services for foster children. The legislature should move to address the underlying systematic issues that are causing these difficulties rather than taking on a new restructuring role that will ultimately have to solve these same problems. DHHS and the two lead agencies should be brought into the committee process as collaborative partners in improving the child welfare system.

III.Follow Other States and Mend Privatization Efforts

Nebraska should follow the path of other states with difficult privatization implementation issues and fix the underlying systematic issues. The one unintended and painful benefit of privatization in Nebraska is that it has spurred the legislature to take comprehensive actions to fix child welfare services in a way that years of poor performance by the state agency did not. Privatization brings all the ongoing structural issues to the forefront of the discussion. Kansas and Florida, the two states with statewide implementation of privatized case management, had privatization difficulties similar to Nebraska. However, they did not turn back case management function to the state child welfare agency. Instead they persevered to develop a higher-quality child welfare system. Therefore, the case studies and outcomes from Kansas and Florida offer a comprehensive look at how child welfare reform has the potential to improve outcomes for children in the childwelfare system.⁸

A. Kansas

Kansas in 1996 became the first state to privatize its child welfare system. The Kansas privatization effort was implemented very rapidly like Nebraska, which resulted in confusion around roles and responsibilities, and a shortage of services during the initial transition. In addition, since there was a lack of baseline data about the cost of serving each child in care, the state and the contractors severely underestimated that cost in the first round of child welfare cost management. As a result some agencies declared bankruptcy or went out of business. Therefore, while Kansas initially had a rocky start to their child welfare privatization initiative, today they have better data, cost-information, and more accountability than most child welfare systems in the nation.⁹

The Casey Foundation report found several benefits to the privatization effort:¹⁰

1. **Increased data collection and accountability** - Kansas now collects data on safety and permanency, as well as other indicators of good practice, including family connections, educational needs, and timeliness of permanency hearings. They also have increased the level of accountability for providers through the use of performance-based measurements in their contracts.
2. **Focus on permanency** - The emphasis is now around achieving permanency and keeping children with their families when possible. When that is not possible, the focus is on placing children in the most family-like placements close to their birth families, rather than in residential treatment

centers or other restrictive placements. As a result, there are now more children exiting the system into permanency.

3. **Better Outcomes** - Kansas has seen the number of children in residential placement decrease from 1,064 to 421 since 1997 and the number of adoptions has more than doubled in the same time period. In addition, the average length of stay in care has decreased from 23 months to 16 months (See Table1.)

Table 1: Kansas Child Welfare Privatization Outcome Trends (1997-2009)

Indicator	1997	1999	2003	2006	2009
The number of children entering care	N/A	3,342	2,642	3,048	3040
Number of children in residential placement	1,064	606	535	421	421
Percentage of children in residential placement	17%	N/A	12%	9%	8%
Number of adoptions	352	418	486	501	812
Average length of stay (in months)	N/A	23	26	19	16

Source: Kansas Department of Social and Rehabilitation Services, Child and Family Services. (12/19/09)

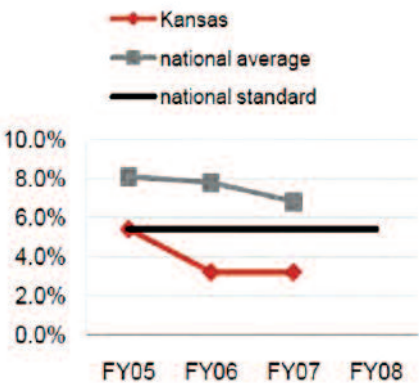
The Kansas child protection system has been strengthened since the privatization initiative was implemented. Since 2003, Kansas has met national safety standards for assuring children are safe from recurrent abuse (94.6 percent of children are rated safe from recurrent abuse).¹¹

For the last ten years the state of Kansas has met the national benchmark for safety in foster care placement with 99.68 percent of children safe from maltreatment while in foster care.¹²

In addition in FY 2010, 98 percent of new Child in Need of Care (CINC) reports which are initiated when children first have contact with the Kansas child-welfare system are reviewed timely by a social worker (within one half work day) to determine if further action is needed by the agency.¹³

In addition, while the lower number of children in out-of-home care shows that the community-based programs are helping troubled families to keep custody of their children, the cases of repeat maltreatment have not increased while Kansas is leaving more children in their own homes. In fact, Figure 7 shows that the rate of repeat maltreatment in Kansas has fallen below both the national standard and the national average.¹⁴

Figure 7. Percent of Kansas Children Experiencing Repeat Maltreatment (within six months)



Source: An Analysis of the Kansas and Florida Privatization Initiatives, Casey Family Programs, April 2010.

The federal government's national benchmark for child welfare outcomes, the Children and Family Services Review (CFSR) 2010, finds that with 36 states completing Round 2 of CFSR:¹⁵

- Kansas ranks in the Top 5 performers for 4 of 7 national CFSR outcomes.
- Kansas ranks first in preserving family connections and in enhancing families' capacity to meet their needs.
- Kansas is in the Top 10 nationally for six of seven outcomes and ranks 11th in the seventh.

Finally, Kansas is the only state that has been able to terminate a lawsuit filed by the Children's Rights Project (CRP) of the American Civil Liberties Union (ACLU) that had 153 improvement requirements for Kansas' child welfare program to adhere to within certain deadline. In 2002 Kansas and the CRP agreed to end the 1993 settlement agreement as successfully completed. There has never been another state that has achieved a mutually satisfactory conclusion to a CRP lawsuit.¹⁶

B. Florida

As recently as five years ago, Florida's child welfare system was criticized for being one of the worst in the nation. Florida lost up to 500 children who disappeared from the state's foster care system, with state officials unable to account for their whereabouts. Today, Florida has some of the best child welfare outcomes in the nation for reducing out-of-home care, adoptions, and safety in and out of the foster care system.

In 1996 a state statute mandate directed the Florida Department of Children and Families (DCF) to privatize foster care and child welfare services statewide by 2003.¹⁷ The lead agencies would manage foster care and child welfare case management while DCF or the county sheriff's office would continue to handle child protection investigations. The original legislation called for DCF to establish five pilot programs to privatize case management functions in five regions. The pilot projects were given significant freedom and autonomy in deciding the scope and focus of their work. The state also required an external evaluation of each pilot program. The evaluations found that four of the five initial pilots were not successful. The fifth program was successful, however, and considered to be the model for replication.

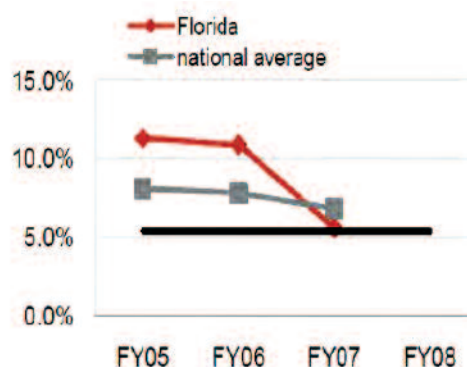
Based on the one successful pilot, the state of Florida decided to move forward with the statewide privatization of child welfare. The privatization implementation took five years, with one region at a time privatized. By March 2005, the statewide transition to privatization was complete. The final governance structure had 20 lead agencies providing child-welfare services in specific geographic areas in the state's 67 counties, managing 500 sub-contractors, and providing service to approximately 20,000 children.. In addition, in 2006 Florida was the only state to take advantage of a Title IV-E foster care waiver first offered by the Bush administration.¹⁸ Federal child welfare funding is usually determined by how many children are in state care. The funding structure gives states a financial incentive to keep children in foster care. Florida asked to receive a flat funding fee like a block grant that it could spend on front-end services such as counseling and other interventions instead of just foster care. Florida assumed the financial risk because if the foster care population increased, the state would not receive any more federal funding. Despite the risk, in Florida the waiver led to a reduction in the foster care population. Therefore, Florida saved millions of dollars in foster care costs and re-invested that money in front-end services that continue to keep more children with their own families.

The April 2010 Casey Family Foundation report, "An Analysis of the Kansas and Florida Privatization Initiatives," found "the most consistent message echoed among the Florida lead agency directors was that the first few years of

the Florida transition to privatization was extremely challenging, with some informants stating that it was the most trying period of their career."¹⁹ However, the lead agencies stated that, "once the transition issues were addressed, the system as a whole stabilized and both quality of services and outcomes for children and families improved."²⁰ In fact, all of those interviewed in the Casey report acknowledged that even with the challenges in the early years, "the child welfare system has dramatically improved since the transition to privatization."²¹

Since 2003 the number of children in out-of-home care in Florida has decreased significantly. By 2009 the number of foster care entries had declined approximately 38 percent. Some Florida counties have reduced their foster care populations by 50 to 60 percent since the waiver was implemented.²² Florida's lead agencies have developed a new paradigm of child protection based on strengthening in-home services to children and families.²³ As Florida's foster care entries have decreased they have also seen a reduction in repeat maltreatment and Florida's rate of recurrent maltreatment is now consistent with the national average.²⁴ Repeat maltreatment is an indicator of safety. During a time when the number of children in care declined, the percent of children experiencing repeat maltreatment also decreased and fell below the national average (see Figure 8.). According to this measure, safety was not compromised to achieve the reduction of kids in foster care.²⁵

Figure 8. Percent of Florida Children Experiencing Repeat Maltreatment (within 6 months)



Source: *An Analysis of the Kansas and Florida Privatization Initiatives*, Casey Family Programs, April 2010

In the 2010 Casey report there was consensus among child-welfare stakeholders interviewed in the report that the Federal IV-E Waiver has been one of the most crucial components of the success of privatization.²⁶ The waiver allows federal foster care funds to be used for any child welfare purpose rather than being restricted to out-of-home care.²⁷ As the Florida lead agencies discovered, "the money follows the child and not the foster care placement."²⁸ In addition to the waiver, Florida participants also identified a culture shift in Florida towards family-centered practice as being critical to the improvements in foster-care outcomes. The participants acknowledge that "the three-fold combination of family-centered practice, flexible funding through the waiver, and the innovative practices through privatization as the driver behind Florida's reduction of children in out-of-home care."²⁹

The privatization of Florida's foster-care system has allowed local communities to design and manage their own unique systems of care. Miami is the case in point. The Miami child welfare privatization has had positive outcomes for children in the system and created a positive technological solution for tracking children in foster care that could transform child welfare practice in the rest of the nation.

Miami's child welfare system has a public-private partnership between Our Kids and the state Department of Children & Families (DCF). Our Kids began providing services in mid-2005, and Miami's foster-care system has since been transformed into one of the state's best performers. This turnaround can be evidenced by reviewing any metric: Number of adoptions, time to adopt, reduction in the number of children in foster care and other measures of safety, well being and permanency.

One innovation that has grown out of the Miami privatization effort is that Florida is now known for the most modern and accurate child-tracking system in the nation. In 2007, through a partnership with AT&T, the Miami partnership launched OK Connect, a project that puts readily available technology and business solutions—such as digitally imaged case files, rugged laptops, Internet connectivity, smart phones equipped with cameras and GPS—into the hands of 270 case workers and staff that work directly with children and families.³⁰

Every time a child is visited in his or her home, the case worker uses the smart phone to take the child's photo and, through GPS, records their location. Compliance with mandatory 30-day home visits has grown to almost 100 percent in Miami since the project began.

Case managers say that the new tools have made them feel like they could get their job done for the first time.

In 2010, the Department of Children and Families (DCF) procured and distributed smart phones and laptops equipped with built-in cameras and a software program called Remote Data Capture, that allows the state's caseworkers to take digital images—stamped with the date, time and GPS-marked location—and immediately upload the information to the state's child welfare data system.³¹

In Florida caseworkers can upload information from their site visit directly into the DCF database from the field. The GPS-stamped photos taken on site adds an additional layer of integrity and documents that every child is visited and provides a photographic record of their physical condition at the time of the visit.³²

Finally, in addition to reducing children taken from home in the first place, Florida also has the best numbers in the nation for completed adoptions. In Florida more than 12,000 Florida children in foster care have been adopted since 2007, including 3,368 children adopted in 2010.³³

In 2010, Florida was granted a \$9.7 million federal bonus for outperforming other states in the number of adoptions of children from foster care. Florida set adoption records in fiscal year 2007-08 with 3,674, and in fiscal year 2008-09, with 3,777.³⁴

"Our bottom line in Florida is that no child should grow up in foster care," said Florida Department of Children and Families Secretary George Sheldon in a press release about the adoption award.³⁵ "We have not yet fully achieved that goal, but we are making extraordinary progress through increased adoptions, safe reduction of the number of children in foster care, and more family reunifications and permanent guardianships with relatives."³⁶

IV. Importance of Rightsizing ChildWelfare Finance in Nebraska

The Nebraska legislature should not underestimate the importance of reworking the financial structure of child welfare in Nebraska to support the goals of spending resources on in-home solutions rather than foster care. In order to optimize child welfare, Nebraska must right-size child welfare financing. Flexible childwelfare funding, where the money follows the needs of

the child rather than the service provider, has allowed states to innovate and is a key component in the successful implementation of privatization and childwelfare reform. In September 2011 Congress passed and President Obama signed into law the Child and Family Services Improvement and Innovation Act.³⁷ This new childwelfare law creates a foster care financing framework that more readily supports childwelfare reform and privatization efforts. Passage of this law means that states will be better able to invest in front-end services. States can also improve child safety and family stability and focus on moving children from foster care into safe permanent homes.³⁸

Since 1994, the Department of Health and Human Services has granted waivers to states to widen the options available under the Title IV-E funds, which without the waiver exclusively funds foster-care placements.³⁹ However, that waiver authority was limited to a few states and expired in 2006. The new law renews child welfare waivers and allows more states to apply and find innovative ways to serve children at risk of abuse and neglect.⁴⁰ The Department of Health and Human Services can now grant up to 10 new state waivers per year through fiscal year 2014. These renewable waivers last for five years and allow states flexibility in the use of federal dollars. In addition, the law requires a new set of uniform child welfare data standards that should help drive further improvement to the foster care system.⁴¹

Existing waivers in Ohio, Illinois, and Florida have helped prevent child abuse and neglect, helped more children remain safely in their own homes, and improved the quality of services to vulnerable children and families.⁴² These waivers have led to better outcomes for children using the same resources. For example, a 2011 report by the National Coalition for Child Protection, "Child Welfare Waivers: The Stakes for Your State," estimates that in Nebraska approximately \$1.2 million is spent on prevention and family preservation through Title IV-B grants. However, with a Title IV-E waiver more than \$18.9 million in funds would be freed up to be spent on prevention and family preservation (as well as foster care) in 2012.⁴³

These waivers and the new law that expands their use are critical because they correct the perverse incentive in child welfare funding. The federal government spends more than \$15 billion each year to support states' child welfare programs, representing almost half the funds that states expend on child welfare. Title IV-E, which is the largest source of federal child-welfare funding, pays for maintaining eligible children in licensed foster care, rather than "providing services for families before, during, and after contact with the child welfare system."⁴⁴

Title IV-E does not provide states with consistent funding to support programs other than foster care, so the federal government pays a large part of the cost for every eligible child placed in that system.⁴⁵ It's an open-ended entitlement, and it creates an illogical incentive. While alternatives to foster care cost less in total dollars, foster care often can cost a state or a county less because the federal government is funding the foster care placement.⁴⁶ In the majority of states without a waiver, this money can be used only for foster care. As Richard Wexler, founder of the National Coalition for Child Protection Reform explains, "While this does not mean states 'make money on foster care,' it can create a perverse incentive to resort to foster care even when better options cost less in total dollars."⁴⁷ The bottom line is that the majority of federal financing only supports child removal.

Texas provides a clear example of how the perverse incentives work.⁴⁸ Ninety percent of Texas funding goes to foster care and other out-of-home care. However, in 2008 Texas created a pilot project called Strengthening Families that provided cash assistance for groceries, car repair, rent and other in-home services to solve family issues. This program led to a thirty percent drop in the rate of removal and the 248 children who were able to remain in their homes saved Texas \$8.2 million.⁴⁹ Yet, the program was eliminated because federal and state child welfare dollars could not be used for front-end services and the Texas

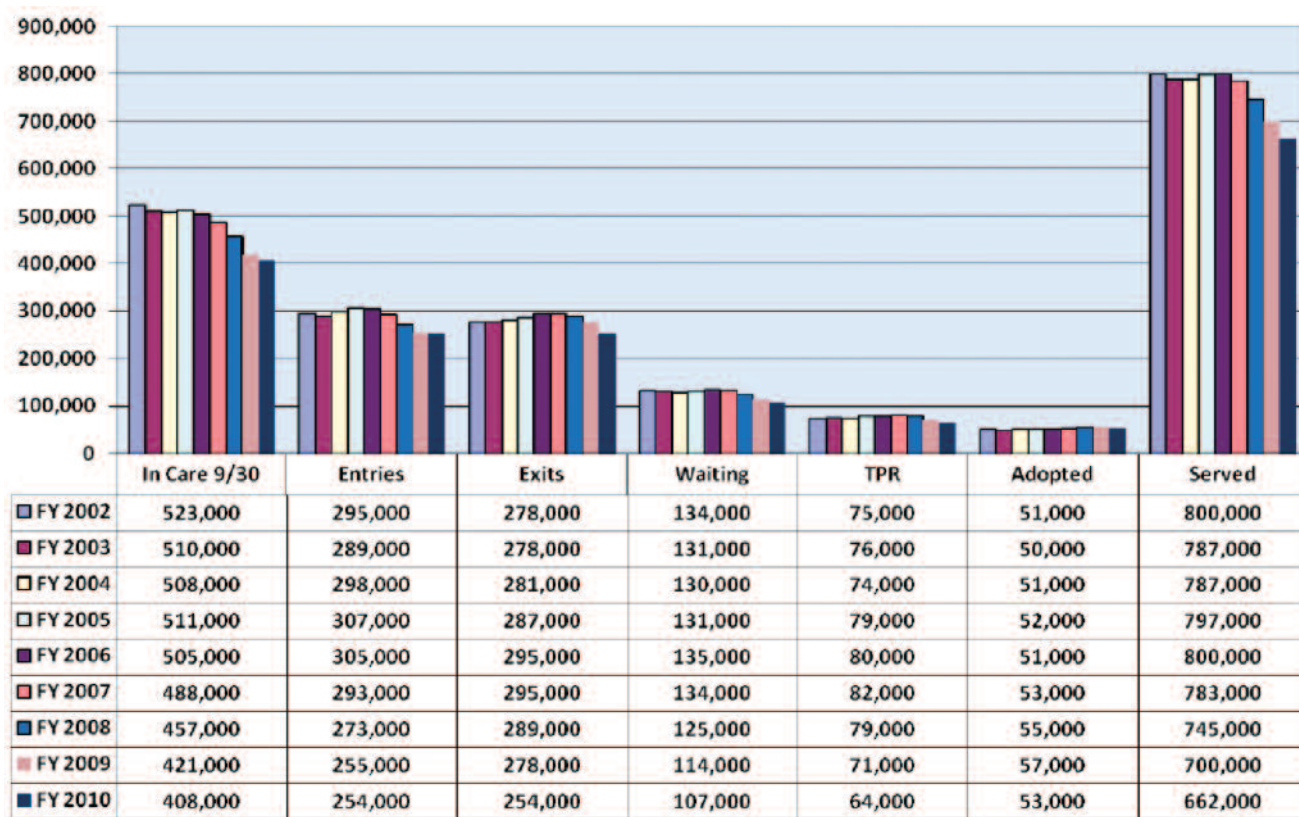
budget constraints meant there was no funding available for the program.

Despite these perverse incentives, in the past decade there has been significant progress in child welfare reform as evidenced by an impressive national decline in the number of children in foster care while maintaining child safety. The number of U.S. children in foster care dropped from 523,000 in 2002 to 408,000 in 2010, according to the federal Department of Health and Human Services. The number of children in the foster care system has declined by more than 130,000 children over the last ten years and by more than 40,000 over the last two years alone. Much of the reduction in the number of foster children in the system has been in states that no longer have the perverse incentive to keep kids in foster care. According to March 2011, testimony in a federal finance committee for Health and Human Services, four of the five states that have most reduced the number of children removed from their homes did so with waivers to experiment with federal funds and the waiver-using states of California, New York, Florida, Ohio and Illinois all reduced the number of children placed out of the home by more than 30 percent between 2002 and 2010.⁵⁰

During this large reduction in children being removed from their families, child abuse did not increase. In fact, the latest child maltreatment report released in 2011 that analyzes data through 2009 does not show an increase in substantiated maltreatment.⁵¹ Overall substantiated child maltreatment actually declined two percent from 2008, including a five percent decline in sexual abuse.⁵² The total number of substantiated maltreatment cases was 763,000, which is the lowest number recorded since the federal data collection system was put in place in 1990.⁵³ The majority of states experienced declines in abuse. Thirty-two saw a drop in sexual abuse cases, 21 had physical abuse declines, and 29 states reported fewer neglect cases. There were 15 states where all three types of maltreatment declined.⁵⁴ Between 2008 and 2009 Nebraska saw a two percent decline in substantiated sexual abuse cases, but an eight percent increase in physical abuse and an 18 percent increase in neglect cases.⁵⁵

In addition, the Fourth National Incidence Study of Child Abuse and Neglect (NIS-4) released in 2011 found that the 2005-2006 study year reflects a 19 percent decrease in the total number of maltreated children since the NIS-3 in 1993.⁵⁶ Taking into account the increase in the number of children in the

Figure 9. Trend in Foster Care and Adoption — FY 2002-FY 2010



(Based on data submitted by states as of June 2011)

Source: AFCARS data, U.S. Children's Bureau, Administration for Children, Youth and Families

United States over the interval, this change is equivalent to a 26 percent decline in the rate of maltreatment per 1,000 children in the population since 1993.⁵⁷

The reduction in foster care is a positive outcome for kids because the evidence shows negative outcomes from placement in foster care. Evidence from a majority of cases showed that having children stay in their own home was a better alternative even when circumstances were less than desirable. Foster children fare far worse on key outcomes compared with comparably maltreated children left in their own homes. For example, according to a study by Joseph Doyle, an economics professor at MIT's Sloan School of Management, kids who stayed with their families were less likely to become juvenile delinquents or teen mothers and more likely to hold jobs as young adults. "The size of the effects surprised me, because all the children come from tough families," Doyle says.⁵⁸ Doyle's research, which tracked at least 15,000 children from 1990 to 2002, is the largest study to look at the effects of foster care.⁵⁹

Examples of Waiver Outcomes in the States

Florida is the case in point for the combination of privatization and flexible child welfare funding. In 2006, Florida became the only state to accept, statewide, a five-year waiver from federal funding restrictions on how the state spent its portion of federal foster care aid under Title IV-E (well over \$100 million a year).⁶⁰ As Florida reduces foster care, it can keep the savings, as long as the money is reinvested back into child welfare front-end services. In Florida, the Department of Children and Families put the waiver to good use; independent evaluations have demonstrated that as foster care has been sharply reduced, child safety has also improved.⁶¹ A 2010 evaluation found that in Florida, "fewer children are being placed in out-of-home care, more foster children are being reunited with their families, community-based services have expanded and agencies are instituting more innovative approaches for at-risk families."⁶²

The implementation of Florida's IV-E waiver began in October 2006 in conjunction with Florida's implementation of a privatized child welfare system in which 20 lead agencies manage service delivery in Florida's 67 counties.⁶³ These lead agencies have funded a wide array of prevention and early intervention services. As the Casey Family Programs reports, most lead agencies have expanded alternatives to foster care services, including intensive in-home services that use a family team approach and support families through a variety of educational and specific services to improve parenting and homemaker skills.⁶⁴ Florida's lead agencies have also made major new investments in family team meetings, improved efforts to find more relatives for every child and train specialized staff around permanency as the number one outcome goal.⁶⁵

Florida's foster care population declined from 29,000 children in FY 2006 to 18,534 children in care in February 2010, a reduction of more than one-third in less than four years.⁶⁶ Some Florida counties have reduced their foster care populations by 50 to 60 percent since the waiver was implemented and have accomplished this while children are safer and have a lower rate of repeat maltreatment.⁶⁷

For example, in Florida, programs like Youth Villages worked with local privatized child welfare organizations to provide intensive reunification and targeted prevention services. Youth Villages report that of 225 children and families served across the states in 2010, over 77 percent were still living at home or in a home-like environment at six months post discharge.⁶⁸ The savings to the state of Florida associated with serving these families in their homes rather than foster care is approximately \$19 million dollars that can be reinvested in front-end family services that prevent foster care.⁶⁹

Illinois is another state that has had positive outcomes from privatization under a foster-care waiver. Illinois contracts 80 percent of its child welfare services

with private providers. The state child welfare department and its private sector partners have safely reduced the number of children in foster care from more than 52,000 in 1997 to less than 15,500 today through reunification with birth families, subsidized guardianship, kinship care and adoption.⁷⁰ This dramatic reduction in the numbers of children in state care has served as a national model in child welfare systems and has been accompanied by increased measures of child safety, resulting in a decline of physical and sexual abuse in Illinois.⁷¹

In Illinois, independent court-appointed monitors have found that, as the number of children taken away has declined, child safety has improved. Illinois is also a positive example of how financial incentives can be changed at the state level for private agencies to improve child welfare outcomes.⁷² Until the late 1990s, Illinois reimbursed private child welfare agencies the way other states usually do: They were paid for each day that a child was kept in foster care. Agencies were rewarded for letting children languish in foster care and punished for achieving permanency.⁷³ According to the National Coalition for Child Protection Reform, "private agencies in Illinois are rewarded both for adoptions (which often are conversions of kinship placements to subsidized guardianships) and for returning children safely to their own homes. They are penalized for prolonged stays in foster care. The foster care population plummeted, and children are safer. Today, Illinois takes away children at one of the lowest rates in the country."⁷⁴

Ohio has also seen a significant reduction in foster care loads because of the foster care waiver. In Ohio, 18 counties are permitted under the waiver to use federal foster-care money to help families using other services, such as counseling, substance-abuse treatment and parenting classes. At the end of 2009, the state's foster care population stood at 12,360 — a 29 percent decrease since 2005. In the second year of the waiver, \$4 million in savings were reinvested in system improvements.⁷⁵

V. Conclusion: Focus on Action-Oriented Improvements to Child Welfare Rather than Restructuring State Agencies

When you look closely through the December 15 report the evidence does not justify returning all child welfare case management back to state provision. In fact, state provision of services is also suffering from similar negative outcomes for children. Rather than institute yet another reorganization plan, the legislature should give DHHS an opportunity to present and implement their operational plan and to respond to how they would approach rectifying each of the recommendations identified by the Health and Human Services Committee that has an action item associated with it and does not specifically call for dismantling DHHS or the lead agencies. Then the legislature should move ahead with a child welfare reform committee that includes all three branches of government and the various stakeholders including DHHS and the lead contractors to work on child welfare reform together in a collaborative fashion. This would not change the legislature's oversight role or involvement but would make the existing infrastructure within DHHS and the lead agencies the starting point.

Given that Nebraska has already made a huge financial investment in these lead agencies and that these agencies along with DHHS have been working together to develop an operational plan to resolve many of the issues in the Health and Human Services Committee's December 15 report, they should be invited in to participate in a collaborative effort to rectify all the specific issues identified in the report. Any progress to resolve any of the child welfare issues should be the starting point of reform discussions moving forward. The legislature should

focus on those actionable recommendations that would most likely stabilize the system and lead to better institutional outcomes for kids regardless if services are being managed by lead agencies or the state. For example, recommendations to reform caseworker caseloads and conditions, set minimum foster care payment structure, redesign data collection to make it more comprehensive and user-friendly, set benchmarks and performance goals, implement performance based budgeting and contracting, strengthen fiscal oversight, etc., can all be done immediately within the current structure of DHHS and with the guidance of the Health and Human Services Committee in collaboration with DHHS and the lead agencies.

It is counterproductive for this investment in culture change by the state, DHHS, and the lead agencies to be abandoned. Instead of focusing on yet another governance or structural change, the legislature should focus on the inherent barriers that make both the state and the private contractors unsuccessful at meeting the bottom line goal of rightsizing child welfare in Nebraska and bringing it more in line with national norms. Even if the state moves forward with a governance change, they would still be forced to deal with these same structural issues. Starting down a different path now will assure continued transition and chaos and an even greater investment of resources with no assurance of equal or better outcomes. Therefore the legislature should focus their efforts on enabling the recommendations that are most connected to outcomes for children, including immediately seeking a federal waiver so they can have more flexibility and finance some of these changes with flexible funding from the federal government. In addition, since a federal waiver is not a silver bullet, the Nebraska legislature should examine how Nebraska state financing of child welfare can also be realigned toward the goal of front-end

services like prevention, early intervention, and in-home services because these services are more cost effective and reduce the trauma of out-of-home care for children which should be a last resort.

Despite the difficulties of child welfare reform the data on safety, permanency and well-being suggest that children are being served by lead agencies as well or slightly better than by the state. Further, the data from the Foster Care Review Board shows that since child welfare reform began the state actually has made a small amount of progress system wide in the number of placements that kids have while in foster care and the number of children who reenter foster care. In addition, there have been other modest positive outcomes from child welfare reform. Thousands more children are safely receiving services in their own home. The state has consistently exceeded the national standard for absence of abuse of children by foster parents. In addition, the number of children in state custody declined from a record high of 7,803 in April 2006 to 6,250 on December 31, 2010. There have also been proportionally more kinship placements since privatization began in 2009, increasing by nine percent since 2006 and six percent since 2009. This means that children that are removed from their homes are now more likely to be placed with family or friends rather than strangers. The lower number of kids in foster care and the other modest positive developments does in fact indicate that the state is moving in a positive direction on these important indicators.

The Health and Human Services Committee and the legislature need to narrow their focus and ask what are the barriers that prevent success for the state and the lead agencies, and this is where the legislative efforts should be directed in 2012.

About the Author

Lisa Snell directs the Education and Child Welfare Program at Reason Foundation, where she oversees research on child welfare and education issues.

Ms. Snell, who has testified before the California State Legislature and numerous government agencies, has authored policy studies on school finance, charter schools, and child advocacy centers. Her child welfare studies include *Child Advocacy Centers: One Stop on the Road to Performance-based Child Protection* and *Child-Welfare Reform and the Role of Privatization*.



Ms. Snell is also an advisory board member for the Children Bureau's National Quality Improvement Center on the Privatization of Child Welfare Services.

Ms. Snell is a frequent contributor to *Reason* magazine. Her commentary has also appeared in the *New York Times*, *Los Angeles Times*, *Wall Street Journal*, *USA Today*, *San Francisco Chronicle*, the *Orange County Register*, *Los Angeles Daily News*, the *Newark Star-Ledger*, and numerous other publications.

Ms. Snell is also the President of the Board of the California Virtual Academy in Los Angeles, which is a K12 virtual charter school.

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