
Discussion and Recommendations

CHAPTER 6

The state's role in out-of-home placement has been very limited.

Historically, the state's role in child placement has been very limited. State laws provide broad guidance about when placement may be appropriate, leaving these decisions largely to the discretion of courts and counties. State funding pays for some out-of-home placement and family preservation costs, but counties have provided much larger amounts of funding. State agencies license the facilities in which children are placed, but it is up to the courts and counties to select the facilities that best address the needs of children.

In this chapter, we offer recommendations about what the Legislature and state agencies should do to improve services for some of Minnesota's most troubled children, while preserving the important roles played by the courts and county agencies. Most of our recommendations relate to existing state and county responsibilities, and we hope that most could be accomplished with existing resources--perhaps reallocated from less pressing activities. In one case (development of better information on placement outcomes), we have asked state agency staff to estimate the cost of information collection before the Legislature mandates the agencies to prepare statewide reports.

STATE FUNDING ASSISTANCE

County officials have expressed concerns to legislators about the burden of out-of-home placement expenditures on local property taxes. As we discussed in Chapter 3, local revenues pay for the majority of placement costs, and Minnesota state government directly funds a smaller proportion of child welfare costs than most states.

The Legislature has made some recent efforts to help local governments pay for out-of-home placement costs, aside from state block grants for community corrections and social services. In 1994, the Legislature created a category of local government aid called "family preservation aid." The Legislature appropriated \$1.5 million for the first year and declared that the purpose of the aid "is to reduce the rate of increase in the costs of out-of-home placement of children and concomitant increases in county property taxes."¹ The 1998 Legislature authorized an additional \$30 million in family preservation aid in 2000.²

¹ *Minn. Laws* (1994), ch. 587, art. 3, sec. 13.

² *Minn. Laws* (1998), ch. 389, art. 4, sec. 8 and art. 2, sec. 20.

Department of Revenue staff told us that the main intent of the aid was to provide property tax relief, rather than funding new services. By law, aid has been allocated to counties based on their number of children in out-of-home placement and their income maintenance caseloads. The Legislature required the commissioners of Revenue and Human Services to recommend a new formula for distributing aid, starting with aids payable in 2000.

In 1997, the Legislature appropriated \$4.0 million for juvenile residential treatment grants to counties for the first six months of 1999.³ These grants were largely intended to offset higher costs that counties could incur if they place juvenile offenders at the state-operated Red Wing and Sauk Centre facilities. Starting in 1999, the Legislature required counties to pay the full per diem costs for placements at these two facilities (excluding education costs); previously, counties that did not participate in the CCA were not charged for these placements. Counties may use the new grants to pay for placements at Red Wing and Sauk Centre, but they can also use the grants to pay for other placements.

We offer no recommendations regarding the proper level of state funding for out-of-home placement or child welfare services. More state funding might be justified by inadequacies in some residential and non-residential services (Chapter 5) or by Minnesota's relatively low state financial contribution to these services compared with other states (Chapter 3). Also, state assistance could be justified by the fact that counties do not have the ability to fully control placement spending. Many placement decisions are made by the courts, and the number of children in placement in counties is positively related to broad measures of social well-being, such as poverty levels. Finally, some relatively poor counties have large numbers of children in placement but limited local funding to pay for them. On the other hand, counties have considerable discretion about which children to recommend for placement, so a significant local role in placement funding may encourage better decisions and closer ongoing scrutiny. Also, some analysts have suggested that Minnesota has not made maximum use of non-state revenue sources for out-of-home placement, such as federal funding and parental fees.⁴

Allocating funds based on the number of children in placement could reward counties that have relied too heavily on out-of-home placement.

There are a variety of ways that the Legislature could allocate state funding for children in placement or at risk of placement, and we did not conduct an in-depth analysis of alternative measures of county need and fiscal capacity. However, we think that a funding approach that is tied too closely to out-of-home placement could create incentives for placement or penalize counties that have invested in placement alternatives. In addition, we have concerns about the accuracy of the Department of Human Services' historical data on the number of children in placement in individual counties. Thus, we recommend:

³ *Minn. Laws* (1997), ch. 239, art. 1, sec. 12, subd. 4.

⁴ For example, F.C. Valentine and Associates, *Children's Initiative Project* (draft), Nov. 9, 1998; Minnesota Department of Human Services, *Report to the Minnesota Legislature on a Uniform Relative Contribution Schedule to Reimburse Costs Associated with Out-of-Home Placement* (St. Paul, December 1997).

- **The Legislature should not allocate funds to counties based solely or largely on their historical number of out-of-home placements (or levels of placement spending).⁵**

Likewise, as a general rule, we think that the Legislature should not restrict the use of funds to reimbursement of out-of-home placement costs. Counties expressed a strong desire in our surveys for improved non-residential services, and most told us that non-residential services are a higher spending priority than residential services (Chapter 5). In our view, counties should have the flexibility to use funds to pay for whatever residential or non-residential services will best serve the needs of children and families.

Although we think that counties should have “flexible funds,” this does not mean that counties should have less accountability for results. Later, we offer suggestions for better ways to monitor placement outcomes.

FACILITY MORATORIUM

The recent licensure of two large, privately-operated correctional facilities in Minnesota led the Legislature to pass a temporary moratorium on further licensure or expansion of juvenile residential facilities that would add 25 or more beds. Legislators were concerned that communities in pursuit of new jobs and local revenues have used public subsidies to entice facilities. Legislators also questioned whether new facilities would: (1) add too many beds to the juvenile service system, (2) duplicate existing services, rather than addressing unmet service needs, or (3) “warehouse” juveniles in large, impersonal settings.

Although the state may not need more residential facilities, a moratorium might inhibit improvements in service quality and cost.

Our study indicates that Minnesota counties would, for the most part, prefer to expand non-residential programs before expanding residential services, and we did not find evidence of a need for significant numbers of new beds statewide in residential facilities (except, perhaps, in foster care). Partly as a result of these findings, Department of Corrections officials told us they would favor an extension of the moratorium, or at least an approach that would ensure that proposed new facilities demonstrate that they are “needed” before receiving a license. In addition, DOC expressed concern that allowing additional beds might encourage courts and counties to make residential placements, rather than seeking less restrictive alternatives. Also, DOC officials said that a moratorium would help to protect the investments made by facility operators.

For several reasons, however, we think that an extension of the moratorium could unfairly constrain placement options for counties (which pay for most placement costs) and courts (which are responsible for making case dispositions that serve the child and protect public safety). First, counties and courts expressed to us some concerns about the quality and cost of residential services now available in Minnesota facilities, and we think that it is important for them to have a variety of

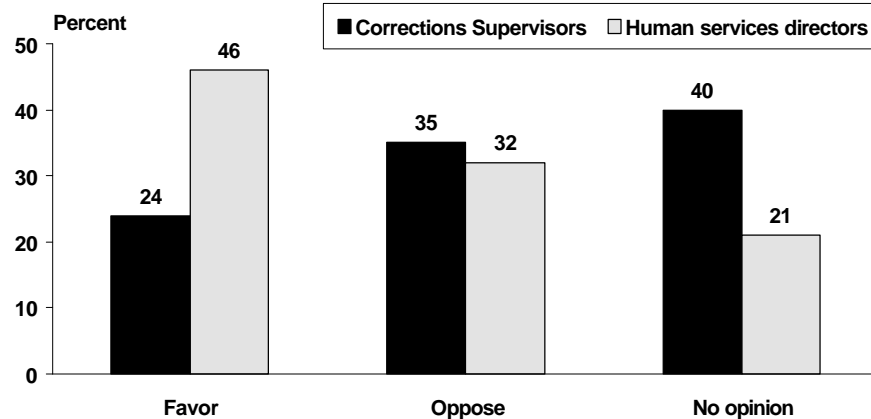
⁵ If the Legislature wants to use historical county spending levels as a measure of service need in a funding formula, we think that it should use a measure of **aggregate** spending for both residential and non-residential services.

A moratorium could constrain the choices of local agencies that pay for most placement costs.

placement options. A moratorium might protect existing facilities from new competition and make them less responsive to the needs of counties and courts. We think that counties and courts are in the best position to judge whether to place their children in new or long-standing facilities, or in large or small facilities--so long as the facilities meet basic licensing requirements that help to ensure quality service. In addition, there are categories of juveniles--such as juvenile offenders with low intelligence--who are not adequately served by existing facilities, sometimes resulting in out-of-state placements.

Second, the moratorium was adopted in 1998 largely in response to concerns about additions of correctional beds, but our survey of county corrections officials indicated that more would oppose rather than favor an extension of the moratorium, as shown in Figure 6.1. Human services directors tended to favor an extension of the moratorium, but DHS has not received a proposal for a facility large enough to be subject to the moratorium for more than 25 years.

Figure 6.1: County Officials' Opinions About Whether to Extend the Moratorium on Facility Licensure



SOURCE: Program Evaluation Division survey of county corrections supervisors (N=82) and human services directors (N=84), August 1998.

Third, while some people believe that counties and courts will fill to capacity whatever number of beds Minnesota licenses, this is not currently the case. There are many vacant beds in juvenile residential facilities, and counties have increasingly looked for alternatives to expensive, long-term residential placements. In contrast to some other types of facilities that have been subject to a statewide bed limit, such as nursing homes, most of the costs of juvenile out-of-home placement are borne by the counties involved in the placement decisions.

Overall, we do not think that Minnesota has a significant shortage of residential beds for juveniles, but we think that a moratorium could limit the responsiveness of service providers to juveniles' needs. We recommend:

- **The Legislature should not extend the moratorium on large, new residential facilities (or facility expansions), which is scheduled to expire in mid-1999.**

An alternative to a moratorium might be a facility “need certification” process, which would allow new facilities to be licensed if they could demonstrate a need for their services. Presently, there is such a process in Minnesota for facilities serving chemically dependent and developmentally disabled persons.⁶ In both cases, the Commissioner of Human Services must determine whether there is a need for the program prior to licensure, based on a recommendation of the board from the county in which the facility would be located.⁷ But state rules governing this process have not clearly defined the concept of “need”—for example, whether the home county is supposed to determine only whether its needs are addressed by the facility (and not statewide needs), and whether facilities can be “needed” if they duplicate other facilities but offer lower costs or better service. In fact, we question whether it would be possible to develop a meaningful need certification process that would truly distinguish “needed” from “unneeded” facilities.⁸ While we are concerned that communities could promote the development of new facilities for reasons of economic development, we think that it would probably be best to let counties and courts determine which facilities are “needed” through their actual placements, rather than having state regulators try to evaluate the “need” for a facility before it has opened.

State agencies should continue their efforts to foster improved services.

With or without a moratorium (or need certification process), the departments of Corrections and Human Services should continue their efforts to encourage development of residential or non-residential services that respond to unmet service needs. For example, the Department of Corrections has revised the programs at its Red Wing facility and created a community-based prevention program at Camp Ripley, and it plans to add a mental health program at its Sauk Centre facility. The Department of Human Services has fostered the development of “wraparound services” in 22 mental health collaboratives throughout Minnesota. Although the service preferences of courts and counties may change over time, we think the departments deserve credit for such efforts to address service needs.

⁶ See *Minn. Rules* 9525.0036 and 9530.6800.

⁷ In addition, existing programs serving developmentally disabled persons must undergo the needs determination process every four years.

⁸ If the certificate of need process made the county responsible for submitting recommendations to a state commissioner, this might sometimes impede development of facilities that would serve a statewide need. For example, a county’s residents might object to the development of a non-secure facility specializing in juvenile sex offenders, even if counties throughout the state believe that there is a need for more residential beds for this population.

PLACEMENT DECISION MAKING, CASE MANAGEMENT, AND ACCOUNTABILITY

Many counties told us that interagency placement screening teams have helped them to make more consistent placement decisions, contain placement costs, and identify needed services for individual juveniles. State law prescribes who should be on these teams and how their recommendations should be used, but the law does not require that each county have such a team. Presently, about half of Minnesota's counties have juvenile screening teams consistent with *Minn. Stat.* §260.151, subd. 3. We recommend:

- **The Legislature should require all counties to establish multi-disciplinary juvenile screening teams.**

In counties where these teams exist, current law only requires the teams to evaluate cases involving juveniles being placed for treatment of chemical dependency, emotional disturbances, and developmental disabilities. The law does not require review of correctional placements, among others, which has been one of the fastest growing categories of placement spending in recent years. We think that counties should be required to have screening teams review all placements in treatment facilities and all court-ordered placements potentially exceeding 30 days--including post-dispositional placements in facilities licensed by the Commissioner of Corrections. In our view, an expanded role for juvenile screening teams will enhance accountability, while helping to ensure that juvenile service needs are identified.

In addition, we think that there is room for improvement in the assessment of juvenile offenders' risks of reoffending. Such assessments not only can help counties decide which children need the most intensive services (perhaps including placement), but they can help counties to identify specific services that address juveniles' individual needs. Also, studies have shown that classifying offenders using formal instruments is more accurate than approaches that rely on the intuition of corrections staff.⁹ Minnesota counties use a variety of approaches to assess offender risk and needs, but some counties do not formally assess risk or needs at all. We recommend:

- **The Legislature should require each county corrections or court services agency to adopt written policies for classifying the risks and service needs of juvenile offenders.**

This requirement would be similar to existing statutory requirements for adult offenders. Department of Corrections officials told us that they would favor implementation of uniform classification practices throughout the state. Presently, however, there are a variety of assessment instruments used by local correctional

⁹ See discussion in Office of the Legislative Auditor, *Funding for Probation Services* (St. Paul, January 1996), 76-77. Formal instruments often consider factors such as prior offenses and placements, age at first offense, substance abuse, school behavior and attendance, family stability, and peer relationships.

Screening teams should review lengthy placements.

The courts should specify the goals of each placement, and progress toward those goals should be monitored.

agencies. It might be difficult to get consensus on a single assessment approach, but the Department of Corrections should at least consider ways to help county staff better understand juvenile risk and needs assessment through training programs or discussions of existing county assessment practices.

In our view, there is a critical need within the juvenile services system for improved information about service outcomes. Presently, counties and courts are trying a variety of strategies to reduce placement costs, protect the public, and serve children--but there is little systematic monitoring about the impact of these efforts on the children or the public. Part of the reason that it is difficult to measure placement results is because there is such a variety of children in placement, and the goals of these placements vary widely and are not always well articulated. As described in Chapter 5, many county officials told us that court dispositions do not typically provide a clear statement of a placement's goal(s), and many said they would support changes in state law to requires courts to clearly state the purpose of each disposition. We recommend:

- **The Legislature should require courts to state in their dispositions the intended outcome(s) of each juvenile placement made under their authority. We recommend that the Legislature establish a working group of judicial, legislative, and executive branch representatives to (1) develop a uniform list of possible placement goals from which judges would select, and (2) identify steps required (and related costs) for state agencies to collect summary information on achievement of these goals.**

For example, we anticipate that the court's goal for many delinquent offenders will be for the offenders to be law-abiding--regardless of whether they are placed in treatment or punitive programs. For children with this goal, it would make sense to examine rates of new offenses following their placement. Likewise, the court might set a goal of sobriety for children with drug or alcohol problems, a goal of permanency for children placed in foster homes, and a goal of safety from abuse and neglect for children placed out of home for their own protection. We think that the working group should aim to develop a list of goals for which outcomes could be measured regularly and consistently.¹⁰ The goals set by the courts should not substitute for individualized, detailed goals that counties and facilities should continue to develop during case planning.

We recognize that tracking the outcomes of placement goals may be complicated, perhaps involving information from multiple data systems. For this reason, we suggest having the working group explore how such tracking would be done, whether it would entail additional costs, and when it could be accomplished. After this group completes its tasks,

¹⁰ The Legislature could consider broader requirements--such as (1) requiring the courts to identify intended outcomes for each court disposition, not just each court-ordered placement, and (2) requiring county agencies to identify intended outcomes for each voluntary placement they arrange. Under such requirements, DHS and DOC would have to monitor the outcomes of additional cases, including some juveniles in non-residential services. But we think that it may be more manageable to begin on a smaller scale by first improving outcome measurement for children in placement.

**Case plans
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- **The Legislature should require the departments of Human Services and Corrections to regularly report on the extent to which the goals of court-ordered placements are met.**

Another issue that we think the Legislature should address is case planning. In Chapter 2, we observed that state law requires development of case plans for children found by the court to need protection or services, but it does not require this for court-adjudicated delinquent children. Nevertheless, the “umbrella rule” on residential facilities drafted by the departments of Human Services and Corrections in 1998 makes numerous references to juveniles’ county case plans and case plan managers. We think this issue needs clarification. We recommend:

- **The Legislature should require counties to develop juvenile case plans following delinquency dispositions. Consistent with requirements for CHIPS cases, the plans should identify any social and other services that will be provided to the child and child’s family, whether in residential or non-residential settings.**

Also, the draft “umbrella rule” requires the facility and placing agency to develop a “transitional services plan” for each child discharged from a residential program. The draft rule does not indicate who is responsible for monitoring compliance with this plan, and there has sometimes been confusion about the respective responsibilities of counties and residential facilities in arranging for aftercare services. To help ensure that juveniles receive the services they need following placements in residential facilities, we recommend:

- **The Legislature should clarify in law that counties are responsible for monitoring implementation of “transitional services plans.”**

Under this recommendation, counties would not necessarily provide the aftercare services, but they would be responsible for seeing that aftercare services were arranged for and provided.¹¹

We considered whether to recommend that the Legislature require development of statewide or county criteria for out-of-home placement. In Chapter 3, we said that there is considerable variation in county rates of out-of-home placement, partly reflecting varying county philosophies. In Chapter 2, we noted that most county officials we surveyed opposed the idea of statewide placement criteria, although they were somewhat more receptive to development of county criteria. We are unaware of other jurisdictions that have developed detailed criteria for all categories of child placements that might serve as a model for Minnesota or individual counties. In fact, the research literature has provided very limited insight into which types of children fare best in out-of-home care. We think that counties should, at their own initiative, think of ways to improve their

¹¹ Juveniles who complete the “Prepare” program at the Department of Corrections’ Red Wing facility are placed in community-based group homes or facilities prior to returning home. We think that it is appropriate for the department, not counties, to determine how long to keep children in placement (including transitional living arrangements) who have been committed to the commissioner’s custody.

out-of-home placement criteria. For now, however, we do not recommend that the Legislature mandate each county to develop placement criteria. Instead, we hope that the involvement of various professionals on each county's juvenile screening team will help to ensure that placement decisions are appropriate and consistent.

Finally, as counties continue to explore less restrictive ways to serve juveniles, we think that one of the less restrictive placement settings needs a clearer definition. Although county staff often refer to "treatment foster care" or "therapeutic foster care," this category of service is not defined in state law or rule. In general, treatment foster care homes provide services in-house that are not provided by other foster homes (or that are provided through community services). Sixty percent of county human services directors told us that the components of treatment foster care should be clarified in law or rule.¹² We recommend:

- **The Department of Human Services should adopt state rules that outline the components of treatment foster care.**

INFORMATION SYSTEMS

One of the reasons we were asked to conduct this study was that existing state information systems could not answer some very basic questions about Minnesota's out-of-home placements. For example, legislators have been unable to determine the overall cost of out-of-home placements in Minnesota because DHS' information system contains data on only a portion of counties' correctional placements, and the remaining placements are not reported to any statewide information system.

To address the need for a comprehensive database on child placement (and related spending), we recommend:

- **The departments of Human Services and Corrections should establish a work group to identify ways to collect comprehensive statewide information on juvenile placement spending and individual juvenile placements.**

At a minimum, we think that counties should be required to annually report to DHS summary spending data for various types of correctional placements that are not paid for by social services budgets. These data should be available from various county departments--usually corrections or law enforcement.¹³

In addition, the work group should identify ways for county corrections agencies to report information on individual placements that can be integrated with the

¹² Seventeen percent disagreed with the following statement: "State laws or rules should be amended to clearly define the components of 'treatment foster care.'" Twenty-three percent neither agreed nor disagreed.

¹³ In two counties (Rice and Washington), the placement costs of all delinquent juveniles are paid for by the corrections budget, and it would be useful for DHS to collect summary information from these counties on the types of facilities used for these placements.

**Policy makers
need better
information on
out-of-home
placements.**

DHS placement data. If feasible, we think this should include all placements, including pre-adjudication detention as well as post-adjudication placement. A common personal identifier--such as a social security number--would be required to fully integrate corrections and human services placement data. We found that DHS' statewide placement database had social security numbers for only about half of the 1997 cases. Furthermore, the department's new Social Services Information System will rely considerably on a new system of personal identification numbers, which will be different from identifying numbers used by agencies other than social services. To help ensure that it is possible to integrate information from social services, corrections, and other agencies to determine a complete and unduplicated placement history of each juvenile, DHS and DOC should encourage local agencies that pay for placements to collect social security numbers whenever feasible for juveniles in placement (in addition to any other identifiers used).¹⁴

We found that DHS' database of county-reported information on individual child placements has had many problems--reflecting county errors, the design of the information system, and an inadequate level of scrutiny by DHS. Specific problems included misreported discharge dates, duplicate cases, missing cases, and the absence of facility identifiers. We were able to correct the database for some, but not all, of these problems in our evaluation.

The accuracy of the DHS placement database is important for several reasons. First, it is the database that DHS intends to use to monitor some key measures of the child welfare system's performance--including the number of placements, their length, and cumulative time in placement. At a time when legislators are trying to reduce the amount of time that children spend in placement prior to permanency decisions, it is important to have reliable benchmark data on the amount of time spent in placement. Second, DHS placement data have been used to help allocate state "family preservation aid" to each county since 1995.¹⁵ Finally, the DHS placement information system is the only statewide database that can be used to analyze placement trends by individual counties.

Some of the problems we found might be corrected in future years through implementation of the department's new Social Services Information System. We think the department should carefully monitor the accuracy of information in this system, and we also recommend:

- **To the extent possible, the Department of Human Services should identify and correct errors in its existing juvenile placement database that have resulted (and may continue to result) in misrepresentations of the number of children in placement, the characteristics of those children, and the days spent in placement.**

¹⁴ DHS staff told us that it is not always possible to collect social security numbers in cases involving emergency placements or cases in which parents or caretakers are not cooperative. Still, DHS staff told us that it should be possible to obtain social security numbers for a large majority of cases.

¹⁵ By law, one-half of the aid is paid to each county based on its proportion of the state's total number of children in out-of-home placement. in 1991 and 1992. See *Minn. Stat.* §477A.0121.

For example, we think that some of the problems with existing data could be addressed if DHS asks counties in 1999 to provide updated data spanning the last several years of placements, rather than data for just the most recent six months.

We also recommend that:

- **DHS should add codes to its placement database that identify the specific facilities in which children have been placed.**

Among other reasons, having information on individual facilities will enable DHS to detect cases in which a continuous placement at a facility is reported by counties as more than one placement. We found (and adjusted the data for) many instances in which this occurred.

OTHER

Program Completion Rates

We recognize that the extent to which juveniles complete their residential programs is affected by the characteristics of the juveniles, the length of the program, the actions of the placing counties and courts, and other factors. We also recognize that program completion rates are not direct measures of the effectiveness of programs. Nevertheless, we think that it is reasonable for courts and counties to obtain information about program completion rates at the time they select a program for a child placement. We recommend that:

- **State rules should require facilities to collect program completion information and make it publicly available. The departments of Corrections and Human Services should establish a working group to adopt uniform definitions for measuring program completion rates.**

State agencies should help identify ways to provide culturally appropriate services.

Cultural Sensitivity

In Chapter 3, we reported that patterns of child placement differ markedly by racial and ethnic groups. Of particular note, there are very high rates of child placement among African Americans and American Indians. We do not fully understand the reasons for these patterns, but they might include poverty rates, levels of family dysfunction, prejudice, or other factors.

Regardless of the reasons for this pattern, many county officials told us that there is room for improvement in ensuring that residential programs are sufficiently sensitive to cultural differences among residents. If disproportionate numbers of children of color are in placement, it makes sense for service providers to make special efforts to understand their needs and communicate effectively with them. State law already establishes a goal of “culturally competent” social services and requires that social services agencies ensure that “culturally appropriate services”

have been offered to eliminate the need for placement.¹⁶ Proposed rules drafted by the departments of Human Services and Corrections in 1998 would require facility license holders to document that they are providing culturally appropriate care. In addition, state agencies have developed and funded staff training programs in cultural competence. These are good first steps, but defining and implementing culturally appropriate services remains a challenge. We recommend:

- **The departments of Human Services and Corrections should identify a set of “best practices” for facility and county staff--to help them provide culturally appropriate screening, assessment, case management, and direct services.**

¹⁶ *Minn. Stat.* §256F.01, §260.012.