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# Summary

## Child Protection Removals and Reunifications

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### Key Facts and Findings:

- State law gives local authorities the power to remove endangered children from their homes and place them in foster care. (pp. 6-12)
- State child protection statutes prioritize keeping children safe. State law also emphasizes keeping families together when it is safe to do so. (pp. 4-5)
- In 2019, there were 6,431 child removals in Minnesota, the lowest number in six years. For most out-of-home placement stays ending that year, children were reunited with parents. (pp. 17, 53)
- State law does not allow child protection agencies to remove a child from the home without the parent’s consent; only law enforcement and the courts have this authority. (pp. 8-12)
- Over half of out-of-home placements begin with law enforcement emergency holds, but their use varies widely. (pp. 28-31)
- Law enforcement officers are not statutorily required to consult with local child protection agencies when deciding to remove a child, though they often do. (pp. 10, 32-34)
- There are no statewide requirements for ongoing training of law enforcement on child protection issues. (pp. 37-38)
- In the case files we reviewed, child protection agencies and courts varied widely in how they interpreted and enforced the requirement to make “reasonable efforts” to prevent the removal of a child. (pp. 42-43)
- Performance measures used by the Judicial Branch to monitor court performance in child protection cases focus on meeting time deadlines. (pp. 55-56)
- Plans developed by child protection agencies that document the actions parents must take to reunite with their children are often lengthy and difficult to understand. (pp. 57-58)

### Key Recommendations:

- The Department of Human Services (DHS) should convene a working group to make recommendations to the Legislature regarding training of law enforcement officers in child protection removals. (p. 38)
- DHS and the Judicial Branch should continue their efforts to improve the provision and documentation of services offered to families to prevent child removals. (pp. 46-47)
- The Judicial Council should consider additional performance measures that more fully reflect statutory priorities for child protection cases. (p. 56)
- The Legislature should direct child protection agencies to produce short, easy-to-understand summary documents for parents explaining the steps they should take to pursue reunification. (pp. 58-59)

### Report Summary

When children are endangered in their homes, the government may step in to protect their safety. In some circumstances, this intervention includes removing children from the care of their parents and placing them outside the home.

State statutes regarding child protection removals emphasize two key priorities: (1) protecting children’s safety and (2) keeping families together. Child protection authorities can face difficult choices as they weigh the risks of too little action against the risks of too much intervention.

The number of Minnesota children removed from their homes peaked in calendar year 2017 before declining to a six-year low in 2019. In that year, Minnesota authorities conducted 6,431 child removals. In about half the cases from 2014 through 2019, parent substance abuse or alleged neglect was the primary reason recorded for the removal.

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#### Minnesota’s locally administered child protection system spreads responsibilities across many different entities.

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Statutes assign child protection responsibilities to county social service agencies, which we refer to as “child protection agencies.” These agencies evaluate reports of possible child maltreatment and offer services to families and children.

However, child protection agencies do not have the authority to remove a child from the home independently. State law instead gives this power to law enforcement and the courts.

Law enforcement officers can remove a child from the home under an emergency hold. Children removed under a law enforcement hold must be returned to the parents within 72 hours, unless a court orders a further placement. Courts can also place a short-term emergency hold. Further, a court can order the child into a longer-term out-of-home placement. Child protection agencies may only place a child outside the home without law enforcement or court involvement if the

parents consent (called a “voluntary” placement).

Child protection agencies, courts, and law enforcement have significant discretion in how they carry out their responsibilities related to removals. Although the Department of Human Services (DHS) broadly oversees the actions of local agencies, its involvement in individual cases is limited. Individual court decisions are only reviewed if a case is appealed to a higher court. No statewide agency oversees local law enforcement practices.

Several other entities may also play key roles in child protection cases, including county attorneys, guardians ad litem (court-appointed individuals who advocate for the best interests of the child), and attorneys representing the parents and children.

When a child is American Indian, tribal representatives, tribal child protection agencies, and tribal courts may also be involved. Tribal law, rather than state law, may guide the actions of these entities, depending on the circumstances.

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#### Over half of out-of-home placement stays conclude with reunification, but individual outcomes vary.

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Children removed from a parent and placed outside the home follow a variety of trajectories. Some are released from emergency holds and returned to their parents within days, without any court involvement. Other children are placed in foster care settings for weeks, months, or years.

For children removed from the home from 2014 through 2017, 53 percent of placement stays led to reunifications with parents within two years, 12 percent led to permanent placements with relatives, and 9 percent led to adoption (including adoptions by relatives). However, for 23 percent of placement stays, children were still in out-of-home placements two years following the removal.

Foster care can include placements with a child’s relatives, or even with the child’s own parents under a “trial home visit.” DHS data indicate that the percentage of

Local child protection agencies, courts, and law enforcement have substantial discretion to make child removal decisions.

placement stays during which children spent a majority of time with relatives increased in recent years, approaching 60 percent for children whose placement stays began in 2019. The increase was larger for African-American and Hispanic children, and notable differences that once existed between children from these groups and other children have diminished.

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**Most child protection removals begin through law enforcement emergency holds, but practices vary widely.**

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According to DHS data, 65 percent of child protection removals statewide from 2014 through 2019 were carried out under the authority of a law enforcement hold. However, the use of emergency holds ranged widely across jurisdictions. In some counties, over 80 percent of out-of-home placements began with a law enforcement hold; in others, less than 40 percent did.

There was also significant variation in whether children continued in placements under a court order after the law enforcement holds expired. In some counties, over 90 percent of law enforcement holds led to a longer out-of-home placement. In others, over one-third of children removed through law enforcement holds returned to their parents' custody following the hold.

Child protection agencies may request that law enforcement officers remove a child from the home through an emergency hold, but officers have the final authority. There is no statutory requirement that officers consult with child protection staff before placing a hold. In surveys we conducted of local child protection agency and law enforcement administrators, many respondents reported collaborative working relationships with one another. However, others reported concerns.

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**Many law enforcement officers receive relatively little training on child protection removals.**

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There is no state requirement for ongoing law enforcement training regarding child

protection issues. In response to our survey of law enforcement agencies, about 85 percent of agencies told us they do not require continuing training on child protection removals. As a result, officers may rely on the information presented in their initial licensure training or field training during their first year on the job.

In written comments on our survey, some law enforcement chiefs and sheriffs said that they would like more resources for child protection training. We recommend that DHS convene a working group including state and local stakeholders to make recommendations to the Legislature regarding law enforcement training on child protection removals.

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**Child protection agencies must make “reasonable efforts” to avoid child removals, but this standard is not well defined nor consistently implemented.**

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State and federal laws require child protection agencies to make reasonable efforts to assist a family to avoid placement of a child in foster care. Efforts to prevent the removal of an American Indian child from the home must meet a higher standard (“active efforts”).

However, in our review of a sample of case files, the prevention services that child protection agencies provided to families before a child's removal from the home varied widely from agency to agency and case to case. In some cases, child protection agencies provided extensive services before seeking a removal. In others, preventive services were limited. In still others, the child was removed before child protection agencies could offer services to the family.

Recent changes to federal law have emphasized prevention efforts. Prompted by these changes, both DHS and the Judicial Branch have recently taken steps to address prevention of out-of-home placements. It was too soon to assess the impact of these initiatives, but we encourage both DHS and the Judicial Branch to continue their efforts.

**Although law enforcement officers make high-stakes child removal decisions, there is no state requirement for ongoing training.**

The Legislature should require child protection agencies to provide clearer, more concise information to parents about how to pursue reunification.

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**The Judicial Branch’s performance measures pertaining to child protection cases focus primarily on whether courts meet time deadlines.**

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The State Court Administrator’s Office issues a report each year on judicial districts’ outcomes on a series of performance measures. The report is reviewed by the Judicial Council, the Judicial Branch’s administrative decision-making body, and some judges told us they feel pressure to achieve acceptable outcomes.

All of the performance measures for courts that specifically relate to child protection cases are related to expeditious processing, such as the percentage of children reunifying with the parent or finding another permanent home within 18 months and the percentage of children adopted within 24 months.

Although timely court action is important, state laws entrust courts with many more responsibilities regarding child protection cases. The emphasis on timeliness alone does not assess courts’ performance of other important responsibilities—for example, ensuring that agencies conduct thorough searches for a child’s relatives and notify them of the child protection case.

We recommend that the Judicial Council consider additional performance measures that more broadly reflect courts’ statutory responsibilities in child protection cases.

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**Documents that inform parents what steps they must take to reunify with their children are often lengthy and difficult to understand.**

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Child protection agencies prepare out-of-home placement plans for children placed in foster care. State law lists many requirements for the contents of these plans; local child protection agencies may also add additional elements. The plans are intended to ensure that agencies have a comprehensive understanding of children’s and parents’ needs.

The resulting documents can be lengthy and difficult to decipher. Similarly, legal documents associated with court cases can also be challenging to understand without a legal background.

While comprehensive planning documents are useful, the Legislature should direct child protection agencies to also produce a short, easy-to-understand document for parents explaining the steps they should take to pursue reunification.

## Summary of Responses

*In a letter dated June 15, 2022, Department of Human Services Commissioner Jodi Harpstead wrote that the agency appreciated “the thoughtful evaluation of this important issue” and agreed with the report’s recommendations for DHS. “Overall,” she wrote, “this report supports our efforts to strengthen child protection in Minnesota.” In a letter dated June 17, 2022, State Court Administrator Jeff Shorba highlighted the Judicial Branch’s ongoing efforts “related to reasonable and active efforts findings in court orders.” He also responded to the report’s recommendation that the Judicial Council consider additional performance measures for district courts, committing to “take this recommendation to Judicial Council for consideration.”*

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The full evaluation report, *Child Protection Removals and Reunifications*, is available at 651-296-4708 or: [www.auditor.leg.state.mn.us/ped/2022/childprotect.htm](http://www.auditor.leg.state.mn.us/ped/2022/childprotect.htm)