

Child abuse reports, foster care placements rising in state

More children in state custody despite high standard for substantiating abuse claims,

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By Andy Marso

andy.marso@cjonline.com

The number of children in state custody has risen to record levels in Kansas, correlating with a rising number of child abuse and neglect complaints.

As of the beginning of June there were about 7,000 children in the custody of the Kansas Department for Children and Families, including 6,168 in out-of-home foster care placement.

Bruce Linhos, executive director of the Kansas Children's Alliance, said it is a higher number than ever before and child advocates, social workers and government officials are struggling to pinpoint a cause.

"There's been a lot of discussion, and I don't think anybody's come up with any great answers about why the number is growing," Linhos said.

An in-depth report by the Kansas Health Institute in June included some advocates saying that state policies are straining and stressing poor families, while a DCF spokeswoman attributed the increase to heightened awareness and reporting of child abuse and neglect.

The state is investigating more abuse and neglect claims compared with five years ago and the percentage of those claims that results in a "substantiated" finding is ticking up. But the vast majority remain "unsubstantiated."

In Fiscal Year 2009 the state investigated 26,543 child-in-need-of-care complaints and 94.8 percent were found "unsubstantiated."

In FY 2013 the Department for Children and Families investigated 32,130 complaints and 93.5 percent were unsubstantiated. Through the first 11 months of FY 2014, the department had assigned 33,052 complaints for investigation. Of those, 29,946 had been declared unsubstantiated and 1,828 had been substantiated. The remaining 1,278 complaints are still open.

Substantiated claims are passed to local county and district attorneys, who decide whether to file a child-in-need-of-care petition with the court. Only judges can decide whether custody of the child in question should be granted to DCF or another person.

As part of a series of reports on child abuse, the Wichita Eagle in June outlined a court case in which a 14-year-old girl who weighed 66 pounds was removed from her home after nine reports of neglect and abuse, eight of which were determined unsubstantiated.

A prosecutor in Sedgwick County, where reports of child abuse and neglect have risen by more than 25 percent in the past five years to over 12,000 a year, told the Eagle his office is sometimes shocked by the number of unsubstantiated complaints in a child's past by the time a case is referred.

Lee McGowan, a spokesman for the Shawnee County District Attorney's Office, said that's familiar to local prosecutors.

"Our office concurs that it is sometimes surprising at how many previous reports may have been made before a case ever reaches our office," McGowan said via email.

McGowan said he also agreed with his counterparts in Sedgwick County that there is sometimes a difference in philosophy between prosecutors, whose "focus is always on safety of the child first and foremost" and social workers, whose approach "may well be to try to keep the child in the home."

"That is not to say, however, that safety is not a priority for the social workers," McGowan said.

Ron Nelson, a prominent family law attorney in Lenexa, said it is no surprise that more than 90 percent of abuse and neglect complaints are determined unsubstantiated. To substantiate a complaint, state law requires "clear and convincing evidence," which Nelson called a "very high standard."

"It is a standard that requires more than a belief that something occurred or that the person who is alleged to have committed the abuse or neglect is the one who committed it," Nelson said. "It is more than that there is some indication that something occurred or that the person alleged to have committed it performed the act. It is less than 'beyond a reasonable doubt.'"

Nelson also said that the list of those whose professions require them to report suspected abuse and neglect is long, and reports may be made "out of an abundance of caution."

Theresa Freed, a spokeswoman for the Department of Children and Families, said a substantiated claim is not necessary to temporarily remove a child from a dangerous situation.

"The rate of removal is much higher than the rate of substantiating," Freed said.

The process of removal has been under increased scrutiny recently as well. Craig Gabel, the president of a Wichita-based conservative group called Kansans for Liberty, last year proposed cutting DCF's funding if the agency does not meet family reunification goals.

"In my opinion, the worst family in the world is better for a child than the best foster home," Gabel said at the time.

During the 2014 session a member of Gabel's group teamed up with other disaffected parents to lobby for changing the state law that instructs courts to act "in the best interests of the child" to one that instructs them to choose the "least detrimental alternative for the child."

The measure, House Bill 2450, died in committee.

Linhos said that in addition to promoting family reunification, Kansans should also be working toward greater adoption rates so children aren't aging out of the foster care system and trying to prevent abuse and neglect from occurring in the first place.

He touted programs like Topeka's Safe Families for Children that help families manage crises before they become damaging to children.

"Those kind of very front end, early interventions are the kind of things I think the system has really struggled to kind of be able to address," Linhos said. "In my mind, those are the kind of hopeful things where we really are able to get the people assistance prior to getting to the point of abuse or neglect."

Andy Marso can be reached at Capital: (785) 233-7470; Office: (785) 295-5619 or andy.marso@cjonline.com.

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