



Report to the Legislature Concerning Out of Home Placement Deviations

December, 2005

Colorado State Judicial Department

Basis of the Report: C.R.S. §§ 19-2-907(5)(a), 19-3-508(5)(b), and 19-3-701(6) require individual districts to report when a judge deviates from the recommendations of social services in a dependency and neglect or a delinquency case. These deviations are to be reported to the Chief Justice of the Supreme Court, who in turn is to report to the Joint Budget Committee and the Health, Environment, Welfare, and Institutions Committees of both the Senate and the House.

I. Introduction

The issue of out of home placement discussed in this report occurs when a judge or magistrate does not agree with the placement recommendation of the department of social/human services and orders a different placement than the one advocated by the department. This is informally called a deviation. Local departments of social/human services, and subsequently county commissioners, opine that judges and magistrates are partly responsible for forcing over-expenditures in the departments' budgets. When the judicial officer does not agree with the placement agency's recommendation, she or he is to report this to the Chief Justice of the Supreme Court, who in turn is to report to the Joint Budget Committee and the HEWI committees from both the Senate and House.¹ The State Court Administrator's Office, at the direction of the Chief Justice, is given the responsibility to file this report.

II. Overview of the State

Very few jurisdictions in the state report deviations from the recommendations of their local department. It is assumed in this report, and indeed confirmed by the judges in the districts, that if there is no report from their district, there have been was no deviations.² Several judicial officers responded that they do not report a deviation unless it costs the department money. So it is very likely that the courts are saving the departments money on out of home placements and not alerting anyone of this. The following information is from June of 2004 to July of 2005.

¹ The Senate's Committee is called the Health, Environment, Children & Families Committee. However, the statutes still reference the HEWI committees from both the Senate and House. For the sake of statutory conformity, HEWI will be referred to as meaning both committees from the House and Senate.

² One judicial officer comments that, "In 8 ½ years I have done an override maybe three or four times." The perception from judicial officers is that they do not disagree with the recommendations of the local department more than a handful of times every year. This, of course, depends on the jurisdiction, and certain districts will have more than others.

1st Judicial District (Jefferson and Gilpin)

- No Deviations Reported

2nd Judicial District (Denver)

- No Deviations Reported

3rd Judicial District (Las Animas and Huerfano)

- No Deviations Reported

4th Judicial District (El Paso and Teller Counties)

- No Deviations Reported

5th Judicial District (Eagle, Summit, and Clear Creek Counties)

- No Deviations Reported

6th Judicial District (La Plata and Archuleta Counties)

- No Deviations Reported

7th Judicial District (Delta, Gunnison, Montrose, Ouray, San Miguel, and Hinsdale Counties)

One (1) deviation was reported in Delta County. The department requested out-of-home placement and the court ordered the child remain in the home therefore saving money. No cost information reported.

One (1) deviation was reported in Montrose County. The department requested out-of-home placement and the court ordered the child remain in the home therefore saving money. No cost information reported.

8th Judicial District (Larimer and Jackson Counties)

- No Deviations Reported

9th Judicial District (Rio Blanco, Garfield, and Pitkin Counties)

- No Deviations Reported.

10th Judicial District (Pueblo County)

- No Deviations Reported.

11th Judicial District (Park, Chaffee, Freemont, and Custer Counties)

Five (5) deviations were reported in Freemont County.

Deviation 1# - Department and probation recommended the child stay in foster care, the court ordered the child returned home. The cost of foster care was \$1,680.34 per month the deviation saved the public \$1,680.34.

Deviation 2# - Department requested a change in placement from foster care to RTC. The court ordered continued foster placement which saved the public approximately \$5,400.00 per month.

Deviation 3# - Department requested a change in placement from foster care to RTC. The court ordered continued foster placement which saved the public approximately \$5,400.00 per month.

Deviation 4#- Department recommended the child be placed in higher level of care or RTC and the court ordered the child remain in foster care. Specific cost information was not provided by the department of social services however this deviation saved the public approximately \$6,200.00 per month.

Deviation 5# - Department requested the child be placed in foster care. The court ordered the child reside with father. The deviation saved the public approximately \$800.00 per month.

12th Judicial District (Saguache, Mineral, Rio Grande, Alamosa, Conejos, and Costilla Counties)

- No Deviations Reported

13th Judicial District (Sedgwick, Phillips, Logan, Morgan, Washington, Yuma and Kit Carson Counties)

- No Deviations Reported

14th Judicial District (Moffat, Routt and Grand Counties)

- No Deviations Reported

15th Judicial District (Cheyenne, Kiowa, Prowers, and Baca Counties)

- No Deviations Reported

16th Judicial District (Otero, Bent, and Crowley Counties)

One (1) deviation reported in Otero County. The department removed the child and requested the court place the child. The court returned the child home and ordered local services instead of the out-of-home placement. Specific cost information was not included however this deviation saved the public money.

17th Judicial District (Adams and Broomfield Counties)

- No Deviations Reported

18th Judicial District (Arapahoe, Douglas, Lincoln, and Elbert Counties)

Thirteen (13) deviations reported in Arapahoe County, case specific information not included.

19th Judicial District (Weld County)

One (1) deviation was reported in Weld County. The Department of Social Services recommended placement with DSS. The court ordered the child remain home. If the court would have agreed with DSS the cost of foster care would have been \$199.84/per day for a total of four (4) children.

20th Judicial District (Boulder County)

- No Deviations Reported

21st Judicial District (Mesa County)

- No Deviations Reported

22nd Judicial District (Montezuma & Delores Counties)

- No Deviations Reported