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Addressing the Relationship between Domestic Violence, Child Abuse, and Economic Self-Sufficiency



This resource guide has been developed to serve as a reference point for professionals working with families who are facing domestic violence and child abuse issues. The information provided is meant to serve as a starting point from which to learn about each of the three systems that interface with families experiencing multiple stressors.

There is contact information in the resource section if you need additional information.

Many of the families who interface with our systems face a number of challenges in eliminating family violence, and can benefit from professionals working together to help them understand each system and how to improve the quality of their lives.

Children who grow up in homes with family violence can experience many negative effects from that violence, whether they are being physically or sexually abused, or are witnessing the violence between adults in the home. Two studies have estimated that between 3.3 million (Carlson 1984) and 10 million (Straus 1991) children in the United States are at risk of witnessing abuse of their mothers each year.

Those children who witness domestic violence are more likely to display aggressive behaviors or be withdrawn than children who do not witness abuse (Jaffe, et.al. 1986). Children in families with domestic violence also have been found to show more signs of anxiety, depression, and temperament problems (Christopheropoulos 1987) and lower cognitive skills (Westra & Martin 1981) than children not witnessing domestic violence.

These consequences are just some of the examples of the effect that domestic violence has on children. In addition, when children are also being abused or neglected in domestic violence situations, the effects are exacerbated.

Historically, intervention in child abuse cases has occurred separate from domestic violence intervention. As more research and practical experience document the connection between child abuse and domestic violence, the two systems across the country have begun the process of collaboration when working with families where both child abuse and domestic violence exist.

At this time, communities across Nebraska are in different stages of collaboration between professionals working primarily with battered women and professionals concentrating on child abuse victims. We are promoting communication among professionals that is appropriate and that will not harm the family. More and more, professionals are recognizing multiple victims of abuse within families. These families need our cooperation to receive the most effective services so their lives can be free from violence.

The consequences of domestic violence for families are multifaceted. Research has shown that “family violence does not end when the battered spouse leaves, and that the time of separation and divorce is dangerous for family members” (Family Law Quarterly, 1995). Thus, protection orders that do not make provisions for custody gravely jeopardize both abused women and children, “since violence can invariably occur in disputes about custody/visitation or during exchange” (Hart, B.J. 1996).

These issues represent some of the challenges women face in their attempts to leave an abusive partner. In addition, some women have been isolated from their families and friends, some have no income or savings apart from that of their partner, and some are unable to leave because they fear their abuser will increase the level of violence inflicted on them and their children. Professionals must work with these women and their children to find strategies for ensuring their safety.

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I N T R O D U C T I O N

Some statistics that demonstrate the impact of domestic violence on children include the following (Carter, J. 1999):

- 50% of men who frequently abused their wives also frequently abused their children.
- The Massachusetts Department of Social Services reviewed 200 substantiated child abuse reports and found that 48% of those cases had mentioned domestic violence.
- Domestic violence is the single major precursor to fatal cases of child abuse and neglect.
- The rate of child abuse by battered women is at least double that of mothers not being beaten by a partner.
- Men who witnessed domestic violence as a child were twice as likely to be abusive toward a partner than men whose parents were nonviolent.

These facts point to the need for child advocates and battered women's advocates to work together for families. It is critical that child protection and safety workers be well-educated on the connection between child abuse and domestic violence and integrate strategies that address the safety-related needs of adult victims into strategies to protect the safety interests of children. The use of appropriate strategies for battered women and their children can improve case outcomes. The ability of victims to follow through with service plans can be compromised by the actions of their abusive partners.

Safety plans need to be developed that do not directly or indirectly further endanger victims. Abusers are often resistant to their partners' access to outside sources of help or support and may increase their use of violence and threats in order to reestablish control.

Service plans should be evaluated with regard to immediate and long-term safety, and those plans should be reviewed and modified as necessary to reflect a victim's ongoing safety-related needs as well as the safety needs of the children.

A significant amount of research also points to poverty issues facing battered women and their involvement with welfare to work programs. Women wishing to leave violent relationships face increased incidence of poverty in addition to an increased level of danger. Violence against women can increase after the women separate from their abusers. These issues prompt a need for social service workers to be cognizant of the dynamics of domestic violence and understand how to work cooperatively with both Child Protection and Safety Workers and local domestic violence staff.

- In 1995, government programs (including the value of cash, food, housing, medical care, and taxes) decreased child poverty by 38% (Plotnick, R. 1997).
- Surveys have found that as many as 60 percent to 80 percent of welfare recipients are, or have been, victims of domestic violence as adults (Raphael, J. 1995).
- Fifty percent of all homeless women and children in the US are fleeing domestic violence (Hearings on S.275, 1990).
- Many women lose employment because of on-the-job harassment by their abusers or because they must leave jobs, possessions, and a support network behind in order to move to safer locations (Shepard, M. & Pence, E. 1988).

Collaboration brings with it many challenges and opportunities. The initial work of establishing common ground and building communication links that are acceptable for each organization involved can be time-consuming. However, the benefits to families make the effort worthwhile. We hope this resource manual helps programs work toward successful collaboration.

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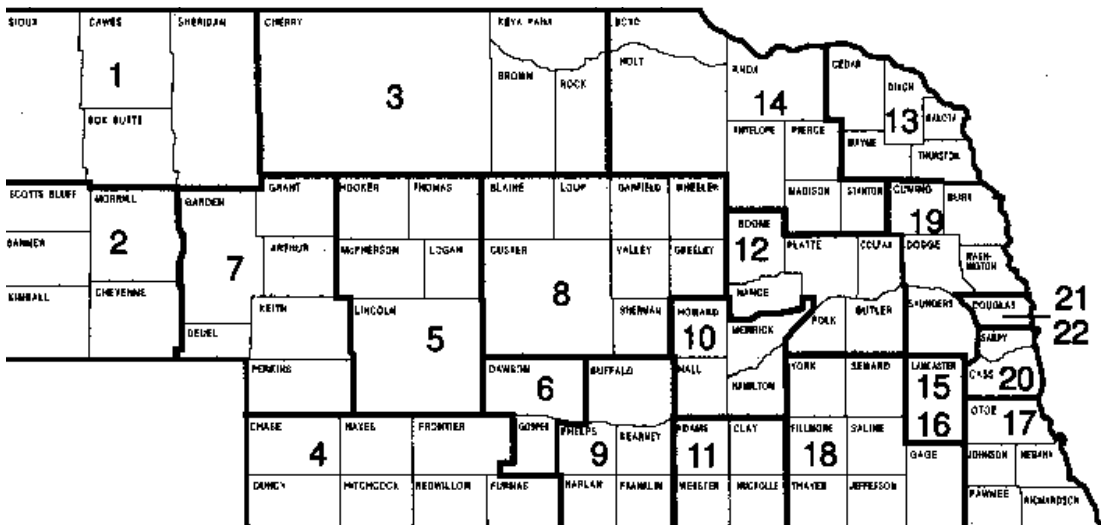


**NEBRASKA'S NETWORK OF DOMESTIC VIOLENCE
& SEXUAL ASSAULT PROGRAMS**

24-HOUR CRISIS LINES

- | | |
|---|--------------|
| 1. Family Rescue Services - Chadron | 308-432-4113 |
| 2. Domestic Violence Emergency Services - Scottsbluff | 308-436-4357 |
| 3. North Central Quad County Task Force - Valentine | 402-376-2045 |
| 4. Domestic Abuse/Sexual Assault Services - McCook | 308-345-5534 |
| 5. Rape/Domestic Abuse Crisis Center - North Platte | 308-534-3495 |
| 6. Parent-Child Center - Lexington | 800-215-3040 |
| 7. Sandhills Crisis Intervention Program - Ogallala | 308-284-6055 |
| 8. Family Crisis Services - Broken Bow | 800-942-4040 |
| 9. The S.A.F.E. Center - Kearney | 308-237-2599 |
| 10. The Crisis Center, Inc. - Grand Island | 308-381-0555 |
| 11. Spouse Abuse/ Sexual Assault Crisis Center - Hastings | 402-463-4677 |
| 12. Center for Survivors - Columbus | 800-658-4482 |
| 13. Haven House - Wayne | 800-440-4633 |
| 13. Winnebago Domestic Violence Resource Center - Winnebago | 402-878-2379 |
| 14. Bright Horizons - Norfolk | 402-379-3798 |
| 15. Rape/Spouse Abuse Crisis Center - Lincoln | 402-475-7273 |
| 16. Friendship Home - Lincoln (Emergency Access) | 402-475-7273 |
| 17. Project Response - Auburn | 800-456-5764 |
| 18. Blue Valley Crisis Intervention - Fairbury | 800-876-6238 |
| 19. Crisis Center for Domestic Abuse/Sexual Assault - Fremont | 800-479-6221 |
| 20. Family Services Domestic Abuse Program - Bellevue | 800-523-3666 |
| 21. YWCA-Women Against Violence - Omaha | 402-345-7273 |
| 22. Catholic Charities - The Shelter - Omaha | 402-558-5700 |

Nebraska Domestic Violence Sexual Assault Coalition 402-476-6256
825 M St., Suite 404, Lincoln, NE 68508



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Call 1-800-876-6238 to reach the program serving your area, or contact the National Domestic Violence Hotline at 1-800-799-7233 (if calling outside of Nebraska).

HELPFUL CONTACT INFORMATION

FOR INFORMATION ON THESE PROGRAMS,
CALL YOUR LOCAL OFFICE FOR MORE INFORMATION.

To locate your local office, call (402) 471-3121 or check the
Nebraska Health and Human Services website at <http://www.hhs.state.ne.us>.

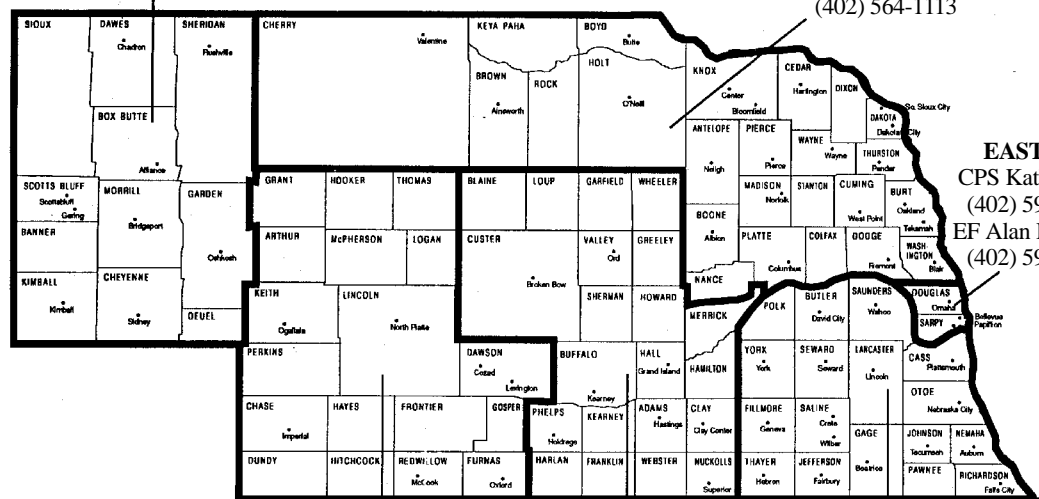
- Child Care
- Food Stamps
- Nebraska Medical Assistance Program
- Kids Connection (children's health care) - 1-877-NEB-KIDS (1-877-632-5437)
- Presumptive Eligibility
- Transitional Benefits
- Social Security Income (SSI)
- Emergency Assistance
- General Assistance

NEBRASKA HEALTH AND HUMAN SERVICES
CHILD PROTECTIVE SERVICES AND EMPLOYMENT FIRST LIAISONS

WESTERN
CPS Shelley Fales
(308) 235-3409
EF Denise Prohs
(308) 436-6517

NORTHERN
CPS Lori Carter
(402) 564-1113
EF Dianna Eggli
(402) 564-1113

EASTERN
CPS Kathy Jor
(402) 595-325
EF Alan Kopets
(402) 595-375



SOUTHWEST
CPS Jerrilyn Crankshaw
(308) 535-6756
EF Kerry Hopkins
(308) 345-8430

CENTRAL
CPS Brenda Roetman
(308) 865-5592
EF Tammy Alvarado
(308) 385-6192
EF Larry Loucks
(308) 385-6179

SOUTHEAST
CPS Roxie Cillessen
(402) 471-8839
EF Seanna Collins
(402) 471-9649

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CHILD ABUSE AND NEGLECT



THE ROLE OF NEBRASKA HEALTH AND HUMAN SERVICES

Health and Human Services (HHS) is committed to developing and implementing a comprehensive statewide approach to providing child welfare and juvenile services. These services are provided within statutory mandates while promoting and supporting community and family responsibility.

Protection and Safety is focused on four outcomes:

- the first and foremost of these is child and family safety;
- the other outcomes assure that children and families achieve stability and predictability in the living arrangements;
- and reach their physical and mental development potential;
- the final outcome is that the communities in which children and families live are responsible, supportive, and free from crime.

HHS works to collaboratively plan, coordinate, and evaluate the most successful effective and efficient use of resources to benefit children and families. HHS also seeks to increase the level of quality of services that are delivered. Data is collected through collaboration with providers and HHS' N-FOCUS information system.

In cases of child maltreatment, HHS conducts an initial assessment on all situations of child maltreatment by a parent, guardian, custodian or family member. HHS staff is involved in child maltreatment investigations in foster homes, day care homes and facilities, and child caring institutions.

Allegations of maltreatment of children perpetrated by teachers, school personnel, counselors, therapists, doctors, nurses and others not performing custodial care giving responsibilities will not be assessed by HHS. These allegations are referred to law enforcement for the investigation of possible criminal law violations. HHS assists in the interview of the child as requested by law enforcement or as requested by the local investigation team and may enter the case status determination in the Central Register when appropriate.

Refer to Nebraska State Statute (found in the APPENDIX of this manual).

HISTORY AND STATUTES

FEDERAL STATUTES THAT GUIDE CHILD PROTECTION AGENCIES

While child abuse and neglect laws vary from state to state, they all must comply with the basic requirements established in the following federal statutes:

The Child Abuse Prevention and Treatment Act of 1974 (CAPTA).

The act required that each state establish a mandatory reporting system for child abuse and neglect. Through a series of revisions, the most recent of which became law in 1996, the act has established detailed criteria for state programs receiving the limited funds available under the act. These include provisions guiding the definition of abuse and neglect in state statutes; requirements for confidentiality for children and families; immunity for individuals who report abuse and neglect; and provisions requiring guardian ad litem for children.

Nationwide, child protective services agencies determined that just under 1 million children were victims of substantiated or indicated abuse and neglect in 1997, a decrease from the 1996 statistics.

The national rate of victimization was 13.9 per 1,000 children in the population.

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In 1997, child protective services agencies investigated 2 million reports alleging the maltreatment of almost 3 million children.

The Indian Child Welfare Act of 1978 (ICWA).

This act establishes the jurisdiction of Indian tribes in child custody cases involving Indian children. The act provides specific procedures for the timely notification of tribes when Indian children come to the attention of child welfare agencies and placement is being considered, so that tribal membership can be determined.

The Adoption Assistance and Child Welfare Act of 1980 (P.L.96-272).

This act establishes procedural safeguards for children to try to ensure that they do not linger in foster care. As amended in 1983, the act establishes administrative and judicial case review to try to ensure that the protective and “best interests” needs of children were met. The statute also requires child welfare agencies to make reasonable efforts to prevent placement and provide services to reunite families. The statute also supports agency programs to secure an alternative permanent family when reunification is not possible.

The Adoption and Safe Families Act of 1997 (ASFA).

This act is broad in its scope addressing family preservation child protection, permanency planning and adoption concerns. Among its key provisions is a focus on child safety as the first priority in child welfare decision-making. It also calls for states to pass legislation detailing specific criteria for timely permanency planning in all cases and expedited termination of parental rights in cases of extreme child abuse and neglect.

ROLE OF THE LEGAL SYSTEM

JUVENILE AND FAMILY COURT PROCEEDINGS

Nationwide, only about 15% of children in substantiated abuse and neglect cases are removed from their homes. As a result, the court is not involved with most children who come to the attention of the child protection agency. Nonetheless, the court plays a critical role in certain circumstances.

First, court intervention is needed when an investigation and assessment indicate that a child cannot remain at home safely. In these instances, the court’s authority is required to take legal custody of the child so that placement and other services may be provided to protect the child. In certain limited circumstances, the child protection agency may place a child out of the home voluntarily with permission of the parent. Policies governing voluntary placements vary across jurisdictions and these placements are subject to juvenile court review after six months.

In many jurisdictions, the court may also be involved and allow the children to remain at home with the parent. In these cases the court may oversee the safety of the child and the parents’ compliance with the case plan agreement either through an order of supervision or by taking legal custody of the child.

When court intervention is needed, federal and state statutes guide the court in overseeing the protection of children. These oversight responsibilities include assuring that:

- the child protection agency has made reasonable efforts to prevent the removal of the child from the home;
- there is a sufficient basis for state intervention on behalf of the child;
- the child is adequately represented;
- each parent has received adequate due process including notice, representation and the right to be heard, present evidence, remain silent and appeal;

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- a proper case plan has been prepared for each parent;
- the child protection agency has either made reasonable efforts to reunite the child with the family once placement has occurred and/or the agency has documented that reasonable efforts are not warranted because reunification would be detrimental to the safety of the child;
- each case is reviewed regularly by the court to ensure that the child's need for a permanent family is addressed in a timely manner; and
- the child protection agency has made efforts to find a permanent home when the child cannot be returned home.

The courts also play an integral role in decision-making in child protection. Key steps in the court process include:

The Petition. In Nebraska, Protection and Safety Workers cannot, on their own authority, remove children from their home. They must rely on the authority of either the police or the courts. Even when a child is removed without a court order, the county attorney is required to file a petition with the court within 48 hours of removal. The petition contains facts about the alleged abuse or neglect and provides the basis for juvenile court involvement.

The Initial Hearing. This is a critical point in the child protection process. During this hearing the court will decide whether or not the allegations in the petition support the need to remove the child or continue a temporary custody order to protect the child. It is also at this hearing that the court ensures that parents have an attorney to advocate for their rights in the process and that a guardian ad litem (and, in some cases, a Court Appointed Special Advocate - a CASA) is appointed to ensure that the child's best interests are addressed.

Adjudicatory Hearings. These are held to determine whether or not the petition is true i.e., the child has been abused and neglected - and whether the child should be declared dependent - i.e., whether custody or supervisory authority should be removed from the parent and transferred to the court or the child protection agency.

Dispositional Hearings. These are held so that the court may decide what action should be taken after the child is declared dependent. Choices may include returning the child home with supervision from the child protection agency, out-of-home care, and orders for service to the parents and children.

Review Hearings. Following the dispositional hearing, the court typically sets a date(s) to review the status of the case, including the case plan, the parents' progress in meeting the requirements of the case plan, and recommendations for changes in the case plan, the child's placement or custody. Review hearings are held at least every 6 months.

Permanency Hearings. These are held so that the court may establish a permanent plan for the child. This hearing also considers information documenting the current status of the case in determining how and when the child's need for a safe and permanent family will be met. New requirements established in the Adoption and Safe Families Act of 1997 require that a permanency hearing be held within 12 months of a child's entry into care (and at 15 months for children already in care). This requirement puts an enormous burden on battered women to make quick and effective safety plans for themselves or else run the risk of losing their children permanently.

Through this process, the case plan, services to family members, and, ultimately, the outcome of the case are decided.

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POPULATIONS SERVED

The Department is mandated to serve families with children who fall into the following seven broad categories.

1. Suspected and Adjudicated Child Abuse and Neglect
2. Dependency
3. Voluntary Relinquishments
4. Juvenile Offenders
5. Status Offenders
6. Interstate Compact for the Placement of Children
7. Interstate Compact for Juveniles

AGE OF POPULATION SERVED

The HHS Protection and Safety System serves families with children from birth until the child's 19th birthday. For intake purposes, child welfare accepts referrals on children from birth through age 17. If a child is a state ward, services can be provided until the child's 19th birthday.

WHAT IS CHILD MALTREATMENT?

Child abuse and neglect are defined in both Federal and State law. Nebraska defines child maltreatment as occurring when a child from birth through age seventeen is physically, emotionally, or sexually harmed.

TYPES OF MALTREATMENT

PHYSICAL ABUSE

In physical abuse, information indicates that existence of an injury is unexplained, not consistent with the explanation given or is non-accidental. The information may also only indicate a substantial risk of bodily injury.

Use of physical discipline in and of itself does not necessarily constitute child abuse. Nebraska Rev. Stat. 28-1413 identifies the use of force can be used for the "purpose of safeguarding or promoting the welfare of the minor including the prevention or punishment of his or her misconduct", and force IS permissible "as long as the force does not cause or is known to create a substantial risk of causing death, serious bodily harm, disfigurement, extreme pain or mental distress or gross degradation."

The HHS worker will need to examine the "level" of force the parent uses as well as the age and vulnerability of the child to assess if this is parental discipline or maltreatment. It is never appropriate to physically discipline an infant.

More than half (54%) of all victims suffered neglect, while almost a quarter (24%) suffered physical abuse. Children suffering psychological abuse and medical neglect accounted for about 6% and 2%, respectively. A greater proportion of neglect victims were children younger than 8 years old, while a greater proportion of physical and sexual abuse victims were children age 8 or older.

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EMOTIONAL ABUSE

In emotional abuse, information indicates psychopathological and/or disturbed behavior in a child which is documented by a psychiatrist, psychologist, or licensed mental health practitioner to be the result of continual scapegoating, rejection, or exposure to violence by child's parent/caretaker.

SEXUAL ABUSE

Information indicates any sexually oriented act, practice, contact, or interaction in which the child is or has been used for the sexual stimulation of a parent, the child or other person. Examples of sexual abuse include, fondling, sexual intercourse, sexual stimulation, incest and sexual exploitation.

NEGLECT

EMOTIONAL NEGLECT

Information indicates that the child is suffering or has suffered severe negative emotional effects due to a parent's failure to provide opportunities for normal experiences which produce feelings of being loved, wanted, secure and worthy. Lack of such opportunities may impair the child's ability to form healthy relationships with others. Examples include emotional deprivation; not providing mental health services for a child when indicated or a child being shunned by peers due to poor hygiene.

PHYSICAL NEGLECT

Information indicates the failure of the parent to provide for the basic needs or provide a safe and sanitary living environment for the child. Examples include the following: not providing adequate food or clothing; not following medical recommendations; failure to thrive, lack of supervision which places the child at risk; parent/caretaker knowingly allowing contact between child and any maltreater; parent's failure to protect a child by allowing them to be physically, sexually or emotionally maltreated by another person; driving with children in the car while seriously impaired by alcohol/drugs; and engaging in dangerous activities while children are present.

MEDICAL NEGLECT OF HANDICAPPED INFANT

The withholding of medically indicated treatment (including appropriate nutrition, hydration, and medication from disabled infants with life-threatening conditions. Exceptions include those situations in which:

- The infant is chronically and irreversibly comatose;
- The provision of this treatment would merely prolong dying or not be effective in ameliorating or correcting all of the infant's life-threatening conditions;
- The provision of the treatment itself under these conditions would be inhumane.

An estimated three-quarters of sexual abuse cases were associated with male perpetrators, while over 70% of neglect and over 80% of medical neglect were associated with female perpetrators.

Two-thirds (67%) of all victims were white. African American children represented the second largest group of victims (29.5%). Hispanic children represented about 13% of victims, American Indian/Alaska Native children about 2.5% of victims and Asian/Pacific Islander children about 1% of victims. The proportions of victims who were African American or American Indian/Alaska native were two times greater than the proportions of these children in the general population.

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INTAKE ACTIVITIES FOR CHILD WELFARE CASES

The protection and safety worker gathers, compiles and documents information necessary to determine appropriate Department response. In keeping with the philosophy of providing services in the least intrusive manner possible, the Department has established criteria for determining when it is appropriate to intervene with families.

Allegations which meet the definition of child abuse and neglect are assigned for further assessment. When a reporting party's concerns don't meet the definition of child maltreatment, but other agencies exist to deal with the concern, the report is referred to the appropriate agency. These contacts are opportunities to benefit families, the community and the agency even if the case isn't accepted for formal involvement of the Department. These people contacting the Department need information, clarification and direction to appropriate services. Staff who receive such contacts will assess the information to see if it's appropriate for Department services. If not, staff refers the person to community services or provides consultation and education.

When law enforcement has investigated a report of suspected child abuse or neglect and has made a report of their findings to the Department, the Department records the finding into the Central Register (see Central Register, pg. 19). The Department won't initiate another assessment unless the law enforcement investigation indicates the child is at continued risk of abuse or neglect or the information on the circumstances of the family is incomplete. All Department assessments on suspected child abuse and neglect is coordinated with the appropriate law enforcement agency.

CONFIDENTIALITY FOR INTAKE

The worker advises each person reporting maltreatment that the situation is being assessed and that his/her concern is appreciated. State law specifically protects the confidentiality of the person who reports child abuse or neglect (see state statute in APPENDIX). Staff tells the reporting person that the information contained in the referral is confidential and that his/her name will be released only to the appropriate law enforcement agency, the county attorney (if legal intervention is necessary), or when otherwise required by law.

Upon request, the local office will send a summary of the findings and actions to the physician or the person in charge of an institution, school, facility, or agency making a legally mandated report. If the assessment is incomplete at the time of the request, the worker will inform the reporting person of the actions taken to date and that the case is still under assessment. The reporting person may be informed if the family is receiving services. The worker will release no other information to the reporting person except as it relates directly to the reporting person's professional relationship with the child or family.

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INITIAL ASSESSMENT FOR CHILD PROTECTIVE SERVICE

The Initial Assessment Phase (formerly referred to as investigation) is the first in-depth contact with the child and parent regarding the situation that has caused HHS to become involved. The main components of the Initial Assessment Phase is to determine if maltreatment did occur, to assess for the safety of the child and to assess for risk of future maltreatment to the child.

Protection and Safety staff will conduct assessments with the family to make a case determination in regard to the allegations and to determine what services, if any, are needed and how services can best be provided. Protection and Safety Workers will refer families for service both within and outside the Department. To reinforce family self-sufficiency and least intrusive service delivery, preference is given to referring families to community-based services.

When necessary, a plan is developed and implemented to provide safety for the child. The priority at this phase is securing child safety with attention to working with the family to preserve the family unit whenever possible.

The Department believes that domestic violence is the establishment of control and fear in a relationship through the use of violence and other forms of abuse. The offender may use physical abuse, emotional abuse, sexual abuse, economic oppression, isolation, threats, intimidation, and maltreatment of the children to control the other person. Relationships involving domestic violence may differ in terms of the severity of abuse, but control is the primary goal of all offenders. The primary focus of HHS intervention in domestic violence cases is the ongoing assessment of risk and safety. The preferred way to protect children in most domestic violence cases is to join with the nonoffending parent in safety planning and to hold offenders accountable.

INITIAL ASSESSMENT ACTIVITIES

The following tasks apply to any initial assessment conducted by CPS:

- Interview the child, parents, siblings, and other relevant family members or collateral contacts. All family members should be interviewed alone to establish trust and to increase the accuracy of the information gathered.
- Gather information from any other sources who may have information about the presenting problem or alleged maltreatment or the risk and safety of the child. Others may have information that will help in understanding the nature and extent of the alleged maltreatment and in assessing the risk and safety of the child. To protect the family's right to confidentiality, interviews or contacts with others should not be initiated without cause. However, in some cases, the family may disclose other persons who have information about the alleged maltreatment or about the family in general.
- Observe the child, siblings, parents and interaction among family members; and the home and neighborhood.
- Document and analyze the information gathered.

Statutory reference: Neb. Rev. Stat. 28-725 and 28-726.

An estimated 1,196 child fatalities attributed to maltreatment occurred during 1997. Data indicates that children 3 and younger accounted for 77% of the fatalities.

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Specific areas for observation are:

- the physical condition of the child, including any observable effects of maltreatment;
- the emotional status of the child, including mannerisms, signs of fear, and development status;
- the reactions of the parents to the Department's concerns;
- the emotional and behavioral status of the parents during the interviewing process, levels of denial and resistance, and use of defense mechanisms;
- interactions among the family members, including oral and facial expressions and body language;
- the physical status of the home, including cleanliness, structure, hazards or dangerous living conditions, signs of excessive alcohol use and use of illicit drugs; and
- the climate of the neighborhood, including level of violence and support, and accessibility of transportation, telephones, or other means of communication.

Staff use a common tool when determining cases of child abuse and neglect and use established protocol to determine child safety issues, maltreatment, or risk of maltreatment.

INITIAL ASSESSMENT OUTCOMES

- Child safety.
- Validation of maltreatment and allegations.
- Determination of extent of maltreatment.
- Identification of source or nature of maltreatment.
- Determination of level of risk.
- Safety service needs are identified.
- Safety plan is developed and implemented.
- Findings are documented.
- Case status determination is completed for Central Registry.
- Initial assessment cases that are "closed" (do not proceed in CPS system) are appropriately referred.
- Families clearly understand the Department involvement and findings.
- Public (particularly referral source) clearly understands Department involvement and findings.
- Cases are opened for voluntary or court-ordered services.
- Children are adequately adjudicated to get appropriate services.
- Community supports are in place to assist the child and family.
- Strategic Department direction and supports are in effect to achieve desired outcomes.

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SAFETY DETERMINATIONS AND SERVICE RESPONSES

Safety determinations and service responses are approached in the least intrusive manner possible. A safety plan is used to identify needed safety services.

Services to control the child's safety and to assist in preventing the child's removal from the home will be provided if unsafe conditions are identified and documented by the worker.

Possible safety services include the following:

- In-home family support
- Routine and emergency health care
- Routine and emergency mental health care
- In-home health care
- Health care
- Child care
- Supervision and observation
- In-home child care
- Respite care
- Basic parenting assistance
- Basic management and life skills
- Crisis counseling
- Social and emotional supports
- Housing
- Financial services
- Transportation
- Chore services
- Hospitalization
- Food and clothing services
- Other

If services are accessible at the level identified, they will be implemented immediately. If in-home safety services are not available or accessible at the level of service required, an out-of-home placement will be considered.

It is estimated that over 80% of all perpetrators were under age 40 and that almost two-thirds (62%) were females.

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OUT-OF-HOME PLACEMENT

Out-of-home placement will be considered when:

- Safety determination indicates safety is a problem; and
- Safety cannot be controlled in the home as documented; or
- Reasonable efforts have been made to prevent the need for placement;
- An emergency exists.

Law enforcement may determine that the child needs to be placed in protective custody. Child Protection and Safety can provide assistance in such cases.

CASE STATUS DETERMINATION

Based on the information gathered and analyzed during the initial assessment phase, the worker arrives at a finding regarding the maltreatment report. The decision at this point is whether there is a preponderance of evidence to support the finding that child abuse or neglect as defined by state statute has occurred. This finding is called the case status determination. The case status determination will be entered into the Central Registry in a timely manner.

TYPES OF CASE STATUS DETERMINATIONS

COURT SUBSTANTIATED

A District Court, County Court, or Separate Juvenile Court has entered a judgment of guilty on a criminal complaint, indictment, or information, or an adjudication or jurisdiction or a juvenile petition under Section 43-247(3)(a), and the judgment or adjudication relates or pertains to the same subject matter as the report of abuse or neglect.

PETITION TO BE FILED

This means that a criminal complaint, indictment, or information, or a juvenile petition under Section 43-247(3)(a), has been filed in District Court, County Court, or Separate Juvenile Court, and that the allegations of the complaint, indictment, information, or juvenile petition relate or pertain to the same subject matter as the report of abuse or neglect. This is a temporary finding which requires updating once a court decision is made. A notification letter is required to be sent regarding this finding.

INCONCLUSIVE

This means that the evidence indicates more likely than not (preponderance) that child abuse or neglect occurred and court intervention did not occur.

UNABLE TO LOCATE

Subjects of the maltreatment report have not been located after a good faith effort on the part of the Department.

It is estimated that 60% of substantiated or indicated reports were from professional sources—legal, medical, social service, or education.

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UNFOUNDED

All reports not classified as court substantiated, petition to be filed, inconclusive or unable to locate will be classified as unfounded.

PREPONDERANCE OF EVIDENCE

This means that an event is more likely to have occurred than not by the greater weight of the evidence. The evidence needs to be credible and well documented.

CENTRAL REGISTER

The Child Abuse Central Registry was established by State Statue 28-718. It is a listing of all reported child protection cases and their findings. This includes findings of unfounded and unable to locate as well as the substantiated findings of inconclusive, petition to be filed, and court substantiated. The Central Register is a subset of the Central Registry. The Central Register consists of all child protection cases with the substantiated findings of inconclusive, petition to be filed and court substantiated. An individual would be considered “on the register” if they were listed as a perpetrator in a case and they had a substantiated finding.

When an individual is the subject of a child abuse investigation and has a finding of inconclusive, court substantiated, or petition to be filed, they receive a certified letter informing them of the central register. They also receive instructions on how to request an expungement of their record. Some individuals may find out that they are listed on the central register after they apply for a job or volunteer work where a central register check is completed. These individuals need to sign a release of information for their employer and the employer is told if they are on the register. No specific information is released. Some individuals may not be aware that they are on the central register as notification letters were not required prior to April 1994.

If an individual requests an expungement, their case file is reviewed by department program specialists and a determination is made as to expungement. If an expungement is determined to be appropriate a letter is sent to the individual informing them of the action. If the expungement is denied, they are sent a letter informing them of the decision and how to request a fair hearing.

In a fair hearing both sides present their evidence before a hearing officer and the HHS Director makes a determination based on the recommendations of the hearing officer. If the individual does not agree with the decision, they have the option of appealing the matter to the District Court for review of the evidence presented at the hearing for final determination.

The original purpose of the central register has historically provided a mechanism to track cases over time to assess if there are repeat cases of child abuse and neglect. It has evolved to be a system that is relied upon by employers to help them screen potential employees who will be working with children and/or vulnerable adults.

The goal is to make the register as accurate and inclusive of all serious child maltreatment cases.

Over 75% of perpetrators of child maltreatment were parents, and an additional 10% were other relatives of the victim.

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Reports of alleged child abuse/neglect were received from professionals (54%); parents, other relatives, and alleged victims (18%); and friends and neighbors (8.5%). 20% of reports were from unknown or anonymous sources, other sources, and alleged perpetrators.

DETERMINING DEPARTMENT RESPONSE

Following use of the assessment tool, initial assessment, and the case status determination, the worker determines the Department response.

Six alternatives are available to the worker and family following case status determination:

1. Worker determines no further intervention is needed. Case is closed following notification to the family.
2. Worker determines there is a need for further service that can be provided through a community agency or other Department service program. The family is willing to voluntarily engage in the service. The case is closed following engagement of family in the service.
3. Worker determines that ongoing protective services are required to address or control the maltreatment and risk identified in the initial assessment. The family is willing to voluntarily engage in CPS service provision. The case is transferred to the ongoing services for service continuation, further assessment and case planning. (These cases are referred to as "voluntary" cases.)
4. Worker determines that ongoing protective services are required to resolve or control the maltreatment and risk identified in the initial assessment. The family is unwilling to voluntarily engage in services identified as necessary. In these instances, the worker is required to formally request that the county attorney file a petition for court authorization to intervene. When court authority is granted, the case is transferred for ongoing services, further assessment and case planning. (These cases are referred to as "involuntary cases".)
5. Worker determines that ongoing services are needed; the family is willing to engage in the services identified as necessary, but court involvement is needed to resolve the identified problem, for example, incest cases.
6. Worker determines a need for ongoing protective services, the parents are unwilling to cooperate, and the county attorney has determined there is inadequate factual information to pursue court action. The case is closed following notification to the family.

CASE PLANNING

Workers will provide the child and family with opportunities for change by helping them identify positive outcomes and to set goals that address the problems that place the child at risk of maltreatment, reoffense, and which also address the issues that brought the child or family to the attention of the agency. The overall goal in child welfare cases is to reduce or eliminate the risk of maltreatment so that parents can protect their children and meet their developmental needs.

Case planning is the responsibility of the worker with the active involvement of the child and family and the members of the team supporting services to the family.

The case-planning process will:

- Focus on the problems identified in the assessment of the family and youth,
- Identify a permanency objective,

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- Establish and prioritize goals,
- Identify the action steps needed to reunite the family or to prevent out-of-home placement,
- Use the family's resources,
- Build upon the family's and child's strengths,
- Develop or maintain family responsibility,
- Identify who is responsible for tasks,
- Establish time frames for achieving case goals, projected discharge and case closure,
- Establish an evaluation process to assess whether outcomes are being achieved.

CASE MANAGEMENT

Once the case plan has been developed, the worker is responsible to see that the identified services are in place. During this phase the worker's activities include:

- selecting the appropriate services, with the involvement of the family;
- helping the family or child locate and access the appropriate services;
- providing or arranging for the appropriate services when needed;
- communicating and collaborating with the identified service providers;
- monitoring child safety and risk;
- consulting with the case consultation team at the key decision points;
- meeting regularly with the family and child;
- measuring progress toward goal achievement and permanency objectives;
- monitoring services and coordinating with service providers;
- evaluating services provided;
- maintaining records;
- consulting with support team;
- preparing necessary reports;
- closing case; and
- participating in the evaluation of the support system.

Elements of the case plan will be modified to meet any issues that are identified that pertain to child safety and risk.

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DETERMINING CASE CLOSURE

In determining whether to close a case, a worker will focus on the issues that brought the family and child to the attention of the Department.

Department intervention will be terminated and a case will be closed on the basis of the following:

1. The goals established in the case plan have been achieved, and
2. The child is safe and the risk of future maltreatment has been sufficiently reduced, or
3. The family refuses services and no legal grounds exist to pursue court action, or
4. The family and child in a voluntary CPS case cannot be located or client is deceased, or
5. The sending state through Interstate Compact closes case, or
6. Current family problems are not within the scope of the Department mission, or
7. The child is convicted and sentenced as an adult, or
8. The child is age 19, or
9. The child dies.

The criteria used to determine whether to close a case is “minimal standards,” not “optimal standards,” for family functioning. If families and children need ongoing support and treatment following case closure, help will be provided to the family and child to arrange for these services from the community before case closure.

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DOMESTIC VIOLENCE



NEBRASKA'S HISTORY AND PHILOSOPHY ON DOMESTIC VIOLENCE

Nebraska's response to domestic violence began in the mid 1970s as community groups and concerned individuals joined together from across the state to organize crisis lines and safe emergency housing for battered women and their children. In 1978, the Nebraska Legislature passed the Protection from Domestic Abuse Act (PFDA) which established state funding for emergency services and set provisions for obtaining domestic violence protection orders.

Since 1978, Nebraska Health and Human Services has distributed the state funding available through the PFDA by contracting with non-profit community based organizations to provide services. In addition to funding from HHS, each program relies on private donations and other state and federal funding to support their programs.

Currently, Nebraska is served by 22 domestic violence sexual assault programs, which operate with limited paid staff and hundreds of volunteers. With the exception of the organizations in Lincoln and Omaha, most programs are responsible for providing services on a multi-county basis. As such, the access to services and the services available at a given location in the state can vary considerably. However, each program is available to assist battered and assaulted women and children with the following basic emergency services:

- 24 hour access to support, information, safety planning, and other services through local crisis lines;
- Short term emergency shelter to provide victims and their children a place to escape further violence;
- Transportation to hospitals, for court appearances, or to other community agencies when necessary;
- Referral and accompaniment to hospital emergency rooms or medical offices for treatment of injuries or rape exams;
- Referrals to local attorneys, information and emotional support through court proceedings, and assistance with obtaining domestic abuse protection orders;
- Limited financial aid to provide for food, personal sundries, and other necessary items not available through community services.

In addition to these services, programs also provide:

- Support groups for victims of domestic violence, sexual assault, adult survivors of incest/child sexual assault, children who have witnessed domestic violence, and in some areas, intervention groups for men who batter.
- Prevention programs for children and young adults on child sexual abuse, sexual assault, dating violence, sexual harassment and other forms of violence.
- Educational programs for church and civic groups about the impact of violence on the community and steps these groups can take to address it.
- In-service trainings and technical assistance to other community service providers upon request.

You can contact the program serving your county by calling the statewide hotline at 1-800-876-6238.

Levels of Violence

Based on reports from 6,334 women contacting Nebraska's Network of Programs between July 1, 1997 and June 30, 1998

3,504 (55%) of the victims had received some type of physical injury ranging from cut and bruises to internal injuries;

1,567 (25%) reported a knife, gun or object had been used against them

1,317 (21%) reported sexual abuse was occurring;

2,915 (45%) of the victims reported law enforcement involvement after the most recent incident;

1,707 (27%) of the victims were not living with the perpetrator at the time of the latest incident; and,

6,050 (79%) children in these homes had witnessed the violence or its aftermath and 842 (11%) had been physically injured during an incident.

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The driving philosophy of domestic violence programs in Nebraska and throughout the country is a belief that any woman can find herself in an abusive relationship. Battering is not something that happens to her because of her characteristics, her family background, her psychological profile, her family origin or her unconscious search for a certain type of man. Battering happens to an individual who has the misfortune to become involved with a person who wants power and control enough to use violence to gain power and control.

OVERVIEW OF DOMESTIC VIOLENCE

Domestic violence is more than physical assaults. It is a continuum of behaviors ranging from degrading remarks, isolation, economic exploitation, intimidation and sexual abuse.

Women are ten times more likely than men to experience violence at the hands of a loved one. Children from homes where their mothers are battered are also at increased risk for physical and sexual abuse by their fathers. Forty to sixty percent of men who batter women also batter their children making the presence of spouse abuse the single most identifiable risk factor for predicting child abuse.

If children are not direct targets of the violence, they frequently witness it or are exposed by overhearing repeated threats of injury, verbal assaults on their mother's character, objects being thrown or broken, or threats of homicide or suicide.

Domestic violence is characterized by an abuser's need to control his partner. Abusive relationships do not start out with physical violence. Rather they begin with more subtle forms of abuse, which increases in frequency and severity over time. It is not until the victim is committed or trapped in the relationship that she realizes how dangerous her partner has become.

COMMON ABUSIVE BEHAVIORS

Physical violence. Physical abuse may include pushing or shoving, throwing objects, hitting or beating, choking, burning, using a weapon, or restraining the partner from leaving. It may also include refusing to get help for a partner if he or she is sick or injured. Physical abuse serves as a deterrent to independent action by the victim, including attempts to end a relationship or cooperate with the child protection or criminal justice system. Several studies have shown that women and their children are at a higher risk of experiencing physical violence when they try to leave an abusive relationship: 75 percent of emergency room visits and calls to the police by battered women occur after a separation. Half the homicides resulting from domestic violence occur after separation.

Intimidation. Intimidating behaviors include smashing objects, destroying property, sabotaging vehicles, abusing or maiming pets, or displaying weapons. Simple looks, gestures, and actions can be a clear warning to the victim of the abuser's potential for physical violence. Even those batterers who infrequently use violence regularly remind their partners that non-compliance with their demands may precipitate violent assaults.

Threats. Abusers constantly threaten the victim with statements such as: "if I can't have you, no one else can," or "if you ever tell anyone, you will pay." They may also threaten to kill themselves and/or hurt other members of her family. Whether credible or not, these threats can be very effective in deterring the victim from seeking help.

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Isolation. Isolating the victim serves to destroy the support network necessary for her to end the abusive relationship and makes her more vulnerable to the batterer’s coercion. The abuser may control who she sees and where she goes, deny access to a car or telephone, deter her from working or attending school, or alienate her from family and friends.

Emotional abuse. Abusers try to convince the victim she is unattractive, a bad mother and wife, stupid, unemployable, crazy, incompetent, promiscuous, and the cause of the batterer’s abuse. Over time, these constant degrading remarks undermine the victim’s self-confidence and discourage her from ending the relationship.

Sexual abuse. Between 33 and 46 percent of battered women are subjected to sexual abuse including rape, unwanted sexual practices, sexual mutilation, or forced or coerced prostitution. Other forms of sexual abuse include exposing her to a sexually transmitted disease, accusing her of having affairs or constantly flirting with other men, and forcing her to imitate pornography or pose for pornographic photographs.

Use of children. An abuser will frequently try to control the victim by threatening violence against the children, criticizing her parenting skills, and making threats relating to child custody. Even if she is successful in leaving the abusive relationship, abusers will fight for custody, and use visitation or joint custody arrangements to gain continued access to the victim.

Using economic control. The batterer often maintains strict control over all of the family’s resources, including the victim’s own income if she works, giving her an allowance or forcing her to ask for money for basic necessities. He might keep some sources of family income secret. Not surprisingly, lack of financial resources is one of the primary reasons women stay or return to abusive relationships.

Most batterers use a variety of these tactics to establish and maintain control over their partners. It is the combination of these tactics that makes the impact of living in a domestic violence situation so devastating and so difficult for victims when they are attempting to leave the relationship.

IMPACT ON CHILDREN

Living in a home where there is domestic violence clearly impacts children in a variety of negative ways. Children who witness abuse, yet are not the direct targets of violence, often display symptoms which are similar to victims of child abuse.

Children can also be injured as a direct result of the domestic violence. Many abusers intentionally harm children in an effort to intimidate and control their adult partners. These assaults can include physical, emotional and sexual abuse of the children. Children may also be injured – either intentionally or accidentally – during attacks on their mother. Assaults on younger children may occur while the mother is holding the child. Injuries to older children often occur when they make attempts to intervene in the violent episodes.

Whether they are direct targets or witnesses to the violence, the dynamics of domestic violence creates an unhealthy environment for the development of children. The isolation and intimidation tactics that abusers use against their adult partners often extends to the children who may feel responsible for protecting the “family secret.”

FIVE THINGS TO SAY TO A VICTIM WHO FEELS SHE CANNOT LEAVE:

1. I am afraid for your safety.
2. I am afraid for the safety of your children.
3. It will only get worse.
4. I am here for you when you are ready to leave.
5. You don’t deserve to be abused.

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Some of the common reactions to domestic violence in children include:

Emotional and Behavioral Signs:

- **Guilt.** Children often feel responsible for the violence. A child may feel the violence and fighting is a result of the child's inabilities or bad behavior. They may blame themselves for the assaults. A child may also feel they should be able to prevent or stop the assaults and feel helpless when they are not able to intervene.
- **Shame.** Children are embarrassed to talk to others outside the family. The isolation often becomes self-imposed, as they are too ashamed to bring friends to their home.
- **Fear.** Children may have trouble concentrating in school because they worry about their home life.
- **Aggressive Behavior.** A child may model the abusive parent and react to common frustrations with abusive and violent behavior. Children will destroy toys and other property and, in some cases, will be harmful to animals.
- **Withdrawal.** Some children will become very passive and overly compliant.

Physical Signs:

- Eating or sleeping disorders.
- Regressive behaviors – bedwetting, thumb sucking, and clinging behavior.
- Somatic complaints – headaches, stomach problems, asthma, finger biting, stuttering.
- Unexplained bruises, inconsistent stories about injuries.
- Mood related disorders such as depression.

Although children are affected by domestic violence in some way, the nature and extent of the damage to a child will vary depending on a number of factors including:

- the extent and severity of the battering;
- the child's age, gender, and developmental stage;
- the strength of the child's bond to the non-abusive parent;
- the child's relationship to the adult perpetrator; and
- the presence of non-violent adult role models and relationships the child may have in the family and community.

Designing effective interventions for children requires a good assessment of these factors, including an assessment of the non-violent parent's resources and safety concerns. In domestic violence cases, an important component of protecting the children is helping the non-abusive parent obtain the resources necessary to escape the violence and to insure the abusive parent is held accountable for the violence.

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OFFENDERS

Working with offenders can be very challenging. Many abusers are adept at hiding their abusive behaviors from people outside of the immediate family. This discrepancy between their private and public behavior can lead family members, friends, protection and safety workers, law enforcement officers and others to easily minimize the danger the victim faces. Previous threats from the abuser such as, “if you tell anyone, you’ll pay,” makes it extremely difficult for a victim to feel she can safely disclose the full extent of the violence. Common responses from offenders when they are confronted with their use of violence includes:

- Minimizing the injury or severity of the episode.
- Flatly denying any incident took place.
- Blaming the victim for provoking the incident or bringing it on herself.
- Blaming the episode on alcohol, drugs, or outside stress (e.g. job stress, financial problems, children, etc.).
- Justifying the violence as necessary (e.g., self-defense, calming a hysterical woman, “keeping her in line,” etc.).

BASIC SAFETY AND INTERVIEW TECHNIQUES

Given these complex dynamics, it is critical for any outside intervention — whether it is a law enforcement officer or child protection and safety worker — to remember these basic safety and interview techniques:

- Separate the parties and keep them out of eyesight.
If he can see her, he can intimidate her.
- If children are present, interview them as well.
They usually know far more than their parents are aware.
- Make your questions specific and direct. Speak in a calm and even tone.
- Let the victim know that the abuse will probably continue and get worse, and that you are afraid for her safety. Give her the number of the domestic violence program in the area.

The way in which a law enforcement officer or child protection worker responds to a domestic violence call can have a lasting, positive impact on all members of the family. It is an immediate and direct way to communicate to the offender that acts of domestic violence are against the law and to let the victim and children know that help is available.

NEBRASKA’S COMMUNITY RESPONSE TEAMS

Over the past twenty years, there have been significant statutory changes governing domestic violence that have been passed in every state in the country. The policies and practices of law enforcement agencies for example, have shifted — from treating domestic violence as a private family matter in which officers were instructed to avoid arrest and restore the peace — to policies that acknowledge and treat domestic assault as a serious, violent crime.

An estimated 40-50% of women in homeless shelters are homeless as a result of fleeing domestic violence. (Horn, 1991; Task Force on Family Violence, 199

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Shelter & Related Assistance

Between July 1, 1997 through June 30, 1998, Nebraska's Network of Programs provided shelter & support to 11,877 victims and their families;

Furnished 42,067 beds and 100,022 meals to families forced to leave their homes because of domestic or sexual violence;

Provided 98,125 hours of individual and group support;

Responded to 106,789 crisis line calls; and,

Conducted 2,291 prevention programs reaching 65,379 Nebraskans.

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These changes, coupled with the addition of civil remedies (e.g. protection orders) have significantly increased the number of victims who turn to the criminal justice system for relief, protection, and assistance.

To support local efforts to improve the criminal justice response to domestic violence, the federal government passed the Violence Against Women Act of 1994. Over the past 5 years, these funds have been utilized in several Nebraska communities to develop Coordinated Response Teams (CRTs) in their areas. These teams are comprised of representatives from the local domestic violence/sexual assault programs, sheriff and police departments, county attorneys, probation officers, and other key community service providers.

The primary purpose of a CRT is to maximize the use of community resources to hold perpetrators responsible for any use of violence while protecting victims and their children from further harm. This is accomplished by implementing training procedures and operating policies that aggressively respond to domestic related crimes at the misdemeanor level while making support services for victims an integral part of the intervention at every level.

Some of the activities of CRTs across the state include:

- Implementing an enhanced advocacy program whereby victims are contacted by a domestic violence advocate immediately after a custodial arrest to be given information and support.
- Changing the bond schedule in domestic violence related cases to require that a defendant appear before a judge before being released.
- Implementing case management teams who meet on a regular basis to review cases to ensure policies are being adhered to.
- Comprehensive tracking of offenders from time of arrest through completion of probation to ensure the offender is sanctioned for any further use of violence or failure to adhere to the terms of probation.
- Establishing specialized investigative units within law enforcement agencies or the hiring of paralegals to assist county attorneys in preparing domestic violence cases for prosecution.
- Implementing victimless prosecution.
- Instituting universal screening for domestic violence in community hospitals.
- Operating batterer intervention programs and working to establish consistency between these programs across the state.
- Coordination and tracking of all cases where children were involved in or witnessed the domestic violence to ensure the best interest of the child is being considered in any juvenile petitions filed on their behalf.
- Provision of pre-programmed cellular phones or other types of panic response mechanisms to victims at high risk of retaliatory violence.
- Providing routine domestic violence training within agencies.
- Adoption of consistent policies between participating agencies.

EMPLOYMENT FIRST



WELFARE REFORM

Historically, cash assistance and self-sufficiency programs were supported by federal entitlement grants and delivered at the state level. The three federal programs were called Aid to Dependent Children (ADC), Job Opportunity and Basic Skills (JOBS), and Emergency Assistance (EA). Nebraska was already in the process of reforming their welfare program (now called Employment First) when Federal government passed legislation to block grant all federal dollars for ADC, JOBS and EA into the Temporary Assistance for Needy Families (TANF) block grant. The TANF block grant requires each state to submit a TANF plan. It allows them to name their own programs and Nebraska chose to retain the ADC and Emergency Assistance titles for its cash assistance programs and the term Employment First replaced JOBS and is the name of the Nebraska welfare reform effort which utilizes job training, education and employment preparation. The Nebraska Welfare Reform Act was debated and developed between 1994-1997. It defines Nebraska's unique human capital investment model, which differs from many states' work-first welfare programs. The Welfare Reform Act emphasizes assessment, removal of barriers to self-sufficiency, education, job preparation and job training as key principles in moving families away from welfare dependency and out of poverty permanently.

The Nebraska Welfare Reform Act lays out Nebraska's unique assessment-choice welfare reform plan, which differs from many states' welfare programs.

WHO IS ELIGIBLE FOR WELFARE BENEFITS?

- Anyone can apply for benefits. There is a single application for ADC, Medicaid (health care assistance), child care and food stamps.
- Anyone who is income and resource eligible for ADC, Medicaid, food stamps, and child care assistance will receive those benefits.
- Clients found eligible for ADC and Medicaid can refuse ADC and retain their Medicaid.
- Legal immigrants in Nebraska are eligible for all safety net benefits in Nebraska. These include ADC, Medicaid and Social Security Income (SSI).

MAJOR COMPONENTS OF THE NEBRASKA WELFARE REFORM ACT

- A time limit of 24 months of cash assistance within a continuous 48-month period (with limited exceptions).
- "Self-Sufficiency Contracts" and a contractual relationship between the recipient and the State (with limited exemptions).
- Sanctions increased for failure to cooperate with the Employment First program or terms of the Self-Sufficiency Contract to include full family sanctions of ADC cash assistance and adult medical benefits.
- A "family cap/child exclusion" which prohibits cash assistance for additional children born into the family more than 10 months from the date of application for assistance.
- A "learnfare" reduction in cash assistance if any minor fails to attend school and if the student's parent(s) has not taken reasonable steps to encourage the child to stay in school.
- Elimination of the "dependency" definition.
- More generous income eligibility and earned income disregard rules.

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- More generous rules for allowable resources such as cash, property and equity.
- Expanded eligibility for child care and health care.
- Case management commitment and reduced caseloads.
- A broad definition of “work activities” to include education, job training and post-secondary education.
- The availability of transitional medical assistance and child care for up to 2 years.

EMPLOYMENT FIRST

The primary purpose of Employment First is to provide temporary, transitional support for Nebraska families so that the provision of training, education, and employment preparation will lead the client to economic independence in a maximum of two years. Nebraska is dedicated to improving the standard of living and quality of life for each family living in the State. The program promotes personal responsibility and the empowerment of parents to support their individual families.

EMPLOYMENT FIRST PROGRAM SERVICES:

- are temporary for most clients and designed to assist clients to transition to self-sufficiency;
- make the best use of the client’s 24 months of eligibility for assistance;
- be based on a partnership among HHS staff, clients and the community;
- enhance the dignity of clients and reinforce the personal responsibilities of clients;
- have an understanding of the commitment to the collaborative process across all personnel levels;
- be strategic, supporting the values of work, family, opportunity and personal responsibility;
- be family-centered, recognizing the client as a partner in the decision making process;
- utilize the strengths of the client and community as a foundation of self-sufficiency plans maintaining empowerment of clients as the primary goal.

The level of economic resources available to an abused woman is the best indicator of whether or not she will permanently separate from her abuser (Horn, 1992).

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EMPLOYMENT FIRST EXEMPTIONS

Exemptions from the Employment First Program may be granted when it's determined that severe barriers to participation and self-sufficiency currently exist.

All ADC recipients will be mandatory Employment First participants unless they qualify for one of the exemptions listed below:

- A child age 15 or younger (including an emancipated minor).
- A full-time student age 16, 17, or 18 and regularly attending an elementary, secondary, or vocational or technical school.
- A person who: a) has an illness or injury serious enough to temporarily prevent entry into employment or training; or b) is incapacitated with a medically determinable physical or mental impairment which, by itself or in conjunction with age, prevents the individual from engaging in employment or training and which is expected to exist for a continuous period of at least 3 months.
- A person age 60 or older.
- A person who is needed in the home on a continuous basis because of the illness or incapacity of another household member and no other appropriate member of the household is available to provide the needed care.
- A parent or needy caretaker relative or needy guardian or conservator of a child under the age of 12 weeks.
- A pregnant woman beginning with the third trimester. (This means that a woman cannot lose her ADC cash assistance for any reason, including a sanction, beginning with the seventh month of her pregnancy.)
- An individual who lives in a location that is so remote from an Employment First program or activity that effective participation is not possible. The individual is considered remote if a roundtrip of more than two hours by public or private transportation would be required.
- An individual who is participating in AmeriCorps and who would have been eligible for an ADC grant at the time he/she entered AmeriCorps.
- An individual who is a victim of domestic violence and where participation in the Employment First Program would make it more difficult for him/her to escape violence or put him/her at risk of further domestic violence.
- A single custodial parent who is unable to participate because he/she cannot obtain child care for his/her child (up to age 5) for one or more of the following reasons: a) unavailability of appropriate child care within a reasonable distance from the client's home or work site; b) unavailability or unsuitability of informal child care by a relative or under other arrangements; or c) unavailability of appropriate and affordable formal child care arrangements.

AID TO DEPENDENT CHILDREN (ADC) ELIGIBILITY

Nebraska's ADC Program serves families who are Nebraska residents who meet eligibility criteria. ADC families moving to Nebraska and legally admitted non-citizens are served under the same program regulations as are applied to other Nebraska families. For persons admitted to the country after August 22, 1996, who are not eligible to receive Federal benefits, funding assistance will be provided by the State of Nebraska.

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More than 50% of battered women surveyed stayed with their batterer because they did not feel they could support themselves and their children. (Sullivan, 1992)

ELIGIBILITY COMPONENTS

- Families composed of either one or two parents or specified relative(s), conservator, or guardian and who are expecting their first child to be born within the next ninety days;
- Families who care for children under the age of 18; or up to age 19 if still in secondary school or equivalent level of vocational school, or participating in Employment First after dropping out of school and whose family income and resources meet current means tests;

To receive ADC, a family must have at least one dependent child or be expecting a child, and have income resources below the standards applied throughout Nebraska.

- Eligibility for cash assistance must be redetermined every 12 months.
- Minor parents will be required to attend educational activities on a full-time basis if they have not completed high school or its equivalent.

Usually the child shares the same household with the parent, relative, guardian or conservator; however, circumstances may require a temporary absence from the customary family setting.

Allowable absences include:

- a child receiving medical care or education which requires the child to live away from the home;
- a child out of the home for a visit not to exceed three months;
- emergency situations that deprive the child of a parent's, relative's, guardian's, or conservator's care (may not continue beyond three months except in the case of extended hospitalization).

For a parent, needy caretaker relative, or needy guardian or conservator to receive ADC along with the child, according to the 1999 Nebraska State Plan for ADC, they must:

- assign (child) support rights to the Nebraska Department of Health and Human Services;
- cooperate with the Child Support Enforcement Unit;
- live with the child in a place or residence they maintain;
- be in need, as determined by assistance requirements and standards;
- comply with Employment First requirements;
- not be eligible to receive Aid to the Aged, Blind and Disabled (AABD) cash benefit.

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According to the 1999 Nebraska State Plan for ADC, the following are **ineligible** to receive ADC:

- Any person convicted in federal or state court of having fraudulently misrepresented their residence in order to obtain assistance in two or more states is ineligible for assistance for 10 years from the date of conviction.
- An individual who is: 1) fleeing to avoid prosecution, custody, or confinement after conviction for a crime or attempt to commit a crime that is a felony under the law of the place from which the individual is fleeing; or 2) violating a condition of federal or state probation or parole.
- An individual who commits any offense after August 22, 1996, which is classified as a felony and which has, as an element, the possession, use, or distribution of a controlled substance and is convicted under federal or state law after August 22, 1996, is permanently ineligible for cash assistance.

INCOME GUIDELINES FOR ADC

(SEE SUBSEQUENT CHARTS)

The **Household Size** includes the adults in the household as well as the children. Household Size of “one” refers to a child not living with a parent.

ADC Standard of Need is a higher amount against which a family’s net earnings are compared to determine whether the family potentially qualifies for a grant.

ADC Payment Maximum is the highest actual payment amount a family may receive if they have no income. Certain types of income, such as undergraduate educational assistance, are not considered for ADC eligibility and do not lower the payment amount.

If a family has earned income, the first step is to subtract allowable costs of self-employment, if any. After that, a flat 20% is disregarded to account for Federal and State taxes, Social Security withholding and work-related expenses. Child care paid out-of-pocket is also subtracted from this amount. The remaining income, referred to as “net earned income,” is subtracted from the Standard of Need (see above) and the result is compared to the appropriate Payment Maximum. The lower of either the Payment Maximum or the difference between the Standard of Need and the net countable income is the amount of the ADC Grant, unless the family also has unearned income. Unearned income is subtracted dollar-for-dollar from the Payment Maximum or the difference.

Example: A three-person family with \$400/month gross earned income applies for ADC. There are no self-employment expenses to deduct. $\$400 \text{ minus } 20\% = \320 . There are no out-of-pocket child care expenses. The net earned income of \$320 is subtracted from the Standard of Need of \$535. The difference is \$215, which is compared to the Payment Maximum of \$364. The lower of these two amounts is \$215, which is the ADC Grant amount unless the family has countable unearned income.

RESOURCE LIMITS FOR ADC

A family of one may have up to \$4000 in resources, while a family of two or more may have up to \$6000 in resources. Transportation is critical to an individual’s success in the labor market, and receipt of medical services, so one automobile is exempt from the resource limit as well as the family home and its contents.

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If a family is receiving ADC payments, child support payments are transferred directly to the State, and the family receives none of it. To receive ADC, a family must cooperate with child support enforcement rules, unless such activity would endanger the safety of the parent(s) and/or children.

The following chart gives ADC Standard of Need and Payment Maximum.

<u>Household Size</u>	<u>ADC Standard of Need</u>	<u>ADC Payment Maximum</u>
1	\$365	\$222
2	450	293
3	535	364
4	620	435
5	705	506
6	790	577
7	875	648
8	960	719
9	1045	790
10	1130	861
ADD	+85	+71

The United States Department of Health and Human Services issues the Federal Poverty Guidelines (also referred to as Federal Poverty Level or FPL) which are adjusted yearly. These income levels are used to determine eligibility for Head Start (under 100% FPL), the Food Stamp Program (under 130% FPL), the National School Lunch Program (under 185% FPL), and the Low-Income Home Energy Assistance Program (under 116% FPL) as well as state child care subsidies (under 185% FPL).

Standards for 100% the FPL in terms of monthly income are as follows:

<u>Household Size</u>	<u>Federal Poverty Level</u>
1	\$696
2	938
3	1179
4	1421
5	1663
6	1904
7	2146
8	2388
9	2629
10	2871
ADD	+242

effective 02/01/2000

TIME LIMITS

The Employment First 24-month time limit begins:

- the first of the month after the Self-Sufficiency Contract is signed; or
- the first month after 90 days from the date the signed application was received in the local office, whichever occurs first;
- or when any child born into the recipient family who are not excluded from ADC benefits by the “child exclusion” reach the age of six months.

The 24 months of cash assistance does not have to be used consecutively and are available to be used within a continuous 48-month period.

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EXTENSION OF THE 24-MONTH TIME LIMIT

If barriers are still present at the end of a client's 24 months of assistance and the client has not sufficiently progressed towards achieving economic independence, the client's time on assistance may be extended.

Clients who may be facing "extreme hardship" after using all of their 24 months of eligibility must be considered before having their benefits extended or terminated. Extreme hardship is defined as not having adequate cash resources to meet the costs of the basic needs of food, clothing, and housing without continuing assistance or if the child or children are at risk of losing care by and residence with their parent or parents.

EMPLOYMENT FIRST AND ADC

CHILD EXCLUSION

Parents receiving ADC cash assistance are subject to the "child exclusion" policy, which prohibits the family from receiving an increase in ADC payments for a child born more than 10 months from the date of application for assistance. Exceptions include children conceived as a result of incest or sexual assault and first born children of minors.

If an Employment First client or any ADC recipient has another child, that child is not necessarily excluded from benefits forever. If the parent at some point becomes ineligible for the ADC cash assistance and the case is closed for six months or more for whatever reason, the client may reapply for benefits. When the ADC cash assistance starts up again, the child who was formerly excluded is no longer excluded and may receive ADC.

ASSESSMENT

The assessment process is an opportunity to identify strengths of the client. The assessment process is ongoing and should identify goals, strengths, needs, support systems, barriers of self-sufficiency and other factors in a client's life.

Clients are to receive individualized assessments to determine their level of employability as well as consideration for exemptions from the Employment First Program based on the individual's particular circumstances. For example, domestic violence, homelessness, learning disabilities, mental health problems, substance abuse, and physical disabilities are significant barriers to self-sufficiency. It is important that barriers be addressed at the time of the assets assessment as a possible reason for a temporary exemption from Employment First activities and/or the time limit. It is also important that existing barriers discovered after the initial assessment are addressed and that full case management services are used to help the client address these barriers.

Based on the results of the assessment, an individualized Employment First Self-Sufficiency Contract, Employment Plan, and Service Plan(s) will be developed if it is determined that the client is employable or capable of participation within the context of the Employment First Program.

Exemptions from the Employment First Time Limit may be granted in several cases where it is determined that the client cannot or should not be time limited for a period of time. This may be permanent or temporary.

The 1999 Nebraska State Plan for TANF states that for the following individuals, the time limit will be waived:

Domestic violence, homelessness, learning disabilities, mental health problems, substance abuse, and physical disabilities are significant barriers to self-sufficiency.

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Top Ten Barriers to Successful Transition From Welfare to Work

1. **Transportation**
2. **Mental Health Issues**
3. **Domestic Violence**
4. **Lack of Health Insurance**
5. **Housing Instability**
6. **Financial Emergency**
7. **Disabilities**
8. **Child Care**
9. **Substance Abuse**
10. **Multiple Issues**

- where the adult(s) is not able to work due to mental, emotional, or physical conditions;
- in families where the only adult(s) in the recipient family does not have parental responsibility and assistance is requested for the children only;
- minor parents (18 years of age or younger) who are actively working on a GED or in high school;
- where the adults are age 60 or older;
- where a person is needed in the home on a continuous basis because of the illness or incapacity of another household member and no other appropriate member is available to provide the needed care;
- where it has been found that it would be more difficult for a victim of domestic violence to escape domestic violence or unfairly penalize him/her or place him/her at risk of further domestic violence.

EMPLOYMENT FIRST SELF-SUFFICIENCY CONTRACT & COMPONENTS

The Self-Sufficiency Contract is a document the client and case manager develop together based on the individual’s asset assessment. If clients have severe barriers to self-sufficiency but they are not exempt from Employment First participation, they may be required to sign a “service plan” and identify resources necessary to address those barriers. A service plan can exist without a contract and without the time limit. A client must cooperate with the assessment process in order to keep receiving ADC and adult medical benefits until a Self-Sufficiency Contract is developed.

The contract is developed with the client’s input and path toward self-sufficiency developed. If a client does not agree with what the case manager wants to include in the Contract, the client can request a meeting with the case manager’s supervisor, request mediation, or file an appeal requesting a fair hearing after disagreeing with the case manager’s and/or supervisor’s decision. This process is explained in detail in the Client’s Rights section of this manual.

The Contract will include not only the activities the client and case manager decide on, but also the “supportive services” needs of the participant in order to enable their participation and fulfill the term of the contract. “Supportive services” include transportation, child care, work related expenses and health related services.

The Contract will be used as a flexible tool. If the client is not achieving progress or the client’s circumstances, barriers, or needs change, the Contract will be evaluated and changed accordingly. The initial Contract should not be signed until the first assessment process is complete.

An exit assessment must be completed at the end of the 24-month time limit before the family can be taken off cash assistance. These assessments will determine if the terms of the Self-Sufficiency Contract have been met by the recipient family and by the State and whether the family qualifies for the hardship exemption.

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SUPPORTIVE SERVICES

Supportive services are a critical part of effective program participation and should be provided to the extent necessary for the success of the client in the Employment First program.

Supportive services include, but are not limited to: transportation, work-related expenses and health-related services.

Supportive services may be provided for the entire time a client is receiving ADC, participating in Employment First, and for up to six months following the loss of cash assistance due to earned income, depending upon each individual's job retention needs.

APPROVED WORK-RELATED ACTIVITIES

The Employment First Self-Sufficiency Contract will contain "approved work-related activities." These can be a combination of a number of diverse options. Approved work-related activities in Nebraska are defined more broadly than in federal law.

In Nebraska, "approved work-related activities" include:

- post-secondary education
- English as a Second Language
- Adult Basic Education
- high school
- GED
- job skills training
- on-the-job training
- vocational education
- work experience
- job readiness
- job search
- apprenticeship
- micro business enterprises

DOMESTIC VIOLENCE

According to the 1999 Nebraska State Plan for TANF, Nebraska will continue to offer services, where appropriate, to those who are victims of domestic violence and will take every step possible to insure that the programs administered by the State do not place individuals at further risk of such violent behavior.

Nebraska will:

- Screen and identify individuals receiving assistance with a history of domestic violence while maintaining the confidentiality of such individuals.
- Refer such individuals to counseling and supportive services.

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Other types of assistance:

Child Care

Food Stamps

Nebraska Medical Assistance Program

Presumptive Eligibility

Transitional Benefits

Emergency Assistance

General Assistance

- Waive, pursuant to a determination of good cause, other program requirements such as time limits (for as long as necessary) for individuals receiving cash assistance, residency requirements, allow for the waiver of child support cooperation requirements and family cap provisions in the case of rape or incest, in cases where compliance with such requirements would make it more difficult for individuals receiving public assistance to escape domestic violence or unfairly penalize or put at greater risk of further domestic violence such individuals who are or have been victimized by such violence.

OTHER TYPES OF ASSISTANCE

CHILD CARE

Families who make up to 100% of the Federal Poverty Level (FPL) are eligible for full child care coverage, regardless of whether or not the family receives or is eligible for ADC (as long as they meet the need for service).

If a family makes more than 100% of the FPL but less than 185% of the FPL, they are eligible for a child care subsidy (as long as they meet the need for service). The family's contribution is assessed on a sliding fee schedule depending on income, family size, and the number of children in need of care.

A family cannot be required to pay more than 20% of their gross income for child care costs if they are receiving a subsidy.

Clients who receive ADC are eligible for full child care coverage. Families that become ineligible for ADC due to earned and unearned income are eligible to receive up to 24 months of Transitional Child Care. (See the following information on eligibility for Transitional Benefits. The family must meet these requirements.)

To receive Transitional Child Care, the family must meet the following requirements:

- the unit provides the financial information necessary to determine eligibility and the amount of the fee;
- the child care is necessary to allow the parent to accept or retain employment;
- the unit's gross earned and unearned income is below the maximum income for the unit size.

FOOD STAMPS

The food stamp "formula" is complicated, taking into consideration various expenses and sources of income. In general, however, families will be eligible for food stamps if they are making up to 130% of the FPL.

The Food Stamp program continues to be directed by the US Department of Agriculture. The Federal Act limits benefits to three months for single adults who are not caring for children and who are between the ages of 18 and 45.

A work training program is offered statewide so these individuals can choose to participate and thus continue to be eligible for Food Stamps. This provision does not apply to individuals who reside on Indian Reservations.

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NEBRASKA MEDICAL ASSISTANCE PROGRAMS (MEDICAID)

All children, up to age 19, who live in a household where the income is less than 185% of the FPL are eligible for Kids Connection (Medical Assistance for Children), regardless of whether the family receives ADC cash assistance.

Kids Connection is intended to provide health coverage to uninsured children under the age of 19. To apply for Kids Connection families can call toll free at 1-877-NEB-KIDS (1-877-632-5437).

All adults receiving ADC cash assistance are eligible for Nebraska Medical Assistance Program/Medicaid. These adults are also eligible for Transitional Medical Assistance (TMA) for a 24-month period after they have stopped receiving ADC. A former ADC case family may receive up to 24 months of transitional Medicaid if they meet the requirements for Transitional Benefits (see the following information).

PRESUMPTIVE ELIGIBILITY

Presumptive eligibility (471 NAC 28-000) provides certain clients with temporary Medical Assistance coverage for the following services:

For pregnant women: ambulatory prenatal care provided by an enrolled Nebraska Medical Assistance Program (NMAP) provider during a presumptive eligibility period determined by a qualified provider. Ambulatory prenatal care includes services such as doctor visits, prescribed drugs or lab services. Hospital inpatient services including labor and delivery are not covered.

For children under the age of 19: Medicaid covers services by an enrolled NMAP provider during a presumptive eligibility period determined by a qualified provider. A qualified provider is a doctor, clinic, hospital or community agency approved HHS.

To locate a qualified provider:

- Contact a current provider to see if they are able to make presumptive eligibility determinations;
- Or contact the local HHS to obtain information on qualified providers. (Providers can call the Nebraska Medical Assistance Program at 1-800-600-1297 for information on becoming a qualified provider.)

TRANSITIONAL MEDICAL ASSISTANCE

A former ADC recipient is eligible for Transitional Medical Assistance if:

- the unit lost eligibility for a grant because of increased earnings or increased hours of employment of the parent or needy caretaker relative or guardian or conservator;
- the unit received a grant for which they were eligible in three of the last six months preceding ineligibility... a month of transitional grant does not count as one of the three.
- the parent or needy caretaker relative or guardian or conservator is employed.

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TRANSITIONAL GRANT

In addition to a former ADC recipient's eligibility for Transitional Medical Assistance and Transitional Child Care for 24 months after receiving his/her last ADC cash assistance, the client is also eligible for a partial month's assistance.

If a client obtains employment, he/she may receive a Transitional Grant equal to half the previous month's ADC cash assistance. This is to allow the client time to receive a first paycheck. Months where a client receives a transitional grant are not counted in the 24 time-limited months.

(See eligibility requirements under transitional medical assistance. The family must first meet those requirements also.)

EMERGENCY ASSISTANCE

Emergency Assistance is provided to needy families with minor children in situations where other resources are not available. Examples of these situations include: imminent evictions, loss of utility service, exhaustion of food, catastrophic illness, or services to domestic abuse victims in domestic violence programs. Income limits apply.

Families may be eligible if:

- they are with a child who is age 18 or under (may include an unborn child);
- a child is currently living with a parent or any close relatives as defined in policy;
- they are without income and resources immediately accessible to meet their needs;
- their need did not occur because the child (if age 16 or older and not in school), or the relative responsible for support and care, refused without good cause to accept employment or training for employment.

GENERAL ASSISTANCE

General Assistance is run by each county. Check with a local Health and Human Services office to find more information on who to contact.

CLIENT RIGHTS

The client of HHS has the right to:

- Apply. Anyone who wishes to request and/or apply for assistance must be given the opportunity to do so. No one may be denied the right to apply for public assistance;
- Reasonably prompt action on his/her application for assistance;
- Adequate notice of any action affecting his/her application or assistance case;
- Appeal to the HHS Director for a fair hearing on any action or inaction with regard to an application, the amount of the assistance payment, or failure to act with reasonable promptness. The appeal must be filed within 90 days of the action or inaction;

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- Have his/her information treated confidentially;
- Have his/her civil rights upheld. No person may be subjected to discrimination on the grounds of his/her race, color, national origin, sex, age, handicap, religion, or political belief;
- Have the program requirements and benefits fully explained;
- Be assisted in the application process by the person of his/her choice;
- Receive medical assistance without a separate application if s/he is eligible for categorical assistance; and
- Receive referrals to other agencies.

Client rights may be found in the Nebraska Health and Human Services administrative code manuals in 468 NAC 1-007 or 465 NAC 2-001.

GOOD CAUSE REASONS FOR NONPARTICIPATION

During the course of the client's time receiving ADC with the Employment First program, there may arise reasons why the client can no longer fulfill the terms of the contract or cannot participate in the required activities.

The Health and Human Services manual states the following examples as good cause reasons not to participate in Employment First activities (this list is not inclusive):

- the participant's illness or incapacitation;
- incarceration or court-required appearance of the participant;
- a family crisis or change in family circumstances which interfere with participation;
- unavailability or a breakdown in transportation or child care arrangements with no readily accessible alternative;
- weather conditions which would prohibit the client from participating in the prescribed activity;
- a wage which results in a net loss of cash income;
- hazardous work conditions; or
- the participant's mental or physical inability to do the job.

Many issues and family situations fall into these categories of good cause reasons not to participate in Employment First activities as defined by the client's current contract. Domestic Violence situations, for example, present good cause reasons not to participate in Employment First. When a good cause exists for nonparticipation, there may also be good cause for renegotiating the entire Employment First Contract to accommodate the family's new situation or change of circumstances. If this is the case, the client can request that the contract be changed to fit the family's new circumstances.

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SANCTIONS

Employment First clients can be sanctioned by case managers for “noncompliance” with the requirement of Employment First Program and/or the terms of the Employment First Contract.

A sanction is the denial of benefits which can mean:

- the entire family loses the ADC cash assistance;
- food stamps are reduced;
- the adult(s) loses his/her Medicaid.

The length of a sanction depends on how many a client has previously had. Sanctions are serious losses of benefits and profoundly affect a family’s economic situation.

- A *first* sanction lasts one month or until failure to cooperate ceases, whichever is longer.
- A *second* sanction lasts three months or until failure to cooperate ceases, whichever is longer.
- A *third* sanction lasts twelve months or the remainder of the 48-month period, whichever is shorter.

In order to have a sanction lifted, or to “cure” it, a client must “cooperate” for one full week in a mutually approved activity agreed upon or previously agreed upon in the Self-Sufficiency Contract.

Sanctions are meant to be “last resort” penalties after attempts have been made by the case manager and the client together to resolve any alleged noncompliance, explore the reasons for it, and seek options that would make compliance with the contract easier or make the contract better suit the client’s needs.

Sanctions are to be used when a client demonstrates continued noncompliance with Employment First. Before any sanction is imposed, the decision must be reviewed by the case manager’s supervisor to ensure that the case manager has:

- reviewed the contracted steps to assure that they are reasonable and that the parent is both physically and mentally able to carry them out;
- worked with the family to assist them in removing any barriers to performance;
- and provided the family with an opportunity to appeal the proposed sanction through a mediation process.

If it is decided that a client should be sanctioned, the case manager sends the client a written “WP-5” form, which explains the reason for the proposed sanction and gives the client one of two conciliation options. The client may be given either an option to phone the case manager to discuss the issue, or an option to come to an appointment with the case manager to discuss it. This is the client’s “last chance.” If the client does not call and/or misses the appointment without good cause, the case manager may impose the sanction.

If a sanction is to be imposed, the client will receive a written “notice of action” that explains the reason for the sanction and gives the date it will start. The client must be notified in writing. In order to constitute “adequate notice” this written notice must also cite rules and regulations that have been used to determine that the client is in noncompliance. It must also tell the client exactly what benefits he/she will lose and how long the sanction will last.

The notice of action for a sanction must be “timely.” This means that the notice must be

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dated at least ten calendar days before the sanction is to become effective. Timely notice gives the client a chance to appeal or request mediation. Months during a sanction, when the client is not receiving ADC, do not count against a client's 24 time-limited months.

APPEALS AND MEDIATION

Clients may appeal or request mediation regarding any decision that a case manager makes or fails to make that they feel is contrary to their best interests and is detrimental to their situation, including sanctions, termination of benefits because the 24-month time limit is used up, denial of transportation, failure to issue timely and adequate notice, and contract issues, or any time the client feels that the State is not fulfilling its terms of the contract.

If appealing a sanction or loss of benefits, filing the appeal or requesting mediation within ten calendar days of the date on the notice of action will preserve the benefits until a decision is made on the case. An appeal may be filed up to 90 days after an adverse decision or action, but benefits will not be preserved unless filed within ten days. Appeal forms are available at all HHS offices and are easy to use. The forms should be turned in to the receptionist at the local office or to the case manager.

An appeal is a request for a "fair hearing." A fair hearing is the meeting that the client attends. The client may bring a friend or chosen representative. The case manager also attends. The case manager's supervisor may be there, or any other HHS employees or administrators that have information relevant to the appeal. The hearing officer, who works for HHS, presides over the hearing, directs questioning, and makes the final decision about the case. The decision is not made the day of the hearing, but clients and case managers are notified later via letter. If the client wins the appeal, the adverse action is reversed. If the client loses the appeal, the client may pursue legal representation and file a lawsuit in court within 30 days.

Mediation is offered throughout Nebraska at mediation centers that contract with the State of Nebraska. Mediation is available at no cost to Employment First clients and is an effective way of resolving conflicts between HHS and clients with the aid of a trained neutral mediator. Case managers are to offer mediation services to clients before sanctions are imposed. The client, the case manager, or a supervisor may request mediation. Requesting mediation within ten calendar days of an adverse decision that cuts off benefits will preserve those benefits just as filing an appeal does. If a client is dissatisfied with the results of mediation, he/she has five days to file an appeal to reserve benefits pending the appeal decision after a fair hearing.

The Nebraska Mediation Center locations are:

Central Mediation Center • 1-800-203-3452

Serving the following Nebraska counties: Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, Howard, Sherman, Hall, Buffalo, Dawson, Merrick, Hamilton, Clay, Adams, Kearney, Phelps, Gosper, Frontier, Hayes, Perkins, Chase, Dundy, Hitchcock, Red Willow, Furnas, Harlan, Franklin, Webster, Nuckolls

Lincoln/Lancaster County Mediation Center • (402) 441-5740

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Center for Conflict Resolution • 1-800-967-2115

Serving: Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne, Deuel, Grant, Hooker, Thomas, Arthur, McPherson, Logan, Keith, Lincoln

Nebraska Justice Center • 1-800-774-0346

Serving: Cherry, Keya Paha, Boyd, Brown, Rock, Holt, Knox, Cedar, Dixon, Dakota, Antelope, Pierce, Wayne, Thurston, Burt, Washington, Madison, Stanton, Cuming, Boone, Platte, Nance, Colfax, Dodge

Community Mediation Center • (402) 344-7415

Serving Douglas and Sarpy Counties

Southeast Nebraska Mediation Center • 1-800-837-7826

Serving: Polk, Butler, Saunders, York, Seward, Cass, Otoe, Fillmore, Saline, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee, Richardson

TRIBAL ISSUES

Native American Indian tribes can now choose to operate their own financial assistance program or continue to have the state operate their financial assistance side of the program, or they can choose to enter into agreements which provide a combination of both state and tribal administered program components.

The NEW (Native Employment Works) program provides services to eligible Native Americans similar to those provided by the Employment First program. Each Tribe can choose to operate their own program or participate in the state's Employment First program.

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APPENDIX



NEBRASKA REVISED STATUTES CHILD ABUSE MANDATORY REPORTING PROVISIONS

28-710. Terms, defined. For purposes of sections 28-710 to 28-727, unless the context otherwise requires:

- (1) Abuse or neglect means knowingly, intentionally, or negligently causing or permitting a minor child to be:
 - (a) Placed in a situation that endangers his or her life or physical or mental health;
 - (b) Cruelly confined or cruelly punished;
 - (c) Deprived of necessary food, clothing, shelter, or care;
 - (d) Left unattended in a motor vehicle if such minor child is six years of age or younger;
 - (e) Sexually abused; or
 - (f) Sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;
- (2) Department means the Department of Health and Human Services;
- (3) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol; and
- (4) Out-of-home abuse or neglect means abuse or neglect occurring in day care homes, foster homes, day care centers, group homes, and other child care facilities or institutions.

28-711. Child subjected to abuse or neglect; report; contents; toll-free number.

- (1) When any physician, medical institution, nurse, school employee, social worker, or other person has reasonable cause to believe that a child has been subjected to abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in abuse or neglect, he or she shall report such incident or cause a report to be made to the proper law enforcement agency or to the department on the toll-free number established by subsection (2) of this section. Such report may be made orally by telephone with the caller giving his or her name and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the abuse or neglect or the conditions and circumstances which would reasonably result in such abuse or neglect, any evidence of previous abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any report of abuse or neglect under this subsection shall notify the state central registry on the next working day by phone or mail.
- (2) The Department shall establish a statewide toll-free number to be used by any person any hour of the day or night, any day of the week, to make reports of abuse or neglect. Reports of abuse or neglect not previously made to or by a law enforcement agency shall be made immediately to such agency by the department.

28-712. Repealed. Laws 1992, LB 1184, s. 25.

28-713. Reports of abuse or neglect; law enforcement agency; department; duties. Upon the receipt of a call reporting abuse and neglect as required by section 28-711:

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- (1) It is the duty of the law enforcement agency to investigate the report, to take immediate steps to protect the child, and to institute legal proceedings if appropriate. In situations of alleged out-of-home abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report, the law enforcement agency shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged abuse or neglect. The law enforcement agency may request assistance from the Department of Health and Human Services during the investigation and shall, by the next working day, notify either the hotline or the department of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department;
- (2) In situations of alleged out-of-home abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report, the Department shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged abuse or neglect and any other information that the department deems necessary. The Department shall investigate for the purpose of assessing each report to determine the risk of harm to the child involved. The Department shall also provide such social services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family;
- (3) The Department may make a request for further assistance from the appropriate law enforcement agency or take such legal action as may be appropriate under the circumstances;
- (4) The Department shall, by the next working day after receiving a report under subdivision (1) of this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the central registry all reports opened for investigation of abuse or neglect and any action taken; and
- (5) The Department shall, upon request, make available to the appropriate investigating law enforcement agency and the county attorney a copy of all reports relative to a case of suspected abuse or neglect.

28-713.01. Cases of abuse or neglect; classification of report; notice to subject; when; contents.

Upon completion of the investigation pursuant to section 28-713:

- (1) In situations of alleged out-of-home abuse or neglect, the person or persons having custody of the allegedly abused or neglected child or children shall be given written notice of the results of the investigation and any other information the law enforcement agency or department deems necessary. Such notice and information shall be sent by first-class mail; and
- (2) The subject of the report shall be given written notice of the determination of the case and whether the subject of the report will be entered into the central register pursuant to subdivision (1), (2), or (3) of section 28-720. Such notice to the subject shall be sent by certified mail to the subject's last-known address and shall include:
 - (a) The nature of the report;
 - (b) The classification of the report; and
 - (c) Notification of the subject's right to a hearing and appeal in accordance with section 28-723.

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28-714. Privileged communications; not grounds for excluding evidence. The privileged communication between patient and physician, between client and professional counselor, and between husband and wife, shall not be a ground for excluding evidence in any judicial proceeding resulting from a report pursuant to sections 28-71 0 to 28-717.

28-715. Abused or Neglected Child Registry; department; duties. The Department shall file each report of suspected abuse or neglect in a special state Abused or Neglected Child Registry to be maintained in the Department.

28-716. Person participating in an investigation or making report; immune from liability; civil or criminal. Any person participating in an investigation or the making of a report pursuant to the provisions of sections 28-710 to 28-717 or participating in a judicial proceeding resulting there from shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements.

28-717. Violations; penalty. Any person who willfully fails to make any report required by the provisions of sections 28-71 0 to 28-717, or knowingly releases confidential information other than as provided by sections 28-710 to 28-717, shall be guilty of a Class III misdemeanor.

28-718. Child protection cases; central register. There shall be a central register of child protection cases maintained in the Department.

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CENTRAL REGISTER OF PROTECTION CASES

28-719. Abuse and neglect records; access; when. Upon complying with identification requirements established by regulation of the Department, or when ordered by a court of competent jurisdiction, any person legally authorized by section 28-722,28-726, or 28-727 to have access to records relating to abuse and neglect may request and shall be immediately provided the information requested in accordance with the requirement of sections 28-710 to 28-713 ,28-715, and 28-718 to 28-727. Such information shall not include the name and address of the person making the report. The names and other identifying data and the dates and the circumstances of any persons requesting or receiving information from the central register shall be entered in the register record.

2B-720. Cases; central register; classified; categories. All cases in the central register shall be classified in one of the following categories:

- (1) Court substantiated;
- (2) petition to be filed;
- (3) investigation inconclusive; or
- (4) unfounded report, whichever the case may be. All information identifying the subjects of unfounded reports shall be expunged from the register forthwith.

28-721. Central register; record; amend, expunge, or remove. At any time, the Department may amend, expunge, or remove from the central register any record upon good cause shown and upon notice to the subjects of the report and the division.

28-722. Central register; subject of report; access to information. Upon request, a subject of a report or, if such subject is a minor or otherwise legally incompetent, the guardian or guardian ad litem of the person, shall be entitled to receive a copy of all information contained in the central register pertaining to his or her case. The Department shall not release data that would be harmful or detrimental or that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction.

28-723. Subject of report; request to amend, expunge, or remove information; denied; hearing; decision; appeal. At any time subsequent to the completion of the Department's investigation, a subject of a report may request the Department to amend, expunge identifying information from, or remove the record of the report from the register. If the department refuses to do so or does not act within thirty days, the subject shall have the right to a fair hearing within the Department to determine whether the record of the report should be amended, expunged, or removed on the grounds that it is inaccurate or that it is: being maintained in a manner inconsistent with this act. Such fair hearing shall be held within a reasonable time after the subject's request and at a reasonable place and hour. In such hearings, the burden of proving the accuracy and consistency of the record shall be on the Department. A juvenile court finding of child abuse or child neglect shall be presumptive evidence that the report was not unfounded. The hearing shall be conducted by the head of the Department or his or her designated agent, who is hereby authorized and empowered to order the amendment's expunction, or removal of the record to make it accurate or consistent with the requirements of this act. The decision shall be made in writing, at the close of the hearing, or within thirty days thereof, and shall state the reasons upon which it is based. Decisions of the Department may be appealed under the provisions of the Administrative Procedure Act.

28-724. Record; amendment, expunction, or removal; notice. Written notice of any amendment, expunction, or removal of any record made pursuant to this act shall be served upon the subject of such report. The Department shall inform any other individuals or agencies which received such record pursuant to this act or in any other

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manner to amend, expunge, or remove such record.

28-725. Records, report; confidential; violation; penalty. All records of the Department concerning reports of noninstitutional child abuse or neglect, including reports made to the department or central register, and all records of the department generated as a result of such report, shall be confidential and shall not be disclosed except as specifically authorized by sections 28-710 to 28-713, 28-715, and 28-718 to 28-727 or other applicable law. Permitting, assisting, or encouraging the unauthorized release of any information contained in such reports or records shall be a Class V misdemeanor.

28-726. Records; access. Except as provided in this section and section 28-722, no person, official, or agency shall have access to such records unless in furtherance of purposes directly connected with the administration of sections 28-710 to 28-727. Such persons, officials, and agencies having access to such records shall include, but not be limited to:

- (1) A law enforcement agency investigating a report of known or suspected abuse or neglect;
- (2) A county attorney in preparation of an abuse, neglect, or termination petition;
- (3) A physician who has before him or her a child whom he or she reasonably suspects may be abused or neglected;
- (4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused or neglected child or a parent, a guardian, or other person responsible for the abused or neglected child's welfare who is the subject of a report;
- (5) Any person engaged in bona fide research or auditing. No information identifying the subjects of the report shall be made available to the researcher or auditor;
- (6) The State Foster Care Review Board when the records relate to a child in a foster care placement as defined in section 43-1301. The records provided to the state board shall not include the name or identity of any person making a report of suspected child abuse or neglect; and
- (7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000, as amended, and the Protection and Advocacy for Mentally ill Individuals Act, 42 U.S.C. 10801, as amended, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness; and
- (8) The person or persons having custody of the abused or neglected child in situations of alleged out-of-home abuse or neglect.

28-727. Report; person making; receive summary of findings and actions; when. Upon request, a physician or the person in charge of an institution, school, facility, or agency making a legally mandated report shall receive a summary of the findings of and actions taken by the department in response to his or her report. The amount of detail such summary contains shall depend on the source of the report and shall be established by regulations of the Department.

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NEBRASKA DOMESTIC VIOLENCE SEXUAL ASSAULT COALITION RESOURCES

The Nebraska Coalition is a statewide resource and training center working to increase public awareness and understanding about domestic violence and sexual assault. The Coalition has an extensive resource lending library of films, videos, and printed materials. Publications available free of charge to interested parties include:

Booklets:

Breaking the Silence: A Handbook for Battered Women

Sexual Assault: Information for Victims, Families, and Friends

Brochures:

Nebraska's Network of Domestic Violence/Sexual Assault Programs Brochure

Understanding Nebraska's Protection Orders: A Guide for Victims, Law Enforcement, and Service Providers (English only, Spanish forthcoming)

A Safety Plan for Living Free from Domestic Violence (English & Spanish)

Awareness materials:

"When Your Injuries Are Not An Accident..." - poster

"There's No Excuse for Domestic Abuse" & *"Rape - Let's Talk About It"* - magnets

To receive copies of any of these items or to be placed on our mailing list to receive our quarterly newsletter, contact the Coalition office at 402-476-6256.

Visit our website at: www.ndvsac.org.

REFERENCE

Batterer Intervention: Program Approaches and Criminal Justice Strategies. National Institute of Justice: Issues and Practices. U.S. Department of Justice, February, 1998.

Domestic Violence: A Training Curriculum for Law Enforcement. Developed by The Family Violence Project, San Francisco District Attorneys Office, 1991.

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