

Family Treatment Courts in Nebraska

by Adam Jorgensen

History of Nebraska Problem-Solving Courts

Nebraska Problem-Solving Courts operate within the district, county, or juvenile courts in all 12 Nebraska Judicial Districts. Most problem-solving courts in Nebraska operate under the Administrative Office of the Courts and Probation with the exception of the Adult Drug Courts in Douglas and Lancaster Counties and the Central Nebraska Adult Drug Court, which serves the 9th and 10th Judicial/Probation Districts. Family Drug Courts operate in the separate juvenile courts in cooperation with the Department of Health and Human Services.

According to Nebraska Revised Statute § 24-1301, “The Legislature finds and declares that when left untreated, substance use disorders and mental illness contribute to increased crime in Nebraska, cost millions of dollars in lost productivity, and contribute to the burden placed upon law enforcement, courts, and correctional systems in Nebraska. The Legislature

also finds and declares that problem solving courts, including drug, veterans, mental health, driving under the influence, reentry, and other problem solving courts, are effective in reducing recidivism of persons who participate in and complete such courts. The Legislature recognizes that problem solving courts offer a person accused of drug, alcohol, and other offenses alternatives to traditional criminal justice proceedings or juvenile justice dispositions.”

What are Family Dependency/Treatment Courts?

In the mid-1990s, an estimated 60-80% of substantiated child abuse and neglect cases involved substance use by a parent or guardian. Family Treatment Courts were developed as a response.¹ These programs were designed to address the parental substance use and child neglect present in these cases with a well-rounded approach while also addressing the cases in a timely manner.² Family Treatment Courts were also designed to help keep families together and to counteract the poor outcomes of reunification programs that resulted in more children entering the foster care system than being raised in permanent homes.³

Family Treatment Courts are a juvenile or family court docket which selects specific abuse, neglect, and dependency cases where parental substance use is a major cause of the family’s involvement in the criminal justice system. Judges, attorneys, child protective services, and treatment personnel unite with the goal of providing safe, nurturing, and permanent homes for children, while simultaneously providing parents with the necessary support and services to encourage abstinence from drugs and alcohol.

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Multidisciplinary teams allow collaborative, evidence-based efforts to be delivered efficiently to shorten the time a family spends in the court system. These Family Treatment Courts aim to combine court procedures, substance use treatment, employment, transportation, safe and affordable housing, and mental health treatment with the help of their network of agencies and partners. Utilizing these professionals, the families receive comprehensive assistance during their time involved with the court.

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The Lancaster County Family Treatment Drug Court (FTDC) began operating in January 2014. Eligible families begin the FTDC after disposition. Eligible cases are assigned to Judge Roger Heideman's docket unless the family has had a previous case with a different judge. Cases can also transfer from other Lancaster County Juvenile Court judges if substance use issues are later revealed. The main components of this court are identification and selection of families; monthly team meetings; emergency team meetings; 90-day review hearings; specialized, trauma-informed substance use treatment and parenting services; and timely implementation of intervention measures. In the FTDC, court orders often include chemical testing, behavioral health treatment, and participation in monthly Family Team Meetings with case managers, attorneys, service providers, support persons, and Judge Heideman.

According to the Family Treatment Drug Court Track: 2019 Annual OJJDP Enhancement Grant Report⁴, as of July 30, 2019, 190 families have been involved with the Lancaster FTDC since its inception. One hundred thirty-six cases have been closed through termination of court jurisdiction. Children were reunified with their parents in 83 families, parents voluntarily relinquished their parental rights in 53 cases, and parental rights were terminated in 16 cases. Parents generally felt that their voices were heard by the members of the Family Treatment Drug Court team and they had a say in the decisions that affected them and their children. Ninety percent of parents recognized the main goal of the program was to have their children returned to them, and 75% of parents said the process was fair.

In addition to Lancaster County, there are presently Family Dependency Courts operating in Douglas, Sarpy, and Hall Counties.

Best Practice Standards

In October 2016, the Nebraska Supreme Court Committee on Problem-Solving Courts established a Family Dependency Court Subcommittee to develop the process for implementing family dependency problem-solving courts in Nebraska and charged with the development of best practice standards. Judge Heideman was selected as its chair.

Shortly after the Subcommittee began its work, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) awarded Grant #2016-DC-BX-K003 to the Center for Children and Family Futures (CCFF) and the National Association of Drug Court Professionals (NADCP) to develop and publish best practice standards for family treatment courts. Judge Heideman was selected as a member of the national advisory group tasked with the creation of best practice standards. At that time, the decision was made by Judge James Doyle, Chair of the Nebraska Supreme Court Committee on Problem-Solving Courts, and Judge Heideman, Chair of the Subcommittee, to align the development of Nebraska's state standards with the work of CCFF and NADCP.

The initial draft of the Family Treatment Court Best Practice Standards⁵ was completed in early December 2018. At that time, CCFF and the NADCP identified 55 nationally recognized experts within family treatment courts to peer-review the standards. Additionally, the draft standards were sent to all state problem-solving court coordinators to review and provide comment. After this review process, the standards went through a final editing process and received approval from the OJJDP for final publication. Following the approval of the Nebraska Supreme Court Committee on Problem-Solving Courts, the Family Treatment Court Best Practice Standards were submitted to the Nebraska Supreme Court for consideration to adopt the same as the standards for Nebraska courts. On April 8, 2020, the Nebraska Supreme Court approved the adoption of the Family Treatment Court Best Practice Standards as the standards for Nebraska courts.


The Future of Family Treatment Courts in Nebraska

The Family Treatment Court Best Practice Standards are designed to assist those who work in juvenile courts assessing and improving the safety, permanency, and well-being of children and improving the well-being of parents and the stability of families. Other goals are to meet the needs of all families who would benefit from these services and to broaden the scope of comprehensive services families need in the years ahead. Whether the objective is to plan a new court or enhance an existing one, the Family Treatment Court (FTC) Standards are a blueprint for implementing best practices.

The FTC Standards provide clear directives to communities about the critical elements of a high-functioning court, but they are not a detailed, step-by-step manual for implementation. The individual Family Treatment Courts will develop the policies and procedures the judge and other members of the court team determine will best implement the Standards after consideration of the local needs and resources.

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Family Treatment Courts will use the FTC Standards as a benchmark for self-assessment to ensure the implementation of effective, collaborative practices for children, parents, and family members in the child welfare system affected by substance use and mental health disorders. The FTC Standards also allow Family Treatment Courts to review the quality of their operations and the strength of regular evaluations of effectiveness, and to identify where the need for additional training and technical assistance.⁶

The 2020-2025 Strategic Plan for Nebraska Problem-Solving Courts⁷ outlines objectives designed to enhance Nebraska's Family Treatment Courts. The new Strategic Plan will guide the state's family treatment courts for the next five years, with a special emphasis on preparing courts for the future and using data to enhance court operations. 

Endnotes

- ¹ Douglas B. Marlowe & Shannon M. Carey, *Research Update on Family Drug Courts*, National Association of Drug Court Professionals (May 2012); *Enhanced Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*, National Council of Juvenile and Family Court Judges (2016).
- ² Jacqueline Van Wormer & Ming-Li Hsieh, *Healing Families: Outcomes from a Family Drug Treatment Court*, *Juvenile & Family Court Journal* 67(2):49-65 (2016).
- ³ Marlowe & Carey (2012).
- ⁴ Cartwright, M. L. et al., *Family Treatment Drug Court Track: 2019 Annual OJJDP Enhancement Grant Report*, Office of Juvenile Justice and Delinquency Prevention (2019).
- ⁵ *Family Treatment Court Best Practice Standards*, Center for Children and Family Futures and National Association of Drug Court Professionals (2019). Prepared for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), <https://supremecourt.nebraska.gov/sites/default/files/Programs/psc/2020-Family-Treatment-Court-Best-Practice-Standards.pdf>.
- ⁶ *Id.* at 7.
- ⁷ *2020-2025 Strategic Plan for Nebraska Problem-Solving Courts*, *Administrative Office of the Courts and Probation*, Nebraska Judicial Branch (2020). <https://supremecourt.nebraska.gov/courts/problem-solving-courts>.

Family Treatment Court Best Practice Standards

1. Organization and Structure

The family treatment court (FTC) has agreed-upon structural and organizational principles that are supported by research and based on evidence-informed policies, programs, and practices. The core programmatic components, day-to-day operations, and oversight structures are defined and documented in the FTC policy and procedure manual, participant handbook, and memoranda of understanding (MOUs).

2. Role of the Judge

Judicial leadership is critical to the effective planning and operation of the family treatment court (FTC). The FTC judge works collectively with leaders of partner agencies and other stakeholders to establish clear roles and a shared mission and vision. He or she has the unique ability to engage the leaders and stakeholders in the development, implementation, and ongoing operations of the FTC. The judge is a vital part of the operational team, convening meetings that encourage team members to identify shared values, voice concerns, and find common ground. Additionally, the judge's development of rapport with participants is among the most important components of the FTC.

3. Ensuring Equity and Inclusion

Family treatment court (FTC) has an affirmative obligation to consistently assess its operations and those of partner organizations for policies or procedures that could contribute to disproportionality and disparities among historically marginalized and other underserved groups. The FTC actively collects and analyzes program and partner organization data to determine if disproportionality or disparities exist in the program; if so, the FTC implements corrective measures to eliminate them.

4. Early Identification, Screening, and Assessment

The process of early identification, screening, and assessment provides the greatest opportunity to fully meet the comprehensive needs of children, parents, and families affected by substance use disorders (SUDs) that come to the attention of the child welfare system. Family treatment court (FTC) team members and partner agencies screen and assess all referred families using objective eligibility and exclusion criteria based on the best available evidence indicating which families can be served safely and effectively in the FTC. Team members use validated

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assessment tools and procedures to promptly refer children, parents, and families to the appropriate services and levels of care. They conduct ongoing validated assessments of children, parents, and families while also addressing barriers to recovery and reunification throughout the case. Service referrals match identified needs and connect children, parents, and family members to evidence-based interventions, promising programs, and trauma-informed, culturally responsive, and family-centered practices. FTC team members take on varying roles for this process to occur in a timely and efficient manner.

5. Timely, High-Quality, and Appropriate Substance Use Disorder Treatment

Substance use disorder (SUD) treatment is provided to meet the individual and unique substance-related clinical and supportive needs of persons with SUDs. For participants in family treatment court (FTC), it is important that the SUD treatment agency or clinician provide services in the context of the participants' family relationships, particularly the parent-child dyad, and understand the importance of and responsibility for ensuring child safety within the Adoption and Safe Families Act timeline for child permanency. A Treatment provider's continuum of services includes early identification, screening, and brief intervention; comprehensive standardized assessment; stabilization; appropriate, manualized, evidence-based treatment including medications if warranted; ongoing communication with the FTC team; and continuing care. The parent, child, and family treatment plan is based on individualized and assessed needs and strengths and is provided in a timely manner including concurrent treatment of mental health and physical health.

6. Comprehensive Case Management, Services, and Supports for Families

Family treatment court (FTC) ensures that children, parents, and family members receive comprehensive services that meet their assessed needs and promotes sustained family safety, permanency, recovery, and well-being. In addition to high-quality substance use and co-occurring mental health disorder treatment, the FTC's family-centered service array includes other clinical treatment and related clinical and community support services. These services are trauma responsive, include family members as active participants, and are grounded in cross-systems collaboration and evidence-based or evidence-informed practices implemented with fidelity.

7. Therapeutic Responses to Behavior

The family treatment court (FTC) operational team applies therapeutic responses (e.g., child safety interventions, treatment adjustments, complementary service modifications, incentives, sanctions) to improve parent, child, and family functioning; ensure children's safety, permanency, and well-being; support participant behavior change; and promote participant accountability. The FTC recognizes the biopsychosocial and behavioral complexities of supporting participants through behavior change to achieve sustainable recovery, stable reunification, and resolution of the child welfare case. When responding to participant behavior, the FTC team considers the cause of the behavior as well as the effect of the therapeutic response on the participant, the participant's children and family, and the participant's engagement in treatment and supportive services.

8. Monitoring and Evaluation

The family treatment court (FTC) collects and reviews data to monitor participant progress, engage in a process of continuous quality improvement, monitor adherence to best practice standards, and evaluate outcomes using scientifically reliable and valid procedures. The FTC establishes performance measures for shared accountability across systems, encourages data quality, and fosters the exchange of data and evaluation results with multiple stakeholders. The FTC uses this information to improve policies and practices in addition to monitoring the strengths and limitations of various service components. Evaluation results and data are also critical components of effective stakeholder outreach and sustainability helping the FTC "tell its story" of success and needs.