



Clark County Family Services

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Clark County Department of Family Services Policy and Procedures

SUBJECT:

Termination of Parental Rights

Effective Date	Amendment Number	Amendment Effective Date
March 13, 2025	N/A	N/A

SCOPE:

Determining when to file a motion for termination of parental rights (TPR), completing the referral, and ensuring proper notification and legal procedures for children in the Department of Family Services' (DFS) custody.

SPECIFIC LEGAL and OTHER REFERENCES:

[45 CFR 1356.21](#)

[Adoption and Safe Families Act \(ASFA\)](#)

Adoption-Permanency Policy and Procedures

Case Plan Facilitation – Caregivers Policy and Procedures

Case Plan Facilitation – Supervision Policy and Procedures

Compelling Reasons Policy and Procedures

Diligent Search Policy and Procedures

[Division of Child and Family Services \(DCFS\) Policy 0514 – Termination of Parental Rights](#)

Family Court Process Policy and Procedures

Indian Child Welfare Act (ICWA) Policy and Procedures

[NAC 432B](#)

[NRS 127](#)

[NRS 128](#)

[NRS 200](#)

[NRS 432B](#)

Post Adoptive Contact Agreements Management Directive

Putative Fathers Policy and Procedures

Safe Haven Policy and Procedures

Verifying Addresses Practice Guidance

Visitation - Caregivers, Siblings, and Relatives-Kin Policy and Procedures

Waiver of Reasonable Efforts Direction and Guidance Common Policy Element

PROGRAMS IMPACTED:

Adoptions-Permanency

Calendar and Writs

Permanency

SUMMARY OF CHANGES:

Supersedes:

- Adoption Policy and Procedures, Section 61120. Termination of Parental Rights (Effective: June 28, 2010)

- Business Center Policy and Procedures (Effective: February 21, 2015), Section 2100. Termination of Parental Rights
- Permanency Services Policy and Procedures (Effective: October 1, 2009), Section 51150. Termination of Parental Rights Hearings
- Permanency Services Documentation Policy and Procedures (Effective: October 1, 2009), Section 51150. Termination of Parental Rights Hearings

Requires a staffing with the District Attorney's office prior to submitting a Termination of Parental Rights Referral Packet.

Clarifies case circumstances for when a referral is appropriate.

Requires specific UNITY data entry to track TPR progression statewide.

DEFINITIONS:

For a list of acronyms and a glossary of terms used throughout DFS, refer to Acronyms and Glossary located on DFSNet.

Original Removal Date:

The original removal date is the date the children were removed for the most current period of court jurisdiction.

Prove-up:

An uncontested hearing before a judge where testimony and evidence are presented to prove the facts of a case.

FORMS, PUBLICATIONS, AND INSTRUCTIONAL DOCUMENTS:

Diligent Search Request (in UNITY)

Notice of Entry of Order of the Termination of Parental Rights (Family Court form)

Notice of Appeal (Family Court form)

TPR Referral Packet:

TPR Referral Form (in UNITY)

Required supporting documents described in the TPR Referral Form (in UNITY)

POLICY:

I. Termination of Parental Rights (TPR)

- A. DFS must initiate a Termination of Parental Rights proceedings after consultation with the District Attorney's office when any of the following occur:
 1. The child was delivered to the care of DFS under Safe Haven.
 2. The court determines that reasonable efforts to reunify are not required for both parents.
 3. The parent has abandoned the child and is not available at the end of any six (6) consecutive months from the date of removal.
 4. DFS determines that adoption is in the best interest of the child.
 5. The natural mother has relinquished parental rights or is deceased, and the father is unknown.
 6. A child has been placed out of the home fourteen (14) of the last consecutive twenty (20) months.
 - a. The motion must be filed by the end of the child's fifteenth (15th) month in foster care.
 - b. Calculations of time in foster care
 - i. Must calculate the fourteen (14) out of the most recent twenty (20) month period from the date the child is considered to have entered foster care.
 - ii. Must use a cumulative method of calculation when a child experiences multiple exits from and entries into foster care during the twenty (20) month period.
 - iii. Must not include trial home visits or runaway episodes in calculating months in foster care.
 - c. A petition is not required if the agency determines:
 - i. The child is in the care of a relative; or

- ii. Compelling reasons are documented in the case plan that is not in the best interest of the child to file for TPR. Refer to Compelling Reasons Policy and Procedures for further instructions.
- B. DFS involves and discusses with parents, out-of-home caregivers, relatives, and children, who are developmentally appropriate, of the decisions during the TPR process.
- C. DFS ensures the timely achievement of permanency for children by concurrently beginning to identify, recruit, process, and approve an adoptive family for the child.
- D. DFS makes efforts to prepare children for the possibility of TPR through ongoing developmentally appropriate discussions during monthly contacts.

II. Legal Processes and Court Hearings

- A. DFS submits a TPR referral to the District Attorney's office to initiate the legal process.
- B. All motions, service of motion, notice of hearing and orders related to the TPR are prepared by the District Attorney's office. Parents must be personally served TPR related motions and notice of hearings.
 - 1. These actions and proceedings are initiated in the open child abuse and neglect case (i.e., J case).
 - 2. When personal service is not possible, parents can be served by publication.
- C. DFS communicates during routine contacts with parents, out-of-home caregivers, relatives, and children, who are developmentally appropriate, of the date, time, and location of TPR hearings.
- D. If a parent wishes to contest the TPR, a trial is scheduled by the court.
- E. The court may order mediation for purposes of negotiating an Open Adoption Agreement.
- F. If a parent does not appear for the TPR hearing, the DDA may ask the court to proceed with a prove-up. Testifying in court may include:
 - 1. Answering case specific questions;
 - 2. Verbally summarizing efforts towards reunification;
 - 3. Providing specific information about the parent's failure to make adequate/timely progress toward achieving case plan objectives and behavioral change;
 - 4. Describing placement location and commitment of out-of-home caregiver;
 - 5. Specifying needs of the children; and
 - 6. Discussing the plan for achieving adoption.
- G. DFS may determine to withdraw from TPR proceedings when pursuing adoption is no longer an appropriate permanency plan or in the child's best interest.
- H. When the parental rights of both the child's mother and father are terminated or relinquished, the child is legally free for adoption.
- I. TPR does not terminate the right of the child to inherit from their parent until the child is adopted.

III. Court Considerations and Findings

- A. When considering if parental rights should be terminated, the court must make its findings by clear and convincing evidence. When the Indian Child Welfare Act (ICWA) applies for an Indian child, certain evidence must be found beyond a reasonable doubt and the tribe must provide testimony.
- B. Specifically, the court must find that:
 - 1. The best interest of the child is served by TPR; and
 - 2. The conduct of the parent was the basis for a finding to waive reasonable efforts or demonstrated at least one (1) of the following:
 - a. Abandonment of the child as defined per [NRS 128.012](#); The parent is presumed to have abandoned the child if the parent:
 - i. Engages in conduct that violates any provision of [NRS 200.463](#), [200.4631](#), [200.464](#) or [200.465](#); or
 - ii. Voluntarily delivers a child to a provider of emergency services pursuant to [NRS 432B.630](#).
 - iii. If the putative father of a child fails to acknowledge the child or petition to have his parental rights established in a court of competent jurisdiction before a hearing on a motion to terminate his parental rights, he is presumed to have intended to abandon the child.

- b. Neglect of the child as defined per [NRS 128.014](#) and/or unfitness of the parent as defined per [NRS 128.018](#):
 - i. Emotional illness, mental illness or mental deficiency of the parent which renders the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time.
 - ii. Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature.
 - iii. Conduct that violates any provision of [NRS 200.463](#), [200.4631](#), [200.464](#) or [200.465](#).
 - iv. Excessive use of intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child.
 - v. Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education or other care and control necessary for the child's physical, mental and emotional health and development, but a person who, legitimately practicing his or her religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.
 - vi. Conviction of the parent for commission of a felony, if the facts of the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development.
 - vii. Whether the child, a sibling of the child or another child in the care of the parent suffered a physical injury resulting in substantial bodily harm, a near fatality or fatality for which the parent has no reasonable explanation and for which there is evidence that such physical injury or death would not have occurred absent abuse or neglect of the child by the parent.
 - viii. Inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies.
- c. Failure of parental adjustment as defined per [NRS 128.0126](#):
 - i. If the parent fails to comply substantially with the terms and conditions of a plan to reunite the family within six (6) months after the date on which the child was placed or the plan was commenced, whichever occurs later.
- d. Risk of serious physical, mental or emotional injury to the child if the child were returned to, or remains in, the home of their parent:
 - i. If the child has been out of the care of their parent or guardian for at least twelve (12) consecutive months, the court considers, without limitation:
 - 1) The placement options for the child;
 - 2) The age of the child; and
 - 3) The developmental, cognitive and psychological needs of the child.
- e. Only token efforts by the parent:
 - i. To support or communicate with the child;
 - ii. To prevent neglect of the child;
 - iii. To avoid being an unfit parent; or
 - iv. To eliminate the risk of serious physical, mental or emotional injury to the child.
- f. With respect to termination of the parental rights of one (1) parent, the abandonment by that parent.
- g. If a child has been placed outside of their home for fourteen (14) of any twenty (20) consecutive months, it is presumed:
 - i. The parent has demonstrated only token efforts.
 - ii. The best interests of the child are served by the termination of parental rights.
 - iii. The presumptions must not be overcome or otherwise affected by evidence of failure of DFS to provide services to the family.
3. If a child is not in the physical custody of the parent, the court, in determining whether parental rights should be terminated, shall consider, without limitation:
 - a. The services provided or offered to the parent to facilitate a reunion with the child.
 - b. The physical, mental or emotional condition and needs of the child and the child's desires

regarding the termination, if the court determines the child is of sufficient capacity to express their desires.

- c. The effort the parent has made to adjust their circumstances, conduct or conditions to make it in the child's best interest to return the child to their home after a reasonable length of time, including but not limited to:
 - i. The payment of a reasonable portion of substitute physical care and maintenance, if financially able;
 - ii. The maintenance of regular visitation or other contact with the child which was designed and carried out in a plan to reunite the child with the parent or parents; and
 - iii. The maintenance of regular contact and communication with the custodian of the child.
 - d. Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a predictable period.
 - e. For purposes of this consideration, the court shall disregard incidental conduct, contributions, contacts and communications.
4. When the child's foster parent plans to adopt the child, the court considers whether the child has become integrated into the foster family to the extent that the child's familial identity is with that family, and whether the foster family is able and willing to permanently treat the child as a member of the family. The court considers, without limitation:
- a. The love, affection and other emotional ties existing between the child and the parent, and the child's ties with the foster family.
 - b. The capacity and disposition of the child's parent from whom the child was removed as compared with that of the foster family to give the child love, affection and guidance and to continue the education of the child.
 - c. The capacity and disposition of the parents from whom the child was removed as compared with that of the foster family to provide the child with food, clothing and medical care and to meet other physical, mental and emotional needs of the child.
 - d. The length of time the child has lived in a stable, satisfactory foster home and the desirability of the child continuing to live in that environment.
 - e. The permanence as a family unit of the foster family.
 - f. The moral fitness, physical and mental health of the parents from whom the child was removed as compared with that of the foster family.
 - g. The experiences of the child in the home, school and community, both when with the parents from whom the child was removed and when with the foster family.
 - h. Any other factor considered by the court to be relevant to a particular placement of the child.
- C. After hearing the evidence on the motion for TPR, the court will determine if there is clear and convincing evidence of parental fault and if it is in the best interest of the child to be served by TPR. All findings must be reduced to a written order and a notice of entry of the order must be filed.

IV. Appeal of the Termination of Parental Rights Decision

- A. If the court denies TPR, DFS or other parties to the case may appeal the decision. DFS appeals are prepared by the District Attorney's office.
- B. When the court grants TPR, parents have thirty (30) calendar days from the date of filing the *Notice of Entry of Order for the Termination of Parental Rights* by the court plus three (3) calendar days for mailing to file an appeal with the Nevada Supreme Court.
 1. DFS notifies all potential adoptive resources of the general legal processes and time frames for adoption, including any parties' right to appeal.
 2. DFS staff do not provide legal advice or interpretations to the potential adoptive parents or other individuals.
 3. If an adoptive resource has questions about the legal implications of the appeal, they are referred to their own attorney.

C. DFS, upon consultation with the District Attorney’s office, may proceed with the adoption while an appeal is pending.

Frank Prado, Director
Clark County Department of Family Services

January 13, 2025

Approved Date