



Department of
Children's Services

From Prevention to Permanency

Family Support & Case Planning

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Prevention

“As a field we know the trauma children experience when separated from their parents is considered a powerful adverse childhood experience that can lead to long-term health, relational, and self-sufficiency challenges. It is also highly traumatic for parents and can trigger relapse or decompensation for those that may be in recovery or struggling with substance abuse or mental health issues.”

Jerry Milner & David Kelly, “Reasonable Efforts as Prevention,” November 5, 2018,
https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practice_online/january-december-2018/reasonable-efforts-as-prevention/

If a child can remain safely at home or stay with a friend or relative temporarily, that solution is always better than removal.

DCS is charged with making reasonable efforts consistent with child safety to prevent or eliminate the need for removal.

Alternatives to removal run the gamut from informal arrangements with the child remaining in the home to agreements for the child to live temporarily outside the home, or to court interventions that impose safety conditions.

While child safety and other factors determine the viability of these options, each alternative is a vital tool that can greatly enhance the child's well-being.

Reasonable Efforts

“...reasonable efforts **shall be made** to preserve and reunify families...

[p]rior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home...”

Tenn. Code Ann. § 37-1-166

What are “reasonable efforts” to prevent removal?

“... “[R]easonable efforts” means the exercise of reasonable care and diligence by [DCS] to provide services related to meeting the needs of the child and the family. In determining reasonable efforts to be made with respect to a child ... and in making such reasonable efforts, the child's health and safety shall be the paramount concern.”

Tennessee Code Annotated § 37-1-166(g)(1)

- Preventative/ongoing services
- Accurately assessing and monitoring risk
- Focus on family preservation unless child safety is compromised
- Exploring less drastic alternatives
- Exploring community resources
- CFTMs and actively engaging the family in the process
- Basically, doing everything reasonably possible to prevent removal until necessary

Family Permanency Plan--NC



Policy 14.12



DCS partners with families, their support systems, service providers, community partners, informal supports, specific interventions, and services to develop a family permanency plan for child protective services non-custodial cases (FPNCC) during a CFTM



The plan addresses the problems that necessitated a concern for the risk and safety of the child or any other concerns that warrants the department's involvement.



The plan specifies the changes required to allow the child to remain safely in their current placement or return to the care of their caregivers.

FPPNC

- FPPNC must be developed in the context of a CFTM with input/collaboration from the family/team
- CFTM/FPPNC development within 30 days of referral
- CFTMs required to revise plan goals; if the child is removed from the current placement; or for significant changes to tasks on the plan
- FPPNC establishes realistic goals; contains a statement of responsibilities; designates timeframes for completion
- Participants include: parents, family, family supports, community partners, DCS staff, GAL, CASA, children (if age appropriate)



Effective family engagement facilitates the safety, trust, encouragement, and caring that impact the well-being of the both the child and the family

FPPNC Goals

- Child remains with parent/caretaker without services (Non-custody)
- Child remains with parent with services (Non-custody)
- Child remains with caretaker/relative with services (Non-custody)
- Child will need change in location (Non-custody)

- Comprehensive Addiction and Recovery Act (CARA) and Plans of Safe Care
 - CARA requires that a Plan of Safe Care be created for any DCS-involved infant that has been identified as affected by substance use, withdrawal symptoms resulting from prenatal exposure from the use of illegal drugs or the misuse of legal drugs or chemical substances, diagnosed with NAS, and/or Fetal Alcohol Syndrome
 - Plan of Safe Care must include services that ensure the safety and well-being of infants and include steps for addressing the health and substance use disorder treatment needs of the infant and affected family or caregivers
 - DCS FPPNCs constitute Plans of Safe Care in applicable cases

Immediate Protection Agreements (IPAs)

- Immediate Protection Agreements (IPA) are VOLUNTARY agreements and are for a limited amount of time, set by policy 14.13
- IPAs are staffed with legal to determine next steps
- To continue an IPA beyond the number of days set by policy, a Petition has to be filed—a court order supersedes an IPA
- Parents can revoke IPA at any time
- Parents have to be able to consent to IPA (intoxication/mental incapacity)

IPAs

Used as an option to ensure the safety of children when the custodian lacks sufficient protective capacity to assure the child is safe from abuse or neglect



Worker assesses risk of harm to the child prior to asking for the custodian to agree to an IPA

History of
Abuse/Neglect

Child Factors

Parent/Caretaker
Factors

Environmental
Factors

Service Provision
Factors



Worker staffs case with supervisor and legal before an IPA is implemented

IPAs



No express statutory authority for IPAs since it is not a legally binding document. It is a voluntary agreement.



HOWEVER, Tenn. Code Ann. § 37-5-105(3) does authorize DCS to “[m]ake . . . policies for the . . . care of children served by the department” and Tenn. Code Ann. § 37-5-106 authorizes DCS to develop services reasonably necessary for “children who are at imminent risk and in need of services to prevent entry into state custody.”

IPA Form (CS-0701)

Significant harm factor(s) warranting the IPA;

What the custodian is agreeing to;

Who is responsible for monitoring compliance;

Signatures of custodian, DCS, and individuals with responsibilities; and

Expected completion date

"The undersigned understand that this document is not a court order. It is a voluntary agreement between the signed parties."

"This voluntary agreement can be revoked at any time."

- A Child and Family Team Meeting (CFTM) is held prior to the implementation of the IPA, if possible, or within three business days following implementation of the IPA
- Additional legal consult to determine whether IPA will dissolve or a petition will be filed
- Maximum amount of time for a valid IPA is ten (10) business days
- A Court Order supersedes the IPA

IPA vs. FPP

Immediate Protection Agreement (IPA)

Identifies significant harm factors
Sets restrictions to ensure safety
Sets clear guidelines for contact, custody, and time

Family Permanency Plan (FPP)

Sets tasks for parties to complete to address concerns
“Roadmap” for success
DOES NOT set out restrictions

EXAMPLE:

Keep boyfriend away from children = IPA restriction.
Complete an alcohol and drug assessment = FPP task.



Permanency Planning for Foster Youth

Reasonable and Active Efforts


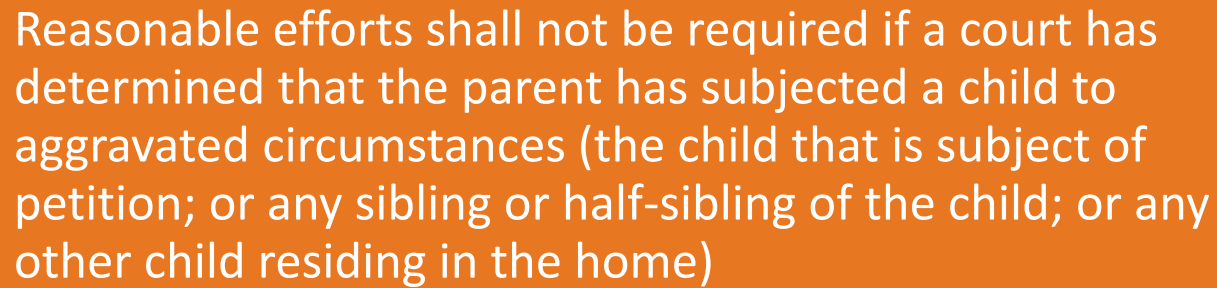
- The law requires that DCS make reasonable efforts in all cases to:
 - prevent the removal of children from the home, AND
 - **to make it possible for children to return home or find permanency.**
- REMINDERS:
 - Reasonable efforts require the “exercise of reasonable care and diligence by the department to provide services related to meeting the needs of the child and the family.”
 - Active efforts are required for ICWA cases.



“Reasonable efforts entail more than simply providing parents with a list of service providers and sending them on their way. The Department’s employees must use their superior insight and training to assist parents with the problems the Department has identified in the permanency plan, whether the parents ask for assistance or not.” In re C.M.M. (Tenn. App. 2004).

BUT

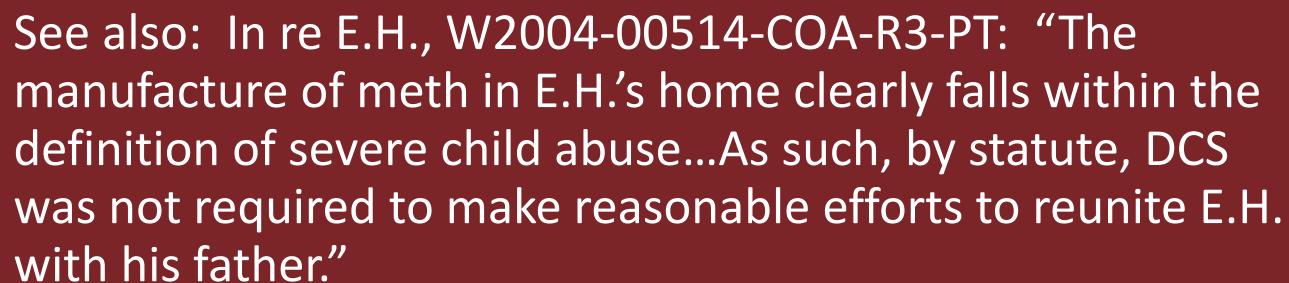
Reasonable efforts shall not be required if a court has determined that the parent has subjected a child to aggravated circumstances (the child that is subject of petition; or any sibling or half-sibling of the child; or any other child residing in the home)



Tenn. Code Ann. 36-1-166(4)



See also: In re E.H., W2004-00514-COA-R3-PT: “The manufacture of meth in E.H.’s home clearly falls within the definition of severe child abuse...As such, by statute, DCS was not required to make reasonable efforts to reunite E.H. with his father.”



Active Efforts

- “Active efforts” are a higher standard than traditional reasonable efforts
- Affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with his/her family
- Must be tailored to the facts and circumstances of each case
- Must involve assisting the parent/Indian custodian through the steps of a case plan and with accessing or developing the resources necessary to comply with the case plan
- <https://www.bia.gov/sites/default/files/dup/assets/bia/ois/ois/pdf/idc2-041405.pdf>

Permanency planning is the process that guides the efforts to ensure that all children in custody attain a permanent living situation as quickly as possible. The family permanency plan, or 'perm plan,' is the tool used for addressing the overall strengths and needs of the family.



- Family permanency plans are required by federal and state law for all children in state custody and are required by policy for all families receiving services from DCS.
- Permanency plans must be completed within 30 days of a child's entry into foster care and ratified/approved by the Court within 60 days of entry
- Each plan revision requires a ratification hearing
- Plans must be updated annually to comply with federal requirements, but we typically update every 6 months
- Policies:
 - Policy 16.31 Permanency Planning
 - Policy 31.1 Family Permanency Plans
 - Family Permanency Plan Development Guide

TCA 37-2-403

- Within 30 days of custody, agency ***shall*** prepare a plan for each child in foster care
- GOALS:
 - Return to Parent
 - Permanent Placement of the child with fit/willing relatives
 - Adoption
 - Permanent Guardianship
 - Planned Permanent Living Arrangement
- Plans are subject to modification; shall be reevaluated and updated at least annually

37-2-403

- Shall contain a statement of responsibilities between the parents, the agency, and the caseworker of the agency
- Statements of responsibilities:
 - Shall include responsibilities of each party in specific terms
 - Shall be reasonably related to the achievement of the plan goal
 - Shall empower the agency to select any specific residential or treatment placement or programs for the child according to the determination made by the agency
- Shall include definitions of abandonment and criteria for termination of parental rights
- Each party signs/receives a copy

37-2-403

- Court must review plan, make any necessary modifications, and ratify/approve the plan within 60 days of the date of custody.
- At the court review of the plan, the court shall explain abandonment to the parents, the consequences of the failure to visit/support, and that parents may seek an attorney for representation at a TPR hearing.

37-2-403

- If parents cannot be given notice for the court review of the perm plan or if they refuse/fail to appear at the court review of the perm plan, and the agency seeks TPR on the basis of abandonment, agency has to demonstrate at the TPR hearing:
 - That parent subsequently signed perm plan/criteria for TPR/abandonment
 - The court subsequently explained consequences of abandonment
 - Via affidavit, that a copy of the perm plan with criteria for abandonment was provided to the parent or the agency attempted to provide perm plan with criteria and the attempt was refused by parent
 - Via affidavit, the diligent efforts to provide the parent with the consequences of abandonment

37-2-403

- In abuse/neglect cases, plan shall stipulate that the abusing/neglecting parent shall receive appropriate rehabilitation assistance through mental health consultation, if so ordered by the court. Agency and court shall also consider whether the allegations warrant supervision between parent/child and whether supervision is in child's best interest.
- **(Effective July 1, 2025):** perm plan for child in custody 6+ months for abuse/neglect with goal of return to parent may also include a requirement that the parent complete trauma-informed education prior to return of child; may be completed via electronic means.

- **(HB1360/SB1241—Transmitted to Governor; effective upon signing):** Perm plan of a child in foster care due to abuse or neglect with goal of return to parent shall include a requirement that parent complete appropriate services to address domestic violence, if reason for child's placement in foster care included witnessing or being subjected to domestic violence by the parent

37-2-403

- DCS shall seek to place a child in custody with a fit and willing relative, if such placement is safe and in child's best interest
- Within 30 days of custody, agency shall collect as much information as possible to complete a medical/social history of the child and the child's bio family
- Within 12 months of a child entering custody, DCS shall review case to determine if, in DCS's discretion, reunification with family is feasible and if not, whether to TPR.
- Caseworker shall document any objection to a foster child's placement with a relative that is made by another relative or other interested party

- Procedures for Permanency Plans
 - Shall be a written document, part of case record, format determined by DCS, developed jointly with parents
 - Shall be developed within a reasonable period, but in no event later than 60 days
 - Shall include a discussion of how plan is designed to achieve a safe placement for the child in the least restrictive/most family-like setting available and in proximity to the parent, if reunification is goal
 - Shall include description of services offered and provided to parent
 - If adoption/SPG, shall include steps to finalize placement
 - If adoption, shall include child-specific recruitment efforts

Foster Care Review Board/Judicial Review

- At 90 days of custody (and every six months thereafter), there is a review concerning progress
- In some counties, this is done in front of the Judge and is called a Judicial Review
- In other counties, this is done in front of the Foster Care Review Board
- Children have to be present unless an exception applies

Permanency Hearings



Must occur within twelve months of the date of foster care placement and at least every twelve months thereafter. *See* Tenn. Code Ann. § 37-2-409; Tenn. R. Juv. Pro. 404.



Permanency hearings are NOT the same as a ratification hearing, but a ratification can happen at the same time. Children must be present unless an exception applies.



If youth is over 17, an additional permanency hearing must be held 3 months prior to youth's planned release. *See* Tenn. Code Ann. § 37-2-409; Tenn. R. Juv. Pro. 404.

- Court determines:
 - Progress and compliance for EVERY goal on the plan,
 - appropriateness of the child's circumstances, services, and placement, and
 - whether DCS is making reasonable efforts towards permanency.
- A lack of reasonable efforts finding against DCS may impact IV-E funding for the child

Emerging Adult Population

- For youth over 16:
 - Includes an independent living plan.
- For youth over 17:
 - the court determines whether the youth has notice of all available post-custody services.
- 3 months prior to release at age 17 or older:
 - the court reviews the youth's transition plan to adulthood.
- Extension of foster care hearings follow the same schedule as permanency hearings.

QRTP

- Within 30 days of entering a QRTP, a child must receive an assessment from a “qualified individual” using an appropriate functional assessment tool to determine whether they need care in a QRTP and whether that particular QRTP can meet their specific treatment needs.
- Within 60 days of placement, court review of the appropriateness of a child’s placement in a QRTP for additional oversight and assurance that it is the correct setting for that child. Court reviews repeat at regular review intervals (ratification and permanency hearings as well as reviews), as long as the child remains in QRTP.

Substantial Noncompliance



It is a ground to terminate a parent's rights if "there has been substantial noncompliance by the parent or guardian with the statement of responsibilities in a permanency plan..." Tenn. Code Ann. 36-1-113(g)(2)

(Some) Relevant Case Law

Goal Target Dates

- In Re Austin H., Et Al., No. M2010-00209-COA-R3-PT (Tenn. Ct. App., September 16, 2010)
- In Re Mickeal Z., Et Al., No. E2018-01069-COA-R3-PT (Tenn. Ct. App., January 25, 2019)

Incarceration Alone Cannot Be Used to Show Substantial Noncompliance With the Permanency Plan

- In Re Jonathan F., No. E2014-01181-COA-R3-PT (Tenn. Ct. App., February 20, 2015)
- In Re Jackson H., No. M2020-01551-COA-R3-PT (Tenn. Ct. App., August 25, 2021).

Noncompliance Does Not Have to be Willful

- In Re Kason C., Et Al., No. M2013-02624-COA-R3-PT (Tenn. Ct. App., June 17, 2014)
- In re: Joseph L., 2012 WWL 2389609 (Tenn. Ct. App., June 25, 2012)
- In Re Eli S., No. M2019-00974-COA-R3-PT (Tenn. Ct. App., April 9, 2020)

Permanency Plan Must Be Included In Exhibit Packet/Exhibits at Trial

- In Re Cloey R., Et Al., No. E2014-00924-COA-R3-PT (Tenn. Ct. App., January 21, 2015)
- In Re Aaliyah P, Et Al., No. M2022-01645-COA-R3-PT (Tenn. Ct. App., October 23, 2023).
- In Re Kamahri W., et al., No. M2023-00692-COA-R3-PT (Tenn. Ct. App., March 22, 2024)

Foster Child Bill of Rights

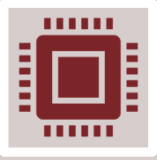
- HB1359/SB1015 (Transmitted to Governor—Effective July 1, 2025)
- Foster child shall have the right:
 - To go to school and receive an education that fits the child's age and individual needs;
 - To benefit from appropriate care and treatment in the least restrictive setting possible;
 - To live in a safe, healthy environment free from abuse, neglect, and pests;
 - To report any violation of personal rights specified in this section without fear of punishment, interference, coercion, or retaliation;
 - To receive medical, dental, vision, and mental health services as recommended by an appropriate professional, and to be informed about diagnoses and treatment options as is developmentally appropriate; and
 - To be free from punishment in the form of restrictions on or supervision of contact with any legal representative, including any appointed guardian ad litem, attorney ad litem, or appointed counsel with whom the foster child has a right to confidential communication.

- DCS must implement these tenets through rule promulgation
- DCS must train all employees who come in contact with foster children regarding these rights (2/1/26 for current employees; new employees within 30 days of hire)
- DCS, in consultation with stakeholders within the foster care system (including foster care alumni from each grand division), must develop age-appropriate materials related to these rights
- DCS must provide the materials regarding the rights and explain the rights to each foster child within 30 days of entry into custody and annually as part of the permanency hearing



Resources

DCS Policies



DCS policies can be found on our website:



<https://www.tn.gov/dcs/program-areas/qi/policies-reports-manuals/policiesprocedures.html>



Make sure you're looking at the most up-to-date version of the policy; they are amended periodically



Information may also be contained in protocols, manuals, and work-aids

Child Welfare Resources on DCS website

ACEs Resources

Foster Parent Resources

Infant Mental Health Resources

Resources for Teens

Reunification Resources

DCS Talks

<https://www.tn.gov/dcs/program-areas/training/cw-resources.html>

Questions??



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