

Family Preservation Considerations

A Court Reference Guide for Tennessee Child and Parent Attorneys, Multidisciplinary Professionals and Court Staff

When it can be accomplished safely, keeping families together is preferable to foster care removal. Family preservation preserves children's emotional stability, cultural connections, and sense of belonging while minimizing trauma and fostering better long-term outcomes for both children and their families, all while being more cost-effective and aligned with federal and Tennessee child welfare policy.

THE PURPOSE

When families can be preserved and supported safely, the well-being and stability of children is enhanced. A family preservation approach seeks to minimize unnecessary separations and reduce the need for foster care placements.

THE LAW & POLICY

What Are IV-E Funds?

Title IV-E of the United States Social Security Act provides federal foster care funding to child welfare agencies across the country. This program allows child welfare entities to claim reimbursement for a portion of the costs of foster care. Among other requirements, eligibility for reimbursement is contingent on the income level of the family under the Aid to Families with Dependent Children (AFDC) program and the *reasonable efforts* made by the child welfare agency.

Under the *reasonable efforts* requirement, state child welfare agencies, such as Tennessee's Department of Children's Services (DCS), must demonstrate efforts to prevent a child's removal into foster care and to reunify families separated by foster care. These efforts are subject to review and determination by the court supervising the foster care case. 42 U.S.C. § 670.

To prevent foster care placement, child welfare agencies must secure a judicial determination that reasonable efforts were either made or not required to prevent the child's removal within 60 days of the removal date.

What Are Reasonable Efforts in Tennessee?

In Tennessee, *reasonable efforts* refers to the exercise of reasonable care and diligence by DCS to provide services that address the needs of the child and the family. T.C.A. § 37-1-166.

Reasonable efforts are required to:

- (1) prevent the need for the child's removal from their family;
- (2) enable the child's safe return home;
- (3) place the child in a timely manner according to the permanency plan and finalizing the permanent placement.

If continuing reasonable efforts is determined to be inconsistent with the child's permanency plan, those efforts may be adjusted. TCA §§ 36-1-102(9); 37-1-166.

The Family First Prevention Services Act (FFPSA)

The FFPSA amended Title IV-E to expand funding for family preservation. Under the FFPSA states, territories, and tribes can use Title IV-E funds to provide prevention services that allow "candidates for foster care" to remain safely with their parents or relatives. These funds may be reimbursed for up to 12 months. FFPSA Part I, Sec. 50711(e)(1)(A-B), amending Section 471 of the Social Security Act (42 U.S.C. 671).

Impact of Removal

Impact of removal refers to the negative impacts that removal can have on children.

- A child's safety and well-being is often prioritized as the paramount concern in matters involving families with children in or at risk of foster care.
- It is essential to recognize that removal, in and of itself, can be harmful to both the short-term and long-term safety and well-being of a child.
- While removal into foster care is sometimes unavoidable, child welfare systems should not default to removal as the sole solution to immediate safety risks.
- When appropriate, alternatives to removal should be explored. These alternatives may lead to better outcomes for both children and families.

Family Preservation

- *Family preservation* involves efforts to support and maintain the family unit by providing necessary services and resources.
- *Title IV-E of the Social Security Act* and Tennessee law require that reasonable efforts be made to prevent the removal of children from their families.

Reasonable Efforts

The requirement for Title IV-E agencies to make reasonable efforts to prevent removal is a fundamental protection under the Social Security Act and one of several criteria used to establish Title IV-E eligibility. *According to the Child Welfare Policy Manual (December 6, 2024), Questions & Answers:*

- What constitutes reasonable efforts varies from case to case. Generally, DCS should provide services to address family challenges, offer alternative care arrangements, and work to keep children with their families unless they are in immediate danger.
- Reasonable efforts must occur both to prevent removal (pre-removal services) and to reunify families (post-removal efforts), unless a court determines that such efforts are not required, as in cases involving severe abuse or other extreme circumstances.

Examples of Reasonable Efforts

- Family preservation programs (e.g., counseling, addiction treatment, parenting classes).
- In-home support services or respite care.
- Temporary relative placement or kinship care to avoid foster care placement.
- Financial or housing assistance to stabilize the home environment.

** See the DCS Prevention and In-Home Services page for available programs to TN families: <https://www.tn.gov/dcs/program-areas/prevention/family-support-services.html>