

Section 4 Overview

This section pertains to the policy and procedures necessary when an out-of-home placement of a child is imminent or has occurred.

Chapter 9 Overview

This chapter addresses permanency planning for children when family reunification, or adoption, are not viable options.

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9.1 Philosophical Basis For Permanency Planning

Permanency planning and its inherent decision making permeates the child's placement in out-of-home care. The goal of out-of-home care is to provide to each child who enters a stable and continuous relationship with nurturing and loving parents. Acceptance of this goal implies that no child should be allowed to drift in out-of-home placement. Decisions must be made in a timely manner. The child should either be reunified with his/her parents or placed with a fit and willing relative through a legal guardianship or other appropriate, permanent legal custody arrangement. When neither of these alternatives is possible, one of the following plans is utilized: Placement with a Fit and Willing Relative, Another Planned Permanent Living Arrangement (APPLA) or Adoption. Placement with a Fit and Willing Relative and APPLA should be developed and formalized by written agreement.

Legal Guardianship is a legal final permanency option for children. Once Legal Guardianship occurs the Division's legal responsibility is terminated upon a juvenile court order. Children in the CD's custody, regardless of their permanency goal, shall continue to have regular FST/PPRT meetings and support services provided until reunification, adoption or guardianship is achieved, or until the court releases the CD from jurisdiction.

Related Subject: Section 4 Chapter 23 Attachment A: Another Planned Permanent Living Arrangement (APPLA) as a Permanency Option

In order to be successful in permanency planning, a Children's Service Worker must possess a variety of skills, especially skills associated with tasks such as brokering, advocating, counseling, and consulting. Pike, et al. (1977) have identified permanency planning tasks that must be performed by the worker:

- To set in motion planning activities and to keep the momentum going until the child is permanently settled. To do this, the Children's Service Worker must be constantly willing to initiate and keep track of all activities. If referrals to other agencies are necessary, the worker will be the one to make them. The same is true for arranging parent's visits with their children, for initiating court action, and for all other actions necessary to implement a plan.
- To coordinate all service activities related to permanency planning. The Children's Service Worker will ensure that the parents have access to all services that they need, and will coordinate referrals to other services so that they follow a coherent case plan.
- To keep all activities focused on the needs of the child for permanency. In this respect the Children's Service Worker acts as an advocate for the child. The worker may be the only professional involved who will have the needs of the child as their primary concern.

- To be willing to make decisions, and to exercise judgment in doing so. To a large extent, permanency planning involves decision making. The decisions are very often difficult to make because they require judgment about what is likely to occur in the future, in situations where all the facts are not, and never can be, known.

Decision making in permanency planning involves risks, and the gravity of the risks is compounded by the serious implications the decisions will have on the lives of parents and children. But timidity in the face of difficult decisions will not achieve a stable future for the foster child. The Children's Service Worker does not make these decisions alone, but does have responsibility of seeing that they are made, and made with as much judgment and knowledge as possible.

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9.2 Administrative Review Process/Permanency Planning Review (PPR)

This section provides the Children's Division's (CD) policy for an administrative review process, also referred to as the Permanency Planning Review (PPR) which is in place and utilized periodically for all children who are in the care and custody of the Division (Alternative Care). Pursuant to Section 475 of the Social Security Act, an administrative review means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services, to either the child or the parents who are the subject of the review. The review process will assist the Children's Service Worker in developing an initial permanency plan, as well as the alternate permanency plan (concurrent plan), and in evaluating progress toward the permanency plan for that child. The Administrative Review process is embodied in several formal activities which are utilized at various times while the child is in care.

The Children's Service Worker and the Family Support Team/Permanency Planning Review Team (FST/PPRT) must determine the most appropriate permanency plan and concurrent permanency plan for the child at the time of original placement and no later than 30 days from custody, and at any additional placement, including an adoption disruption or dissolution.

The **preliminary case plan** will be developed with the family, including all parents, and the Family Support Team using the Written Service Agreement, CD-14B. This will occur at the 72-hour meeting following the Division receiving custody of a child. The Written Service Agreement will be updated on the Child Assessment and Service Plan, CS-1, at the initial 30 day meeting and subsequent meetings thereafter as needed. (Refer to Section 4 Chapter 7.5 for clarification of FST/PPRT requirements). Permanency planning reviews are then conducted prior to the date of the child's sixth month in care, and every six (6) months thereafter as long as CD has custody.

For youth age 14-21, the Adolescent FST Guide and Individualized Action Plan, CD-94, is begun in the first thirty days and completed within the first 120 days regardless of case goal on each youth in the household. The CD-94 is presented at each Permanency Planning Review and takes the place of the CD-14B for older youth whose case goal is no longer reunification and termination of parental rights has occurred. Youth ages fourteen and older are required to participate in their Permanency Planning Review Team Meetings.

As a primary method of review, the Division has established Permanency Planning Reviews (PPR).

PPRs (Administrative Reviews) are to determine:

- The safety of the child;
- The continuing necessity for and appropriateness of the placement;

- The extent of compliance with the case plan;
- The extent and progress which has been made in alleviating or mitigating the causes necessitating placement in foster care; and
- To project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship.

When it appears that a child may need residential care services (includes treatment services), the need must be assessed by referral to the Residential Care Screening Team (RCST). In addition, the Division has established other administrative review methods, such as supervisory reviews, Regional office reviews, and will establish other review mechanisms as necessary and appropriate. In all instances, these reviews are to be integrated with the juvenile court's review process for every child in care.

Administrative reviews of any type are conducted for the purpose of assessing the child/family's progress in achieving permanency. They affirm the Division's commitment to the achievement of permanency plans for every child placed in our custody. Administrative reviews are intended to prevent children from aimlessly drifting through a series of out-of-home care placements. They monitor the progress and goal achievement of treatment planning and service delivery, and assist in developing alternative solutions to child and family problems.

9.2.1 Content of the Administrative Review/Permanency Planning Review

In addition to evaluating each parent's progress toward achievement of the child's permanent plan, the following factors with respect to the child and his/her needs should be included in the administrative review.

Related Subject: Section 6 Resource Development

No exceptions are permitted in conducting permanency planning reviews while the child is in Children's Division legal custody. FST/PPRT meetings should be coordinated with the required six (6) month court report and permanency hearings (at 12 months initially, and 12 months thereafter) whenever possible.

9.2.2 Case Plan

The case plan must be established within 30 days of the child coming into the Division's custody. When developing the case plan specific attention should be given to:

1. A description of the type of out-of-home care in which the child is placed and whether it is appropriate to meet the needs of the child (includes the ability to meet the needs of the child indicated by the child's minority, ethnic, and cultural characteristics):

This includes assurances that the child is receiving proper care, i.e., is placed in a licensed facility or, if approved as an exception, the child is provided with a minimum level of proper care within community standards.

- a. How the agency plans to carry out any judicial determination or requirement with respect to the child;
- b. A description of the plan for providing services to the child, parents, and resource provider. The plan should assure that the child receives proper care and services to facilitate a permanent plan as quickly as possible. This will include the projected cost of such services;
- c. An evaluation of the child's placement against the criteria of least restrictive setting and in proximity to the natural parents consistent with his best interests and special needs; and
- d. An evaluation of the Written Service Agreement designed to improve the conditions that caused the child's removal from the care of his parents. This evaluation should focus on four (4) or five (5), if appropriate, primary aspects which are:
 1. The services provided by the Division to the child, the parents, and the resource provider were appropriate;
 2. The Written Service Agreement reflects that reasonable efforts were made to prevent or eliminate the need for removal of the child(ren) and, after removal, services were provided to make it possible for the child(ren) to return home;
 3. The tasks and level of achievement of those tasks given to the child, the parents, the Division and any other service provider, were effective in realizing the child's permanency goal; or were effective in bringing the family closer to realizing the child's permanency goal;
 4. The Written Service Agreement and services to the out-of-home care provider(s) or other resource provider addresses the needs of the child and that services provided were directly linked to the case plan; and, if applicable,
 5. The child's out-of-home care placement was changed during the review period and the parent was:

- Informed of the child's new out-of-home care placement; and
- Contacted to arrange a new visitation plan.

If the child has been in placement for more than one (1) year, attention should be given to considering a permanency goal alternative; i.e., a permanency goal other than return to the biological parents.

For youth age 14 and older, the Adolescent FST Guide and Individualized Action Plan, CD-94, is completed in conjunction with the CS-1.

9.2.3 Decisions Addressed During Administrative Reviews

The following decisions will need to be addressed during any review, including the FST/PPRT, and recorded for the specific child/family:

1. Is continued placement necessary;
2. If the parent(s) is not making progress, what is the best permanent plan, with adoption considered as the first option;
3. Determination of a projected date for accomplishing the initial, current, or revised permanency plan;
4. Planning activities for overcoming any barriers that appear to prevent the achievement of the current or revised permanency plan;
5. Should the court be requested to conduct a formal case review;
6. Should the court be requested to conduct a permanency hearing; and
7. Youth progress regarding Chafee Foster Care Independence Program Services if age fourteen or older.

9.2.4 Supervisory Case Reviews

Supervisory Case Review is a process utilized periodically for, but is not limited to, all children who are in an out-of-home setting and in the care and custody of the Division, or when CD is under court ordered supervision. This review will assist the Children's Service Worker in consultation with their supervisor in developing an initial and concurrent permanency plan, and in evaluating progress toward the permanent plan for that child. The Supervisory Case Review process is embodied in several formal activities which are utilized at various times while the child is in care.

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9.3 Decision Making for Permanency

At the time of a child's entry into out-of-home care, the child's case plan shall be developed which specifies the services to be provided by the agency and others toward the goal of permanency. Each case plan should include the primary permanency goal and an appropriate, concurrent plan in the event that the primary case goal is not able to be realized. The case plan should be developed in conjunction with a thorough assessment of the family using the CD-14, CD-14A and risk assessment tools. If custody of the child has been taken from the parents due to neglect or abuse, reports to the court and the subsequent hearing should clearly establish the conditions in the home that need to change in order for the child to be returned.

The case plan developed by the Family Support Team (FST) will delineate what each member of the team must do to reduce the problems which necessitated the child's placement in out-of-home care. Using the standard of an acceptable minimal level of social functioning as a baseline, the FST will develop a case plan that addresses the identified conditions in the home. The Children's Service Worker and members of the Family Support Team, including parents, should early on define "minimal level of social functioning."

If the Permanency Planning Goal is:

- **Reunification** - the Written Service Agreement shall be developed with the child's parents/caretakers, and, when feasible, the child.
- **Adoption** - the Written Service Agreement shall be developed with the adoptive resource, when identified, and, if feasible, with the child's parents/caretakers and the child.
- **Guardianship** - the Written Service Agreement shall be developed with the potential guardian, if identified, and, if feasible, the child's parents/caretakers and the child.
- **Placement With A Fit And Willing Relative** - the Written Service Agreement shall be developed with the child's parents/caretakers, the relative resource, and the child.
- **Another Planned Permanent Living Arrangement** - the Written Service Agreement shall be developed with the child's parents/caretakers, the placement resource, and the child.

Decision making regarding family reunification or other permanency plans is not done solely by the Children's Service Worker. The worker is to be supported by the FST/PPRT, and other individuals and agencies familiar with the parent and child. Also, the worker needs encouragement and support from supervisors to make difficult decisions.

Related Subject: Section 4 Chapter 7.2.4 Lack of Consensus at Family Support Team (FST)/Permanency Planning Review Team (PPRT) Meetings

All information provided at meetings or administrative hearings regarding removal of a child is confidential except:

- A parent or a party may waive confidentiality for himself or herself;
- Any parent has the absolute right to audio or videotape such meeting to the extent allowed by the law;
- No parent or party shall be required to sign a confidentiality agreement before testifying or providing information at such meeting or hearing; and
- Any person, other than a parent or party, who doesn't agree to maintain confidentiality may be excluded from any portion of the meeting during which he/she is not testifying or providing information.

The Children's Service Worker is responsible for completing the Child Assessment and Service Plan, CS-1, to be used at the initial 30 day FST and every 30 days thereafter until court adjudication. The CS-1 should then be updated every six (6) months and when there is a major change in the case such as a change in the permanency plan or placement change.

Professional consultants, with expertise in such areas as substance abuse, sexual offenders, domestic violence, etc., may also be utilized to aid the Children's Service Worker in decision making.

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9.4 Guidelines For Placement Decision Making For Permanency Planning

These guidelines must be used when conducting any administrative review, including PPRT/FST meetings, regarding the specific child.

9.4.1 Reunification

Family reunification is generally the first choice and should occur as soon as the parents have been able to resolve or reduce the problem(s) which necessitated the child's placement to a minimally acceptable safe level, which allows the child to return home. Reunification maintains family roots, requires few legal procedures, and is usually the least traumatic choice.

Revised Missouri Statutes in Chapter 207, 210, 211, 219, 451, 452, 455, 475, 566 and Chapter 568 affect custody, placement and visitation of children under the jurisdiction of Juvenile Court. Some parent/caregiver's felony convictions may not allow the court to reunify.

Related Subject: Section 7, Chapter 34 Laws Relating to Custody, Placement and Visitation of Children Under the Jurisdiction of Juvenile Court

The Children's Service worker is to determine if the parent has a known criminal history, involving any of the above stated felony convictions. If the parent's criminal history is not known to the worker, the worker is to request that a local or state law enforcement agency or juvenile officer conduct a name-based criminal history record check to include full orders of protection and outstanding warrants of each parent by using the Missouri Uniform Law Enforcement System (MULES) and the National Crime Information Center (NCIC) to initially assess whether the parent holds a criminal history. Workers should document when local law enforcement does not make such information available.

NOTE: The requirements of [Section 210.117. RSMo](#) do not apply to any reunification efforts made prior to August 28, 2004. However, a case in which a parent has criminal convictions/guilty pleas that were entered after August 28, 2004 shall adhere to [Section 210.117 RSMo](#).

Related Subject: Section 4, Chapter 7.2.2 Team Meetings, Section 4, Chapter 7.3.3 Visitation, and Section 4, Chapter 10.1 Legal Basis

The FST, when deciding whether family reunification is appropriate, should assess the child's and family functioning and situation, especially in relation to:

- a. The parent's ability to meet the physical, social, emotional, medical, educational and safety needs of the child;
- b. The parent(s) has rectified the conditions that led to out-of-home care;

- c. The impact on the child and family of experiences with past abuse and/or neglect;
- d. The child's current level of functioning and any special needs;
- e. Level of parental functioning, family relationships, communication patterns, conflict resolution skills and children's relationships;
- f. The parents' and child's strengths, resources and potentials that can make reunification possible. Special appreciation should be given to the strengths and resources in families whose lifestyles, family styles and child rearing methods differ from that of the Children's Service Worker or other members of the Family Support Team;
- g. Support and/or services available to the family through natural helpers, CD and the community;
- h. Family problems which may impede reunification, i.e., mental illness, substance abuse, domestic violence, homelessness, etc.;
- i. The family's and child's willingness and readiness to be reunited; and
- j. The relationships between the parent, placement provider, Children's Service Worker, and child which promote or impede reunification.
- k. If the child has been in foster care for 15 out of the most recent 22 months or one of the other factors exist which trigger the mandatory filing of a Petition to Terminate Parental Rights (TPR), then the worker and the Family Support Team must review the case to determine if there are compelling reasons why the filing of a TPR petition is not in the best interests of the child. The procedure for determining and documenting a compelling reason finding is included in this chapter. This review should be conducted at least 30 days before every permanency hearing held under 211.720 RSMo. and at least 30 days prior to the expiration of the 15/22 month trigger date. FST meetings may also be called if there is a significant change in circumstances which may affect the identified compelling reasons for not filing a TPR petition.

NOTE: Restrictions on placement, custody, visitation or reunification for minors who were determined to be either a victim or a perpetrator in an incident of abuse between minors ([Section 210.117 RSMo.](#); [Section 210.710 RSMo.](#); [Section 210.720 RSMo.](#); and [Section 211.038 RSMo.](#)) may present significant difficulties for workers who are working toward reunification; making placement decisions or enrolling children in Division custody in child care or in school.

Related Subject: Section 7, Chapter 34.1 Abuse of a Minor by a Minor

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The Children's Service Worker and other Family Support Team members should carefully weigh the risk of reunification against the risk of continued placement in out-of-home care. The CD-14 FCS Family Assessment Packet should continue to be used in assessing the family as long as reunification is the primary goal. The decision to use the CD-14 Packet for other situations should be made on a case by case basis, depending on the involvement with the family of origin.

Related Subjects: Section 2, Chapter 9.4 Assessment of Risk

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9.4.2 Guardianship

Guardianship is a permanency option for children for whom reunification or adoption is feasible. In Missouri orders of guardianship are entered by the Probate Court. Guardianship requires the caretaker to assume a high level of responsibility and authority over the child. Once guardianship is awarded by the probate court, the Division's legal responsibility for case management services is terminated. However, with the passage of H.R. 6893: Fostering Connections and Increasing Adoptions Act of 2008, youth who enter guardianship after the age of 16 are eligible for Chafee Foster Care Independence Program Services and these services must be monitored.

Related Subject: [Section 4 Chapter 21.3 Older Youth Program](#)

This plan has limited application, and should be selected under the following circumstances:

- a. Return home has been ruled out;
- b. Child is with a family, including a kinship placement, who wants to continue providing for his needs;
- c. Child wishes to stay in the current home;
- d. The juvenile court will transfer custody to the caretaker;
- e. Parent(s) will agree, if applicable, to probate court guardianship or transfer of custody; and/or
- f. A child over 14 years of age does not wish to be adopted.

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9.4.3 Placement With Fit And Willing Relative

Relative placement does not preclude adoption or guardianship. If the child is in CD custody placed with a relative who wishes to care for the child long-term, adoption and guardianship should continue to be explored as they offer more permanence for the child. Placement with a Fit and Willing Relative, without adoption or guardianship, is not a legal final permanency option. Therefore, the court must continue to hold annual permanency hearings until such time that the court enters a legally final permanency order (return to legal custody of parent, TPR and adoption or guardianship) or the child reaches age 18. The case manager shall continue to schedule regular PPRT meetings and provide support services as outlined in this section and as identified by the FST/PPRT.

Related Subject: Section 4 Chapter 6 Out-of-Home Placement Support Activities and Section 4 Chapter 7 Begin Work with the Family/Child(ren)

Efforts should be made to ensure this option is the best plan and that other more permanent options have not been overlooked.

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The permanency option of Placement with a Fit and Willing Relative should be selected under these circumstances:

- a. Return to one or both parents have been ruled out;
- b. TPR, adoption or guardianship are not options at the present time and the juvenile court, FST/PPRT, and/or Division believe it is in the best interest of the child not to pursue termination;
- c. All relatives have been considered and there is an identified relative resource who is willing to make a long-term commitment to care for the child;
- d. The relative resource is able to meet the child's physical, emotional, and developmental needs;
- e. The child wants to be placed with the relative;
- f. The relative has been fully informed of the legal effect of the placement and all available financial resources, including subsidies;

- g. The parent(s) has been informed about the placement of the child with relative provider;
- h. The out-of-home care provider will make a formal Planned Permanency Agreement with the Division for this purpose; and

Related Subject: Section 4 Chapter 23, Attachment A: Planned Permanency Agreement

- i. If the relative plans on continuing contact with the parent from which the child was removed, they are prepared to protect the safety of the child and make good decisions about the child's contact with this parent.

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9.4.4 Another Planned Permanent Living Arrangement (APPLA)

Another Planned Permanent Living Arrangement (APPLA) is meant to be a planned permanent placement for the child, not just a foster care placement that can be indefinitely extended. Choosing this option is appropriate when there is a **specific, long-term placement** for the child and when it has been documented to the court that compelling reasons exist which make the other permanency options unacceptable. The compelling reasons must be clearly identified and documented in the record. According to ASFA regulations, examples of compelling reasons include: when an older teen requests emancipation; when there is a significant bond, but the parent cannot care for the child due to disability; and when an Indian tribe has identified an APPLA for the child (see Section 4.23.2 for specific case study examples).

As with Placement with a Fit and Willing Relative, an APPLA is not a legal final permanency option. Therefore, the court must continue to hold annual permanency hearings until such time that the court enters a legal final permanency order (return to legal custody of parent, TPR and adoption or guardianship) or the child reaches age 21. The case manager shall continue to schedule regular PPRT meetings and provide support services as identified by the FST/PPRT.

Related Subject: Section 4 Chapter 6 Out-of-Home Placement Support Activities, Section 4 Chapter 7 Begin Work with the Family/Child(ren)
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An APPLA should be selected as the most appropriate permanency option under these circumstances:

- a. The child objects to TPR, and the juvenile court and/or Division believes it is in the best interest of the child not to pursue termination;
- b. Adoption has been ruled out;
- c. Guardianship or transfer of custody has been ruled out;
- d. Placement with a Fit and Willing Relative has been ruled out;
- e. There is an identified appropriate planned permanent living arrangement in which the child wishes to continue living; and
- f. All possible additional services are explored with the child and/or the placement provider to provide permanency.

The out-of-home care provider will make a formal Planned Permanency Agreement with the Division for this purpose.

NOTE - Ruling out more permanent options based only on a child's age is contrary to the goals of ASFA. Individual determinations about each child's needs and circumstances are necessary.

Related Subject: Section 4, Chapter 23 Another Planned Permanent Living Arrangement (APPLA)

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9.4.4.1 Residential Care

Residential care is to be used only when a child's behavior is diagnosed as requiring this type of protected and rehabilitative environment.

Residential care is not considered a permanent plan. The primary focus of this service is to provide treatment to secure a child's improved adjustment. Placement in another type of home setting will be necessary upon completion of the agreed upon treatment period. It should be selected under the following circumstances:

NOTE: Plans of this type must be approved by the RCST.

- a. Return to the parent(s)' care has been temporarily ruled out;
- b. Child requires a more structured environment to meet assessed needs and such a placement is in the child's best interest;
- c. Need for this type of care has been shared with the child;
- d. Parent(s) has been informed about the child's need and the recommendation for residential care;
- e. The facility is open to planning for the adoptive placement if the child becomes legally available for adoption; and/or
- f. The selected facility has agreed to accept the child for care and services.

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9.4.5 Adoption

Adoption by kin, the current foster family, or a new family, including those licensed for foster/adoptive (FA) care, offers the most stability to the child who cannot return to their parent(s) and is the second most legal binding permanency plan. Except for those instances in which a child has been abandoned by his parents, most children enter out-of-home care due to some combination of abuse and neglect, including parental inability to provide care due to the parent or child's physical or behavioral problems.

Related Subject: [210.117 RSMo](#). regarding legal basics when a child can not be reunited with parents or placed in a home with parents who have a criminal history.

Adoption should be considered an appropriate permanent plan when:

- a. The goal of return to the custody of the child's father, mother or legal guardian has been ruled out;
- b. The goal of guardianship with a relative or kinship provider or placement with a fit and willing relative has been ruled out;
- c. There is clear, cogent and convincing evidence that one or more grounds for TPR exist and CD has determined that there are no compelling reasons not to file a TPR. The evidence for these grounds must be clearly documented in the case record.
- d. The child's parent(s), through words and/or actions, has shown an inability or unwillingness to care for the child for a period of at least six (6) months, and the parent(s) will not be able to provide for the child's health and safety within a reasonable period of time (6 months).
- e. The parent(s) have failed to correct those problems and or conditions which contributed to the child's placement in out-of-home care and are not likely to do so in the near future.
- f. The parent(s) wants the child to be adopted, or parental rights have been terminated; and/or
- g. The child wants to be adopted.

Termination of parental rights has serious and lasting consequences to parents and children. Therefore, it is often difficult for Children's Service Workers and others to recommend termination of parental rights. Conversely, courts may be hesitant to terminate parental rights. However, section 211.447, RSMo, sets forth the grounds for involuntary termination of parental rights and should be used by the worker and others in deciding when to recommend termination of

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parental rights. If the worker is unsure whether statutory grounds for filing an involuntary TPR exists in a case, the worker may request that their supervisor request a case consultation with a Division of Legal Services attorney.

NOTE: A child is potentially available for adoption until court releases the Division from custody and/or supervision of the child. The case manager shall continue to provide support services and hold regular PPRT meetings until the adoption is finalized and ordered by the Court and jurisdiction is released.

Related Subject: Section 4 Chapter 6 Out-of-Home Placement Support Activities, Section 4 Chapter 7 Begin Work with the Family/Child(ren)

A child placed for adoption must have had a physical, dental (beginning at age three (3) years), and psychological examination/evaluation (beginning at least at age five (5) years) within six (6) months prior to the child's adoptive placement. Results of these activities shall be included in the required written summary provided to the adoptive parents at the time of placement.

Related Subject: Section 4, Chapter 27 Permanency Through Adoption

Chapter Memoranda History: (prior to 01-31-07)

[CS03-32](#), [CD04-79](#), [CD05-68](#), [CD05-72](#), [CD06-47](#), CD06-53

Memoranda History:

9.4.6 Emancipation or Independent Living

Emancipation or independent living is appropriate for the older adolescent who has demonstrated an ability to care for him/herself. Within that framework, emancipation or independent living should be considered under the following circumstances:

- a. Return home has been ruled out;
- b. Placement with kin has been ruled out;
- c. The youth will soon reach majority;
- d. The youth has housing available to him/her; and
- e. The youth has been or is capable of caring for his/her own needs.

The youth is usually 16 years of age or older, but may be as young as 14 years of age and they have stated that they do not wish to be adopted or have a guardian appointed and it has been documented that adoption or guardianship is not in the best interest of the child.

Related Subject: Section 4 Chapter 21 Older Youth Program (OYP) .

Chapter Memoranda History: (prior to 01-31-07)

[CS03-32](#), [CD04-79](#), [CD05-68](#), [CD05-72](#), [CD06-47](#), [CD06-53](#)

Memoranda History:

CD09-05

9.4.7 Release From Division Custody

Release from Division custody has limited application and should be considered in the following circumstances:

- a. The child's behavior is such that a more restrictive environment is needed than the Division can provide, or
- b. The child is a "runaway" and after diligent effort over a 90-day period, neither the Division nor the juvenile court has been able to locate the child, or
- c. The child's condition is such that other types of substitute treatment care can more appropriately meet his/her needs.

Transfer Of Custody To Another Agency Or Provider.

When custody is transferred, the Division's legal responsibility may be terminated at the discretion of the juvenile court of jurisdiction. The case manager shall continue to provide support services until the Court relieves the CD from making reasonable efforts or jurisdiction is released.

Chapter Memoranda History: (prior to 01-31-07)

[CS03-32](#), [CD04-79](#), [CD05-68](#), [CD05-72](#), [CD06-47](#), CD06-53

Memoranda History:

9.5 Tasks to Support Plan:

1. Determine the legal and service actions, which must occur to support the selected permanency plan.
2. Document a record of casework action and parental behavior that will support the satisfactory closing of a case, a restoration plan, be admissible evidence in a termination hearing if the parents do not respond to the case/treatment plan, or a voluntary release by the parent(s) of the child for adoption:
 - a. Enter in the case record, chronologically, all attempts and actual contacts, in person or by telephone, with parents and collaterals.
 - b. Summarize important decisions or requests made during interviews in a follow-up letter to the client or collateral. A copy of the letter is filed in the case record.
3. Execute the permanency plan.
4. Request court review, permanency hearing or other administrative review (by appropriate supervisory level) according to the timeframes defined below to assure that procedural safeguards are applied and that progress toward a permanency plan is being achieved.
5. The Child Assessment and Service Plan, CS-1, must be completed within 30 days of custody, and every 30 days thereafter until adjudication. After adjudication occurs, the CS-1 should be completed every six (6) months and when a major change in the case occurs such as a change in the permanency plan or placement change.
6. Complete the Adolescent FST Guide and Individualized Action Plan, CD-94, Life Skills Strengths/Needs Assessment Reporting Form, CD-97, and Ansell-Casey Life Skills Assessment (ACLSA) for youth age 14 and over, when a youth first comes into care or turns age fourteen. The CD-94 should be re-evaluated on an on-going basis and presented at each FST or PPRT. The ACLSA is updated annually.
7. Request supervisory review for children in care as follows:
 - a. Regional office at 15 months of treatment services; and
 - b. Central office, at request of Regional office, as necessary.
8. Seek a court permanency hearing no later than 12 months after the date the child is considered to have entered foster care and not less frequently than every 12 months thereafter during the continuation of care. The permanency hearing shall be for the purpose of determining whether the child should be continued in foster

care; returned to a parent, guardian, relative, or kinship; or proceedings should be instituted to terminate parental rights (TPR) and legally free such child for adoption. (See section 210.720, RSMo, Missouri Laws relating to the Children's Division.)

The report to the court prior to a court permanency hearing shall include, but is not limited to the following:

- a. The current placement status of the child;
- b. The interrelationship of the child with his/her foster parents, parents, siblings, and any other significant person;
- c. The child's adjustment to his/her foster home, school and community;
- d. The mental and physical health of all individuals involved, including any history of abuse; and
- e. The child's need for a continuing relationship with his/her parents and their ability and willingness to adequately parent the child.

NOTE: In any judicial proceeding involving the custody of a child, the fact that a report may have been made pursuant to [Section 210.110](#) to [210.165](#) shall not be admissible. However, nothing in this section shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made as required in [210.145, RSMo](#).

9. Request the court amend the current court order if any treatment services recommended in the long-term permanency treatment plan are deleted, or if the permanency goal changes.

A court may have its own format for reporting information for the court review. If so, this format should be used. When this occurs, submit a copy of the CS-1, in addition to the required court report, unless the court specifically objects.

A permanency hearing is considered to be a "review." This includes those cases in which the court has held a TPR permanency hearing, determined that it is not in the best interest of the child to terminate parental rights, and retained jurisdiction of the child.

10. Obtain administrative reviews from appropriate staff by end of 90-day treatment periods if selected plan is not progressing by 180 days, 270 days, etc.
11. Update FACES appropriately with the date for the type of review or permanency hearing that has occurred.

12. Receive and implement recommendations of any review including:

- a. Permanency Planning Review; and
- b. Court review.

13. Terminate reviews when a permanent plan has been achieved.

Permanency plans can include one of the following:

- a. Reunification with parent(s);
- b. Adoption decree granted; or
- c. The court has approved a permanent legal guardianship with a resource provider family.

Subsequent to the mandatory 12-month permanency hearing exceptions are allowed for the annual 12-month permanency hearings. Exceptions allowed include:

- a. Children in a court approved permanent legal guardianship placement with a resource provider; and
- b. Children, free for adoption and placed with an adoptive family, if adopted within a reasonable time.

Should interim progress toward a child permanency plan be disrupted because a child is returned to the Division's custody, an administrative review, including the FST, and court reports, must be rescheduled by the sixth month. A new case plan, CS-1, must also be developed and submitted to the FST and court within 30 days from the date of the plan's disruption.

Chapter Memoranda History: (prior to 01-31-07)

[CS03-32](#), [CD04-79](#), [CD05-68](#), [CD05-72](#), [CD06-47](#), [CD06-53](#)

Memoranda History:

[CD09-05](#), CD11-84

9.6 Operation of the Family Support Team (FST)/Permanency Planning Review Team (PPRT) Meeting

All team members, required and invited, are considered full partners in the review process and should attend the entire FST/PPRT meeting and have the opportunity to fully participate in the development of the child's case plan.

Related Subject: Section 4 Chapter 7.2.3 [Meeting Agenda](#)

All information provided at meetings or administrative hearings regarding removal of a child is confidential except:

- A parent or a party may waive confidentiality for himself or herself;
- Any parent has the absolute right to audiotape or videotape such meeting to the extent allowed by the law;
- No parent or party shall be required to sign a confidentiality agreement before testifying or providing information at such meeting or hearing; and
- Any person, other than a parent or party, who does not agree to maintain confidentiality, may be excluded from any portion of the meeting during which he/she is not testifying or providing information.

The Children's Service Worker is responsible for developing the Child Assessment and Service Plan, CS-1, to be used at the initial 30 day FST and every 30 days thereafter until court adjudication. The CS-1 should then be updated every six (6) months and when there is a major change in the case such as a change in the permanency plan or placement change. A completed CS-1 will be distributed to both parents and any other party within five (5) days of the FST.

At the beginning of each FST/PPRT meeting the Children's Division shall state: **“All information provided in this meeting is confidential. Any one not agreeing to keep information disclosed confidential can be asked to leave the meeting for any portion in which he/she is not testifying.”** Documentation of those in agreement or disagreement should be included in the CS-1.

9.6.1 Composition of the Participants in FST/PPRT Meetings

Participants who are required to be invited and/or participate:

1. Individuals who must be invited to Family Support Team meetings include:
 - All parents,
 - Youth age 13 and older,
 - Legal counsel for the parents,

- Resource providers,
- Legal guardian for the child,
- Juvenile officer,
- The Guardian ad Litem (GAL), and
- The Court Appointed Special Advocate (CASA).

Upon appointment by the court to a case, the GAL is to be informed of and have the right to attend any and all FST/PPRT meetings involving the child. Family members, other than alleged perpetrator, or other community formal or informal service providers may be invited at the discretion of the family. The parents, their legal counsel, and the resource providers may request that other individuals, other than alleged perpetrators, be permitted to attend such meetings.

2. A youth age 13 or over must be invited to attend each FST/PPRT and given the opportunity to participate in the development of his/her case plan. The expectation is that youth age 13 and over will attend their FST/PPRT unless the worker and the supervisor agree that there is a valid reason why the youth cannot attend. The meetings should be held at a time that is convenient for the youth and family. Scheduling a meeting during school hours would not be considered convenient for the youth. In addition, House Bill 154 states that students may not be penalized for absences resulting from required court hearings or court-related activities, including FSTs.
 - With the approval of the immediate supervisor, a child under the age of 13 may participate in the FST/PPRT. The child is considered “age appropriate” if he/she is able to understand the circumstances and implications of his out-of-home care status.
3. Staff may consider including their Children’s Service Specialist in the decision-making process when appropriate. Participants involved in the decision-making process should be clearly identified and documented in the case record pursuant to CS-1 instructions in place.
4. An objective third-party reviewer is not required at FST meetings, but is required to be invited to, and participate in each PPRT meeting. The third party reviewer is someone who is not responsible for the case management of, or the delivery of services to the child or the parents.

A third-party reviewer may be Children’s Division staff, if the individual is not responsible for and does not have knowledge of the case. The desired preference of the Children’s Division is to utilize outside stakeholders, to the best extent possible, as third-party participants.

Related Subject: Section 4 Chapter 7.2 Family Support Team Meeting
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Once a person is provided notice of a FST/PPRT meeting, CD shall provide notice of subsequent meetings. **The letter of notification to all other team members and age appropriate youth must also include a copy of the CS-1 to be submitted at the FST/PPRT.**

9.6.2 Scheduling and Notification of FST/PPRT Meetings

The Family Support Team shall meet to review the case plan and provide recommendations for the provision of services for children when the court has ordered a pre-custodial evaluation be completed.

Staff are to meet with the family within 24 hours of the initial placement and conduct Family Support Team meetings within 72 hours, and 30 days from the date of the initial placement in order to manage initial placement and visitation activities, and to establish a case plan. Subsequent FST meetings are then to be held every thirty days until court adjudication and as needed, or required, thereafter.

FSTs should be held in order to make key decisions and for the purpose of:

- Determining service and treatment needs;
- Determining the need for placement and developing a plan for reunification or other permanency options;
- Determining the appropriate placement of the child;
- Evaluating case progress, and
- Establishing and revising the case plan.

Permanency Planning Reviews (Administrative Reviews) are to be conducted prior to the date of the child's sixth month in care, and every six (6) months thereafter as long as CD has custody. PPRs are to determine:

- The safety of the child;
- The continuing necessity for and appropriateness of the placement;
- The extent of compliance with the case plan;
- The extent and progress which has been made in alleviating or mitigating the causes necessitating placement in foster care; and
- To project a likely date by which the child may be returned to and maintained in the home or placed for adoption or legal guardianship.

Two (2) weeks prior written notification must be given to the team participants, including the time and place of the review. Meetings should be scheduled when it is convenient for the youth and the family. If possible, all FST members should be accommodated, but the youth and the family are critical members of the team. The letter of notification to the parents must also include an explanation:

- a. Of the purpose of the FST/PPRT;
- b. That attendance is not a requirement, but is encouraged;
- c. The right of the parents to bring someone with them; and
- d. A copy of the CS-1 to be presented at the FST/PPRT, if required.

Upon appointment by the court to a case, the GAL is to be informed of and have the right to attend any and all FST/PPRT meetings involving the child.

The letter of notification to all other team members must also include a copy of the CS-1 to be submitted at the FST/PPRT, if required.

9.6.3 Reporting the FST/PPRT Meeting

All pertinent information must be recorded on the CS-1 to be maintained in the child's section of the case file. A copy must be submitted to the jurisdictional court. Each participant of the review should complete, at a minimum, the recommendation section of the CS-1. These recommendations will be summarized on the file copy. This information is to be sent to the jurisdictional court and the child's parents.

Related Subject: Section 4 Chapter 7.2.4 [Lack of Consensus at Family Support Team \(FST\)/Permanency Planning Review Team \(PPRT\) Meetings](#)

The completed CS-1, and Adolescent FST Guide & Individualized Action Plan for youth age 14 or over, should be submitted to court as a replacement for the six-month court report or in conjunction with the submittal of the six-month court report.

If a CS-1 is completed for the meeting, the parents and resource providers should be provided with a copy of the completed CS-1, either directly after the FST/PPRT meeting or within five (5) days through the mail.

There are no exceptions to conducting the FST/PPRT. A child must have a FST/PPRT even though it is anticipated that the child will be reunified with parents within a short period of time; or, the Division is planning to place the child for adoption within a short period of time. In other words, FST/PPRTs are conducted according to the time schedule as long as the Division has custody.

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Memoranda History:

[CD07-77](#), [CD09-127](#), [CD10-15](#), [CD11-81](#), CD11-84

9.7 Adoption and Safe Families Act of 1997

The Adoption and Safe Families Act of 1997 is a federal law which promotes timely, permanent placements for children in foster care. The primary goal of the legislation is to expedite permanency for children in out-of-home care by setting specific time frames in which the state must act on a child's permanency plan. For some children, adoption is the best permanency plan. For other children, reunification with their birth parents or guardians may be the best plan. To accomplish this goal, we must consider all permanency options for a child. In a timely manner, we must act on the best plan, while at the same time, we must begin implementation of an alternate concurrent plan for permanency. The law establishes new time lines for "permanency" hearings (previously known as dispositional hearings) and imposes new case plans and review requirements on the Division and the juvenile courts. The permanency plan of every child, regardless of age, who has been in out-of-home care for 15 out of the most recent 22 months, must be reviewed. The state must file a termination of parental rights (TPR) petition unless compelling reasons exist for not filing this petition.

The guidelines are as follows:

9.7.1 Legal Mandates:

1. The legislation requires action by mandating that the Children's Division or the juvenile office initiate or seek to join proceedings (if filed by another party) to terminate parental rights, when a child has resided in care for 15 of the most recent 22 months, when a child is an abandoned infant, or when the parent(s) has been convicted of certain felonies outlined below unless the following conditions exist:
 - a. At the option of the state, the child is being cared for by a relative provider; or
 - b. A state agency has documented, in the case plan (which shall be made available to the court), compelling reasons that filing a petition would not be in the child's best interest; or
 - c. The state has not provided timely services deemed necessary, as documented in the case plan, for the safe return of the child to the home.

For purposes of meeting the mandated time frames, a child's time in care is defined as the earlier of:

- a. **The date of the first judicial finding that the child was subjected to child abuse or neglect; or**
- b. **The date that is 60 days after the date the child was removed from the home.**

2. The 18-month “permanency hearing” will be replaced with a “permanency planning hearing.” Permanency hearings are mandated to occur within 12 months of a child’s entry into care. A permanency hearing is meant to result in a definitive decision as to the placement of a child in a permanent setting. The juvenile court will be required to enter a decision regarding whether and when a child will be returned home; a termination of parental rights petition filed and placed for adoption; or referred for legal guardianship or other permanent plan.
3. The juvenile court is required to notify a child’s current foster parents, pre-adoptive parents or kinship providers of court reviews and give them the opportunity to be heard.
4. Reasonable efforts to preserve and reunify families are required. However, reasonable efforts may not be necessary in family situations where a court has found the following:
 - a. The parent has subjected the child to aggravated circumstances as defined in state law (including, but not limited to, abandonment, torture, chronic abuse and sexual abuse);
 - b. The parent has committed murder or voluntary manslaughter or aided or abetted, attempted, conspired or solicited to commit such a murder or manslaughter of another child of the parent;
 - c. The parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent; or
 - d. The parental rights of the parent to a sibling have been involuntarily terminated.

The courts will determine when reasonable efforts are not required. If the court makes this determination, a permanency hearing must be held within 30 days of the determination. Reasonable efforts to place the child for adoption, with a legal guardian, or in another permanent placement must also be made during this time. Parents are entitled by law to be notified of meeting, invited, attend and participate in FST meetings until such time as the court terminates their parental rights. A court order relieving CD of the obligation to exercise reasonable efforts does not mean that the parents are no longer entitled to notice and participation in FST meetings.

The state is required to develop plans for effective use of cross-jurisdictional resources to facilitate timely, permanent placements for children awaiting adoption. Title IV-E foster care and adoption assistance funding is contingent upon the state’s ability to expedite a child’s adoptive placement, when the

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approved family is available outside of the jurisdiction with responsibility for the child.

Compliance with the federal law requires identifying children, scheduling permanency planning reviews, conducting reviews, completing a permanency plan and filing termination of parental rights petitions, if appropriate, with the juvenile courts.

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Memoranda History:

CD09-111

9.7.2 Timeframes to Review Permanency Plans for Children in Out-of-Home Care

In order to determine the best permanency plan for each child and to meet the time frames specified in legislation, the Children's Division will facilitate permanency planning review team meetings. According to current policy, every child who resides in out-of-home care and in the custody of the Children's Division must have a permanency planning review within six (6) months of entering legal custody of the Division and every six (6) months thereafter. When a child is initially placed in out-of-home care, the emphasis is usually placed on making reasonable efforts to safely return the child to his or her parents. A concurrent permanency plan should also be discussed should reunification not be in the child's best interest. Therefore, the emphasis during initial family support meetings is usually placed on treatment planning and implementation that will allow for reunification while PPRTs focus on the child's permanency plan.

PPRTs for children who have resided in care for 15 of the most recent 22 months must also focus on permanency. All recommended permanency plans and actions must be documented and immediately provided to the juvenile court.

When the recommended plan is adoption, the Children's Division or the juvenile office must file a petition to terminate parental rights or seek to join proceedings (if filed by another party) within the following time frames:

1. Children in the Division's custody who entered care on or before November 19, 1997.

If the Family Support Team determines that it is in the best interest to be legally freed for adoption, a petition to terminate the rights of all parents of the child must be filed. Certainly, it is in the child's best interest to file immediately. In many situations, however, documentation and resources may need to be obtained before the petition can be filed. For this reason, the Adoption and Safe Families Act states that TPR petitions, for children who entered care on or before November 19, 1997 (date of federal enactment), can occur on an incremental basis, over a period of 18 months. For Missouri, the 18 month time frame began July 1, 1998, and extended to January 1, 2000. By January 1, 1999, one-third of all petitions for children who entered care on or before November 19, 1997, should have been filed. Two-thirds had to be completed by July 1, 1999, and all completed by January 1, 2000.

Family Support Teams should develop an action plan that ensures timely filing of petitions or other documentation to the court. Children who have resided in out-of-home care the longest and children who already have a permanency plan of adoption, should be given first priority.

2. Children who entered out-of-home care after November 19, 1997.

If the Family Support Team determines that adoption is the best permanency plan for a child who entered out-of-home care after November 19, 1997, a termination of parental rights petition must be filed before the child reaches 15 months in care. When scheduling 12 month reviews for children who entered care after November 19, 1997, the team should consider all permanency options, develop a permanency plan and immediately act on such plan.

In calculating when to file a petition for Termination of Parental Rights, we must:

- a. Calculate the 15 out of the most recent 22 month period from the date the child is considered to have entered foster care;
- b. Cumulate the time when a child experiences multiple exits from and entries into foster care during the 22 month period;
- c. Not include trial home visits or runaway episodes in calculating 15 months in foster care; and
- d. Only apply if one of the following exist:
 1. A child who has been determined by a court of competent jurisdiction to be an abandoned infant. The petition to terminate parental rights must be filed within 60 days of the judicial determination that the child is an abandoned infant; or
 2. A parent who has been convicted of one of the felonies:
 - a. Murder of another child of parent;
 - b. Voluntary Manslaughter of another child of parent;
 - c. Aiding or abetting, attempting conspiring or soliciting to commit such a murder or such a voluntary manslaughter;
 - d. A felony that resulted in serious bodily injury to the child or to another child of the parent; or
 - e. The parental rights of the parent with respect to a sibling have been terminated.

Under such circumstances, the petition, to terminate paternal parental rights must be filed within 60 days of a judicial determination that reasonable efforts to reunify the child and parent are not required.

Under federal and state law the Juvenile Officer or the Children's Division (with the assistance of DLS) is required to file a petition for termination of parental rights within certain time frames. The law provides some exceptions when the requirement for filing a TPR petition is excused, even when one of the mandatory grounds or triggering events takes place. One of the exceptions is whether there exists compelling reasons for determining that filing such a petition would not be in the best interests of the child, as documented in the permanency plan which shall be made available for court review.

Whenever it appears that one of the mandatory grounds or triggering events for the filing of termination of parental rights exists in a case, a Supervisory Case Review must occur to determine whether one of the exceptions applies. If none of the exceptions applies then the worker should prepare a TPR referral packet and refer the case to the Juvenile Officer or the Division of Legal Services for the filing of a petition. If it appears that one of the exceptions may apply, then the worker, in consultation with their supervisory, must carefully document in the case file what exception applies and the factual basis for the determination.

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[CS03-32](#), [CD04-79](#), [CD05-68](#), [CD05-72](#), [CD06-47](#), [CD06-53](#)

Memoranda History:

CD09-111

9.7.3 Criteria for Compelling Reasons Determination for not Filing TPR Include, but are not Limited to:

The decision whether compelling reasons exists must be decided on a case by case basis after considering all of the facts and circumstances of the case. Federal Law prohibits states from developing a standard, exclusive list of compelling reasons for not filing for termination of parental rights (TPR) that exempts groups of children.

Federal regulations set out some **examples** of cases where it is or may not be in the best interests of the child to file a petition for termination parental rights.

Examples of such cases:

- a. There are no legal grounds for filing a TPR;

This determination could not be made without legal and supervisory case review and documentation of the finding in the case record. In addition this finding should require a case plan revision with specific actions to make reasonable effort, and frequent (every three to six months) review of progress;

- b. Adoption is not the appropriate permanency goal for the child;

This example could also include cases where:

- Reunification is the goal;
- The child has a permanency goal other than adoption (i.e., permanency with a kin/relative through guardianship and is expected to achieve that goal within 12 months of establishing the goal;
- The child objects to being adopted. The legal age to consent is 14 years of age;
- The child has severe emotional or behavioral problems or a serious medical condition and reunification remains an appropriate goal; or
- The parent is terminally ill, does not want parental rights terminated and has designated the child's present caretaker, with the caretaker's agreement, as the child's permanent caretaker.

- c. The child is an unaccompanied refugee minor as defined in 45 Code of Federal Regulations 400.111, as a person who has not yet attained 18 years of age (or a higher age established by the State of resettlement in

its child welfare plan under the IV-B of the Social Security Act for the availability of child welfare services to any other child in the State); who entered the United States unaccompanied by and not destined to (a) a parent or (b) a close non parental adult relative who is willing and able to care for the child or (c) an adult with a clear and court-verifiable claim to custody of the minor, and who no parent(s) in the United States.

Limitation: No child may be considered by a State to be unaccompanied for the purpose of this part unless such child was identified by INS at the time of entry as unaccompanied, except that a child who was correctly classified as unaccompanied by a State in accordance with Action Transmittal SSA-AT-79 until the status is terminated in accordance with federal law and the director may approve the classification of a child through documentation of a child prior to the effective date of this definition may continue to be so classified as unaccompanied at the time of entry; or

- d. There are international legal obligations or compelling foreign policy reasons that would preclude terminating parental rights.

The determination of compelling reasons is made by the Children's Division. The court may conduct its own independent review and issue an order under Section 210.720, RSMo directing that a petition be filed. However, for ASFA compliance, federal law only requires that CD make the determination of compelling reasons and document those reasons in the permanency plan. Those reasons must be made available to the court and the other parties to the case.

Federal law requires CD to document its compelling reasons "in the case plan" if the worker, in consultation with his/her supervisor, has determined that compelling reasons exist for not filing for a petition for termination of parental rights. There must be specific reasons in the CS-1 case plan and on the Family Support Team (FST) Information screen in FACES documenting compelling reasons in detail. It is best practice for documentation to list the specific factual basis for its reasons why it is not the best interests of the child to file a petition for terminating parental rights. For example, using the compelling reason of a child with severe emotional, behavioral, or medical problems, the worker should document in the case record with supported clinical evidence on the child's severe emotional, behavioral or medical issues and the need for placement in residential treatment or other intensive treatment. The record should provide evidence that the parent is actively involved in the child's life and is planning for the child's return home. If the child objects to being adopted, the Children's Service Worker must document evidence in the case record that the child has participated in specific counseling to discuss all permanency options and understands all the permanency options.

9.7.3.1 Use of Supervisory Case Review in Compelling Reasons Determination

Supervisory Case Review is a process to be utilized periodically for, but is not limited to, children who are in an out-of-home setting and in the care and custody of the Division, or when CD is under court ordered supervision. This review will assist the Children's Service Worker in consultation with their supervisor in developing an initial and concurrent permanency plan, and in evaluating progress toward the permanent plan for that child. The Supervisory Case Review process is embodied in several formal activities which are utilized at various times while the child is in care.

A Supervisory Case Review should occur where compelling reasons to not file TPR petition cease to exist, to evaluate current status of the case as it relates to the reasons to file for TPR and to evaluate the permanency options available in the child's best interests. This review should occur prior to making such recommendations to the FST or PPRT members on the available permanency options.

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Memoranda History:

[CD09-111](#), CD10-37

9.7.4 Process for Compelling Reasons for not Filing TPR Determination

This section establishes clarity on the criteria that can be used to make a compelling reason determination by the Children's Service Worker and Division counsel to make and document a decision and the process for ongoing review of that decision by the Division and the Court:

1. The Children's Service Worker, in consultation with his/her supervisor, will document in the case record specific, and detailed reasons, base on the facts of the case, as to why they are not seeking to terminate parental rights.
2. The Children Service Worker, Supervisor, Manager and Agency Attorney must review and approve the documented reason for not seeking to terminate parental rights for each case. This approval should be documented in the case record.
3. The Family Court Judge should review the determination at each permanency hearing.
4. Request the court include documentation of such compelling reasons in the court order.
5. If there is disagreement between the Agency and the Court, the Agency should present their determination and justification at subsequent permanency hearings and must include in the court report results of internal review decisions.

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9.8 Concurrent Permanency Planning

Concurrent Permanency Planning is a process of working towards reunification while at the same time, establishing and implementing an alternative permanency plan for a child. In other words, concurrent permanency planning is a way to establish a Plan A and a Plan B. Concurrent Permanency Planning is intended to reduce the length of stay in care. Concurrent rather than sequential planning efforts are utilized to more quickly move a child from the uncertainty of foster care to the security of a safe and stable permanent family. *Sequential Planning* occurs when workers wait until the primary plan fails to begin the concurrent plan. An example of sequential planning would be waiting until the plan of reunification fails to begin an ICPC referral for relatives out of state. This delays permanency. Concurrent Permanency Planning should begin within 24 to 72 hours from the child's removal from the home. The Children's Service Worker and the family support team must determine the most appropriate concurrent permanency plan for the child as soon as possible, but no later than 30 days from custody. All decisions made up front affect the ability to implement the concurrent plan at the time that it becomes necessary.

The concurrent permanency plan should include steps to return the child to the home as well as a plan setting forth reasonable efforts to place the child for adoption, guardianship, or in another approved permanent placement. Reasonable efforts to finalize an alternate permanency plan may be made concurrently with reasonable efforts to reunify the child and family.

If a child has been in placement for more than one year, and the current permanency plan is not working, the family support team should consider changing the permanency plan to the concurrent permanency plan. If it appears the child will be unable to return to their family of origin, the FST, with the involvement of the child and family, shall develop alternate plans for the child using concurrent planning and meeting the court and ASFA timeframes. This concurrent plan must include placing with relatives unless contrary to the welfare of the child.

Each case plan with a primary permanency plan of reunification should have an appropriate concurrent plan in the event that the primary case plan is not able to occur.

9.8.1 Goals of Concurrent Permanency Planning

Concurrent Permanency Planning uses a mix of family-centered casework and legal strategies designed to:

- Achieve early permanency for children
- Decrease children's length of stay in alternative care
- Minimize the negative impact of placement on children

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- Reduce the number of moves and relationship disruptions children experience in alternative care
- Develop a network of permanency planning resource parents (relatives or non-relatives) who can work towards reunification and also serve as permanency resources for children, and
- Maintain continuity in children's family and sibling relationships.

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9.8.2 When Concurrent Permanency Planning is Used

Concurrent Permanency Planning should be used any time the permanency plan is reunification. Concurrent Permanency Planning is optional when adoption, guardianship, placement with a fit and willing relative or APPLA is the permanency plan.

Reunification cannot be a concurrent plan.

Example 1: If a child is removed from his mother while his father is in jail, but his father will be getting out of jail soon, the primary permanency plan will be reunification with mother or father. The concurrent plan would not be reunification with father. In this scenario, if the child reunifies with dad, the close reason should be "goal achieved". Selecting "other" and typing in living with relatives in the explanation would not be a suitable close reason for this example.

Example 2: If a child is removed from his grandmother and the plan is to reunify with the grandmother or the mother or the father, the primary permanency plan would be reunification. The concurrent plan would not be reunification with the mother or father. The concurrent plan could be adoption or guardianship with another relative.

In addition, the primary plan and the concurrent plan cannot be the same.

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9.8.3 Components of Effective Concurrent Permanency Planning

- Identify the problems that led to out-of-home placement and provide services accordingly. Identify the strengths of the family, including all parents, and the likelihood of reunification within 12 –15 months;
- Identify the obstacles to reunification;
- Early paternity determination;
- Early aggressive search for relatives and kin to help achieve permanency.
- Early identification and consideration of all permanency options.
- Frequent and constructive use of parent-child visitation as part of the reunification efforts.
- Full disclosure to the parents of problems, changes, possible consequences, timelines, and alternative permanency decision making should be discussed on an ongoing basis. Let parents know the negatives effects of placement on children, the urgency for reunification, and the need for a concurrent plan if they do not follow through;
- Initial placement with a relative or resource/adopt family who can, if necessary, become the permanent home of the child;
- Front loading services-provides reasonable efforts and attempts to get the family engaged early;
- Motivate the parents to change;
- Effective and timely court hearings with firm timelines for permanency decision making; during which time, documented steps are taken to achieve reunification and an alternative permanency option;
- Ongoing evaluation of progress, tracking and adjusting, to find what works for the family; lack of progress suggests that planned strategies are either wrong or underpowered. Goals should be easy to understand and families should take an active role in developing their goals;
- When reunification is not possible within a reasonable timeframe, take steps to finalize the alternative permanency option.

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9.8.4 Documenting Concurrent Permanency Planning

- Diligent search efforts for absent parents, non-offending parent, relatives or kin and place consistent with the law. Document efforts on the CS-1 and in the case narrative;
- Document missed meetings, visits, and non-compliance with the treatment plan;
- Narrative;
- Reasonable Efforts (CS-1);
- Document behavioral changes;
- Document efforts made toward the concurrent plan (ie: submitting ICPC request for relative placement out of state, completed adoptive home study on grandparents, etc.).

Concurrent Permanency Planning Should be Discussed as Every FST as long as a concurrent plan is required.

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9.8.5 Family Involvement in Concurrent Permanency Planning

Each parent should be involved in the development of the concurrent permanency plan. Family involvement must begin with good engagement. Clearly define your role as well as the roles of the other team members, expectations, the law, and the goal of permanency for the child. Engage each parent in the process of decision making and encourage them to play an active role in determining what their goals should be.

Early identification of relatives, to include in family meetings, is critical. All parents should be encouraged to identify both maternal and paternal family members, as well as kin and individuals close to the family, who might be of help in determining the elements of the service plan. Discuss placement decisions regarding which relatives or kin to place with when involving the family in concurrent planning.

Full disclosure to the parents of problems, changes, possible consequences, timelines, and alternative permanency decision making should be discussed on an ongoing basis.

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9.8.6 Legal Strategies

Staff should also keep in mind the legal requirements and limitations that affect decision making. The worker must have enough knowledge of the law to understand the process and be able to explain it to the family. Good case plans are good legal plans. The focus should remain on why the child came into care. The worker must prove their case in court through court reports, CS-1s, and testimony to provide the evidence needed for court decisions. Any decision made should include the ability to implement the plan:

- To make a recommendation that the child return home, there must be a good case plan that is legally sound and good documentation of the family's participation in the plan to support the recommendation.
- In order to reach an adoption, TPR must occur. In order for TPR to occur, there must be a consent for TPR or documentation to support at least one legal ground for TPR and best interest. In addition, the age of the child becomes a factor because children over the age of 14 must consent to adoption. Children must also be placed in a home for 6 months before adoption can occur.
- In order to reach guardianship, there must be documentation to show that the parent is unfit, unwilling, and unable to provide for the child.

The Children's Division must conduct an immediate diligent search for grandparents once the decision has been made to take custody during the first three hours after placement. If the child is not placed with grandparents, the Children's Service Worker must document in the case narrative and on the child's CS-1 why the child was not placed with grandparents. In addition, the law requires the Children's Division to identify and notify all adult relatives of the child's custody within 30 days of the child's removal. If relatives cannot be identified or found initially, the search for grandparents and other relatives should continue while the child is in care. These efforts should be documented in the case narrative and on the child's CS-1.

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9.8.7 Changing the Permanency Plan and Case Activities

The parent should be complying with the established case plan, making significant measurable progress toward achieving the goals established in the case plan, and diligently working toward reunification in order to maintain it as the permanency plan at the permanency hearing (12 months). However, the decision to change the plan should include the ability to implement the plan. For example, there should be grounds and evidence for TPR if the intent is to change the permanency plan to adoption.

The following table provides examples of activities that should be completed simultaneously for both the primary plan and the concurrent plan.

Reunification	Concurrent Plan
Place the child with a family who is willing to work cooperatively with the biological parent(s) towards reunification, but is also willing to become the child's permanent family if needed. This could be a relative or a non-relative resource family. The child should be placed with relatives or kin according to the law unless contrary to the welfare of the child.	Educate families about the detrimental effects of out-of-home care on children and the urgency of reunification or an alternate permanent plan such as legal guardianship or adoption.
Develop a genogram (and ecomap) with the family to identify strengths, resources, tensions and stressor in the family. This is a time to begin identification of the child's father, and/or any absent parents or relatives who may serve as a family support or resource;	Explain ASFA timeframes for reunification and the consequences of not meeting the timeframes. This knowledge may help motivate parents to make more effective use of services by actively working toward the changes necessary to regain custody. It will allow them to make informed decisions.
Meet with the child's family (all interested family members, relatives, or close family support persons) to develop a service plan that addresses reunification as the Primary Goal.	Conduct an immediate, diligent and continuous search for possible non-custodial parents and other family members, tribal or community members, or friends who are able to commit to participation in a permanent plan for placement;
Identify barriers to the family's progress and work with the family to resolve them.	Begin genetic testing for paternity if needed;
Maintain frequent contact with the parents to support and encourage the parent and monitor their progress.	In evaluating the family's progress, consider whether reunification should remain as the primary goal or be changed.

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Ensure the availability of opportunities and supports needed for meaningful visitation.	Continue to maintain contact with possible non-custodial parents and other family members, tribal or community members, friends, or individuals who live in-state or out-of-state to encourage and assist them for preparing to be an alternate permanent placement.
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Source: National Child Welfare Resource Center for Adoption and the National Resource Center for Foster Care and Permanency Planning.

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