

Legal Training for Dependency, Neglect and Abuse Cases



Track 1



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REASONABLE EFFORTS IN DNA CASES: REVIVAL AND REFOCUS UNDER THE FFPSA



**REASONABLE EFFORTS IN DNA CASES:
REVIVAL AND REFOCUS UNDER THE
FFPSA**



Presented By:

**Justice Debra Hembree Lambert
Kentucky Supreme Court
3rd District**

Constitutional Rights

- A parent's constitutional right to raise their child is one of the most sacred interest protected by the US Constitution. Troxell v. Granville, 530 U.S. 57, 65 (2002).
- Parents are presumed to be fit and don't have to be perfect to retain custody of their children. Santosky v. Kramer, 455 U.S. 745, 753 (1982).

Family First Prevention Services Act

- The Family First Prevention Services Act of 2018 (Public Law 115 Feb. 9, 2018).
- A philosophical shift for federal reimbursement to states under Title IV-E of the Social Security Act for authorizing reimbursement for programs to PREVENT children from entering into foster care to funding and reimbursement and funding for training of guardians ad litem (GALs), court-appointed counsel (CACs), and Judges.

Kentucky Statewide Foster Care FACTS:

Based on all children in OOHC on July 05, 2020 Source TWS-W058

Demographic Indicator	Number
Total Number of Children in OOHC with Active Placements	9797

About 3 in 5 children in foster care return home to their parents or other family members.



Source: U.S. Department of Health and Human Services. (2015). *The AFCARS report: Preliminary FY 2014 estimates as of July 2015* (22). Retrieved from <http://www.acf.hhs.gov/sites/default/files/cb/afcarsreport22.pdf>, Center for Law and Social Policy. (2007). *Is Kinship Care Good for Kids?* Retrieved from <http://www.clasp.org/resources-and-publications/files/0347.pdf>.

Reunification: Bringing Your Children Home From Foster Care, May 2016

Attorneys for Parents and Children

- All attorneys who represent parents or children in child protective proceedings play a crucial role in safeguarding constitutional rights.
- Attorneys protect parents from unjust accusations, demand due process and most advocate for appropriate services to the family for benefit of the parents and children.

“There is room at this table if anybody wants to sit next to me, okay?”

-Sam Dawson, “I AM SAM”

<https://youtu.be/YQRQZ5yhI-M>

ADA Recognized for First Time in Kentucky Case

CHFS v. K.S., 585 S.W.3d 202 (2019):

Because mother, in termination of parental rights action, did not raise a challenge to the services that were being provided to her, mother's claim that she was not offered appropriate services in light of her cognitive disability, which constituted violation of the ADA, was waived for appellate review. *See Also* Americans with Disabilities Act of 1990, 2 *et seq.*, 42 U.S.C.A 12101 *et seq.*

KRS 620.020 (11)

- Reasonable Efforts:

The exercise of ordinary diligence and care by the department to utilize all preventive and reunification services available to the community in accordance with the state plan for Public Law 96-272 which are necessary to enable the child to safely live at home.

Kentucky Court of Justice Forms

REASONABLE EFFORTS:

- Reasonable efforts were made to prevent the child's removal from the home.
- Reasonable efforts to preserve or reunify the child with his/her family are not required pursuant to KRS 610.127.
- Reasonable efforts were not made to prevent the child's removal from the home.
- ICWA Cases Only.** Active efforts have been made to provide services to the family to prevent removal of the American Indian child from his/her parent(s) or American Indian custodian(s) and to reunify the American Indian child with his/her parent(s) or American Indian custodian(s) (if removed).

“The court's involvement in reasonable efforts oversight should begin with the dispositional hearing. Although any services provided are intended to change parental behavior, the court should focus on the child as well. The key question is as follows: **how does this parent need to change his or her behavior in order for *this child* to be returned to a safe and nurturing environment?** The court should consider a number of factors including whether the parent's behavior is amenable to treatment or improvement, whether the improvement can be expected within a reasonable period of time, and whether the child has special or particular needs that require additional parental skills.”

§ 25:31. Involuntary termination of parental rights—Reasonable efforts by Cabinet for Health and Family Services, **16 Ky. Prac. Domestic Relations L. § 25:31**

2020 Family Court Rules

Located on Kycourts.gov page, under
Family Courts or at the link below:

https://kycourts.gov/courts/supreme/Rules_Procedures/202001.pdf

Effective February 1, 2020

FCRPP 37 Required Training Continued:

(2) Each attorney shall complete a **minimum of four hours of relevant legal or multidisciplinary training every two years**. Relevant legal education must include instruction on improved practice and current law regarding dependency, neglect and abuse, termination of parental rights, or related proceedings. **Multi-disciplinary training must include instruction on child development, trauma-informed care and approaches, substance abuse disorder, child welfare forensics, impact of the Americans with Disabilities Act, or other matters related to practice in actions under KRS Chapters 199, 600, and 625.** Court appointed counsel shall provide proof that he or she has completed the required training to the appointing authority in each Circuit or District to remain eligible for appointments.

COVID- 19 concerns



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration on Children, Youth and Families
330 C Street, S.W.
Washington, D.C. 20201

June 23, 2020

Dear State and Tribal Child Welfare Leaders:

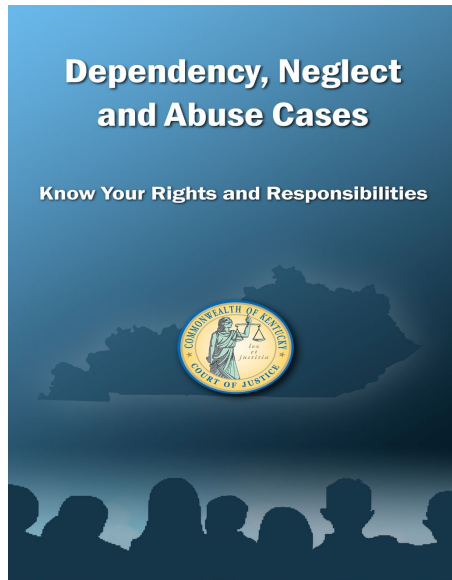
The Children's Bureau recognizes the significant stress that the COVID-19 pandemic and resulting national public health emergency (the pandemic) has placed on the child welfare system. We applaud how you have adjusted your practice to serve families and children effectively under such unprecedented and challenging conditions. We also recognize that you are doing so during a time of uncertainty amidst budget and workforce challenges.

https://www.acf.hhs.gov/sites/default/files/cb/parental_rights_adoption_assistance.pdf

COVID- 19 concerns

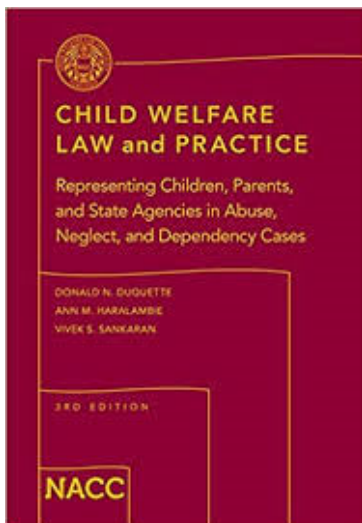
We understand that some title IV-E agencies continue to file TPR petitions during the pandemic because a child has been in foster care for 15 of the most recent 22 months. In light of the devastating impact that the COVID-19 pandemic has had on child welfare systems and applicable exceptions to the 15/22 requirement, I cannot emphasize how strongly I urge agencies to carefully consider whether it is appropriate to terminate a parent's rights pursuant to the 15/22 requirement. Additional consideration is particularly important when a parent's access to services that are necessary to work toward reunification (such as drug rehabilitation or ability to have parent-child family time) have been compromised as a result of the pandemic. Other challenges (such as illness, shelter in place requirements, lack of transportation, lack of suitable locations for family time, etc.) might further impede a parent's ability to progress, rendering it virtually impossible for a parent to have an opportunity to achieve goals related to reunification requirements. It similarly becomes far more challenging for an agency to assess accurately whether a parent continues to make appropriate progress toward reunification. A decision to file a TPR petition should be made in light of the impediments that a parent might face as a result of the pandemic. An agency should evaluate carefully whether parents have had a meaningful opportunity to demonstrate that they have made the necessary efforts to reunify with their children before taking that step.

DNA Know Your Rights Booklet



<https://kycourts.gov/resources/publicationsresources/Publications/dnaguide.pdf>

DNA Practice Resource:



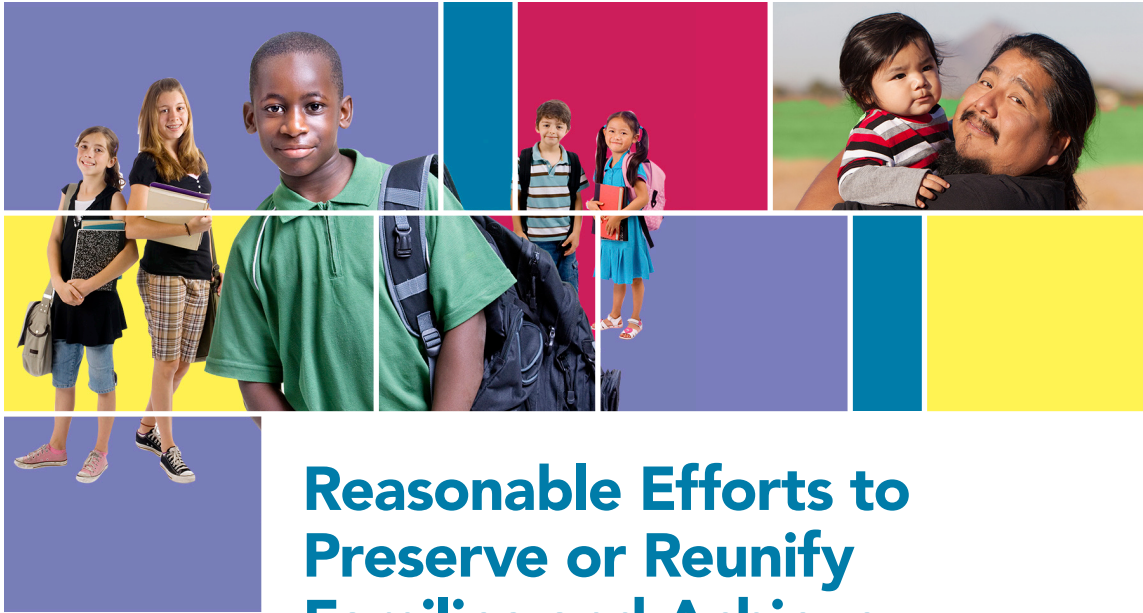
National Association of Counsel for Children

Online Red Book Training Course

www.naccchildlaw.org/events

SUPPLEMENT

Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children



Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children

“Reasonable efforts” refers to activities of State social services agencies that aim to provide the assistance and services needed to preserve and reunify families.

Laws in all States, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands require that child welfare agencies make reasonable efforts to provide services that will help families remedy the conditions that brought the child and family into the child welfare system. The statutes in most States use a broad definition of what constitutes reasonable efforts. Generally, these efforts consist of accessible, available, and culturally appropriate services that are designed to improve the capacity of families to provide safe and stable homes for their children. These services may include family therapy, parenting classes, drug and alcohol abuse treatment, respite care, parent support groups, and home visiting programs. Some commonly used terms associated with reasonable efforts include “family reunification,” “family preservation,” “family support,” and “preventive services.”¹

¹ Services to be provided to the child and family are specified in a case plan. For more information on the case planning process, see Information Gateway’s *Case Planning for Families Involved With Child Welfare Agencies* at <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/caseplanning/>.

WHAT’S INSIDE

When reasonable efforts are required

When reasonable efforts are not required

Summaries of State laws

To find statute information for a particular State, go to

<https://www.childwelfare.gov/topics/systemwide/laws-policies/state/>.

When Reasonable Efforts Are Required

Federal law has long required State agencies to demonstrate that reasonable efforts have been made to provide assistance and services to prevent the removal of a child from his or her home and to make it possible for a child who has been placed in out-of-home care to be reunited with his or her family.² “Reasonable efforts” are made when the child and his or her family are provided with services that are relevant to their situation, which may include:

- Child care
- Homemaker services
- Individual, group, and family counseling
- Health-care services
- Behavioral health evaluation and treatment
- Drug and alcohol abuse counseling
- Parent education
- Vocational counseling

Community-based family support services that promote the safety and well-being of children and families also may be offered. These services are designed to:

- Increase family strength and stability
- Increase parent confidence and competence
- Afford children safe, stable, and supportive family environments
- Enhance child development

In many States, the statutes also require that when a court determines that family reunification is not in the best interests of the child efforts should be made to finalize another permanent placement for the child. Under the Adoption and Safe Families Act of 1997 (ASFA), while reasonable efforts to preserve and reunify families are still required, the child’s health and safety constitute the paramount concern in determining the extent to which reasonable efforts should be made.³

² Beginning with the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272).

³ States must comply with the requirements outlined in ASFA as a condition for receiving certain Federal funds.

When Reasonable Efforts Are NOT Required

Under the provisions of ASFA, reasonable efforts to preserve or reunify the family are not required when the court has determined any of the following:

- The parent subjected the child to aggravated circumstances as defined by State law. The definition of aggravated circumstances may include, but is not limited to, abandonment, torture, chronic abuse, and sexual abuse.
- The parent committed murder of another child of the parent.
- The parent committed voluntary manslaughter of another child of the parent.
- The parent aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter.
- The parent committed a felony assault that resulted in serious bodily injury to the child or another child of the parent.
- The parental rights of the parent to a sibling of the child were terminated involuntarily.

In all States, the District of Columbia, Puerto Rico, and the Virgin Islands, reasonable efforts are not required under these circumstances. In addition, several States, the District of Columbia, Puerto Rico, and the Virgin Islands provide one or more additional grounds for not making reasonable efforts. The following are examples of these additional grounds:

- The parent abandoned the child (36 States, Puerto Rico, and the Virgin Islands).⁴
- The parent abandoned an infant (11 States).⁵

⁴ Alaska, Arizona, California, Connecticut, Delaware, Florida, Idaho, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

⁵ Alabama, Alaska, Arkansas, Hawaii, Indiana, Minnesota, Nevada, Oklahoma, Tennessee, Washington, and Wisconsin.

- The parent was convicted of murder or voluntary manslaughter of the child's other parent (13 States and the Virgin Islands).⁶
- The parent was convicted of the crime of trafficking in persons (four States).⁷
- The child was removed from the home previously due to abuse or neglect and was removed again due to a subsequent incident of abuse or neglect (eight States, Puerto Rico, and the Virgin Islands).⁸
- The parent was convicted of a sexual offense that resulted in the child's conception (four States).⁹
- The parent is a registered sex offender or required to register on a sex offender registry (14 States and the District of Columbia).¹⁰
- The parent failed to comply with the terms of a reunification plan (nine States, Puerto Rico, and the Virgin Islands).¹¹
- The parent has been incarcerated for a substantial term in relation to the child's age, and there is no suitable relative to care for the child (seven States).¹²
- The parent suffers from a mental illness of such duration or severity that there is little likelihood that the parent will be able to resume care for the child within a reasonable time (eight States, Puerto Rico, and the Virgin Islands).¹³
- The parent suffers from chronic abuse of drugs or alcohol and has refused or failed treatment (nine States, Puerto Rico, and the Virgin Islands).¹⁴
- The parent has subjected the child to prenatal exposure to alcohol or a controlled substance (three States).¹⁵

⁶ Alabama, Alaska, Florida, Indiana, Maryland, Massachusetts, New Hampshire, New Mexico, Oregon, Utah, Virginia, Washington, and West Virginia.

⁷ Idaho, Ohio, Texas, and Washington.

⁸ Alaska, Arizona, Arkansas, California, Florida, Nevada, South Dakota, and Utah.

⁹ California, Connecticut, Florida, and Washington.

¹⁰ Arkansas, Georgia, Hawaii, Kentucky, Michigan, Minnesota, Nevada, North Carolina, Oklahoma, South Dakota, Texas, Utah, West Virginia, and Wyoming.

¹¹ Alabama, Alaska, California, Florida, Kansas, Maine, Minnesota, Washington, and West Virginia.

¹² Alabama, Alaska, Florida, Kentucky, New York, North Dakota, and South Dakota.

¹³ Alabama, Alaska, Arizona, California, Kentucky, North Dakota, South Carolina, and Utah.

¹⁴ Alabama, California, Florida, Kentucky, North Dakota, Ohio, South Carolina, South Dakota, and West Virginia.

¹⁵ Florida, North Dakota, and Utah.

- The parent indicated a lack of interest in reuniting with the child (three States, Puerto Rico, and the Virgin Islands).¹⁶

Other grounds found in one or two States include:

- The parent repeatedly withheld medical treatment or food from the child (Ohio).
- A putative father has failed to establish paternity of the child (Montana and Nevada).
- The parent allowed the child to be present where a clandestine illegal laboratory is operated (North Dakota and Utah).
- The parent is a convicted sexually violent predator (Washington).
- The parent has abducted the child or a sibling from his or her placement (California).

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

Suggested Citation:

Child Welfare Information Gateway. (2016). *Reasonable efforts to preserve or reunify families and achieve permanency for children*. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

¹⁶ Alabama, Arizona, and California.

Alabama

What Are Reasonable Efforts?

Citation: Ala. Code § 12-15-301(10)

'Reasonable efforts' are efforts made to preserve and reunify families prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from his or her home, and to make it possible for a child to return safely to his or her home. 'Reasonable efforts' also refers to efforts made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanency placement of the child.

In determining the reasonable efforts to be made with respect to a child, and in making these reasonable efforts, the health and safety of the child shall be the paramount concern.

When Reasonable Efforts Are Required

Citation: Ala. Code § 12-15-312(b)

As used in this chapter, reasonable efforts refers to efforts made to preserve and reunify families prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from his or her home, and to make it possible for a child to return safely to his or her home. In determining the reasonable efforts to be made with respect to a child, and in making these reasonable efforts, the health and safety of the child shall be the paramount concern. If continuation of reasonable efforts is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan including, if appropriate, through an interstate placement, and to complete whatever steps are necessary to finalize a permanent plan for the child.

When Reasonable Efforts Are NOT Required

Citation: Ala. Code § 12-15-312(c)

Reasonable efforts shall not be required to be made if the parental rights of the parent to a sibling have been involuntarily terminated or the parent has done any of the following:

- Subjected the child or a sibling to an aggravated circumstance that made the risk of abuse or neglect too high for the child to remain at home or return home. An aggravated circumstance includes, but is not limited to, rape, sodomy, incest, aggravated stalking, abandonment, torture, chronic abuse, or sexual abuse. An aggravated circumstance may also include any of the following:
 - » A child is allowed to use alcohol or illegal drugs to the point of abuse, neglect, or substantial risk of harm.
 - » Substance misuse or abuse, or both, by a parent interferes with the ability to keep the child safe, and the parent refuses to participate in or complete treatment or treatment has been unsuccessful.
 - » A parent demonstrates extreme disinterest in the child by either not complying with a case plan for more than 6 months or repeatedly leaving the child with someone who is unwilling or incapable of providing care, and the parent does not return for the child as promised.
 - » An infant or young child has been abandoned, the identity of the child is unknown, and the parent is unknown or unable to be located after a diligent search.
 - » The parent has an emotional or mental condition, and there is clearly no treatment that can improve or strengthen the condition enough to allow the child to remain at home safely or to return home safely.
 - » The parent is incarcerated and the child is deprived of a safe, stable, and permanent parent-child relationship.
- Committed murder or manslaughter of another child or the child's other parent
- Aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of another child or the child's other parent
- Committed a felony assault that resulted in serious bodily injury to the child, another child, or the child's other parent

Alaska

What Are Reasonable Efforts?

Citation: Alaska Stat. § 47.10.086

The responsibilities of the Department of Health and Social Services include the duty to:

- Identify family support services that will assist the parent or guardian in remedying the conduct or conditions in the home that made the child a child in need of aid

- Actively offer the parent or guardian, and refer the parent or guardian to, those services
- Document its actions

When Reasonable Efforts Are Required

Citation: Alaska Stat. § 47.10.086

The department shall make timely efforts to provide family support services to the child and parents that are designed to prevent out-of-home placement of the child or to enable the safe return of the child to the family home, when appropriate.

If the child cannot be returned home safely, the department shall make reasonable efforts to place the child in a timely manner in accordance with the permanency plan and complete whatever steps are necessary to finalize the permanent placement of the child.

When Reasonable Efforts Are NOT Required

Citation: Alaska Stat. § 47.10.086

The court may determine that reasonable efforts are not required if the court has found by clear and convincing evidence that:

- The parent has subjected the child to circumstances that pose a substantial risk of harm, including abandonment, sexual abuse, torture, chronic mental injury, or chronic physical harm.
- The parent has committed or attempted to commit murder of the other parent of the child or has committed felony assault that results in serious physical injury.
- The parent has failed, during the preceding 12 months, to participate in family support services.
- The department cannot identify and locate the parent.
- The parent has a mental illness and will be unable to care for the child in the foreseeable future.
- The parent has a previous conviction for a crime involving a child and, after the conviction, the child was returned to the parent and later removed because of an additional substantiated report of physical or sexual abuse.
- A child has suffered substantial physical harm as the result of abuse or neglect by the parent or by a person known to the parent, and the parent knew or reasonably should have known that the person was abusing the child.
- Rights to another child have been previously terminated, and conditions in the home have not been remedied.
- The parent is incarcerated for a substantial period of time during the child's minority.

The department is not required to make reasonable efforts to return the child to his or her family home if the department took emergency custody of an infant under § 47.10.142 after the infant was abandoned safely within the meaning of § 47.10.013(c).

American Samoa

What Are Reasonable Efforts?

This issue is not addressed in the statutes reviewed.

When Reasonable Efforts Are Required

This issue is not addressed in the statutes reviewed.

When Reasonable Efforts Are NOT Required

This issue is not addressed in the statutes reviewed.

Arizona

What Are Reasonable Efforts?

Citation: Rev. Stat. §§ 8-801; 8-891

'In-home intervention' means a program of services provided pursuant to § 8-891 while the child is still in the custody of the parent, guardian, or custodian.

After a dependency petition is filed, the court may order in-home intervention if all of the following are true:

- The child has not been removed from the home.
- In-home intervention appears likely to resolve the risk issues described below.
- The parent, guardian, or custodian agrees to a case plan and participation in services.

- One of the following conditions exists:
 - » The child is at risk of harm due to the inability or unwillingness of the parent, guardian, or custodian to provide food, clothing, shelter, or medical care.
 - » The parent, guardian, or custodian is unable to provide proper care, control, and supervision of the child.

The in-home intervention order may include a training or treatment plan for the parent, guardian, or custodian and the child. The in-home intervention shall include a specific time for completion that shall not exceed 1 year without review and approval by the court.

The term 'protective services' is defined as a specialized child welfare program that is administered by the department to investigate allegations and seek to prevent, intervene in, and treat abuse and neglect to promote the well-being of the child in a permanent home and to coordinate services to strengthen the family.

When Reasonable Efforts Are Required

Citation: Rev. Stat. § 8-846

If the child has been removed from the home, the court shall order the Department of Child Safety to make reasonable efforts to provide services to the child and the child's family.

When Reasonable Efforts Are NOT Required

Citation: Rev. Stat. § 8-846

Reunification services are not required when one or more of the following aggravating circumstances exist:

- A diligent search has failed to locate the parent, or the parent has expressed no interest in reunifying the child, for at least 3 months.
- The parent is suffering from a mental illness or deficiency of such magnitude that the parent is incapable of benefitting from reunification services, or that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within 12 months.
- The child previously has been removed from the home due to physical or sexual abuse, and, after the child was returned to the parent, the child was removed again within 18 months due to additional abuse.
- The parent committed a dangerous crime against a child, caused a child to suffer serious physical or emotional injury, or knew or reasonably should have known that another person committed a dangerous crime against children or caused a child to suffer serious physical or emotional injury.
- The parent's rights to another child have been terminated, the parent has not successfully addressed the issues that led to the termination, and the parent is unable to fulfill parental responsibilities.
- After a finding that a child is dependent, all of the following are true:
 - » A child has been removed from the parent on at least two previous occasions.
 - » Reunification services were offered or provided to the parent.
 - » The parent is unable to fulfill parental responsibilities.
- The parent has been convicted of a dangerous crime against a child; murder or manslaughter of a child; sexual abuse, sexual assault, or molestation of a child; sexual conduct with a minor; commercial sexual exploitation of a minor; or luring a minor for sexual exploitation.
- The parent of a child has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit any of the crimes listed above.

Arkansas

What Are Reasonable Efforts?

Citation: Ann. Code § 9-27-303

'Reasonable efforts' are measures taken to preserve the family and can include reasonable care and diligence on the part of the Department of Human Services or agency to utilize all available services related to meeting the needs of the juvenile and the family.

Reasonable efforts may include the provision of 'family services,' which are relevant services provided to a juvenile or his or her family, including, but not limited to:

- Child care
- Homemaker services
- Crisis counseling
- Cash assistance

- Transportation
- Family therapy
- Physical, psychiatric, or psychological evaluation
- Counseling or treatment
- Postadoptive services

Family services are provided in order to:

- Prevent a juvenile from being removed from a parent, guardian, or custodian
- Reunite the juvenile with the parent, guardian, or custodian from whom the juvenile has been removed
- Implement a permanent plan of adoption or guardianship for a juvenile in a dependency-neglect case
- Rehabilitate a juvenile in a delinquency or family in need of services case

When Reasonable Efforts Are Required

Citation: Ann. Code § 9-27-303

Reasonable efforts shall be made:

- Before the placement of a child in foster care to prevent the need for removing the child from the child's home
- To reunify a family after a child has been placed out of the home to make it possible for the child to return home safely
- To obtain permanency for a child who has been in placement more than 12 months, or 15 of the previous 22 months

When Reasonable Efforts Are NOT Required

Citation: Ann. Code § 9-27-303

Reasonable efforts to reunite a child with his or her parent or parents shall not be required in all cases. Reunification shall not be required if a court finds by clear and convincing evidence that the parent has:

- Subjected the child to aggravated circumstances, which may include:
 - » A child has been abandoned, chronically abused, subjected to extreme or repeated cruelty, or sexually abused, or a determination has been made by a judge that there is little likelihood that services to the family will result in successful reunification.
 - » A child has been removed from the custody of the parent or guardian and placed in foster care or in the custody of another person three or more times in the past 15 months.
 - » A child or a sibling has been neglected or abused such that the abuse or neglect could endanger the life of the child.
- Committed or attempted to commit murder or manslaughter of any child
- Committed felony battery to any child that results in serious bodily injury
- Had parental rights terminated to a sibling of the child
- Abandoned an infant
- Registered with a sex offender registry under the Adam Walsh Child Protection and Safety Act of 2006

California

What Are Reasonable Efforts?

Citation: Welf. & Inst. Code § 361.5

The term 'reunification services' includes:

- Child welfare services
- Court-ordered counseling and other treatment services for the reunification of the child with the child's family

When Reasonable Efforts Are Required

Citation: Welf. & Inst. Code § 361.5

Family reunification services are required when a child is removed from a parent's or guardian's custody and shall be provided as follows:

- For a child age 3 or older, services may not be offered for longer than a period of 12 months from the date the child entered foster care.
- For a child under age 3, services may not be offered for longer than period of 6 months from the date the child entered foster care.

For the purpose of placing and maintaining a sibling group together in a permanent home if reunification efforts fail, for a child in a sibling group that was removed from the physical custody of his or her parent or guardian and in which one member of that group was under age 3 on the date of initial removal, court-ordered services to some or all of the sibling group may be limited to a period of 6 months from the date the child entered foster care. For the purposes of this paragraph, a sibling group is two or more children who are related to each other as full or half siblings.

When Reasonable Efforts Are NOT Required

Citation: Welf. & Inst. Code § 361.5

Reunification services need not be provided when the court finds by clear and convincing evidence any of the following:

- The whereabouts of the parent are unknown.
- The parent has a mental disability that makes him or her incapable of utilizing services.
- There is a prior adjudication of physical or sexual abuse of a child, and after the child was returned home, the child has been removed due to additional physical or sexual abuse.
- The parent caused the death of another child through abuse or neglect.
- A child younger than age 5 has suffered severe physical abuse that was inflicted by the parent, as defined in § 300(e).
- The parent has inflicted severe physical or sexual abuse on the child or a sibling, and the court finds that it would not benefit the child to pursue reunification with the offending parent.
- The parent is not receiving reunification services for a sibling of the child.
- The child was conceived as a result of a sexual offense.
- The parent has willfully abandoned the child.
- The court ordered termination of reunification services for any siblings of the child because the parent failed to reunify with the sibling, and that parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling from the parent.
- The parent's rights to another child have been terminated, and conditions that led to the termination have not been remedied.
- The parent has been convicted of a violent felony.
- The parent has a history of chronic use of drugs or alcohol and refused to comply with a treatment program.
- The parent has indicated a lack of interest in reunification services.
- The parent has on one or more occasions abducted the child or a sibling from his or her placement.

Colorado

What Are Reasonable Efforts?

Citation: Rev. Stat. § 19-1-103(89), (10)

The term 'reasonable efforts' means the exercise of diligence and care for children who are in out-of-home placement or are at imminent risk of out-of-home placement. In determining whether it is appropriate to provide, purchase, or develop the supportive and rehabilitative services that are required to prevent unnecessary placement of a child outside of a child's home or to foster the safe reunification of a child with a child's family, or whether it is appropriate to find and finalize an alternative permanent plan for a child. In making reasonable efforts, the child's health and safety shall be the paramount concern. Services provided by a county or city agency in accordance with § 19-3-208 are deemed to meet the reasonable effort standard described in this subsection.

The term 'appropriate treatment plan,' as used in § 19-3-508(1)(e), means a treatment plan approved by the court that is reasonably calculated to render the particular respondent fit to provide adequate parenting to the child within a reasonable time and that relates to the child's needs.

When Reasonable Efforts Are Required

Citation: Rev. Stat. § 19-1-115(6)

Reasonable efforts must be made:

- To prevent or eliminate the need to remove the child from the home
- To reunite the child and the family if legal custody has been awarded to the Department of Human Services

When Reasonable Efforts Are NOT Required**Citation: Rev. Stat. § 19-1-115(7)**

Reasonable efforts are not required to prevent the child's removal from the home or to reunify the child and the family in the following circumstances:

- The court finds that the parent has subjected the child to aggravated circumstances to such an extent that grounds exist for termination of the parent's parental rights, as described in § 19-3-604(1).
- The parental rights of the parent with respect to a sibling of the child have been involuntarily terminated, unless the prior sibling termination resulted from a parent delivering a child to a firefighter or a hospital staff member pursuant to § 19-3-304.5.
- The court finds that the parent has been convicted of murder or voluntary manslaughter of another child of the parent; aiding, abetting, or attempting to commit such crimes; or a felony assault that resulted in serious bodily injury to the child or to another child of the parent.

Connecticut**What Are Reasonable Efforts?****Citation: Gen. Stat. § 46b-129**

The term 'reasonable efforts' refers to the services to be provided to the parents and the steps the parents may take to address the problems that prevent the child from safely reuniting with the parents.

When Reasonable Efforts Are Required**Citation: Gen. Stat. §§ 46B-129; 17a-111b**

The Department of Children and Families must make reasonable efforts to keep the child or youth with his or her parents prior to the issuance of an order to remove the child from the home. If the child is removed from the home, reasonable efforts must be made to achieve the goals of the permanency plan.

The Commissioner of Children and Families shall make reasonable efforts to reunify a parent with a child unless the court (1) determines that such efforts are not required pursuant to § 17a-111b(b) or § 17a-112(j), or (2) has approved a permanency plan other than reunification pursuant to § 46b-129(k).

When Reasonable Efforts Are NOT Required**Citation: Gen. Stat. § 17a-111b**

The commissioner or any other party may, at any time, file a motion with the court for a determination that reasonable efforts to reunify the parent with the child are not required. The court may determine that such efforts are not required if the court finds upon clear and convincing evidence that:

- The parent has subjected the child to the following aggravated circumstances:
 - » The parent has abandoned the child.
 - » The parent has inflicted or knowingly permitted another person to inflict sexual molestation or exploitation or severe physical abuse on the child or engaged in a pattern of abuse of the child.
- The parent has killed, through deliberate, nonaccidental act, another child of the parent or a sibling of the child; or has requested, commanded, importuned, attempted, conspired, or solicited to commit or knowingly permitted another person to commit the killing of the child, another child of the parent, or a sibling of the child.
- The parent has committed or knowingly permitted another person to commit an assault, through deliberate, nonaccidental act, that resulted in serious bodily injury of the child, another child of the parent, or a sibling of the child.
- The parental rights of the parent to a sibling have been terminated within 3 years of the filing of a petition pursuant to this section, provided the commissioner has made reasonable efforts to reunify the parent with the child for at least 90 days.
- The parent was convicted of sexual assault, except a conviction of a violation of § 53a-71 or 53a-73a resulting in the conception of the child.
- The child was placed in the care and control of the commissioner pursuant to the provisions of §§ 17a-57 to 17a-61, inclusive.

Delaware

What Are Reasonable Efforts?

Citation: Ann. Code Tit. 29, § 9003

The Division of Family Services will provide family preservation services.

The division must prepare and maintain a written case plan for each child under its supervision or custody that shall include, but not be limited to, a description of the child's problems, the care and treatment of the child, and any other services to be provided to the child and the child's family.

When Reasonable Efforts Are Required

Citation: Ann. Code Tit. 29, § 9003

The division will provide family preservation services to those families whose children are at imminent risk of out-of-home placement when it is determined that out-of-home placement can be avoided. However, the division's highest priority in cases of abuse and neglect where an investigation is required shall be the health and safety of the child, and nothing herein will prevent the division from removing a child from the child's home when it has determined that the child's safety and well-being may be jeopardized by remaining in the family home.

Each case plan must be designed to achieve any placement of the child outside of the child's home in the least restrictive setting available and in close proximity to the child's home, consistent with the best interests and special needs of the child.

When Reasonable Efforts Are NOT Required

Citation: Ann. Code Tit. 13, § 1103

The division is not required to perform, but is not prohibited from performing, reunification and related services, as outlined in title 29, § 9003, when the grounds for termination of parental rights are those stated below:

- The child has been abandoned.
- The parent has been found by a court of competent jurisdiction to have:
 - » Committed a felony-level offense against a child
 - » Aided or abetted, attempted, conspired, or solicited to commit an offense listed above
 - » Committed or attempted to commit the offense of Dealing in Children
 - » Committed the felony-level offense of endangering the welfare of a child
- The parent's parental rights over a sibling of the child have been involuntarily terminated in a prior proceeding.
- The parent has subjected the child to torture, chronic abuse, sexual abuse, and/or life-threatening abuse.
- A child has suffered unexplained serious physical injury, death, or near death under circumstances that would indicate that the injuries resulted from the intentional or reckless conduct or willful neglect of the parent.

District of Columbia

What Are Reasonable Efforts?

Citation: Ann. Code § 4-1301.02

Family preservation services are services for children and families that are at risk of abuse or neglect, or are in crisis, and include:

- Services designed to help children return to families from which they have been removed, or be placed for adoption, when safe and appropriate, or with a legal guardian, or, if adoption or legal guardianship is determined not to be safe and appropriate for the child, in another permanent living arrangement
- Replacement prevention services
- Services that provide follow-up care to families to whom a child has returned after commitment
- Respite care services
- Services designed to improve parenting skills and abilities

Family support services promote the safety and well-being of children and families, are community-based, and are designed to:

- Increase family strength and stability
- Increase parent confidence and competence
- Afford children safe, stable, and supportive family environments
- Enhance child development

Time-limited family reunification services are services and activities provided to a committed child and to the child's parent, guardian, or custodian in order to facilitate the safe, appropriate, and timely reunification of the child during the 15 months following the child's entry into foster care. Time-limited family reunification services include:

- Individual, group, and family counseling
- Inpatient, residential, or outpatient substance abuse treatment services
- Mental health services
- Assistance to address domestic violence
- Services designed to provide temporary child care and therapeutic services for families
- Transportation to or from any of the services and activities described above

When Reasonable Efforts Are Required

Citation: Ann. Code § 4-1301.09a

The Child and Family Services Agency shall make reasonable efforts to preserve and reunify the family:

- Prior to the removal of the child from the home to prevent or eliminate the need for removing the child
- To make it possible for the child to return home safely
- To place the child in accordance with that plan in order to finalize a permanent placement if return home is inconsistent with the child's permanency plan

When Reasonable Efforts Are NOT Required

Citation: Ann. Code § 4-1301.09a

Reasonable efforts to reunify are not required if the parent:

- Subjected the child, a sibling, or other child to cruelty, abandonment, torture, chronic abuse, or sexual abuse
- Committed, aided, abetted, solicited, or attempted to commit murder or voluntary manslaughter of a sibling or other child
- Committed a felony assault against the child, a sibling, or other child
- Had his or her parental rights terminated involuntarily with respect to a sibling
- Is required to register with a sex offender registry under 42 U.S.C. § 16913(a)

Florida

What Are Reasonable Efforts?

Citation: Ann. Stat. § 39.521(1)(f)

The term 'reasonable efforts' means the exercise of reasonable diligence and care by the Department of Children and Families to provide the services ordered by the court or delineated in the case plan.

When Reasonable Efforts Are Required

Citation: Ann. Stat. § 39.521(1)(f)

If the court finds that the prevention or reunification efforts by the department will allow the child to remain safely at home or be returned to the home safely, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

If the court places the child in an out-of-home placement, the disposition order must include a written determination that the child cannot remain at home safely with reunification or family preservation services and that removal of the child is necessary to protect the child. If the child is removed before the disposition hearing, the order must also include a written determination as to whether, after removal, the department made a reasonable effort to reunify the parent and child. The department has the burden of demonstrating that it made reasonable efforts.

The court shall determine whether reasonable efforts have been made by reviewing:

- Whether or not prevention or reunification services were indicated
- A written description of what appropriate and available prevention and reunification efforts were made
- Why further efforts could or could not have prevented or shortened the separation of the parent and child

A reasonable effort has been made if the appraisal of the home situation indicates the severity of conditions is such that reunification efforts were inappropriate.

When Reasonable Efforts Are NOT Required**Citation: Ann. Stat. §§ 39.521(1)(f); 39.806(1)**

Reasonable efforts are not required when:

- The parent has breached the case plan.
- The parent has abandoned the child.
- The parent is incarcerated, the term of incarceration constitutes a significant portion of the child's minority, and continuing the parental relationship with that parent would be harmful to the child.
- The parent's conduct threatens the child's life; safety; well-being; or physical, mental, or emotional health.
- The parent engaged in egregious conduct or had the opportunity to prevent and knowingly failed to prevent egregious conduct that threatened the child's life; safety; or physical, mental, or emotional health.
- The parent has subjected the child or another child to aggravated child abuse, sexual battery, sexual abuse, or chronic abuse.
- The parent has committed the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery that resulted in serious bodily injury to the child or to another child.
- The parental rights of the parent to a sibling of the child have been terminated involuntarily.
- The parent has a history of extensive, abusive, and chronic use of alcohol or a controlled substance that makes him or her incapable of caring for the child and has refused or failed to complete available treatment.
- A newborn child had a positive test that indicated the presence of alcohol or a controlled substance, the presence of which was not the result of medical treatment to the mother or the newborn, and the mother is the birth mother of at least one other child who was found dependent due to exposure to a controlled substance or alcohol.
- On three or more occasions, the child or another child of the parent has been placed in out-of-home care, and the conditions that led to the child's out-of-home placement were caused by the parent.
- The child was conceived as a result of an act of sexual battery.

Georgia**What Are Reasonable Efforts?****Citation: Ann. Code § 15-11-2**

'Reasonable efforts' means due diligence and the provision of appropriate services.

When Reasonable Efforts Are Required**Citation: Ann. Code §§ 15-11-202; 15-11-203**

Except as provided below, reasonable efforts shall be made to preserve or reunify families:

- Prior to the placement of an alleged dependent child in to the custody of the Division of Family and Children Services (DFCS) to prevent the need for removing him or her from his or her home
- To eliminate the need for removal and make it possible for a child alleged to be or adjudicated as a dependent child to return safely to his or her home at the earliest possible time

In determining the type of reasonable efforts to be made to a child alleged to be or adjudicated as a dependent child and in making such reasonable efforts, such child's health and safety shall be the paramount concern.

If the court determines that reasonable efforts to reunify a child with his or her parents have been made, or DFCS has submitted a written report to the court that does not contain a plan for reunification services, then reasonable efforts shall be made to place a child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of such child.

When Reasonable Efforts Are NOT Required**Citation: Ann. Code § 15-11-203**

The court may direct that reasonable efforts to eliminate the need for placement of an alleged dependent child shall not be required or shall cease if the court determines that the parent:

- Has subjected his or her child to aggravated circumstances
- Has been convicted of the murder or voluntary manslaughter of another child of the parent
- Has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of another child of the parent
- Has been convicted of committing a felony assault that results in serious bodily injury to the child or another child of the parent

- Has been convicted of rape, sodomy, aggravated sodomy, child molestation, aggravated child molestation, incest, sexual battery, or aggravated sexual battery of the alleged dependent child or another child of the parent
- Is required to register as a sex offender and that preservation of a parent-child relationship is not in the child's best interests
- Has had his or her rights to a sibling of the child terminated involuntarily and the circumstances leading to the termination of parental rights to that sibling have not been resolved

Guam

What Are Reasonable Efforts?

Citation: Ann. Code Tit. 19, § 13304

A service plan is a specific, written plan prepared by Child Protective Services and presented to members of the child's family. The service plan should also include, but not necessarily be limited to, the specific services or treatment that the parties will be provided and the specific actions the parties must take or specific responsibilities that the parties must assume.

When Reasonable Efforts Are Required

Citation: Ann. Code Tit. 19, § 13304

The service plan should set forth:

- The steps that will be necessary to facilitate the return of the child to a safe family home if the proposed placement of the child is in foster care or in alternate placement outside of the child's home
- The steps that will be necessary for the child to remain in a safe family home with the assistance of a service plan, if the proposed placement of the child is in a family home under Child Protective Services' supervision
- The steps that will be necessary to make the family home a safe family home and to terminate intervention of Child Protective Services into the family and eliminate, if possible, the necessity for the filing of a petition with the court under this chapter

When Reasonable Efforts Are NOT Required

This issue is not addressed in the statutes reviewed.

Hawaii

What Are Reasonable Efforts?

Citation: Rev. Stat. §§ 587A-2; 587A-27

The service plan shall be carefully formulated with the family in a timely manner. Every reasonable opportunity should be provided to help the child's legal custodian to succeed in remedying the problems that put the child at substantial risk of being harmed in the family home. Each appropriate resource, public and private, family and friend, should be considered and used to maximize the legal custodian's potential for providing a safe family home for the child. Full and careful consideration shall be given to the religious, cultural, and ethnic values of the child's legal custodian when service plans are being discussed and formulated.

The service plan shall provide the specific steps necessary to facilitate the return of the child to a safe family home, if the proposed placement of the child is in foster care under foster custody. These specific steps shall include treatment and services that will be provided, actions completed, specific measurable and behavioral changes that must be achieved, and responsibilities assumed.

When Reasonable Efforts Are Required

Citation: Rev. Stat. § 587A-2

The service plan shall effectuate the child's remaining in the family home, when the family home can be immediately made safe with services, or the child's returning to a safe family home.

When Reasonable Efforts Are NOT Required

Citation: Rev. Stat. §§ 587A-28; 587A-4

The court need not order a service plan if the court finds that aggravated circumstances are present. The term 'aggravated circumstances' means that:

- The parent has murdered or has solicited, aided, abetted, attempted, or conspired to commit the murder or voluntary manslaughter of another child of the parent.
- The parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent.
- The parent's rights regarding a sibling of the child have been judicially terminated.
- The parent has tortured the child.

- The child is an abandoned infant.
- The parent has committed sexual abuse against another child of the parent.
- The parent is required to register with a sex offender registry under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. § 16913(a)).

Idaho

What Are Reasonable Efforts?

Citation: Idaho Code § 16-1621(1), (3)

The Department of Health and Welfare shall prepare a written case plan in every case in which the child is determined to be within the jurisdiction of the court, including cases in which the parent(s) is incarcerated.

If the child is placed in the legal custody of the department, the case plan shall set forth reasonable efforts that will be made to make it possible for the child to return home. The case plan also shall:

- Identify the services to be provided to the child, including services to identify and meet any special educational, emotional, physical, or developmental needs the child may have; to assist the child in adjusting to the placement; or to ensure the stability of the placement
- Address options for maintaining the child's connection to the community, including individuals with a significant relationship to the child, and organizations or community activities with which the child has a significant connection
- Include a goal of reunification and a plan for achieving that goal

The reunification plan shall identify all issues that need to be addressed before the child can safely be returned home without department supervision. The reunification plan shall specifically identify the tasks to be completed by the department, each parent, or others to address each issue, including services to be made available by the department to the parents and in which the parents are required to participate, and deadlines for completion of each task. The case plan shall state with specificity the role of the department toward each parent. When appropriate, the reunification plan should identify terms for visitation, supervision of visitation, and child support.

When Reasonable Efforts Are Required

Citation: Idaho Code § 16-1619(6)

If the court vests legal custody in the department or other authorized agency, the court shall make detailed written findings based on facts in the record as to whether the department made reasonable efforts to prevent the placement of the child in foster care, including findings, when appropriate, that:

- Reasonable efforts were made but were not successful in eliminating the need for foster care placement of the child.
- The department made reasonable efforts to prevent removal but was not able to safely provide preventive services.
- Reasonable efforts to temporarily place the child with related persons were made but were not successful.
- Reasonable efforts were not required as the parent had subjected the child to aggravated circumstances.

When Reasonable Efforts Are NOT Required

Citation: Idaho Code §§ 16-1619(6)(d); 16-1602(5)

Reasonable efforts are not required if the parent has subjected the child to aggravated circumstances as determined by the court. 'Aggravated circumstances' includes, but is not limited to:

- Circumstances in which the parent has engaged in any of the following:
 - » Abandonment, chronic abuse, or chronic neglect of the child
 - Chronic neglect or chronic abuse of a child shall consist of abuse or neglect that is so extreme or repetitious as to indicate that return of the child to the home would result in unacceptable risk to the health and welfare of the child.
 - » Sexual abuse against a child of the parent, which includes any conduct described in §§ 18-1506, 18-1506A, 18-1507, 18-1508, 18-1508A, 18-6101, 18-6108, or 18-6608
 - » Torture of a child; any conduct described in the code sections listed in § 18-8303(1) (including ritualized abuse of a child, lewd conduct, murder committed in the perpetration of rape, kidnapping committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under age 16 for purposes of sexual gratification or arousal, rape, forcible sexual penetration by use of a foreign object, or sex trafficking); battery or an injury to a child that results in serious or great bodily injury to a child; voluntary manslaughter of a child; or aiding or abetting such voluntary manslaughter, soliciting such voluntary manslaughter, or attempting or conspiring to commit such voluntary manslaughter

- The parent has committed murder, aided or abetted a murder, solicited a murder, or attempted or conspired to commit murder.
- The parental rights of the parent to another child have been terminated involuntarily.

Illinois

What Are Reasonable Efforts?

Citation: Cons. Stat. Ch. 325, § 5/8.2

The term 'family preservation services' refers to all services to help families, including adoptive and extended families.

Appropriate family preservation services shall be included in the service plan if the Department of Children and Family Services has determined that those services will ensure the child's health and safety, are in the child's best interests, and will not place the child in imminent risk of harm. Such plans may include, but are not limited to:

- Case management services
- Homemakers, including emergency caretakers, housekeepers, and chore services
- Counseling, including individual therapy, infant stimulation therapy, family therapy, group therapy, self-help groups, drug and alcohol abuse counseling, vocational counseling, and postadoption services
- Parent education
- Day care, including protective day care and day care to meet educational, prevocational, or vocational needs
- Emergency assistance and advocacy assessments, including coordinated services to secure emergency cash, food, and housing
- Respite care
- In-home health care
- Transportation to obtain any of the above services
- Medical assistance

When Reasonable Efforts Are Required

Citation: Cons. Stat. Ch. 20, § 505/5

The department shall offer family preservation services to help families, including adoptive and extended families. Such services shall be offered:

- To prevent the placement of children in substitute care when the children can be cared for at home or in the custody of the person responsible for the children's welfare
- To reunite children with their families
- To maintain an adoptive placement

Family preservation services shall only be offered when doing so will not endanger the children's health or safety. The child and his or her family shall be eligible for services as soon as the report of suspected child abuse or neglect is determined to be indicated. The department may also provide services to any child or family when the report of suspected abuse or neglect is determined to be unfounded if the conditions in the child's or family's home are reasonably likely to subject the child or family to future reports of suspected child abuse or neglect. Acceptance of such services shall be voluntary.

When a child is placed in foster care, the department shall ensure and document that reasonable efforts were made to prevent or eliminate the need to remove the child from the child's home. The department must make reasonable efforts to reunify the family when temporary placement of the child occurs unless otherwise required.

When Reasonable Efforts Are NOT Required

Citation: Cons. Stat. Ch. 20, § 505/5; Ch. 705, § 405/2-13.1

When the department believes that further reunification services would be ineffective, it may request a finding from the court that reasonable efforts are no longer appropriate. The court shall grant this motion with respect to a parent of the minor if the court finds after a hearing that the parent has:

- Had his or her parental rights to another child involuntarily terminated
- Been convicted of:
 - » First degree or second degree murder of another child of the parent
 - » Attempt, conspiracy, or solicitation to commit first degree or second degree murder of another child of the parent

- » Aggravated battery, aggravated battery of a child, or felony domestic battery, any of which has resulted in serious bodily injury to the minor or another child of the parent
- » An offense in any other State substantially similar to any of the above offenses

The department is not required to provide further reunification services after such a finding.

Indiana

What Are Reasonable Efforts?

Citation: Ann. Code § 31-34-21-5.5

The term 'reasonable efforts' refers to measures taken to provide services to preserve and reunify families.

When Reasonable Efforts Are Required

Citation: Ann. Code § 31-34-21-5.5

The Department of Child Services shall make reasonable efforts to preserve and reunify families as follows:

- If the child has not been removed from the home, to prevent or eliminate the need for removing the child
- If the child has been removed from the home, to make it possible for the child to return safely home as soon as possible

When Reasonable Efforts Are NOT Required

Citation: Ann. Code § 31-34-21-5.6

Reasonable efforts to reunite a child with his or her family or to preserve a family are not required when the court finds any of the following:

- A parent has been convicted of causing a suicide, involuntary manslaughter, rape, criminal deviate conduct, child molesting, or exploitation of a victim who is the parent's child or the child's other parent.
- A parent has been convicted of murder or voluntary manslaughter of a victim who is the parent's child or the child's other parent.
- A parent has been convicted of attempting, aiding, or conspiring to commit any of the above crimes.
- A parent has been convicted of battery, aggravated battery, criminal recklessness, or neglect against a child.
- The parental rights of a parent with respect to a sibling have been involuntarily terminated.
- The child is an abandoned infant.

Iowa

What Are Reasonable Efforts?

Citation: Ann. Stat. § 232.102

The term 'reasonable efforts' refers to efforts made to preserve and unify a family.

Reasonable efforts may include, but are not limited to, family-centered services if the child's safety in the home can be maintained during the time the services are provided.

The term 'family-centered services' means services and other support intended to maintain a child safely with the child's family or with a relative; to return a child, safely and in a timely manner, to the home of the child's parent or relative; or to promote the achievement of concurrent planning goals by identifying and helping the child secure placement for adoption, with a guardian, or with other alternative permanent family connections. Family-centered services are adapted to the individual needs of a family in regard to the specific services and other support provided to the child's family and the intensity and duration of service delivery. Family-centered services are intended to preserve a child's connections to the child's neighborhood, community, and family and to improve the overall capacity of the child's family to provide for the needs of the children in the family.

When Reasonable Efforts Are Required

Citation: Ann. Stat. § 232.102

Reasonable efforts are required:

- Prior to out-of-home placement of a child in foster care to eliminate the need for removal of the child
- To make it possible for the child to return safely to the family's home

If returning the child to the family's home is not appropriate or possible, reasonable efforts shall include the efforts made in a timely manner to finalize a permanency plan for the child.

When Reasonable Efforts Are NOT Required**Citation: Ann. Stat. § 232.102**

If the court determines by clear and convincing evidence that aggravated circumstances exist, the court may waive the requirement for making reasonable efforts. Aggravated circumstances include:

- The parent has abandoned the child.
- The court finds the child in need of assistance based on a finding of physical or sexual abuse or neglect.
- The parent's parental rights to another child have been terminated and there is clear and convincing evidence that services likely will not, within a reasonable time, correct the conditions that led to the child's removal from the home.
- The parent has been convicted of murder or voluntary manslaughter of another child or the attempt to commit either crime.
- The parent has been convicted of a felony assault that resulted in serious bodily injury to the child or another child of the parent.

Kansas**What Are Reasonable Efforts?****Citation: Ann. Stat. § 38-2255**

The court may place the child in the custody of either parent subject to terms and conditions that the court prescribes to assure the proper care and protection of the child that includes, but are not limited to:

- Supervision of the child and the parent by a court services officer
- Participation by the child and the parent in available programs operated by an appropriate individual or agency
- Any special treatment or care the child needs for his or her physical, mental, or emotional health and safety

When Reasonable Efforts Are Required**Citation: Ann. Stat. § 38-2255**

The court shall not enter an order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that:

- The child is likely to sustain harm if not immediately removed from the home.
- Allowing the child to remain in home is contrary to his or her welfare.
- Immediate placement of the child is in his or her best interests, and reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home.
- An emergency exists that threatens the safety of the child.

When Reasonable Efforts Are NOT Required**Citation: Ann. Stat. § 38-2255**

If custody of the child has been awarded to a person other than a parent, a permanency plan shall be prepared. If a permanency plan is provided at the dispositional hearing, the court may determine whether reintegration is a viable alternative. In determining whether reintegration is a viable alternative, the court shall consider whether:

- The parent has been found by a court to have committed one of the following crimes or to have aided and abetted, attempted, conspired, or solicited the commission of one of these crimes:
 - » First- or second-degree murder
 - » Capital murder
 - » Voluntary manslaughter
 - » Felony battery that resulted in bodily injury
- The parent has subjected the child or another child to aggravated circumstances.
- The parent has previously been found to be an unfit parent.
- The child has been in extended out-of-home placement.
- The parents have failed to work diligently toward reintegration.
- The secretary has provided the family with services necessary for the safe return of the child to the home.
- It is reasonable to expect reintegration to occur within a timeframe consistent with the child's developmental needs.

Kentucky

What Are Reasonable Efforts?

Citation: Rev. Stat. § 620.020

The term 'reasonable efforts' means the exercise of ordinary diligence and care by the department to utilize all preventive and reunification services that are available to the community and necessary to enable to child to live safely at home.

When Reasonable Efforts Are Required

Citation: Rev. Stat. §§ 620.020; 620.130

Reunification services are remedial services that are designed to:

- Strengthen the family unit
- Secure reunification of the family and child, where appropriate, as quickly as practicable
- Prevent the future removal of the child from the family

When the court is petitioned to remove or continue the removal of a child from the custody of his parent or other person exercising custodial control or supervision, the court first shall consider whether the child may be reasonably protected against the alleged dependency, neglect, or abuse by alternatives less restrictive than removal. Such alternatives may include, but shall not be limited to, the provision of medical, educational, psychiatric, psychological, social work, counseling, day care, or homemaking services with monitoring wherever necessary by the Cabinet for Health and Family Services or other appropriate agency. When the court specifically finds that such alternatives are adequate to reasonably protect the child against the alleged dependency, neglect, or abuse, the court shall not order the removal or continued removal of the child.

If the court orders the removal or continues the removal of the child, services provided to the parent and the child shall be designed to promote the protection of the child and the return of the child safely to the child's home as soon as possible. The cabinet shall develop a treatment plan for each child designed to meet the needs of the child.

When Reasonable Efforts Are NOT Required

Citation: Rev. Stat. §§ 610.127; 600.020

Reasonable efforts shall not be required if a court determines that:

- The parent has subjected the child to aggravated circumstances, including any of the following:
 - » The parent has not had contact with the child for more than 90 days.
 - » The parent is incarcerated for at least 1 year, will be unavailable to care for the child, and there is no appropriate relative to care for the child.
 - » The parent has sexually abused the child and refused available treatment.
 - » The parent has engaged in abuse of the child that required removal two or more times in the last 2 years.
 - » The parent has caused the child serious physical injury.
- The parent has been convicted of having caused the death of another child of the parent.
- The parent has committed a felony assault that resulted in serious bodily injury to the child or another child of the parent.
- The parent had his or her parental rights to another child terminated involuntarily.
- The parent has engaged in a pattern of conduct due to alcohol or drug abuse that has rendered the parent incapable of caring for the immediate and ongoing needs of the child, and has refused or failed to complete a treatment plan.
- The parent has a mental illness or retardation that places the child at substantial risk of harm even if services were provided to the parent for 12 months.
- The parent has sexually abused the child or is required to register on a sex offender registry under 42 U.S.C. § 16913, the Adam Walsh Child Protection and Safety Act of 2006.
- Other circumstances make reasonable efforts inconsistent with the best interests of the child and the permanency plan for the child.

Louisiana

What Are Reasonable Efforts?

Citation: Ch. Code Art. 603(25)

The term 'reasonable efforts' means the exercise of ordinary diligence and care by department caseworkers and supervisors and shall assume the availability of a reasonable program of services to children and their families.

When Reasonable Efforts Are Required

Citation: Ch. Code Art. 626; 684

The court shall determine whether the Department of Children and Family Services has made reasonable efforts to prevent or eliminate the need for removal of the child from his or her home and, after removal, to make it possible for the child to return home safely.

The court may authorize, with the consent of the State, continued implementation of a safety plan prior to the adjudication if there are reasonable grounds to believe the child is in need of care and that the continued implementation of the safety plan is necessary for his or her safety and protection. The safety plan shall continue to set forth conditions as determined or agreed upon by the State as necessary for the protection of the child's health and safety while remaining in the home.

When the child is to be removed from his or her parents' custody, the court shall determine whether reasonable efforts have been made to prevent removal and what preventive or reunification efforts, or both, were made, and why further efforts could or could not have prevented or shortened the separation of the family.

When Reasonable Efforts Are NOT Required

Citation: Ch. Code Art. 672.1

At any time in a child in need of care proceeding for a child who is in the custody of the department, the department may file a motion for a judicial determination that efforts to reunify the parent and child are not required. The department shall have the burden of demonstrating by clear and convincing evidence that reunification efforts are not required, considering the health and safety of the child and the child's need for permanency.

Efforts to reunify the parent and child are not required if a court has determined that:

- The parent has subjected the child to egregious conduct or conditions, including any of the grounds for termination of parental rights pursuant to Article 1015.
- The parent has committed or attempted to commit murder or manslaughter of another child of the parent or any other child or has aided or abetted, attempted, conspired, or solicited to commit such a murder or manslaughter.
- The parent has committed a felony that resulted in serious bodily injury to the child, another child of the parent, or any other child.
- The parent's parental rights to a sibling have been terminated involuntarily.

Maine

What Are Reasonable Efforts?

Citation: Ann. Stat. Tit. 22, § 4041(1-A)

The Department of Health and Human Services shall develop a written rehabilitation plan that includes:

- Services that must be provided to address the problems in the family that present a risk of harm to the child
- Provisions to ensure the safety of the child while the parent engages in those services
- A means to measure the extent to which progress has been made
- Visitation that protects the child's physical and emotional well-being

When Reasonable Efforts Are Required

Citation: Ann. Stat. Tit. 22, § 4036-B

The department shall make reasonable efforts to:

- Prevent removal of the child from home, unless the court finds the presence of an aggravating factor
- Rehabilitate and reunify the family, as provided in § 4041(1-A), unless the court has ordered that the department need not commence or may cease reunification
- Finalize the permanency plan

When Reasonable Efforts Are NOT Required**Citation: Ann. Stat. Tit. 22, §§ 4041(2)(A-2); 4002(1-B)**

The court may order that reunification efforts are not required if it finds one of the following:

- The existence of an aggravating factor
- That continuation of reunification efforts is inconsistent with the permanency plan for the child

An aggravating factor includes any of the following circumstances with regard to the parent:

- The parent has subjected a child for whom the parent was responsible to rape, gross sexual misconduct, gross sexual assault, sexual abuse, incest, aggravated assault, kidnapping, promotion of prostitution, abandonment, torture, chronic abuse, or any other treatment that is heinous or abhorrent to society.
- The parent refused for 6 months to comply with treatment required in a reunification plan with regard to the child.
- The parent has been convicted of any of the following crimes and the victim of the crime was a child for whom the parent was responsible or was a child who was a member of a household lived in or frequented by the parent:
 - » Murder, felony murder, or manslaughter
 - » Aiding, conspiring, or soliciting murder or manslaughter
 - » Felony assault that results in serious bodily injury
 - » Any comparable crime in another jurisdiction
- The parental rights of the parent to a sibling have been terminated involuntarily.
- The parent has abandoned the child.

Maryland**What Are Reasonable Efforts?****Citation: Family Law § 5-525(c)**

The Department of Human Resources shall provide time-limited family reunification services to a child placed in an out-of-home placement and to the parent or guardian of the child in order to facilitate the child's safe and appropriate reunification in a timely manner.

When Reasonable Efforts Are Required**Citation: Family Law § 5-525(e)**

Reasonable efforts shall be provided to preserve or reunify a family:

- Prior to an out-of-home placement to prevent or eliminate the need for removing the child from home
- To make it possible for a child to return home safely
- To finalize a permanent placement for the child if continuation of reasonable efforts is determined to be inconsistent with the permanency plan

When Reasonable Efforts Are NOT Required**Citation: Courts & Jud. Proc. § 3-812(b)**

A local department may ask the court to find that reasonable efforts to reunify a child with the child's parent are not required if the local department concludes that a parent:

- Has subjected the child to any of the following aggravated circumstances:
 - » The parent has engaged in or facilitated chronic or severe physical abuse, chronic and life-threatening neglect, sexual abuse, or torture of the child, a sibling of the child, or another child in the household.
 - » The parent knowingly failed to take appropriate steps to protect the child after a person in the household inflicted sexual abuse, severe physical abuse, life-threatening neglect, or torture on the child or another child in the household.
 - » The child, a sibling of the child, or another child in the household has suffered severe physical abuse or death resulting from abuse by the parent or another adult in the household, and all persons who could have inflicted the abuse or caused the death remain in the household.
 - » The parent has abandoned the child.
- Has been convicted, in any State or any court of the United States, of:
 - » A crime of violence against a minor offspring of the parent or guardian, the child, or another parent of the child
 - » Aiding or abetting, conspiring, or soliciting to commit a crime of violence
- Has involuntarily lost parental rights of a sibling of the child

The term 'crime of violence' includes abduction, arson, kidnapping, manslaughter, mayhem, maiming, rape, robbery, carjacking, sexual offenses, use of a handgun in the commission of a felony or other crime of violence, first-degree child abuse, and assault.

Massachusetts

What Are Reasonable Efforts?

Citation: Ann. Laws Ch. 119, § 29C

The court shall determine the reasonable efforts to be made, consistent with the best interests of the child.

When Reasonable Efforts Are Required

Citation: Ann. Laws Ch. 119, § 29C

Reasonable efforts shall be made:

- Prior to placement to prevent or eliminate the need for removal from the home
- To make it possible for a child to return safely to his or her parent or guardian
- To place the child, in a timely manner, in accordance with the permanency plan if reasonable efforts to reunify the child with his or her parent or guardian are inconsistent with the permanency plan

When Reasonable Efforts Are NOT Required

Citation: Ann. Laws Ch. 119, § 29C

Reasonable efforts shall not be required if the court finds:

- The child has been abandoned.
- The parent's rights to another child have been involuntarily terminated.
- The parent has been convicted of murder or voluntary manslaughter of another child of the parent or aiding or abetting in the commission of such crime.
- The parent has been convicted of a felony assault resulting in serious bodily injury of the child or another child of the parent.
- The parent has subjected the child to aggravated circumstances that may include murder of another parent of the child in the presence of the child, subjecting the child or other children in the home to sexual abuse or exploitation, or severe or repetitive conduct of a physically or emotionally abusive nature.

Michigan

What Are Reasonable Efforts?

Citation: Comp. Laws § 712A.18f

Reasonable efforts are measures taken to preserve and reunify the family and may include:

- Efforts to be made by the parents
- Efforts to be made by the agency
- A schedule of services to be provided, including in-home services
- A schedule of parenting time between the child and the parent, if appropriate

When Reasonable Efforts Are Required

Citation: Comp. Laws § 712A.18f

Reasonable efforts must be made:

- To prevent the child's removal from his or her home
- To rectify conditions that caused removal of the child from his or her home

When Reasonable Efforts Are NOT Required

Citation: Comp. Laws §§ 712A.19a; 722.638

Reasonable efforts to reunify the child and family must be made in all cases, except when any of the following apply:

- There is a judicial determination that the parent has subjected the child to aggravated circumstances, as provided in § 722.638, including:
 - » Abandonment of a young child
 - » Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate
 - » Battering, torture, or other severe physical abuse
 - » Loss or serious impairment of an organ or limb

- » Life-threatening injury
- The parent has been convicted of one or more of the following:
 - » Murder of another child of the parent
 - » Voluntary manslaughter of another child of the parent
 - » Aiding or abetting in the murder or voluntary manslaughter of another child of the parent, the attempted murder of the child or another child of the parent, or the conspiracy or solicitation to commit the murder of the child or another child of the parent
 - » A felony assault that results in serious bodily injury to the child or another child of the parent
- The parent is required by court order to register under the sex offenders registration act.
- The parent has had rights to the child's siblings involuntarily terminated.

Minnesota

What Are Reasonable Efforts?

Citation: Ann. Stat. § 260.012

Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community.

When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

- Relevant to the safety and protection of the child
- Adequate to meet the needs of the child and family
- Culturally appropriate
- Available and accessible
- Consistent and timely
- Realistic under the circumstances

In the case of an Indian child, the responsible social services agency must provide active efforts, as required by the Indian Child Welfare Act of 1978.

When Reasonable Efforts Are Required

Citation: Ann. Stat. § 260.012

The social services agency has the burden of demonstrating that:

- It has made reasonable efforts to prevent placement of the child in foster care.
- It has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time.
- It has made reasonable efforts to finalize an alternative permanent home for the child, and it has considered permanent alternative homes for the child inside or outside of the State.
- Reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required.

When Reasonable Efforts Are NOT Required

Citation: Ann. Stat. § 260.012

Reasonable efforts always are required except when:

- A parent has subjected the child to egregious harm.
- The parent's parental rights to another child have been terminated involuntarily.
- The child is an abandoned infant.
- The parent's custodial rights have been involuntarily transferred to another relative.
- A determination has been made that additional reasonable efforts would be futile and unreasonable under the circumstances.
- The parent has been convicted of murder, manslaughter, assault, or assault with substantial bodily injury, or an attempt or conspiracy to commit any of these crimes, and the victim was another child of the parent.
- The parent has committed sexual abuse against the child or another child of the parent.
- The parent has committed an offense that requires registration as a predatory offender under § 243.166, subd. 1b.
- The parent has been convicted of assault or assault with substantial bodily injury, and the victim was the surviving child.

Mississippi

What Are Reasonable Efforts?

Citation: Ann. Code § 43-51-3

Family preservation services are services designed to help families alleviate risks or crises that might lead to out-of-home placement of children. The services may include procedures to maintain the safety of children in their own homes, support to families preparing to reunify or adopt, and assistance to families in obtaining services and other sources of support necessary to address their multiple needs in a culturally sensitive environment.

Family support services are preventive community-based activities designed to alleviate stress and to promote parental competencies and behaviors that will increase the ability of families to successfully nurture their children and will enable families to use other resources and opportunities available in the community. These services may include supportive networks designed to enhance child-rearing abilities of parents and to help compensate for the increased social isolation and vulnerability of families. Examples of these services and activities include:

- Respite care for parents and other caregivers
- Early developmental screening of children to assess their needs and assistance in obtaining specific services to meet their needs
- Mentoring, tutoring, and health education for youth
- A range of center-based activities, such as informal interactions in drop-in centers and parent support groups and home visiting programs

When Reasonable Efforts Are Required

Citation: Ann. Code § 43-21-609

If the child has not been taken into care previously, the court shall determine:

- Reasonable efforts have been made to maintain the child within his or her own home unless the circumstances warrant his or her removal, and there is no reasonable alternative to custody.
- The circumstances are of such an urgent nature that no reasonable efforts have been made to maintain the child within his or her own home, and there is no reasonable alternative to custody.

If the court finds that the child should be taken into care, the court shall order that reasonable efforts be made toward the reunification of the child with his or her family.

If the child has been taken into care before the disposition hearing, the court shall determine whether reasonable efforts were made by the Department of Human Services to finalize the child's permanency plan that was in effect on the date of the disposition hearing.

When Reasonable Efforts Are NOT Required

Citation: Ann. Code § 43-21-603(7)

Reasonable efforts to maintain the child within his or her home shall not be required if the court determines that:

- The parent has subjected the child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, and sexual abuse.
- The parent has been convicted of murder or voluntary manslaughter of another child of that parent; aiding, abetting, attempting, conspiring, or soliciting to commit that murder or voluntary manslaughter; or a felony assault that results in the serious bodily injury to the surviving child or another child of that parent.
- The parental rights of the parent to a sibling have been terminated involuntarily.
- Continuation of the child's residence within his or her own home would be contrary to the welfare of the child, and placement of the child in foster care is in the best interests of the child.

Missouri

What Are Reasonable Efforts?

Citation: Ann. Stat. § 211.183

The term 'reasonable efforts' means the exercise of reasonable diligence and care by the Children's Division to utilize all available services related to meeting the needs of the juvenile and the family.

When Reasonable Efforts Are Required**Citation: Ann. Stat. § 211.183**

Reasonable efforts must be made:

- To prevent or eliminate the need for the removal of the child
- After removal, to make it possible for the child to return home

When Reasonable Efforts Are NOT Required**Citation: Ann. Stat. § 211.183**

The division shall not be required to make reasonable efforts, but it has the discretion to make reasonable efforts if the court has determined that:

- The parent has subjected the child to severe or recurrent acts of physical, emotional, or sexual abuse, including an act of incest.
- The parent has committed murder or voluntary manslaughter of another child of the parent, or aided, abetted, or attempted such act.
- The parent has committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent.
- The parent's parental rights to a sibling have been terminated involuntarily.

Montana**What Are Reasonable Efforts?****Citation: Ann. Code § 41-3-423**

Reasonable efforts include, but are not limited to:

- Voluntary protective services agreements
- Development of individual written case plans specifying State efforts to reunify families
- Placement in the least disruptive setting possible
- Provision of services pursuant to a case plan
- Periodic review to ensure timely progress

When Reasonable Efforts Are Required**Citation: Ann. Code § 41-3-423**

The Department of Public Health and Human Services shall make reasonable efforts:

- To prevent the necessity of removal of a child from a child's home
- To reunify families that have been separated

When Reasonable Efforts Are NOT Required**Citation: Ann. Code § 41-3-423**

Reasonable efforts are not required if a court finds by clear and convincing evidence that a parent has:

- Subjected a child to aggravated circumstances, including abandonment, torture, chronic abuse, sexual abuse, or chronic and severe neglect
- Committed, aided, abetted, or attempted to commit homicide of a child
- Committed aggravated assault against a child
- Committed neglect of a child that resulted in serious bodily injury or death
- Had parental rights to a sibling terminated involuntarily, and circumstances of the termination are relevant to the parent's ability to adequately care for the child at issue

Preservation or reunification services are not required for a putative father if the court finds that the putative father has failed to do any of the following:

- Contribute to the support of the child for an aggregate period of 1 year, although able to do so
- Establish a substantial relationship with the child, as demonstrated by:
 - » Visiting the child at least monthly when physically and financially able to do so
 - » Having regular contact with the child
 - » Manifesting an ability and willingness to assume legal and physical custody of the child if the child was not in the physical custody of the other parent
- Register with the putative father registry, been adjudicated to be the father of the child for the purposes of child support, or been recorded on the child's birth certificate as the child's father

Nebraska

What Are Reasonable Efforts?

Citation: Rev. Stat. § 43-532(2)

When children and families require assistance from a State department or agency, the health and safety of the child is the paramount concern, and reasonable efforts shall be made to provide such assistance in the least intrusive and least restrictive method consistent with the needs of the child and to deliver such assistance as close to the home community of the child or family requiring assistance as possible.

When Reasonable Efforts Are Required

Citation: Rev. Stat. § 43-283.01

Reasonable efforts shall be made:

- Prior to placement to prevent or eliminate the need for removing the juvenile from the home
- To make it possible for the juvenile to return home safely
- To place the juvenile in a timely manner and to finalize a permanent placement if continuation of reasonable efforts is determined to be inconsistent with the permanency plan

When Reasonable Efforts Are NOT Required

Citation: Rev. Stat. § 43-283.01

Reasonable efforts to preserve and reunify the family are not required if the court has determined that:

- The parent has subjected the juvenile or another minor child to aggravated circumstances, including abandonment, torture, chronic abuse, or sexual abuse.
- The parent has committed murder or voluntary manslaughter of another child, or aided, abetted, or attempted to commit such a crime.
- The parent has committed felony assault resulting in serious bodily injury to the child or another child.
- The parent has been convicted of felony sexual assault of the other parent of the child.
- The parent's parental rights to another child have been terminated involuntarily.

Nevada

What Are Reasonable Efforts?

Citation: Rev. Stat. § 432B.393

For the purposes of this section, 'reasonable efforts' have been made if an agency that provides child welfare services that has legal custody of a child has exercised diligence and care in arranging appropriate, accessible, and available services that are designed to improve the ability of a family to provide a safe and stable home for each child in the family, with the health and safety of the child as its paramount concerns. An agency may satisfy the requirement of making reasonable efforts pursuant to this section by taking no action concerning a child or making no effort to provide services to a child if it is reasonable, under the circumstances, to do so.

When Reasonable Efforts Are Required

Citation: Rev. Stat. § 432B.393

Reasonable efforts must be made:

- Before placement of the child in foster care to prevent or eliminate the need for removal from the home
- To make it possible to return home safely
- If continuation of reasonable efforts is determined to be inconsistent with the permanency plan, to place the child in a timely manner, and to finalize a permanent placement

When Reasonable Efforts Are NOT Required

Citation: Rev. Stat. § 432B.393

Reasonable efforts are not required if the court finds that:

- A parent or other person responsible for the child's welfare has:
 - » Committed, aided, or abetted in the commission of, or attempted, conspired, or solicited to commit murder or voluntary manslaughter
 - » Caused the abuse or neglect of the child, which resulted in substantial bodily harm to the child

- » Caused the abuse or neglect of the child, and the abuse or neglect was so extreme or repetitious that returning the child to the home would result in an unacceptable risk to the child's health or welfare
- » Abandoned the child for 60 or more days, and the identity of the parent is unknown
- A parent of the child has, for the previous 6 months, had the ability to contact or communicate with the child and made no more than token efforts to do so.
- The parental rights of a parent to another child have been terminated involuntarily by a court order, and the court order is not currently being appealed.
- The child or a sibling of the child was previously removed from the home due to abuse or neglect, returned to the home, and subsequently removed from the home as a result of additional abuse or neglect.
- The child is less than age 1, the father of the child is not married to the child's mother, and the father:
 - » Has failed within 60 days after learning of the birth of the child, to visit the child, to commence proceedings to establish his paternity of the child, or to provide financial support for the child
 - » Is entitled to seek custody of the child, but fails to do so within 60 days after learning that the child was placed in foster care
- The child was delivered to a provider of emergency services.
- The child or another child in the household has been sexually abused or has been subjected to neglect by pervasive instances of failure to protect the child from sexual abuse.
- A parent of the child is required to register as a sex offender.

New Hampshire

What Are Reasonable Efforts?

Citation: Rev. Stat. § 169-C:24-a

Reasonable efforts are services to the family that are accessible, available, and appropriate.

When Reasonable Efforts Are Required

Citation: Rev. Stat. § 169-C:24-a

Reasonable efforts must be made:

- To prevent placement
- To reunify the family
- To make and finalize a new permanent home for the child

When Reasonable Efforts Are NOT Required

Citation: Rev. Stat. § 169-C:24-a

The State agency shall discontinue reasonable efforts and file a petition for termination of parental rights when one or more of the following circumstances exist:

- The child has been in an out-of-home placement due to a finding of child neglect or abuse for 12 of the most recent 22 months.
- The court has determined that the child has been abandoned.
- The parent has been convicted of murder of another child of the parent, a sibling or stepsibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant.
- The parent has been convicted of manslaughter of another child of the parent.
- The parent has been convicted of attempt, solicitation, or conspiracy to commit any of the offenses specified above.
- The parent has been convicted of a felony assault that resulted in injury to the child, a sibling or stepsibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant.

New Jersey

What Are Reasonable Efforts?

Citation: Ann. Stat. § 30:4C-15.1

The term 'reasonable efforts' means attempts by an agency to assist parents in remedying the circumstances and conditions that led to placement of the child and to reinforce family structure, including:

- Consultation with the parent in developing a plan for appropriate services
- Providing the services agreed upon
- Informing the parent of the child's progress, development, and health
- Facilitating appropriate visitation

When Reasonable Efforts Are Required

Citation: Ann. Stat. § 30:4C-11.1

Reasonable efforts must be made:

- Prior to placement, to preserve the family in order to prevent the need for removing the child from the home
- After placement, to make it possible for the child to return home safely
- In any case where reunification is not the permanency plan, to place the child in a timely manner and finalize the permanent placement of the child

When Reasonable Efforts Are NOT Required

Citation: Ann. Stat. §§ 30:4C-11.2; 30:4C-11.3

Reasonable efforts to reunify the child with the family are not required when:

- The parent has subjected the child to aggravated circumstances of abuse, neglect, cruelty, or abandonment.
- The parent has been convicted of murder or manslaughter of a child; aiding, abetting, or attempting to commit such a crime; or committing or attempting to commit an assault resulting in serious bodily injury to a child.
- The parent's parental rights to another child have been terminated involuntarily.

Reasonable efforts to prevent placement are not required when:

- Removal of the child was necessary due to imminent danger to the child's life, safety, or health.
- Efforts to prevent placement were not reasonable due to risk of harm to the child's health or safety.

New Mexico

What Are Reasonable Efforts?

Citation: Ann. Stat. § 32A-4-21

Reasonable efforts may include:

- An intervention plan designed to achieve placement of the child in the least restrictive setting available, consistent with the best interests and special needs of the child, including a statement of the likely harm the child may suffer as a result of being removed from the parents' home, including emotional harm that may result due to separation from the child's parents, and a statement of how the intervention plan is designed to place the child in close proximity to the parents' home without causing harm to the child due to separation from parents, siblings, or any other person who may significantly affect the child's best interests
- Services offered to the child, his or her family, and the foster care family

When Reasonable Efforts Are Required

Citation: Ann. Stat. § 32A-4-22

Reasonable efforts shall be made:

- To prevent the removal of the child from the child's family
- To reunite the child with the child's family
- To place siblings in custody together, unless such joint placement would be contrary to the safety or well-being of any of the siblings in custody
- For siblings not jointly placed, to provide reasonable visitation or other ongoing interaction unless visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings
- To implement and finalize the permanency plan in a timely manner when reasonable efforts to reunify are not required

When Reasonable Efforts Are NOT Required**Citation: Ann. Stat. §§ 32A-4-2; 32A-4-22**

Reasonable efforts are not required when:

- The efforts would be futile.
- The parent has subjected the child to aggravated circumstances.

Aggravated circumstances are those in which the parent, guardian, or custodian has:

- Attempted, conspired to cause, or caused great bodily harm to the child or great bodily harm or death to the child's sibling
- Attempted, conspired to cause, or caused great bodily harm or death to another parent, guardian, or custodian of the child
- Attempted, conspired to subject, or has subjected the child to torture, chronic abuse, or sexual abuse
- Had parental rights over a sibling of the child terminated involuntarily

New York**What Are Reasonable Efforts?****Citation: Soc. Serv. Law § 384-b(7)(f)**

The term 'diligent efforts' means reasonable attempts by an agency to assist, develop, and encourage a meaningful relationship between the parent and child, which include but are not limited to:

- Consulting and cooperating with the parents to develop a plan for appropriate services
- Making suitable arrangements for the parent to visit with the child
- Providing services and other assistance so that problems preventing the child's discharge from care can be resolved
- Informing the parents of the child's progress, development, and health
- Making suitable arrangements with a correctional facility for an incarcerated parent to visit with the child, if such visiting is in the best interests of the child

When Reasonable Efforts Are Required**Citation: Soc. Serv. Law § 358-a(3)(a)**

Reasonable efforts must be made:

- Prior to placement to prevent or eliminate the need for removal of the child from the home
- To make it possible for the child to return home
- If the permanent plan for the child is other than reunification, to make and finalize the alternative permanent placement

When Reasonable Efforts Are NOT Required**Citation: Soc. Serv. Law §§ 358-a(3)(b); 384-b(7)(e)**

Reasonable efforts are not required when the court determines that:

- The parent has subjected the child to aggravated circumstances, where the child has been either severely or repeatedly abused.
- The parent has been convicted of murder or manslaughter, and the victim was another child of the parent. However, the parent must have acted voluntarily in committing such crime.
- The parent has been convicted of an attempt to commit any of the above crimes, and the victim or intended victim was the child or another child of the parent; or has been convicted of conspiring, soliciting, or facilitating any of the above crimes, and the victim or intended victim was the child or another child of the parent.
- The parent has been convicted of assault or aggravated assault upon a person younger than age 11, and the crime resulted in serious physical injury to the child or another child of the parent.
- The parental rights of the parent to a sibling of the child have been involuntarily terminated.

Evidence of diligent efforts by an agency to encourage and strengthen the parental relationship shall not be required when:

- The parent has failed for a period of 6 months to keep the agency apprised of his or her location.
- An incarcerated parent has failed on more than one occasion while incarcerated to cooperate with an authorized agency in its efforts to help the parent plan for the future of the child or in the agency's efforts to plan and arrange visits with the child.

North Carolina

What Are Reasonable Efforts?

Citation: Gen. Stat. § 7B-101

The term 'reasonable efforts' means the diligent use of abuse prevention or reunification services by the Department of Social Services when a juvenile remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time. If a court of competent jurisdiction determines that the juvenile is not to be returned home, then reasonable efforts are the diligent and timely use of permanency planning services by a department of social services to develop and implement a permanent plan for the juvenile.

When Reasonable Efforts Are Required

Citation: Gen. Stat. § 7B-101

Reasonable efforts must be made:

- To prevent or eliminate the need for placement of the juvenile out of the home
- To develop and implement a permanent plan for the child when a court determines that the juvenile is not to be returned home

When Reasonable Efforts Are NOT Required

Citation: Gen. Stat. § 7B-901

The court shall direct that reasonable efforts for reunification shall not be required if the court makes written findings of fact pertaining to any of the following:

- A court has determined that aggravated circumstances exist because the parent has committed, encouraged the commission of, or allowed the continuation of any of the following upon the juvenile:
 - » Sexual abuse
 - » Chronic physical or emotional abuse
 - » Torture
 - » Abandonment
 - » Chronic or toxic exposure to alcohol or controlled substances that causes impairment of or addiction in the juvenile
 - » Any other act, practice, or conduct that increased the enormity or added to the injurious consequences of the abuse or neglect
- A court has terminated involuntarily the parental rights of the parent to another child of the parent.
- A court has determined that the parent:
 - » Has committed murder or voluntary manslaughter of another child of the parent
 - » Has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent
 - » Has committed a felony assault resulting in serious bodily injury to the child or another child of the parent
 - » Has committed sexual abuse against the child or another child of the parent
 - » Has been required to register as a sex offender on any government-administered registry

North Dakota

What Are Reasonable Efforts?

Citation: Cent. Code § 27-20-32.2

The term 'reasonable efforts' means the exercise, by the agency granted authority over the child of due diligence in using appropriate and available services to meet the needs of the child and his or her family in order to prevent removal of the child from the child's family or, after removal, to use appropriate and available services to eliminate the need for removal, to reunite the child and his or her family, and to maintain family connections. In determining reasonable efforts to be made with respect to a child under this section, and in making reasonable efforts, the child's health and safety must be the paramount concern.

When Reasonable Efforts Are Required

Citation: Cent. Code § 27-20-32.2

Reasonable efforts must be made to preserve families, reunify families, and maintain family connections:

- Prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from his or her home
- To make it possible for a child to return safely to his or her home

- To place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that such a joint placement would be contrary to the safety or well-being of any of the siblings
- In the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing visitation between the siblings, unless it is contrary to the safety or well-being of any of the siblings

If the court determines that continuation of reasonable efforts is inconsistent with the permanency plan for the child, reasonable efforts must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

For the purpose of § 27-20-30.1 [concerning continued foster care for older youth], reasonable efforts must be made to meet the child's needs before a foster care placement for a child remaining in care for continued foster care purposes.

When Reasonable Efforts Are NOT Required

Citation: Cent. Code §§ 27-20-02; 27-20-32.2

Reasonable efforts are not required if:

- The parent has subjected the child to aggravated circumstances, in which a parent:
 - » Abandons, tortures, chronically abuses, or sexually abuses a child
 - » Fails to make substantial efforts to secure treatment for an addiction, mental illness, or other condition for 1 year or one-half a child's lifetime, whichever time period is less
 - » Engages in deviant sexual acts, sexual abuse, etc., in which the victim is a child
 - » Commits murder, manslaughter, or negligently causing the death of another, or the attempt to commit such crimes, and the victim is another child of the parent
 - » Commits aggravated assault in which the victim is a child of the parent and suffers serious bodily injury
 - » Commits assault, aggravated assault, reckless endangerment, or terrorizing in which a child is the victim or intended victim
 - » Has been incarcerated under a sentence for which the release date is:
 - In the case of a child age 9 or older, after the child's majority
 - In the case of a child under age 9, after the child is twice the child's current age
 - » Subjects the child to prenatal exposure to chronic or severe use of alcohol or any controlled substance in a manner not lawfully prescribed by a practitioner
 - » Allows the child to be present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia
- The parent has had parental rights to another child terminated involuntarily.

Northern Mariana Islands

What Are Reasonable Efforts?

This issue is not addressed in the statutes reviewed.

When Reasonable Efforts Are Required

This issue is not addressed in the statutes reviewed.

When Reasonable Efforts Are NOT Required

This issue is not addressed in the statutes reviewed.

Ohio

What Are Reasonable Efforts?

Citation: Rev. Code § 2151.419

Reasonable efforts are relevant services provided by the child welfare agency to the family of the child.

When Reasonable Efforts Are Required

Citation: Rev. Code § 2151.419

Reasonable efforts must be made:

- To prevent removal of the child from the home
- To eliminate the continued removal of the child from home
- To make it possible for the child to return safely home

When Reasonable Efforts Are NOT Required**Citation: Rev. Code § 2151.419**

The court shall determine that reasonable efforts are not required if any of the following apply:

- The parent from whom the child was removed has been convicted of or pleaded guilty to one of the following:
 - » Murder or voluntary manslaughter of another child in the household
 - » Assault, endangering children, rape, sexual battery, corruption of a minor, or sexual imposition of the child or another child in the household
 - » Trafficking in persons, compelling prostitution, or promoting prostitution of the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense
 - » Conspiracy, attempt to commit, or complicity in committing, an offense described above
- The parent has repeatedly withheld medical treatment or food from the child.
- The parent has placed the child at substantial risk of harm two or more times due to drug or alcohol abuse and has rejected treatment two or more times.
- The parent has abandoned the child.
- The parent's parental rights to another child have been terminated involuntarily.

Oklahoma**What Are Reasonable Efforts?****Citation: Ann. Stat. Tit. 10A, § 1-4-808**

The court shall determine whether the nature and extent of services being provided to the child and the child's parent(s) are adequate to ensure the safety of the child and to protect the child from further physical, mental, or emotional harm, or to correct the conditions that led to the adjudication.

When Reasonable Efforts Are Required**Citation: Ann. Stat. Tit. 10A, §§ 1-1-102; 1-4-807**

Reasonable efforts are required:

- To prevent the removal of the child from the child's home
- To provide for the safe return of the child to the child's own home
- To place the child in a timely manner in accordance with the permanency plan when the court has determined that reasonable efforts to reunite the child with his or her family are not required
- To place siblings, when they have been removed from home, together in the same foster care, guardianship, or adoptive placement
- To provide for frequent visitation or other ongoing interaction in the case of siblings who have been removed and who are not placed together

When Reasonable Efforts Are NOT Required**Citation: Ann. Stat. Tit. 10A, § 1-4-809**

Reasonable efforts are not required if the court finds, based upon a preponderance of the evidence, that:

- The parent or legal guardian of the child who is an infant age 12 months or younger has abandoned the child.
- The parent or legal guardian of the child has:
 - » Committed murder or manslaughter of any child
 - » Aided or abetted, attempted, conspired, or solicited to commit the murder or manslaughter of any child
 - » Committed a felony assault upon any child that resulted in serious bodily injury
 - » Subjected any child to aggravated circumstances, including, but not limited to, heinous and shocking abuse or neglect
- The parental rights of a parent to the child's sibling have been terminated involuntarily.
- The parent has been found by a court of competent jurisdiction to have committed sexual abuse against the child or another child of the parent.
- The parent is required to register with a sex offender registry pursuant to § 113(a) of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. § 16913(a)).

Oregon

What Are Reasonable Efforts?

Citation: Rev. Stat. § 419B.340

Reasonable efforts include preventive and reunification services.

For an Indian child, the Department of Human Services must make active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

When Reasonable Efforts Are Required

Citation: Rev. Stat. § 419B.340

Reasonable efforts must be made:

- To prevent or eliminate the need for removal of the child from the home
- To make it possible for the child to return home safely

When Reasonable Efforts Are NOT Required

Citation: Rev. Stat. § 419B.340

The court may find that the department is not required to make reasonable efforts if one of the following circumstances exists:

- The parent has subjected the child to aggravated circumstances including, but not limited to, the following:
 - » The parent by abuse or neglect has caused the death of any child.
 - » The parent has attempted, solicited, or conspired to cause the death of any child.
 - » The parent by abuse or neglect has caused serious physical injury to any child.
 - » The parent has subjected any child to rape, sodomy, or sexual abuse.
 - » The parent has subjected any child to intentional starvation or torture.
 - » The parent has abandoned the child.
 - » The parent has unlawfully caused the death of the other parent of the child.
- The parent has been convicted in any jurisdiction of one of the following crimes:
 - » Murder or manslaughter of another child of the parent
 - » Aiding, abetting, attempting, conspiring, or soliciting to commit any such crime
 - » Felony assault that results in serious physical injury to the child or another child of the parent
- The parent's rights to another child have been terminated involuntarily.

Pennsylvania

What Are Reasonable Efforts?

Citation: Cons. Stat. Tit. 23, § 6373; Tit. 42, § 6351

Reasonable efforts include:

- Efforts to assist the child and the child's parent
- Preventive services

When Reasonable Efforts Are Required

Citation: Cons. Stat. Tit. 23, § 6373; Tit. 42, § 6351

Reasonable efforts must be made:

- To prevent or eliminate the need for removal of the child from the home
- To make it possible for the child to return home
- To finalize the permanency plan in effect
- To place siblings together unless a joint placement is contrary to the safety or well-being of the child or sibling

If a sibling of a child has been removed from his home and is in a different placement setting than the child, the court shall enter an order that ensures visitation between the child and the child's sibling no less than twice a month, unless a finding is made that visitation is contrary to the safety or well-being of the child or sibling.

When Reasonable Efforts Are NOT Required**Citation: Cons. Stat. Tit. 42, §§ 6351; 6302**

Reasonable efforts are not required if the court has determined that aggravated circumstances exist and no new or additional efforts are required. Aggravated circumstances include any of the following:

- The child is in the custody of a county agency, the identity or location of the parents is unknown, and the parent does not claim the child within 3 months or has failed to maintain contact for a period of 6 months.
- The child or another child of the parent has been the victim of serious physical abuse, sexual violence, or aggravated physical neglect by the parent.
- The parent has been convicted of any of the following crimes in which the victim was a child: criminal homicide, aggravated assault, rape, statutory sexual assault, indecent assault, or the attempt to commit any such crime.
- The parent's parental rights to another child have been terminated involuntarily.

Puerto Rico**What Are Reasonable Efforts?****Citation: Ann. Laws Tit. 8, § 447s**

The Department of the Family shall make use of resources for the support of individuals, families, and the community, as well as internal and external resources of the department and other public and nongovernmental agencies, to improve the living conditions of families that may endanger the life and safety of a minor.

When Reasonable Efforts Are Required**Citation: Ann. Laws Tit. 8, § 447s**

Reasonable efforts shall be made to ensure the well-being and full protection of the minor and to preserve the integrity of the family prior to the removal of a minor from his or her home. After removing a minor from his or her home, reasonable efforts shall be made for a period not to exceed 6 months to reunite the minor with his or her family. Moreover, support services shall continue once the minor is permanently placed.

When Reasonable Efforts Are NOT Required**Citation: Ann. Laws Tit. 8, § 447s**

No reasonable efforts shall be undertaken under the following circumstances:

- The parent suffers from a mental disability of such a magnitude that it prevents the parent from caring properly for the child.
- The child has been previously removed from the home, and after being returned home, he or she is again made a victim of abuse, sexual abuse, and/or neglect.
- The parent has been deprived of patria potestas of another child and has been unable to resolve the problems that led to the loss of patria potestas.
- The parent has caused severe physical harm, abuse, and/or neglect of the child, putting the child's health and physical, mental, and emotional integrity at grave risk.
- The parent has committed:
 - » Murder, assault, or mutilation
 - » Rape, incest, or lewd or obscene acts
 - » Trafficking of individuals for sexual purposes
 - » Remittance, transportation, sale, distribution, publication, exhibition, or possession of obscene materials or obscene shows, and exposing minors to those crimes
 - » Kidnapping or aggravated kidnapping
 - » Abandonment of minors
 - » Abduction or perversion of minors
 - » Inciting a minor to commit a crime
- The parent covers up or conspires to commit one or more of the crimes above.
- Efforts to change the behavior of the parent have not succeeded 6 months after the service plan was initiated.
- The parent has stated that he or she has no interest in being reunited with the minor.
- A health-care professional certifies that the parent suffers from a chronic controlled substance abuse problem that prevents the return of the minor to the custody of the parent within a period of 6 months of initiating the procedures.

Rhode Island

What Are Reasonable Efforts?

Citation: Gen. Laws § 40-11-12.2

Reasonable efforts are measures taken to preserve and reunify families.

When Reasonable Efforts Are Required

Citation: Gen. Laws § 40-11-12.2

Reasonable efforts must be made:

- Prior to placement of a child in foster care to prevent or eliminate the need for removing the child from the home that may include placement of the child with a relative
- To make it possible for the child to return home safely
- If continuation of efforts is determined to be inconsistent with the permanency plan for the child, to place the child in a timely manner and finalize a permanent placement

When Reasonable Efforts Are NOT Required

Citation: Gen. Laws § 40-11-12.2

Reasonable efforts are not required if a court determines that:

- The parent has subjected any child to conduct of a cruel and abusive nature.
- The parent has:
 - » Committed murder of another child of the parent
 - » Subjected the child to aggravating circumstances, including abandonment, torture, chronic abuse, or sexual abuse
 - » Committed voluntary manslaughter of another child of the parent or attempted to commit such crime
 - » Committed a felony assault that results in serious bodily injury of the child or another child of the parent
- The parent's parental rights to a sibling of the child have been terminated involuntarily.

South Carolina

What Are Reasonable Efforts?

Citation: Ann. Code § 63-7-1680

Reasonable efforts include services that are reasonably available and timely, reasonably adequate to address the needs of the family, reasonably adequate to protect the child, and realistic under the circumstances.

When Reasonable Efforts Are Required

Citation: Ann. Code §§ 63-7-720; 63-7-1640

Reasonable efforts must be made by the Department of Social Services to prevent removal of the child unless the court finds that continuation of the child in the home would be contrary to the welfare of the child.

The family court may rule on whether reasonable efforts to preserve or reunify a family should be required in hearings regarding removal of custody, review of amendments to a placement plan, review of the status of a child in foster care, permanency planning, or in a separate proceeding for this purpose.

When Reasonable Efforts Are NOT Required

Citation: Ann. Code § 63-7-1640

The department may terminate or forego reasonable efforts to preserve or reunify a family when the family court determines that one or more of the following conditions exist:

- The parent has subjected the child or another child while residing in the parent's domicile to one or more of the following aggravated circumstances:
 - » Severe or repeated abuse or neglect
 - » Sexual abuse
 - » Torture
 - » Abandonment
- The parent has been convicted of murder or voluntary manslaughter of another child.

- The parent has been convicted of aiding, abetting, attempting, soliciting, or conspiring to commit murder or voluntary manslaughter of the child or another child while residing in the parent's domicile.
- Physical abuse of a child resulted in the death or admission to the hospital for in-patient care of that child, and the abuse was committed by the parent.
- The parent has been convicted of committing, aiding, abetting, conspiring to commit, or soliciting:
 - » An offense against the person
 - » Criminal domestic violence
 - » Criminal domestic violence of a high and aggravated nature
 - » Assault and battery of a high and aggravated nature
- The parental rights of the parent to another child of the parent have been terminated involuntarily.
- The parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, alcohol or drug addiction, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unable or unlikely to provide minimally acceptable care of the child.
- Other circumstances exist that the court finds make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the permanent plan for the child.

South Dakota

What Are Reasonable Efforts?

Citation: Ann. Laws § 26-8A-21

The term 'reasonable efforts' means the provision by the Department of Social Services of any services or assistance that:

- Are appropriate for the child's parents, including instruction on parenting
- Are available or could be made available without undue financial burden on the department
- Would have a significant likelihood of protecting the child from substantial danger to his or her physical health or from severe emotional damage while enabling the child to remain in the home or to be returned to the home

When Reasonable Efforts Are Required

Citation: Ann. Laws § 26-8A-21

Reasonable efforts must be made:

- Prior to removal of an alleged or adjudicated abused or neglected child to prevent or eliminate the need for removal from the home
- To make it possible for the child to return home if he or she has been removed from the home

When Reasonable Efforts Are NOT Required

Citation: Ann. Laws § 26-8A-21.1

Reasonable efforts to reunify are not required when the parent:

- Has committed murder, manslaughter, rape, incest, sexual exploitation of a minor, or abuse or cruelty to a minor
- Committed aggravated assault against the child or another child of the parent
- Has subjected the child or another child to torture or sexual abuse; abandonment for at least 6 months; chronic physical, mental, or emotional injury; or chronic neglect
- Is incarcerated and unavailable to care for the child during a significant period of the child's minority
- Has had parental rights to another child terminated involuntarily
- Has a documented history of abuse or neglect associated with chronic alcohol or drug abuse
- Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, and the child or another child has been removed from the parent's custody because he or she was adjudicated abused and neglected by a court on at least one previous occasion
- Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, the child has been removed from the parent's custody on two separate occasions, and the department offered or provided family services on each of the two separate occasions the child was removed
- Has exposed the child to or demonstrated an inability to protect the child from substantial harm or risk of harm resulting from a crime, act, or omission listed above
- Is required to register as a sex offender pursuant to Chapter 22-24B

Tennessee

What Are Reasonable Efforts?

Citation: Ann. Code § 37-1-166

The term 'reasonable efforts' means the exercise of reasonable care and diligence by the Department of Children's Services to provide services related to meeting the needs of the child and the family.

When Reasonable Efforts Are Required

Citation: Ann. Code § 37-1-166

Reasonable efforts must be made:

- To prevent the need for removal of the child from the child's family
- To make it possible for the child to return home
- To place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child if continuation of reasonable efforts is determined to be inconsistent with the permanency plan for the child

When Reasonable Efforts Are NOT Required

Citation: Ann. Code §§ 36-1-102(9); 37-1-166

Reasonable efforts shall not be required if a court has determined that:

- The parent has subjected the child or any child in the household to aggravated circumstances, including:
 - » Abandonment or abandonment of an infant
 - » Aggravated assault
 - » Aggravated kidnapping or especially aggravated kidnapping
 - » Aggravated child abuse and neglect
 - » Aggravated sexual exploitation of a minor or especially aggravated sexual exploitation of a minor
 - » Aggravated rape, rape, rape of a child, or incest
 - » Severe child abuse, as defined in § 37-1-102
- The parent has committed murder or manslaughter of any sibling or other child residing in the household, or aided, abetted, or attempted such crime.
- The parent has committed a felony assault that resulted in serious bodily injury to any child residing in the household.
- The parental rights of the parent to another child have been terminated involuntarily.

Texas

What Are Reasonable Efforts?

Citation: Family Code § 262.001

In determining the reasonable efforts that are required to be made with respect to preventing or eliminating the need to remove a child from the child's home or to make it possible to return a child to the child's home, the child's health and safety are the paramount concerns.

When Reasonable Efforts Are Required

Citation: Family Code §§ 262.001; 262.2015

Reasonable efforts must be made:

- To prevent or eliminate the need to remove a child from the child's home
- To make it possible for the child to return home
- To finalize the permanent placement of a child for whom the court has made a finding that reasonable efforts to return the child home are not required

When Reasonable Efforts Are NOT Required

Citation: Family Code § 262.2015

The court may waive the requirement to make reasonable efforts if the court finds that the parent has subjected the child to aggravated circumstances such as the following:

- The parent abandoned the child without a means of identifying the child.
- The child or another child of the parent is a victim of serious bodily injury or sexual abuse inflicted by the parent or another person with the parent's consent.
- The parent has engaged in conduct against the child or another child of the parent that would constitute the offense of murder, manslaughter, indecency with a child, sexual assault, aggravated assault, injury to a child, abandoning or endangering a child, prohibited sexual conduct, sexual performance by a child, possession or promotion of child pornography, continuous sexual abuse of a child, compelling prostitution, or trafficking of persons.
- The parent voluntarily left the child alone or in the possession of another person for at least 6 months without expressing the intent to return and without providing adequate support for the child.
- The parent's parental rights to another child of the parent have been terminated involuntarily based on a finding that the parent knowingly placed or allowed the child to remain in conditions or surroundings, or with persons engaged in conduct, that endangered the child's physical or emotional well-being.
- The parent has been convicted for the murder or voluntary manslaughter of another child, or aiding, abetting, or attempting such crime.
- The parent has been convicted of a felony assault that resulted in serious bodily injury of the child or another child of the parent.
- The parent's parental rights with regard to two other children have been involuntarily terminated.
- The parent is required under any State or Federal law to register with a sex offender registry.

Utah

What Are Reasonable Efforts?

Citation: Ann. Code § 78A-6-312

The Division of Child and Family Services shall make reasonable efforts to provide services to the child and the child's parent for the purpose of facilitating reunification of the family for a specified period of time. In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the minor's health, safety, and welfare shall be the paramount concern.

When Reasonable Efforts Are Required

Citation: Ann. Code §§ 62A-4a-203; 78A-6-312

Because the removal of a child from his or her home affects protected, constitutional rights of the parent and has a dramatic, long-term impact on a child, the division shall:

- When possible and appropriate, and without danger to the child's welfare, make reasonable efforts to prevent or eliminate the need for removal of a child from the child's home prior to placement in substitute care
- Determine whether there is substantial cause to believe that a child has been abused or neglected or is in danger of abuse or neglect prior to removing the child from his or her home
- When it is possible and appropriate, make reasonable efforts to make it possible for a child in substitute care to return to his or her home
- Take measures in a timely manner to place the child in accordance with the permanency plan and complete whatever steps are necessary to finalize the permanent placement of the child if continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the child

When Reasonable Efforts Are NOT Required

Citation: Ann. Code § 78A-6-312

Reasonable efforts are not required if the court finds by clear and convincing evidence that any of the following circumstances exist:

- The parent's whereabouts is unknown.
- The parent suffers from a severe mental illness that renders the parent incapable of using reunification services.
- The child previously was adjudicated as an abused child, was removed from the home, was returned home, and is being removed due to additional abuse.

- The parent:
 - » Caused the death of another minor through abuse or neglect
 - » Committed, attempted, or conspired to commit murder or manslaughter of a child
 - » Committed sexual abuse against the child
 - » Is a registered sex offender or required to register as a sex offender
 - » Has caused, is identified as a suspect, or is being prosecuted for intentionally, knowingly, or recklessly causing the death of another parent of the child
- The child suffered severe abuse by the parent or by a person known by the parent, and the parent knew or reasonably should have known about the abused.
- The parent has severely abused the child.
- The parent's rights were terminated with regard to any other child.
- The child was removed from his or her home on at least two previous occasions, and reunification services were offered or provided to the family at those times.
- The parent abandoned the child for 6 months or longer.
- The parent permitted the child to reside, permanently or temporarily, where the parent knew or should have known that a clandestine laboratory operation was located.
- With respect to the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed prenatally to an illegal or prescription drug, unless the mother completes an approved substance abuse treatment program.
- Other circumstances preclude reunification efforts or services.

Vermont

What Are Reasonable Efforts?

Citation: Ann. Stat. Tit. 33, § 5102

The term 'reasonable efforts' means the exercise of due diligence by the Department for Children and Families to use appropriate and available services to prevent unnecessary removal of the child from his or her home or to finalize a permanency plan.

When Reasonable Efforts Are Required

Citation: Ann. Stat. Tit. 33, §§ 5102; 5321

Reasonable efforts must be made to prevent unnecessary removal of the child from the home. In cases involving a child who has been removed from the home, reasonable efforts must be made to finalize the permanency plan for the child. Reasonable efforts to finalize a permanency plan and may consist of:

- When the permanency plan for the child is reunification, efforts to reunify the child and family following the child's removal from the home
- When the permanency plan for the child does not include reunification, efforts to arrange and finalize an alternate permanent living arrangement for the child

When Reasonable Efforts Are NOT Required

Citation: Ann. Stat. Tit. 33, § 5102

When making the reasonable efforts determination, the court may find that no services were appropriate or reasonable considering the circumstances. If the court makes written findings that aggravated circumstances are present, the court may make but is not required to make written findings as to whether reasonable efforts were made to prevent removal of the child from the home.

Aggravated circumstances include:

- The parent has subjected a child to abandonment, torture, chronic abuse, or sexual abuse.
- The parent has been convicted of murder or manslaughter of a child.
- The parent has been convicted of a felony crime that results in serious bodily injury to the child or another child of the parent.
- The parental rights of the parent with respect to a sibling have been terminated.

Virgin Islands

What Are Reasonable Efforts?

Citation: Ann. Code Tit. 5, § 2550

The term 'reasonable efforts' means the exercise of due diligence and care by the Department of Human Services to utilize all available services related to meeting the needs of the child and the family and to assist the parents in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, including:

- Consultation and cooperation with the parent in developing a plan for appropriate services
- Providing services to the family that have been agreed upon in order to further the goal of family reunification
- Informing the parent at appropriate intervals of the child's progress, development, and health
- Facilitating appropriate visitation

When Reasonable Efforts Are Required

This issue is not addressed in the statutes reviewed.

When Reasonable Efforts Are NOT Required

Citation: Ann. Code Tit. 5, § 2550

Reasonable efforts are not required if the court finds that any of the following grounds for termination of parental rights exists:

- The parent has abandoned the child.
- The parent has not complied with the department's reasonable efforts to achieve reunification.
- The child has been removed from the home for more than 6 months, and:
 - » The conditions that led to the child's removal still persist.
 - » There is little likelihood that the conditions that led to the child's removal will be remedied within the next 18 months.
- The parent has been convicted of aggravated child abuse or neglect, as defined in tit. 14, § 506, against the child, a sibling, half-sibling, or any other child residing temporarily or permanently in the home of the parent.
- The parent has been convicted of the intentional death of the child's other parent.
- The parent is unable to discharge parental duties due to:
 - » Emotional illness, mental illness, or mental deficiency
 - » Habitual abuse or addiction to intoxicating liquors, narcotics, or other dangerous drugs
- The parent has failed to manifest an ability and willingness to assume custody of the child.
- Placing the child in the parent's custody would pose a risk of substantial harm to the physical or psychological welfare of the child.
- The parent has relinquished the parent's rights or consented to the child's adoption.
- The parent has:
 - » Committed murder or manslaughter of any sibling or half-sibling of the child
 - » Aided, abetted, attempted, or conspired to commit such murder or a voluntary manslaughter
 - » Committed a felony assault that resulted in serious bodily injury to the child or any sibling or half-sibling
- The parent has on two or more occasions abused or neglected any child.
- Within 18 months after a child's return from an out-of-home placement, the child is removed from the parent's custody and placed in care outside the home a second time.

Virginia

What Are Reasonable Efforts?

Citation: Ann. Code § 16.1-281

Reasonable efforts include programs, care, services, and other support that will be offered to the child and his or her parents that will lead to the return of the child to his or her parents within the shortest practicable time.

When Reasonable Efforts Are Required

Citation: Ann. Code §§ 16.1-278.4; 16.1-282.1(C)

Reasonable efforts must be made to prevent removal of the child from his or her home, unless continued placement in the home would be contrary to the welfare of the child.

If the child has been removed from the home, reasonable efforts must be made:

- To reunite the child with the child's family, if returning home is the permanent goal for the child
- To achieve the permanent goal identified in the case plan, if the goal is other than returning the child home

When Reasonable Efforts Are NOT Required

Citation: Ann. Code § 16.1-281

Reasonable efforts to reunite the child with a parent are not required if the court finds that:

- The parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated.
- The parent has been convicted of murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, and the victim of the offense was a child of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the child.
- The parent has been convicted of felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious bodily injury, or felony sexual assault, and the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense.
- Based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances.
- The parent has abandoned a child.

Aggravated circumstances include torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred. Aggravated circumstances also include failure to protect the child from such conduct, if the conduct or failure to protect demonstrates a wanton or depraved indifference to human life, or has resulted in the death of the child or in serious bodily injury to the child.

Washington

What Are Reasonable Efforts?

Citation: Rev. Code §§ 13.34.025; 13.34.130

The Department of Social and Health Services shall coordinate within the administrations of the department and with contracted service providers, including supervising agencies, to ensure that parents in dependency proceedings receive priority access to remedial services recommended by the department or supervising agency in its social study or ordered by the court for the purpose of correcting any parental deficiencies identified in the dependency proceeding that are capable of being corrected in the foreseeable future. Services also may be provided to caregivers other than the parents as identified in § 13.34.138.

For purposes of this chapter, remedial services are those services defined in the Federal Adoption and Safe Families Act as time-limited family reunification services. Remedial services include:

- Individual, group, and family counseling
- Substance abuse treatment services
- Mental health services
- Assistance to address domestic violence
- Services designed to provide temporary child care and therapeutic services for families
- Transportation to or from any of the above services and activities

Reasonable efforts include specific services, such as housing assistance, that are provided to the child and the child's parent, guardian, or legal custodian, and preventive services that are offered or provided to prevent the need for out-of-home placement.

When Reasonable Efforts Are Required

Citation: Rev. Code §§ 13.34.110; 13.34.130

Reasonable efforts are required to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home.

An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services (including housing assistance) that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided to the child and the child's parent, guardian, or custodian, and the services have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home.

When Reasonable Efforts Are NOT Required**Citation: Rev. Code § 13.34.132**

Reasonable efforts are not required when there are aggravated circumstances. In determining whether aggravated circumstances exist by clear, cogent, and convincing evidence, the court shall consider one or more of the following:

- Conviction of the parent of rape, criminal mistreatment, or assault of the child
- Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child
- Conviction of the parent of attempting, soliciting, or conspiring to commit any of the above crimes
- Conviction of the parent of trafficking or promoting commercial sexual abuse of a minor when the victim of the crime is the child, the child's other parent, a sibling of the child, or another child
- A finding by a court that a parent is a sexually violent predator
- Failure of the parent to complete a treatment plan where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim
- Abandonment of an infant younger than age 3
- Conviction of the parent of a sex offense or incest when the child is born of the offense

West Virginia**What Are Reasonable Efforts?****Citation: Ann. Code §§ 49-1-201; 49-1-206**

Child abuse and neglect services' means social services that are directed toward:

- Protecting and promoting the welfare of children who are abused or neglected
- Identifying, preventing, and remedying conditions that cause child abuse and neglect
- Preventing the unnecessary removal of children from their families by identifying family problems and assisting families in resolving problems that could lead to a removal of children and a breakup of the family
- In cases in which children have been removed from their families, providing time-limited reunification services to the children and the families so as to reunify those children with their families or some portion thereof
- Placing children in suitable adoptive homes when reunifying the children with their families, or some portion thereof, is not possible or appropriate
- Assuring the adequate care of children or juveniles who have been placed in the custody of the Department of Health and Human Resources or third parties

The term 'time-limited reunification services' means individual, group, and family counseling; inpatient, residential, or outpatient substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary child care and therapeutic services for families, including crisis nurseries and transportation to or from those services, provided during 15 of the most recent 22 months a child has been in foster care, as determined by the earlier date of the first judicial finding that the child is subjected to abuse or neglect or the date that is 60 days after the child is removed from home.

Reasonable efforts are measures taken by the department to provide remedial and reunification services.

When Reasonable Efforts Are Required**Citation: Ann. Code § 49-4-604**

Reasonable efforts must be made:

- To preserve the family and to prevent placement
- To eliminate the need for removing the child from the child's home
- To make it possible for the child to return home safely

When Reasonable Efforts Are NOT Required**Citation: Ann. Code § 49-4-602**

The department is not required to make reasonable efforts to preserve the family if the court determines:

- The parent has subjected the child, another child of the parent, or any other child residing in the same household to aggravated circumstances, including abandonment, torture, chronic abuse, and sexual abuse.
- The parent has:
 - » Committed murder or voluntary manslaughter of the child's other parent, another child of the parent, or any other child residing in the same household

- » Attempted or conspired to commit such a murder or voluntary manslaughter
- » Committed a felonious assault that results in serious bodily injury to the child, the child's other parent, to another child of the parent, or any other child residing in the same household
- » Committed sexual assault or sexual abuse of the child, the child's other parent, another child of the parent, or any other child residing in the same household
- » Has been required by State or Federal law to register with a sex offender registry
- The parental rights of the parent to another child have been terminated involuntarily.
- The parent has habitually abused or is addicted to alcohol, controlled substances, or drugs, to the extent that proper parenting skills have been seriously impaired.
- The parent has refused to cooperate in the development of a reasonable family case plan.
- The abusing parent or parents have not responded to rehabilitative efforts designed to reduce or prevent the abuse or neglect of the child.
- The parent has abandoned the child.
- The parent has an emotional illness, mental illness, or mental deficiency of such duration or nature as to render such parent incapable of exercising proper parenting skills or sufficiently improving the adequacy of such skills.
- The abusing parent has repeatedly or seriously injured the child physically or emotionally, or have sexually abused or sexually exploited the child.
- The battered parent's parenting skills have been seriously impaired, and the person has willfully refused or is presently unwilling or unable to cooperate with a reasonable treatment plan.

Wisconsin

What Are Reasonable Efforts?

Citation: Ann. Stat. § 48.355

Reasonable efforts shall include, but not be limited to:

- A comprehensive assessment of the family's situation
- Financial assistance to the family, if applicable
- Provision of services, including in-home support and intensive treatment services, community support services, or specialized services for family members with special needs

When Reasonable Efforts Are Required

Citation: Ann. Stat. § 48.355

Reasonable efforts must be made:

- To prevent the removal of the child from the home
- To return the child safely to the child's home
- To achieve the goal of the child's permanency plan

When Reasonable Efforts Are NOT Required

Citation: Ann. Stat. § 48.355

Reasonable efforts are not required if the court finds any of the following:

- The parent has subjected the child to aggravated circumstances, including abandonment, torture, chronic abuse, and sexual abuse.
- The parent has committed, has aided or abetted the commission of, or has solicited, conspired, or attempted to commit, intentional homicide, reckless homicide, or felony murder, and the victim is a child of the parent.
- The parent has committed battery, sexual assault, sexual assault of a child, or physical child abuse that resulted in great or substantial bodily harm to the child or another child of the parent.
- The parental rights of the parent to another child have been involuntarily terminated.
- The parent has relinquished custody of the child when the child was 72 hours old or younger.

Wyoming

What Are Reasonable Efforts?

Citation: Ann. Stat. § 14-3-440

Reasonable efforts require services to the family that are accessible, available, and appropriate.

When Reasonable Efforts Are Required

Citation: Ann. Stat. § 14-3-440

Reasonable efforts must be made:

- Prior to placement of the child outside the home to prevent or eliminate the need for removing the child from the child's home
- To make it possible for the child to return home safely
- If continuation of reasonable efforts is determined to be inconsistent with the permanency plan for the child, to complete the steps necessary to finalize the permanent placement of the child

When Reasonable Efforts Are NOT Required

Citation: Ann. Stat. § 14-2-309(b)-(c)

Reasonable efforts to reunify the family are not required when the parent has been convicted of any of the following crimes:

- Murder or voluntary manslaughter of another child of the parent or aiding and abetting, attempting, conspiring to commit, or soliciting such a crime
- Commission of a felony assault that results in serious bodily injury to a child of the parent

Notwithstanding any other provision of this section, evidence that reasonable efforts have been made to preserve and reunify the family is not required in any case in which the court determines, by clear and convincing evidence, any one or more of the following:

- The parental rights of the parent to any other child have been terminated involuntarily.
- The parent abandoned, chronically abused, tortured, or sexually abused the child.
- The parent has been convicted of committing one or more of the following crimes against the child or another child of that parent:
 - » Sexual assault under §§ 6-2-302 through 6-2-304
 - » Sexual battery under § 6-2-313
 - » Sexual abuse of a minor under §§ 6-2-314 through 6-2-317
- The parent is required to register as a sex offender pursuant to § 7-19-302, if the offense involved the child or another child of that parent. This shall not apply if the parent is only required to register for conviction under § 6-2-201.
- Other aggravating circumstances exist indicating that there is little likelihood that services to the family will result in successful reunification.



U.S. Department of Health and Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau



DEPENDENCY, NEGLECT AND ABUSE CASES

STATUTES AND STANDARDS

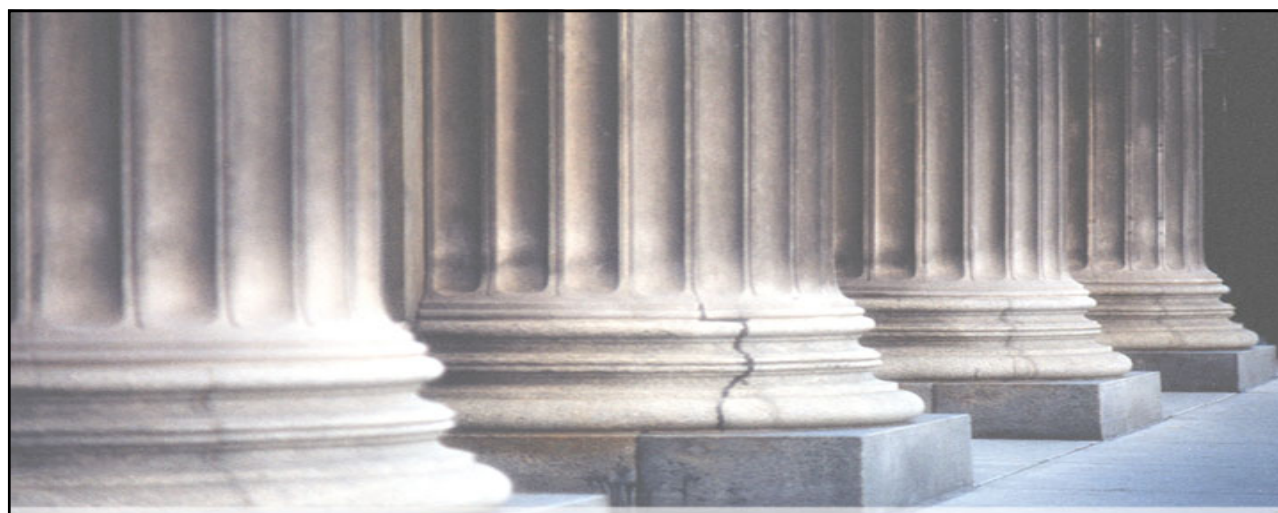


DEPENDENCY, NEGLECT AND ABUSE CASES STATUTES AND STANDARDS



Presented By:

LeeAnna Dowan, J.D.
President, Dowan Law Offices, Inc.



Court Proceedings



KRS 610.010

District Court Jurisdiction

- The Juvenile session of the District Court of each county shall have *exclusive* jurisdiction of DNA proceedings concerning any child living or *found* within the county, who has not reached his/her 18th birthday.
- Family Court has concurrent jurisdiction

KRS 23A.100

Family Court Jurisdiction

Family Court (division of Circuit Court) has the following jurisdiction:

- Dissolution of Marriage/Property Division
- Child Custody
- Visitation
- Maintenance and Support
- Termination of Parental Rights (TPR)
- Adoptions
- Domestic Violence
- Paternity
- Status
- Dependency, Neglect and Abuse cases (DNA)

Statutory Steps in a DNA Case*

Emergency Custody Order/Petition

Temporary Removal Hearing

Adjudication

Disposition Hearing

Reviews

* Pre-Hearing Conferences, Motion Hearings, and other proceedings may, and are likely to, occur between each step in the case.

KRS 600.020

Definition of an “Abused or Neglected Child”

(1)(a) A child whose health or welfare is harmed or threatened with harm, when his parent, guardian, person in a position of authority or special trust, or other person exercising custodial control or supervision (PECCS) of the child does the following:

KRS 600.020

Definition of an “Abused or Neglected Child”

- Inflicts or allows to be inflicted upon the child “physical” or “emotional” injury by other than accidental means
- Creates or allows to be created a **RISK** of physical or emotional injury
- Engages in a pattern of conduct rendering the parent incapable of caring for the child, which may include incapacity due to alcohol or drugs

KRS 600.020

Definition of an “Abused or Neglected Child”

- Repeatedly or continuously fails to provide care and protection for child
- Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution
- Creates or allows to be created a **RISK** of sexual abuse, sexual exploitation, or prostitution
- Abandons or exploits the child
- Does not provide supervision, food, clothing, shelter, education or medical care for child (religious belief exception for medical care)
- Failed to make sufficient progress and child in care 15 of 48 months

KRS 600.020

Definition of an “Abused or Neglected Child”

Effective April 2, 2020, the following was added to the list:

- Commits or allows female genital mutilation as defined in KRS 508.125 to be committed

KRS 600.020

Definition of an “Abused or Neglected Child”

(1)(b) Also, regardless of relationship to child:

- A person twenty-one (21) years of age or older commits/allows sexual abuse, exploitation, or prostitution against child under sixteen (16)

KRS 600.020(26)

Definition of “Emotional Injury”

- Applies to abuse/neglect under KRS 600.020(1)(a)(1) & (2)
- An injury to the mental or psychological capacity or emotional stability of a child
- Must be testified to by a Qualified Mental Health Professional (QMHP) (defined in following slide)

KRS 600.020(52)

Definition of a “Qualified Mental Health Professional”

Must be one of the following:

- Physician
- Psychiatrist
- Psychologist, psychological practitioner, or psychological associate
- Registered Nurse (RN) with Master’s Degree in psychiatric nursing
- Licensed clinical social worker (LCSW)
- Marriage and family therapist with 3 years of experience
- Credentialed professional counselor with 3 years of experience

*See R.C. v. Commonwealth, 101 S.W.3d 897 (Ky. App. 2002)

KRS 600.020(49)

Definition of “Physical Injury”

- Applies to abuse/neglect under KRS 600.020(1)(a)(1) & (2)
 - Means “substantial physical pain or any impairment of physical condition”
 - NOTE: Physical Injury does not necessarily give grounds for an emergency custody order (ECO), unless the Court finds that the injury was:
 - “Repeatedly inflicted” or
 - A “serious physical injury”
- *See KRS 620.060(1)

KRS 600.020(60)

Definition of “Serious Physical Injury”

Means physical injury which:

- Creates a substantial risk of death
- Causes serious and prolonged disfigurement
- Causes prolonged impairment of health
- Prolonged loss or impairment of the function of any bodily member or organ

KRS 600.020(61)

Definition of “Sexual Abuse”

- Any contacts or interactions in which a person listed in KRS 600.020(1)(a) uses or allows, permits, or encourages the use of the child for the sexual stimulation of the perpetrator or another person.
- There may be some overlap with human trafficking offenses. *See* KRS Ch. 529

KRS 600.020(20)

Definition of a “Dependent Child”

- Any child, other than an abused or neglected child, who is under improper care, custody, or guardianship that is not due to an intentional act of a parent, guardian, or person exercising custodial control or supervision (PECCS) of the child
- Generally, thought to be through no fault of the parent, or it would be abuse or neglect
- A child cannot be both “Dependent” and “Abused or Neglected”
See J.H. v. Com., 767 S.W.2d 330 (Ky. App. 1988)

KRS 600.050

Children Needing Extraordinary Services

- Allows commitment if a child needs “extraordinary services” because the child is mentally or emotionally ill **OR** requires medical attention **AND**:
 - Parents cannot provide for the treatment/care
 - Inability is due primarily to parent's lack of financial means
 - Parent, guardian, or PECCS made reasonable efforts
 - Inability is not due to abuse or neglect
 - Commitment is not opposed by parent, guardian, or PECCS

KRS 620.060

Emergency Custody Orders

The Court for the county where the child resides or will reside or where the child is present may issue an *ex parte* emergency custody order (ECO) when any of the following circumstances exist:

- Child is in danger of imminent death or serious physical injury
- Child is being sexually abused
- Parent has repeatedly inflicted or allowed physical or emotional injury (not including reasonable discipline)
- Child is in imminent danger due to parent's failure or refusal to provide for the safety or needs of the child

KRS 620.060

Emergency Custody Orders

- If an ECO is granted, the Court must hold a temporary removal hearing (TRH) within 72 hours, exclusive of weekends and holidays
- The ECO is only effective during the timeframe above
- If temporary custody is granted at the TRH, then custody is converted from Emergency Custody to Temporary Custody
- The ECO should be served upon parent
- A petition shall be filed with the Court within 72 hours of taking the child into custody
- A DNA action may be commenced by the filing of a Petition, by "any interested person" See FCRPP 19(3)

KRS 620.070

Service of Petition and Summons

- The petition and summons shall be served by the sheriff or other person authorized to serve process (other than a Cabinet employee) on the parent or person exercising custodial control or supervision (PECCS). *See* FCRPP 17(2)
- If person to be served is unknown or cannot be located, the petition and summons may be served as directed by the Court including:
 - Nearest adult relative
 - Mail to last known address
 - Other service directed by the Court and reasonably calculated to give actual notice
 - Warning order may be used if other means not effective

Persons involved in a DNA Action

Parties:

- Child
- Parent(s)
- PECCS(s)

Interested persons (not parties, but granted rights):

- Persons claiming to be de facto custodians (KRS 620.100(1)(c))
- Foster parents (KRS 620.360(1)(r))

KRS 620.100(1)

Appointment of Separate Counsel

- The Court shall appoint a guardian *ad litem* (GAL) for the child
- The Court shall appoint separate counsel for the parent who exercises custodial control, if indigent
- The Court shall appoint counsel for any person claiming to be a *de facto* custodian, if indigent
- The Court may appoint separate counsel for a non-parent exercising custodial control or supervision, if indigent
- The Court may appoint a Court-Appointed Special Advocate (CASA)

KRS 620.080

Temporary Removal Hearing

- Unless waived by the child and parent(s)/PECCS(s), a temporary removal hearing shall be held:
 - Within 72 hours of an ECO being granted
 - Within 10 days of the filing of the petition, if no ECO was granted
- In order to grant temporary custody, the Court must find, by a preponderance of evidence, there are reasonable grounds to believe that the child would be dependent, neglected or abused if returned to parent(s)
- Hearsay may be admissible for “good cause”

KRS 620.080

Temporary Removal Hearing

Low Burden of Proof

- Preponderance of Evidence (more likely than not)
- “Reasonable Grounds to Believe”
- Child would be dependent, neglected or abused
 - “Risk of...”
- Petitioner does not have to prove “who did it”

Would you fight it?

- Scenario 1: Molly was arrested for possession of heroin during a traffic stop. She had her two-year-old in the car. The needle was left by a friend.
- Scenario 2: The Cabinet removed Asher (age 3) from his parents, Jack and Teri, after Asher’s preschool reported a large bruise on his leg. Asher said, “Daddy spanked me.” Jack denies, and Teri’s not sure.

42 U.S.C. § 675(5)(G)

ESSENTIAL FINDINGS!!

If the child is placed with the Cabinet, or out of home under supervision of the Cabinet, the Court must determine that:

- The state made reasonable efforts to prevent or eliminate the need for removal

AND

- Continuation in, or return to, the home would be contrary to the welfare of the child

*These findings affect Title IV-E reimbursement for the child

KRS 620.090

Temporary Custody Orders (TCO)

- If the Court finds at the TRH that it is not safe to return the child back to parents, then the Court converts the ECO to a TCO
- If the Cabinet gets custody, then the Cabinet shall place the child in the least restrictive *appropriate* placement
- The adjudication hearing must be held, and a final disposition must be made, within 45 days of the child's removal, unless the Court finds that extending the time is in the child's best interest

KRS 620.150

Visitation

- When a child is removed from his/her home, the Cabinet shall establish terms and conditions of visitation with the child and parent(s)
- If a parent is dissatisfied with the visitation schedule, they may petition the Court for review of the visitation schedule
- The Court may find the Cabinet schedule to be “arbitrary or unreasonable” and alter visitation

KRS 610.160

Court Ordered Participation in Child’s Treatment

The Court can order any parent, guardian, or person exercising similar custodial control or supervision of a child to cooperate and actively participate in such treatment or social service programs which might reasonably be expected to meet the goal of enhancing the best interests of the child and family unit

KRS 620.090(6)

Grandparents and Temporary Custody Orders

- If one grandparent is granted temporary custody, then the Court must consider grandparent visitation for any other grandparent if the Court determines that the other grandparent has a significant and viable relationship with the child as established in KRS 405.021(1)(c)
- Questions that have not been answered by law:
 - What is the standard?
 - Is a full hearing required?
 - What findings are necessary?

KRS 620.130

Alternatives to Removal

- The Court must consider whether there is a less restrictive alternative to removal before removing the child from the home
- If the Court orders removal, services are to be provided to the parent(s) and the child; and must be designed to promote the protection of the child and return of the child safely back home
- The Cabinet shall develop a “Treatment Plan” for each child designed to meet the needs of the child, unless the Court finds aggravated circumstances (See KRS 600.020(3))

KRS 620.110

Immediate Entitlement

- Any person aggrieved by the issuance of a temporary removal order may file a petition in Circuit Court for Immediate Entitlement to Custody
- The Circuit Court must expeditiously hold a hearing on the petition
- The original order(s) remain in effect until the Circuit Court rules on the petition

KRS 620.350

Abandoned Newborn Infant

- Upon notice from any emergency medical service provider or hospital staff that a newborn infant has been abandoned at a hospital, the Cabinet shall immediately seek an order for emergency custody
- The infant must be medically determined to be less than 30 days old
- No protective services investigation shall commence, unless indicators of abuse or neglect are present
- *See also* KRS 405.075

Don't Dupe Dope Tests

WARN YOUR CLIENTS AGAINST TAMPERING WITH DRUG TESTS

- KRS 516.108 - Criminal Simulation in the First Degree (Class D Felony)
 - “Knowingly manufactures, markets, or distributes any product which is intended to defraud a test designed to detect alcohol or a controlled substance”
- KRS 516.110 Criminal Simulation in the Second Degree (Class A Misdemeanor)
 - “Uses any product to alter the results of a test designed to detect alcohol or a controlled substance” or
 - “Possesses an object so simulated with knowledge of its character”
- KRS 524.100 Tampering with Physical Evidence (Class D Felony)
 - “Fabricates any physical evidence with intent that it be introduced in the official proceeding or offers any physical evidence knowing it to be fabricated or altered”



Adjudication Hearing: What is the truth or falsity of the allegations in the complaint?



KRS 620.100

Adjudication Hearings

- The Civil Rules apply
- The Court must determine whether the child was dependent, neglected or abused at the time the petition was filed
- The burden of proof is on the complainant to prove DNA by a preponderance of the evidence

KRS 620.100

Adjudication Hearings

- All cases involving children in DNA Court shall be heard by the Court – not a jury
- The child, parents, and PECCS each have a right to confront and cross-examine witnesses
- Foster parents, pre-adoptive parents, and relatives providing care to the child have a right to notice, to appear, and to be heard



Disposition Hearing: What is in the Best Interest of the Child?



KRS 620.140

Dispositional Alternatives to Reunification

- Informal adjustment (dismissal)
- Return the child to home of removal with protective orders such as:
 - Protective orders prohibiting custodians from action or requiring Cabinet supervision
 - Supervision of the child by the Cabinet
 - Any orders authorized in law for DVO (KRS 403.715-785) and IPO (KRS Chapter 456)
- Removal of the child to custody of an individual or agency
- Commitment of the child to the custody of the Cabinet
- Extend or reinstate the child's commitment if requested by the child before he/she turns 19 years of age

KRS 620.027

Permanent Custody

- District Courts have concurrent jurisdiction with Circuit Court to determine permanent child custody and visitation in DNA cases

KRS 620.027

Grandparent Standing

- Where a child lives with grandparent in a stable relationship, the Court may recognize that grandparent as having the same standing as a parent when evaluating custody arrangements
- How do you reconcile this statute with the *de facto* custodian provisions of KRS 403.270?
- What about KRS 620.140, which allows the Court to give custody to any appropriate person?

KRS 620.140(c)

Don't forget the essential findings!

If a child is placed with the Cabinet, or out of home under the supervision of the Cabinet, the Court must determine that:

- The Court or Cabinet made reasonable efforts to prevent or eliminate the need for removal; AND
- Continuation in, or return to, the home would be contrary to the welfare of the child

KRS 605.090(3)

Procedure for Removing Committed Children

- Any child committed to the Cabinet and placed back in the home of the parents may be removed by the Cabinet without Court order if there is reasonable grounds to believe that the child is:
 - In danger of imminent death or imminent serious physical injury
 - Being sexually abused
 - **AND** parents are unable or unwilling to protect the child
- Within 72 hours of removal, the Cabinet shall petition the Court for an expeditious hearing for review of the agency removal
- If the situation is not as serious, the Cabinet must file a petition and obtain Court approval prior to removal

KRS 610.125

Annual Permanency Reviews

- If a child enters foster care, the Court shall conduct a permanency review hearing **within** 12 months and every 12 months that custody and out-of-home placement continues
- The Court shall address the permanency goal:
 - Should the child return home?
 - Should the child be placed for adoption?
 - Should the child be placed with a permanent custodian?
 - If the child is 16 or older, has the Cabinet documented a compelling reason why it is in the best interest of the child to be placed in another planned permanent living arrangement?



Department for Community-Based Services
Cabinet for Health and Family Services



Administrative Case Process

- Cabinet intake and case processing
 - Allegations can be made using the Kentucky Child/Adult Protect Services Reporting System (<https://prdweb.chfs.ky.gov/ReportAbuse/>) or the Kentucky Child/Adult Abuse Hotline (1-877-597-2331)
- Acceptance and referral to local office
- Investigation
 - Allegations are either substantiated or unsubstantiated
- On-Going
 - Plans, Reviews, Reports
- CHFS Manual: <https://manuals.sp.chfs.ky.gov/Pages/index.aspx>

KRS 610.230

Case Permanency Plans

Within 30 days of a court order committing a child to the Cabinet's custody, the Cabinet shall file a case permanency plan that includes:

- Reasons why the child is in care
- Actions taken to date
- Proposed actions for the next 6 months
- Contemplated placements
- Reasons the child is not safe at home
- Steps taken to minimize harm
- Placement type and why appropriate
- If outside of original county, then why
- Description of services
- Parent(s) objectives and tasks
- Schedule of time intervals
- If the child remains in home: potential harm, protective measures, and why foster care is not needed

KRS 620.240

Case Progress Reports

Every 6 months after receiving custody, the Cabinet must file a report that includes:

- Length of time in foster care
- Number, date, and location for each placement
- Description of services provided or arranged by the Cabinet to the parents
- Efforts and progress of the parents
- Barriers to returning the child home
- Evaluation of the child's current placement
- Recommendations for necessary services
- Timetable for the child's permanent placement
- If return to home is not recommended, a specific recommendation for permanent placement

42 U.S.C. § 675(5)(C)

Hierarchy of Permanency Options Under ASFA

- Return to the Parent
- Adoption
- Legal Guardianship (Permanent Custody)
- Permanent Placement with a Fit and Willing Relative (Permanent Relative Placement)
- Another Planned Permanent Living Arrangement (APPLA)

922 KAR 1:140 §5

Return to Parent

- The Cabinet will recommend return if it determines the family has made sufficient progress toward completing the case permanency plan and reunification is in the best interest of the child
- The Court may recommend a change in the permanency goal if the family is not making progress or a circumstance occurs negating reasonable efforts



Case Law Update



Parent / Sex Offender

R.S., et al. v. Commonwealth of Kentucky, Cabinet for Health and Family Services, 2016-CA-001764-ME (Ky. App. Sept. 29, 2017)

- The Cabinet brought DNA action on behalf of sons as father was a registered sex offender. Their action was not precipitated by any violation of the law. The family court entered orders requiring all contact between sons and father to be supervised.
- **The Court of Appeals** agreed with parents, reversing the family court and remanding the case to be dismissed holding that “a finding of neglect cannot be sustained solely on a child living with a biological parent who is a registered sex offender.” The Cabinet presented no facts indicating any actual harm or any facts indicating a risk or threat of harm to the children. Thus, there was no basis for the family court “to further interfere in the rights of mother and father to rear their two sons.”

Cabinet for Health & Family Services v. R.S., 570 S.W.3d 538 (Ky. 2018)

- **The Kentucky Supreme Court** reversed the decision of the Court of Appeals and reinstated the trial court’s decision.
- However, the Court declined to set a bright line test and specifically stated that these types of cases must be evaluated individually. The Supreme Court did not find that the trial court abused its discretion considering the father’s prior criminal acts which were committed against an underage family member, and his inability to complete probation supervision successfully.

Consideration for Fictive Kin Placement

G.P. v. Cabinet for Health and Family Services, 572 S.W.3d 484 (Ky. App. 2019)

- **The Trial Court** committed the minor child to the Cabinet. Father argued the trial court erred when it failed to place the minor child with Stepmother, or, alternatively, with one of three blood relatives. Stepmother was not biologically related to the minor child and Father failed to present any evidence that Stepmother had standing to seek custody of the minor child. One of the three blood relatives proposed by Father was living with a drug trafficker and the two remaining blood relatives proposed by Father were drug traffickers.
- **The Court of Appeals** upheld the trial court’s decision of placing the minor child with Foster Mother rather than with Stepmother or any of the three blood relatives proposed by Father. Father did not produce any evidence establishing Stepmother had standing to seek custody and, although the Cabinet must consider relative placement over other options, it is not required to choose relative placement.

“Custodial Control or Supervision” Not Required

Cabinet for Health and Family Services, Commonwealth of Kentucky on Behalf of the Minor Child C.R. v. C.B., 556 S.W.3d 568 (Ky. 2018)

- **The Trial Court** found the child born with drugs in her system to be neglected by Father who had a history of drug addiction, was not compliant with his case plan with the Cabinet, and had a previous involuntary termination of parental rights case involving other children.
- **The Court of Appeals** found the child could not be found to be neglected because Father had never exercised “custodial control or supervision” over the child, as the child had previously been placed in the care of her maternal grandmother.
- **The Kentucky Supreme Court** held that a parent does not have to be exercising “custodial control or supervision” to be found to have neglected or abused a child.

Educational Neglect

Commonwealth v. H.K., 2019-CA-000775 (Ky. App. Dec. 20, 2019)

The Commonwealth appealed from a summary dismissal of a DNA petition filed due to excessive absenteeism from school by a kindergartener on the basis that the facts presented did not meet the statutory requirements for abuse or neglect. By a 2-1 vote, the Court of Appeals affirmed, holding that there can be no educational neglect of a five-year-old for excessive absenteeism pursuant to KRS 600.020(1)(a)(8) because school attendance for a child of that age is optional rather than mandatory pursuant to KRS 158.030(2).

Right to Expert Funds*

*Case was accepted for Discretionary Review by Supreme Court on March 18, 2020

[K.S. v. Cabinet for Health and Family Services, et al.](#), 2018-CA-000172-ME (Ky. App. Oct. 25, 2019)

The Trial Court: The Cabinet filed DNA petitions alleging Father abused one child and placed the other at risk of harm or neglect due to the alleged abuse. The children were removed and placed in the Cabinet's temporary custody. The parents requested appointment of a medical expert for them, which was denied, as the family court concluded that there was no statute that would allow for such fees. The family court later held an adjudicative hearing, finding the children to be neglected or abused after finding that the parents were unable to provide plausible explanations for the oldest child's injuries based upon finding from the treating hospital. Mother appealed, arguing that the family court erred in denying funds for an independent medical evaluation or expert witness.



Version 1.0

Right to Expert Funds*

*Case was accepted for Discretionary Review by Supreme Court on March 18, 2020

[K.S. v. Cabinet for Health and Family Services, et al.](#), 2018-CA-000172-ME (Ky. App. Oct. 25, 2019) (Cont.)

- **The Court of Appeals** held that "indigent parents are . . . entitled to funding for reasonably necessary expert assistance under KRS 31.110(1)(b)" in DNA and termination of parental rights cases, because KRS 625.080(3) and KRS 620.100(1) provide for the appointment of counsel pursuant to KRS Chapter 31. It reasoned that under KRS 31.110(1)(b), defendants are entitled to be provided with the necessary services and facilities of representation including investigation and other preparation. Furthermore, the Supreme Court previously held, in Young v. Kentucky, 585 S.W.2d 378 (Ky. 1979), that defendants are entitled to reasonably necessary expert assistance.
- Because indigent parents are entitled to representation pursuant to KRS Chapter 31, this includes entitlement to reasonably necessary expert assistance. The Court of Appeals, in citing Benjamin v. Kentucky, 266 S.W.3d 775, 788-89 (Ky. 2008), explained that the test for determining whether an indigent parent is entitled to receive funding for an expert witness is (1) whether the request has been pleaded with requisite specificity; and (2) whether funding for the particularized assistance is "reasonably necessary"; (3) while weighing relevant due process considerations.



Version 1.0

Terminating Parental Rights of a Low Functioning Parent

Cabinet for Health and Family Services, et al. v. K.S., 2018-SC-000523-DGE (Ky. Sept. 26, 2019)

- **The Trial Court** rendered a judgment terminating Mother's parental rights. It found that while Mother had completed most tasks in her case plan, her disabilities impeded return of Child. It found that Mother had not made significant progress toward identified goals and that she was unable to achieve self-sufficiency or the necessary parenting skills to care for Child.
- **The Court of Appeals** vacated the family court's judgment and remanded the case to the family court for additional services to Mother to determine whether she is capable of parenting Child.

Terminating Parental Rights of a Low Functioning Parent

Cabinet for Health and Family Services, et al. v. K.S., 2018-SC-000523-DGE (Ky. Sept. 26, 2019) (Cont.)

- **The Kentucky Supreme Court** reversed the decision of the Court of Appeals and found that there was sufficient testimony that there were no additional services that could be offered to Mother that could result in a safe return of the child within a reasonable period of time.
- Justice Lambert's Dissent relied on the reasonable efforts requirement and the Americans with Disabilities Act to argue that more should have been done for the mother.

Intent not required by KRS 600.020(1)?

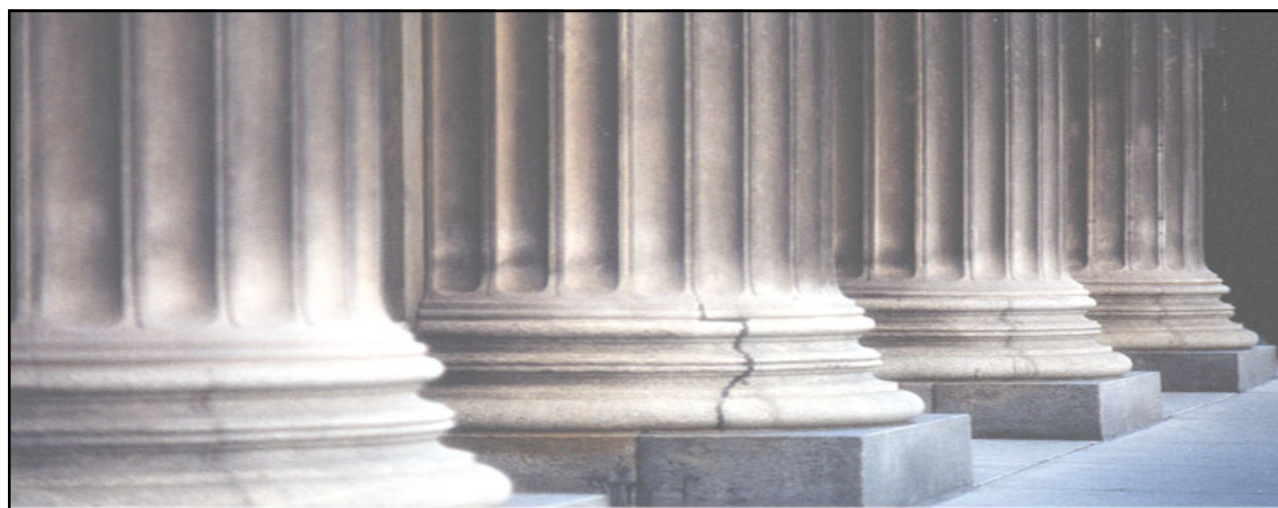
Cabinet for Health & Family Servs. v. P.W., 582 S.W.3d 887 (Ky. 2019); and K.W.W. v. Cabinet for Health and Family Services et al., 2018-CA-000028-ME and 2018-CA-000029-ME (Ky. App. Nov. 15, 2019)

- **The Court of Appeals (Upon Initial Review)** affirmed the trial court's termination of Father's parental rights, but reversed the termination of Mother's parental rights, holding that sufficient evidence did not support the trial court's finding that Mother neglected the children. The Cabinet petitioned for discretionary review, which the Court granted.
- **The Supreme Court** reversed the determination that sufficient evidence did not exist for the termination of the mother's rights and remanded to the Court of Appeals to determine whether sufficient evidence supported the trial court's finding that the remaining requirements of KRS 625.090 were met, holding:
 - (1) Under the plain language of KRS 600.020(1) and relevant case law, one need not intend to abuse or neglect a child for that child to be adjudged an "abused or neglected child," and
 - (2) Substantial evidence supported the lower court's finding of neglect in the termination of parental rights proceeding.

Intent not required by KRS 600.020(1)?

Cabinet for Health & Family Servs. v. P.W., 582 S.W.3d 887 (Ky. 2019); and K.W.W. v. Cabinet for Health and Family Services et al., 2018-CA-000028-ME and 2018-CA-000029-ME (Ky. App. Nov. 15, 2019) (Cont.)

- **The Court of Appeals (On Remand)** affirmed the trial court, holding: "While we might not have reached the same conclusions as the trial court with respect to those requirements, we are unable to say that the trial court's findings and conclusions amount to an abuse of discretion. Substantial evidence supports them."



Ethical Concerns



Appointing a Second Guardian Ad Litem

- The best example for a scenario in which a second GAL would be required is when one child is alleged to have caused harm to the other children
- The best factor to consider when deciding whether to ask for a second GAL is whether the children's interests conflict with each other

Guardian Ad Litem

- Setting appropriate limits with relative placements and foster parents
 - Explain your role. Be clear that you do not represent the caregiver.
 - Caregivers will often want to exchange information with you. Be clear that you only collect information from the caregiver.

Guardian Ad Litem

- Recognizing the motivations of those providing information
 - Everyone has their own motivations and their own opinions as to what is in the child's best interest
 - You should consider all the relevant information and opinions and form your own opinion as to the child's best interests

Recognize Your Own Biases

- Lifestyle differences
- Socio-economic
- Race and Ethnicity
- Sexual orientation
- Throuples and beyond

- Ask yourself whether the situation actually causes harm to the child, or is it just different from your lifestyle

Straight from a Judge's Mouth

Advice from the other side of the bench

- Be on time
- Be prepared
 - If you are a GAL, do not visit one time and then forget about your client
 - If you represent a parent, talk to your client before Court
- Avoid continuances when you can

Straight from a Judge's Mouth

Advice from the other side of the bench

- If you must have someone cover Court for you, make sure they are prepared and knowledgeable...clients are not served by having simply “warm bodies” representing them!
- There are ways to balance Court running smoothly while also speaking up and representing your client. Find that balance.

Straight from a Judge's Mouth

Advice from the other side of the bench

- Check your biases at the door! You will be dealing with many families with substance use disorders and mental health problems in difficult financial positions.

Straight from a Judge's Mouth

Advice from the other side of the bench

- Never forget that you are dealing with actual people. You can be firm with your clients when you need to, but always do so with respect and kindness. These families come to us at the lowest possible time in their lives. A little compassion can make all the difference in changed outcomes for these families.

Straight from a Judge's Mouth

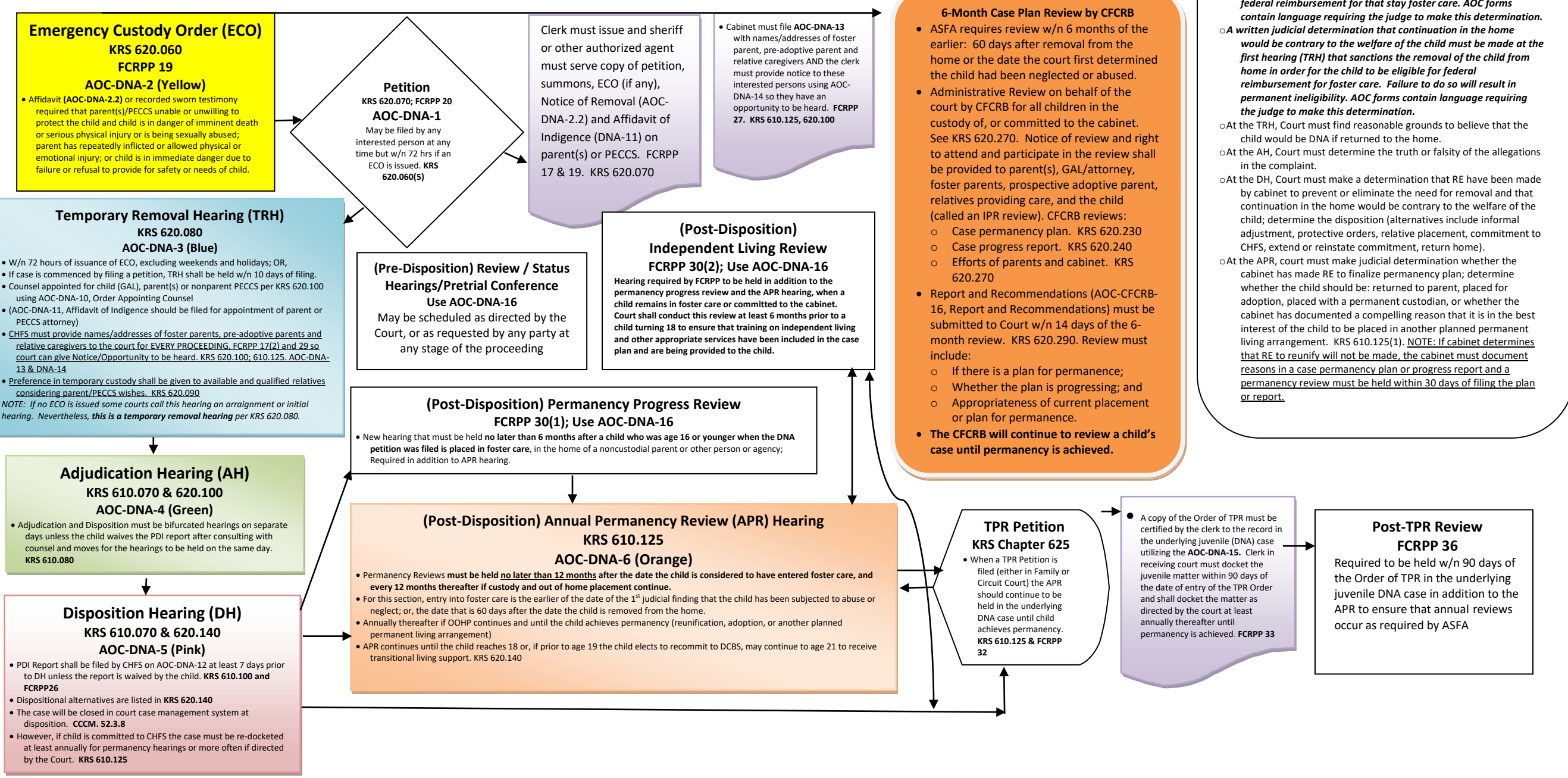
Advice from the other side of the bench

- These cases are very serious. In fact, it is hard to imagine another area of law where so much is at stake.

SUPPLEMENT

DNA Flowchart

Kentucky Court Process in KRS Chapter 620 - Dependency, Neglect and Abuse Proceedings



Emergency Custody Order (ECO)
KRS 620.060
FCRPP 19
AOC-DNA-2 (Yellow)

- Affidavit (AOC-DNA-2.2) or recorded sworn testimony required that parent(s)/PECCS unable or unwilling to protect the child and child is in danger of imminent death or serious physical injury or is being sexually abused; parent has repeatedly inflicted or allowed physical or emotional injury; or child is in immediate danger due to failure or refusal to provide for safety or needs of child.

Petition
KRS 620.070; FCRPP 20
AOC-DNA-1

May be filed by any interested person at any time but w/n 72 hrs if an ECO is issued. KRS 620.060(5)

Clerk must issue and sheriff or other authorized agent must serve copy of petition, summons, ECO (if any), Notice of Removal (AOC-DNA-2.2) and Affidavit of Indigence (DNA-11) on parent(s) or PECCS. FCRPP 17 & 19. KRS 620.070

- Cabinet must file AOC-DNA-13 with names/addresses of foster parent, pre-adoptive parent and relative caregivers AND the clerk must provide notice to these interested persons using AOC-DNA-14 so they have an opportunity to be heard. FCRPP 27. KRS 610.125, 620.100

6-Month Case Plan Review by CFCRB

- ASFA requires review w/n 6 months of the earlier: 60 days after removal from the home or the date the court first determined the child had been neglected or abused.
- Administrative Review on behalf of the court by CFCRB for all children in the custody of, or committed to the cabinet. See KRS 620.270. Notice of review and right to attend and participate in the review shall be provided to parent(s), GAL/attorney, foster parents, prospective adoptive parent, relatives providing care, and the child (called an IPR review). CFCRB reviews:
 - Case permanency plan. KRS 620.230
 - Case progress report. KRS 620.240
 - Efforts of parents and cabinet. KRS 620.270
- Report and Recommendations (AOC-CFCRB-16, Report and Recommendations) must be submitted to Court w/n 14 days of the 6-month review. KRS 620.290. Review must include:
 - If there is a plan for permanence;
 - Whether the plan is progressing; and
 - Appropriateness of current placement or plan for permanence.
- The CFCRB will continue to review a child's case until permanency is achieved.

Required Findings for IV-E Eligibility & Other Findings

- Reasonable efforts (RE) were required/not required AND were/were not made to prevent the child's removal from the home. 45 CFR 1356.21 requires that this written finding be made w/n 60 days of entry into care or the child becomes permanently ineligible for federal reimbursement for that stay foster care. AOC forms contain language requiring the judge to make this determination.
- A written judicial determination that continuation in the home would be contrary to the welfare of the child must be made at the first hearing (TRH) that sanctions the removal of the child from home in order for the child to be eligible for federal reimbursement for foster care. Failure to do so will result in permanent ineligibility. AOC forms contain language requiring the judge to make this determination.
- At the TRH, Court must find reasonable grounds to believe that the child would be DNA if returned to the home.
- At the AH, Court must determine the truth or falsity of the allegations in the complaint.
- At the DH, Court must make a determination that RE have been made by cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child; determine the disposition (alternatives include informal adjustment, protective orders, relative placement, commitment to CHFS, extend or reinstate commitment, return home).
- At the APR, court must make judicial determination whether the cabinet has made RE to finalize permanency plan; determine whether the child should be: returned to parent, placed for adoption, placed with a permanent custodian, or whether the cabinet has documented a compelling reason that it is in the best interest of the child to be placed in another planned permanent living arrangement. KRS 610.125(1). NOTE: If cabinet determines that RE to reunify will not be made, the cabinet must document reasons in a case permanency plan or progress report and a permanency review must be held within 30 days of filing the plan or report.

Temporary Removal Hearing (TRH)
KRS 620.080
AOC-DNA-3 (Blue)

- W/n 72 hours of issuance of ECO, excluding weekends and holidays; OR,
- If case is commenced by filing a petition, TRH shall be held w/n 10 days of filing.
- Counsel appointed for child (GAL), parent(s) or nonparent PECCS per KRS 620.100 using AOC-DNA-10, Order Appointing Counsel
- (AOC-DNA-11, Affidavit of Indigence should be filed for appointment of parent or PECCS attorney)
- CHFS must provide names/addresses of foster parents, pre-adoptive parents and relative caregivers to the court for EVERY PROCEEDING. FCRPP 17(2) and 29 so court can give Notice/Opportunity to be heard. KRS 620.100; 610.125. AOC-DNA-13 & DNA-14
- Preference in temporary custody shall be given to available and qualified relatives considering parent/PECCS wishes. KRS 620.090

NOTE: If no ECO is issued some courts call this hearing an arraignment or initial hearing. Nevertheless, this is a temporary removal hearing per KRS 620.080.

(Pre-Disposition) Review / Status Hearings/Pretrial Conference
Use AOC-DNA-16

May be scheduled as directed by the Court, or as requested by any party at any stage of the proceeding

(Post-Disposition) Independent Living Review
FCRPP 30(2); Use AOC-DNA-16

Hearing required by FCRPP to be held in addition to the permanency progress review and the APR hearing, when a child remains in foster care or committed to the cabinet. Court shall conduct this review at least 6 months prior to a child turning 18 to ensure that training on independent living and other appropriate services have been included in the case plan and are being provided to the child.

(Post-Disposition) Permanency Progress Review
FCRPP 30(1); Use AOC-DNA-16

- New hearing that must be held no later than 6 months after a child who was age 16 or younger when the DNA petition was filed is placed in foster care, in the home of a noncustodial parent or other person or agency; Required in addition to APR hearing.

Adjudication Hearing (AH)
KRS 610.070 & 620.100
AOC-DNA-4 (Green)

- Adjudication and Disposition must be bifurcated hearings on separate days unless the child waives the PDI report after consulting with counsel and moves for the hearings to be held on the same day. KRS 610.080

Disposition Hearing (DH)
KRS 610.070 & 620.140
AOC-DNA-5 (Pink)

- PDI Report shall be filed by CHFS on AOC-DNA-12 at least 7 days prior to DH unless the report is waived by the child. KRS 610.100 and FCRPP 26
- Dispositional alternatives are listed in KRS 620.140
- The case will be closed in court case management system at disposition. CCCM. 52.3.8
- However, if child is committed to CHFS the case must be re-docketed at least annually for permanency hearings or more often if directed by the Court. KRS 610.125

(Post-Disposition) Annual Permanency Review (APR) Hearing
KRS 610.125
AOC-DNA-6 (Orange)

- Permanency Reviews must be held no later than 12 months after the date the child is considered to have entered foster care, and every 12 months thereafter if custody and out of home placement continue.
- For this section, entry into foster care is the earlier of the date of the 1st judicial finding that the child has been subjected to abuse or neglect; or, the date that is 60 days after the date the child is removed from the home.
- Annually thereafter if OOHHP continues and until the child achieves permanency (reunification, adoption, or another planned permanent living arrangement)
- APR continues until the child reaches 18 or, if prior to age 19 the child elects to recommit to DCBS, may continue to age 21 to receive transitional living support. KRS 620.140

TPR Petition
KRS Chapter 625

- When a TPR Petition is filed (either in Family or Circuit Court) the APR should continue to be held in the underlying DNA case until child achieves permanency. KRS 610.125 & FCRPP 32

- A copy of the Order of TPR must be certified by the clerk to the record in the underlying juvenile (DNA) case utilizing the AOC-DNA-15. Clerk in receiving court must docket the juvenile matter within 90 days of the date of entry of the TPR Order and shall docket the matter as directed by the court at least annually thereafter until permanency is achieved. FCRPP 33

Post-TPR Review
FCRPP 36

Required to be held w/n 90 days of the Order of TPR in the underlying juvenile DNA case in addition to the APR to ensure that annual reviews occur as required by ASFA

SUPPLEMENT

Acronyms Commonly Used by DCBS

Acronyms Commonly Used by DCBS

161	Request for Voluntary TPR
504	Education Plan
107 C's	Seven Counties
AAPI	Adult Adolescent Parenting Inventory
AASSP	Americore Appalachian Self-Support Program
ABAWD	Able Bodied Adults w/o Dependents
ABE	Adult Basic Education
ABE	Adult Basic Education
ABI	Acquired Brain Injury
ACCEPT	Family Budget Resource Program
ACE	Adverse Childhood Experiences (research study)
ACF	Administration for Children and Families
ACLU	American Civil Liberties Union
ACOA	Adult Children of Alcoholics
ADA	American with Disabilities Act of 1990
ADD	Area Development Districts or Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
ADL	Activities of Daily Living
ADT	Assessment and Documentation Tool
AFCARS	Adoption & Foster Care Automated Reporting System
AFDC	Aid to Families with Dependent Children
AG	Attorney General
AH	Adoptive Home
AHB	Administrative Hearing Branch
AHS	American Humane Society
AIS/MR	Alternate Intermediate Services/Mental Retardation
ALEX	Automated Labor Exchange
AMA	Adult Medicaid Services
AMAC	Adults Molested as Children
AOC	Administrative Office of the Courts
AP	Absent Parent
APHSA	American Public Human Service Admin.
APR	Annual Permanency Review

APS	Absent Parent Search, Adult Protective Services, or Alternative Placement Service
APSCBT	APS Competency Based Training
APSR	Annual Progress and Service Report
AR	Administrative Review
ARC	Educational Meeting for Special Education Students
AS	Administrative Specialist
ASAP	As Soon As Possible
ASD	Acute Stress Disorder
ASFA	Adoption and Safe Families Act
ASNA	Annual Strengths and Needs Assessment
ASSPA	AFDC Spousal Support Averages
AWOL	Absent Without Leave (Runaway)
BBA	Balanced Budget Act of 1997
BC	Beyond Control
BCG	Bingham Child Guidance
BCIS	Bluegrass Clinical In-home Services
BCP	Beyond Control (Parental) or Beyond Control Petition
BD	Behavior Disorder
BF	Birth Father or Black Female
BFS	Building Families Stronger
BH	Boys' Haven
BHDID	Department of Behavioral Health and Developmental and Intellectual Disabilities
Bingham	Mental Clinic for Children
BIP	Batterers Intervention Program
BL	Black Lung
BM	Birth Mother or Black Male
BMI	Body Mass Index
BOW	Born Out of Wedlock
BRADD	Barren River Area Development District
BSADD	Big Sandy Area Development District
BUA	Basic Utility Allowance

Acronyms Commonly Used by DCBS

BWE	Blind Work Expense
CA	Child Advocate
CAA	Community Action Agency
CAC	Children’s Advocacy Center or Community Action Counsel or Court Appointed Counsel
CAKY	Community Alternatives Kentucky
CAN	Child Abuse/Neglect Background Check
CAP	Cumberland Adventure Program
CAPPS	Children of Alcoholic Parents Support Group
CAPS	Drug Screens/Urine Tests
CAPTA	Child Abuse Prevention and Treatment Act
CASA	Court Appointed Special Advocate
CATS	Childrens Automated Tracking System or Comprehensive Assessment and Training Services
CATTTI	Child and Adolescent Trauma Treatment and Training Institute
CB	Children’s Bureau
CBCL	Child Behavior Checklist
CBS	Community Based Services
CBW	Children’s Benefit Worker
CC	Case Conference or Continued
CCAP	Child Care Assistance Program
CCC	Community Collaborations for Children or Community Correction Center
CCSHCN	Commission for Children with Special Health Care Needs
CCT	Contract Correspondence Transmittals
CCW	Child Case Worker
CD	Chemical Dependent or Conduct Disorder
CDW	Court Designated Worker
CEC	Child Evaluation Center
CFC	Cabinet for Families and Children
CFCRB	Citizens Foster Care Review Board
CFSP	Child and Family Services Review

CHFS	Cabinet for Health and Family Services
CHOICE	In-House Wrap Around Program
CHR	Cabinet for Human Resources
CI	Centralized Intake
CIP	Chafee Independence Program
CIPP (CIP)	Children in Placement Project
CM	Case Manager
CMHC	Community Mental Health Center
CNY	Children and Youth Clinic
CO	Central Office
COA	Council on Accreditation
COLA	Cost of Living Adjustment
COM	Community Service
COS	Continuation of Services
COT	Commonwealth Office of Technology
CP	Case Plan or Cerebral Palsy
CPS	Child Protective Services
CQA	Continuous Quality Assessment
CQI	Continuous Quality Improvement
CRC	Council for Retarded Children
CRP	Children's Review Panel
CS	Client's Statement
CSA	Client's Statement Accepted
CSA/MAPP	Children of Sexual Abuse/Model Approach Partnership Parenting
CSE	Child Support Enforcement
CSH	Central State Hospital (Louisville)
CSP	Community Service Program
CSV	Cash Surrender Value
CTC	Cardinal Treatment Center (for Delinquent Kids)
CTP	Child Treatment Plan
CTS	Children's Treatment Service
CWLA	Child Welfare League of America

Acronyms Commonly Used by DCBS

CY	Children and Youth Clinic
CYA	Child/Youth Assessment
CYO	Child/Youth Objectives
CYS	Community Youth Services
DAFM	Division of Accounting and Financial Management
DAIL	Department of Aging and Independent Living
DBD	Destructive Behavior Disorder
DBT	Dialectical Behavior Therapy (for PD)
DC	District Court or Detention Center
DCBS	Dept. for Community Based Services
DCFM	Division of Child Forensic Medicine
DCS	Division for Child Support
DCSE	Division of Child Support Enforcement
DCSR	Daily Case Status Report
DD	Developmentally Disabled
DDDS	Dept.for Disability Determination Services
DDS	Disability Determination Services
DEFRA	Deficit Reduction Act of 1984
DEP	Deprivation
DES	Department for Employment Services
DET	Detention
DFM	Division of Forensic Medicine
DFS	Division of Family Support
DH	Dispositional Hearing
DHHS	Dept. for Health and Human Services
DHR	Department for Human Resources
DHS	Department of Human Services
DJJ	Department of Juvenile Justice
DL	Driver's License
DMC	Does Not Meet Criteria
DMD	Division of Management and Dev.
DMHMR	Division of Mental Health Mental Retardation
DMS	Department for Medicaid Services

DNA	Dependency Neglect Abuse
DNR	Do Not Resuscitate
DOB	Date of Birth
DOC	Department of Corrections
DPP	Division of Protection and Permanency
DR	Diligent Recruitment Specialist
DRH	Dispositional Review Hearing
DSI	Department of Social Insurance
DSM4	Bible of diagnostics in behavioral health
DSR	Division of Service Regions
DSS	Previous Name of DPP
DSS 115	Abuse Complaint/Investigation Form
DSS 161	Document Filed to Initiate TPR
DSS 195	Form Completed Before FP Adoption (after 161)
DUI	Driving Under Influence
DV	Domestic Violence
DVO	Domestic Violence Order
DWI	Driving While Intoxicated
EAB	A CHR Accounting Code
EAL	Everyone's A Leader
EAST KY CCC	East KY Child Care Coalition
EBD	Emotional/Behavioral Disorder
EBT	Electronic Benefit Transfer
ECE	Exceptional Child Evaluation
ECF	Electronic Case File
ECO	Emergency Custody Order
ED	Emotionally Disturbed
EEO	Equal Employment Opportunity
EITC	Earned Income Tax Credit
EKCEP	Eastern KY Concentrated Employment Program
ELO	Each Local Office
EMCU	Exploited and Missing Children Unit

Acronyms Commonly Used by DCBS

EMDR	Eye Movement Desensitization and Reprocessing
EMH	Educating Mentally Handicapped
EPO	Emergency Protective Order
EPSDT	Early & Periodic Screening, Diagnosis & Treatment
ERP	Employment Reimbursement Program
ERS	Employment Retention Specialist
ES	Elementary School
ESB	Eligibility Services Branch
ESL	English as a Second Language
ESPCC	Emergency Shelter Private Childcare
ESS	Extended School Services
ETP	Employment Training Program
ETV	Education Training Voucher
EX	Exempt
F2F	Face to Face
FACS	Family & Adult Consultation Service
FACTS	Families and Children Together Safely
FAD	Family Alternative Diversion
FAIR Teams	Family Accountability, Intervention and Response
Family MA	Family Medicaid
FAQ	Frequently Asked Questions
FAS	Fetal Alcohol Syndrome
FASD	Fetal Alcohol Spectrum Disorders
FC	Foster Care or Foster Child
FCA	Family Children's Agency
FCDC	Fayette County Detention Center
FCH	Family Care Home
FCRB	Foster Care Review Board
FCRPP	Family Court Rules of Procedure & Practice
FCW	Foster Care Worker
FDA	Federal Drug Administration
FDP	Factitious Disorder by Proxy

FEIN	Federal Employer Identification Number
FF	Foster Father or Foster Family
FFPSA	Family First Preventative Services Act
FFY	Federal Fiscal Year
FGDM	Family Group Decision Making
FH	Foster Home
FHPCC	Foster Home in Private Child Care
FHV	Foster Home Visit
FIND	Families in Need of New Directions
FINSA	Families in Need of Services Assessment
FIPS CODE	Federal Info. Processing Std. Code
FLO	Family Level Objectives
FLSA	Fair Labor Standard Act
FM	Foster Mother
FMD	Functionally Mentally Disabled
FML	Family and Medical Leave
F-N/F	Fatality-Near Fatality
FNS	Food and Nutrition Services
FOS	Field Office Supervisor
FP	Foster Parent
FPL	Federal Poverty Level
FPLS	Ferrule Parent Locator Service
FPO	Foreign Protective Order (Out of State)
FPP	Family Preservation Program
FRC	Family Resource Center
FRP	Family Reunification Program
FRYSC	Family Resource and Youth Services Center
FS	Family Support
FS	Food Stamps or Family Services
FSCBT	Family Services Competency Based Training
FSOS	Family Services Office Supervisor
FSS	Family Support Specialist
FSSV	Field Services Supervisor

Acronyms Commonly Used by DCBS

FSW	Family Service Worker
FTI	Federal Tax Information
FTM	Family Team Meeting
FTT	Failure to Thrive
FY	Fiscal Year
FYI	For Your Information
GA	General Adult
GAL	Guardian ad Litem (Child's Attorney)
GAS	General Adult Services
GC	Good Cause
GED	General Equivalency Diploma
GFC	Group Job Search
GH	Group Home
GPS/MAPP	Group Preparation and Selection/ Model Approach Partnership Parenting
GRADD	Green River Area Development District
GSC	Governmental Service Center
GUS	Growing Up Safe
HAL	Housing Authority of Louisville
HANDS	Health Access Nurturing Development Service
HBE	Health Benefits Exchange
HCBS	Home & Community Based Services
HE	Home Evaluation
HEAP	Home Energy Assistance Program
HH	Home Health Care or Household
HHA	Home Health Care Aide
HHC	Home Health Care
HHCA	Home Health Care Aide
HHM	Household Member
HHS	Health and Human Services
HIB	Hospital Insurance Benefit (Medicare Part A)
HIPAA	Health Ins. Portability & Account. Act
HOH	Head of Household

HOHH	Head of Household
HOI	Home of the Innocents (Louisville)
HS	High School
HSCC	Human Service Coordinators Council
HUD	Housing and Urban Development
HV	Home Visit
HY	History
ICF	Intermediate Care Facility
ICF-MR	Intermediate Care Facility for the Mentally Retarded
ICJ	Interstate Compact on Juveniles
ICPC	Interstate Compact for Placement of Children
ICWA	Indian Child Welfare Act
IDT	Interdisciplinary Team
IEP	Individual Education Plan
IEPA	Inter Ethnic Placement Act
IFBSS	Intensive Family Based Support Services
IHP	Individual Health Plan
IJS	Individual Job Search
ILC	Independent Living Coordinator
ILO	Individual Level Objectives
ILP	Independent Living Program
IM	Income Maintenance
IMD	Institution for Mental Disease
INST	Institution
INV	Investigation
IPAV	Intimate Partner Abuse and Violence
IPP	Internal Policy Procedure
IPR	Interested Party Review
IPS	Intercept Projects Section
IPV	Intimate Partner Violence
IRB	Institutional Review Board
IRS	Internal Revenue Service
IRWE	Impairment Related Work Expense

Acronyms Commonly Used by DCBS

ISC	Information System Capacity
ITP	Individualized Treatment Plan
IV-A	Section of the SS Act (K-Tap Program)
IV-D	Section of the SS Act (Child Support)
IV-E PROGRAM	Section of the SS Act (Foster Care Program)
JCYC	Jefferson County Youth Center (Detention Center)
JRA	Job Readiness Activity
JSST	Job Seeking Skills Training
JSW	Juvenile Service Worker
JTPA	Job Training Partnership Act
KAMES	KY Automated Management Eligibility System
KAR	KY Administrative Regulations
KASES	KY Automated Support Enforcement System
KBHC	KY Baptist Homes for Children
KC	Kinship Care
KCADV	Kentucky Coalition Against DV
KCD	KY Claims Debt Management System
KCH	Kentucky Children's Home
KCHIP	KY Children's Health Ins. Program
KCPC	KY Correctional Psychiatric Center
KCTCS	KY Community and Technical College System
KDVA	KY Domestic Violence Association
KEAP	KY Employee Assistance Program
KECC	KY Employee Charitable Campaign
KECSAC	KY Education Collaborative for State Agency Children
KEUPS	KY Enterprise User Provisioning System
KHBE	Kentucky Health Benefits Exchange
KHIP	Kentucky Health Insurance Premium
KMA	Kentucky Medical Association
KMI	Kentucky Mental Institution
KMP	Kentucky Medicaid Program
KOFFY	KY Organization for Foster Youth

KOG	Kentucky Online Gateway
KPC	Kentucky Physician's Care Program
KPFC	KY Partnership for Families & Children
KRADD	KY River Area Development District
KRS	Kentucky Revised Statutes
KSP	Kentucky State Police
KSR	Kentucky State Reformatory
K-TAP	KY Temporary Assistance Program
KWP	Kentucky Works Program
KYA	Kentucky Youth Advocates
KYIMS	KY Information Management System
Kynect	Kentucky's Healthcare Connection
KYNET	Kentucky Network
KYNEX	Kentucky Youth Connects
L&R	Licensing & Regulation
LD	Learning Disability
LDT	Louisville Day Treatment
LE	Law Enforcement
LEO'S	Law Enforcement Officials
LEP	Limited English Proficiency
LG	Legal Guardian
LGH	Louisville Group Home
LIHEAP	Low Income Home Energy Assistance Program
LINK	Law Information Network of KY
LL	Landlord
LOC	Level of Care
LPCA	Licensed Professional Counselor's Assoc.
LRC	Legislative Research Commission
LSW	Licensed Social Worker
LTC	Long Term Care
MA	Maternal Aunt or Medicaid or Medical Assistance
MA	Medical Assistance Card

Acronyms Commonly Used by DCBS

MARS	Management Admin. Report System
MASH	Metro Alternative Shelter Home/Lex
MBP	Munchausen's Syndrome by Proxy
MC	Mentally Challenged
MCCC	Mountain Comprehensive Care Center
MCO	Managed Care Organizations
MD	Muscular Dystrophy
MDA	Major Disciplinary Action
MDT	Multi-Disciplinary Team
MEPA	Multi-Ethnic Placement Act
MGF	Maternal Grandfather
MGH	Morehead Group Home
MGM	Maternal Grandmother
MH	Medical Hospital or Mental Health or Mentally Handicapped
MIT	Minute and Issues Tracking System
MIW	Mental Inquest Warrant
MMD	Mildly Mentally Disabled
MMR	Mildly Mentally Retarded (old)
MO	Mother
MOU	Memorandum of Understanding
MR	Mental Retardation
MR/DD	Mental Retardation/Developmental Disabilities
MRT	Medical Review Team
MS	Middle School
MSE	Medical Support Enforcement
MSSW	Master of Science in Social Work
MSW	Master of Social Work
MU	Maternal Uncle
NA	Narcotics Anonymous, Not Applicable, or Not Available
NAPCWA	Nat.Assoc. of Public Child Welfare Administrators
NASCCA	Nat.Assoc. of State Child Care Administrators
NASW	National Association of Social Work

NC	Nurse Consultant
NCANDS	National Child Abuse and Neglect Data System
NCIC	National Crime Information Center
NCP	Non-Custodial Parent
NCPCA	National Committee for Prevention of Child Abuse
NDAS	National Data Analysis System
NEMT	Non-Emergency Medical Transport
NEO	New Employee Orientation
NF	Natural (Birth) Father
NFO	No Further Orders
NHV	Negative Home Visit
NICU	Neonatal Intensive Care Unit
NKYTC	Northern Kentucky Treatment Center
NM	Natural (Birth) Mother
NON K-TAP	Non KY Temporary Assist. Program
NOS	Not Otherwise Specified
NR	Not Relevant
NYTD	National Youth in Transition Database
OA	Obligation Amount
OAG	Office of Attorney General
OATS	Office of Administration and Technology
OCD	Obsessive Compulsive Disorder
ODD	Oppositional Defiant Disorder
OET	Office of Employment and Training
OGC	Office of General Council
OHRM	Office of Human Resource Management
OIG	Office of Inspector General
OJT	On the Job Training
OLOP	Our Lady of Peace Hospital (Louis.)
OLS	Office of Legal Services
OOC	Office of Counsel
OOHC	Out of Home Care

Acronyms Commonly Used by DCBS

OPE	Office of Performance Enhancement
OPS	Office of Program Support
OR	Original Record
ORPS	Occurrence Report and Process System
ORS	Online Registration System
OSA	Office Support Assistant
OSB	Operations Support Branch
OT	Occupational Therapist
OTC	Owensboro Treatment Center
OTIS	Online Tracking Information system
OTS	Office of Technical Support
OVR	Office of Vocational Rehabilitation
OWEP	Other Work Experience Program
P & P	Protection & Permanency
PA	Paternal Aunt or Public Assistance
PAH	Pre-Adoptive Home
PAPS	Public Assistance Program Specialist
PARB	Program Asst. & Resource Branch
PASS	Plan for Achieving Self Support
PAT.EST.	Paternity Established
PC	Permanent Custody or Phone Call
PCA	Personal Care Assistance
PCC	Private Child Care
PCH	Personal Care Home
PCIT	Parent Child Integrated Therapy
PCP	Private Child Placing (foster home)
PD	Personality Disorder or Public Defender
PECC	Person Exercising Custodial Control
PGF	Paternal Grandfather
PGM	Paternal Grandmother
PH	Physical Health
PHI	Protected Health Information
PI	Public Intoxication

PIC	Private Industry Council
PIP	Performance Improvement Plan
PL	Public Law
PLAS	Post Legal Adoptive Service
PLATO	Platform for Learning and Teaching Online
PODC	Purchase of Day Care
POV	Privately Owned Vehicle
PPLA	Planned Perm. Living Arrangement
PPM	Protection and Permanency Memorandums
PPT	Pregnant and Parenting Program
PPTL	Protection and Permanency Transmittal Letters
PPU1	Protection and Permanency Unit 1
PRC	Permanent Relative Custody
PRF	Permanency Review Form
PRH	Permanency Review Hearing
PRO	Peer Review Organization
PRP	Permanent Relative Placement
PRTF	Psychiatric Residential Treatment Facility
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act
PSC	Permanent Substitute Care
PSP	Presentation Summary Packet
PSY	Psychiatric Hospital
PTSD	Post Traumatic Stress Disorder
PU	Paternal Uncle or Pick-Up
PWE	Primary Wage Earner
PWR	Placed With Relative
QA	Quality Assurance
QC	Quality Control
QCI	Quality Care Initiative
QDWI	Qualified Disabled Working Individual
QI 1	Qualified Individual Group 1
QI 2	Qualified Individual Group 2

Acronyms Commonly Used by DCBS

QMB	Qualified Medicare Beneficiary
QMHP	Qualified Mental Health Professional
QP	Qualifying Parent
QRTP	Qualified Residential Treatment Program
R & C	Recruitment & Certification (Social Worker for the foster family)
RAD	Reactive Attachment Disorder
RAP	Relocation Assistance Program
RDS	Report Distribution System
REACH	Resources, Education, Adaptation, Change and Health, Inc. (Louisville)
REL	Relative
RES	Residential Treatment
RFI	Request for Information
RFP	Request for Proposal
RGH	Residential Group Home
RH	Returned Home
RIAC	Regional Interagency Council
RMDS	Report Management Distribution System
RMDS/RDS	Report Management Distribution System
RMS	Records Management Section
RMTS	Random Moment Time Study
RN	Registered Nurse
RR	Running Record
RR TEAM	Rapid Response Team
RS	Referral Source
RSDI	Retirement Survivors & Disability Ins.
RSP	Receiving Stolen Property
RTC	Regional Training Coordinator
RTF	Residential Treatment Facility
RTP	Return to Parent
RUMBA	Old System
RV	Recreation Vehicle

RVBH	River Valley Behavioral Health
SA	Substance Abuse
SAC	Spouse Abuse Center
SACWIS	State Automated Child Welfare Information System
SAO	Sexually Acting Out
SAR	SACWIS Assessment Review
SARGE	SACWIS Assessment Review Guide
SBS	Shaken Baby Syndrome
SCL	Supports for Community Living
SCM	Safe Crisis Management (restraints)
SCS	Seven Counties Services
SDA	Service Delivery Area
SDX	State Data Exchange
SED	Severely Emotionally Disturbed
SFU	Standard Filing Unit
SH	Shelter House (Runaway Housing)
SHARP	Second Hand Attire for the Rising Professional
SHEP	Supported Higher Education Program
SIAC	State Interagency Council
SIB	Self-Injurious Behavior
SIDS	Sudden Infant Death Syndrome
SLD	Specific Learning Disability
SLMB	Specified Low Income Medicare Beneficiaries
SMI	Supplemental Medical Insurance
SNAP	Special Needs Adoption Program
SOP	Standard of Practice or Standard Operating Procedure
SP	Second Parent
SPARC	Special Education Conference
SPLS	State Parent Locator Service
SR	Service Recordings or Specified Relative
SRA	Service Region Administrator
SRAA	Service Region Administrator Associate

Acronyms Commonly Used by DCBS

SRAC	Service Region Advisory Council
SRCA	Service Region Clinical Associate
SROAA	Service Region Office Admin.Assoc.
SS	Social Security
SSA	Social Security Administration
SSC	Social Services Clinician
SSI	Social Security Insurance or
SSN	Social Security Number
SSP	State Supplementation Payment
SSS	Social Services Specialist
SST	Short Term Training
SSW	Social Services Worker
START	Sobriety Treatment and Recovery Team
STEP	System Tracking Employability Program
STT	Short Term Training
SUA	Standard Utility Allowance
SUD	Substance Use Disorder
SV	School Visit
SVTS	Sandy Valley Transportation Service
SW	Social Worker
SYETP	Summer Youth Employment and Training Program
TA	Technical Assistance
TAA	Transitional Assistance Agreement
TANF	Temporary Assistance for Needy Families
TAP	Targeted Assessment Program or Transitional Assistance Program
TAPP	Teenage Parenting Program
TAS	Transitional Assistance Specialist
TBUT	Theft by Unlawful Taking
TC	Telephone Call or Temporary Custody
TCC	Transitional Child Care
TCF	Therapeutic Foster Care
TCM	Targeted Case Management

TCO	Temporary Custody Order
TD	Temporary Disability
TDD	Telecommunications Device for the Deaf
TFC	Therapeutic Foster Care
TFCBT	Trauma Focused Cognitive Behavioral Therapy
TL	Team Leader
TLC	Temporary Living Conditions
TMA	Transitional Medical Assistance
TMD	Temporary Modified Duty
TMH	Trainable Mentally Handicapped
TOPS	Through Opportunity People Succeed
TP	Treatment Plan
TPR	Termination of Parental Rights
TRH	Temporary Removal Hearing
TRIS	Training Records Information System
TRP	Therapeutic Rehabilitation Programs
TRSR	Two Rivers Service Region
TSS	Treatment Service Specialist
TWIST	The Worker's Information System
TX	Treatment
UBC	United Behavior Clinic
UCP	United Cerebral Palsy
UDS	Urinary Drug Screen
UI	Unemployment Insurance
UIB	Unemployment Insurance Benefits
UIFSA	Uniform Interstate Family Support Act
UP	Unemployed Parent
UR	Utilization Review
URC	Utilization Review Case
URG	Unreimbursed Grant
USC	United States Code
VA	Veterans Administration or Vulnerable Adult
VEH	Vehicle

Acronyms Commonly Used by DCBS

VER/VERIF	Verification
VES	Vocational Education Skills
VINE	Victim Info & Notification Everyday
VISTA	Volunteers in Service to America
VNA	Visiting Nurses Association
VPI	Verification of Personal Illness
VR	Vocational Rehabilitation
VTPR	Voluntary Termination of Parental Rights
WC	Worker's Compensation
WEP	Work Experience Program
WIA	Workforce Investment
WIC	Women, Infant & Children Program
WIC	Women, Infant and Children
WPP	WEP Placement Pending
WR	Written Reprimand
WRG	Work Registration
WS	Written Statement
WTW	Welfare to Work
YTP	Youth Transition Plan

SUPPLEMENT

Dependency, Neglect and Abuse DNA: Definitely Not Average

Dependency, Neglect and Abuse
DNA: Definitely Not Average
LeeAnna Dowan, J.D.

The legal world of Dependency, Neglect and Abuse (DNA) cases, frequently referred to as the DNA docket or simply the Neglect docket, is definitely not the average case most practitioners envision when they decide to accept their first court appointed case. Lack of this awareness often finds the lawyer wading through unfamiliar statutes, terminology, rules of evidence that may, or may not, apply depending on the phase of the case and rules of civil procedure which have been supplanted by family court rules, not to mention the various and traditional local court case management practices. However, the statutes and proper procedures applicable to DNA cases are really not as complex as they are detailed. It is probably best to begin with the understanding that Family Court is not a subset or subordinate court to Circuit Court; rather, it is a super court, in so much that the same rules of civil procedure apply in Family Court, as do in any other civil Circuit Court case, with the additional rules of Family Court Rules of Practice and Procedure, the Juvenile Code, including the statutes specifically applicable to family court matters, such as home-state jurisdiction, marital property division, child support and, most applicable here, those statutes which specifically define dependency, neglect and abuse. The informal definitions of what constitutes a *dependent*, *neglected* or *abused* child are likely the easiest to maneuver.

CIVIL NOT CRIMINAL

It is important for attorneys to recognize DNA cases are civil in nature, not criminal. This is important because the terminology used is as distinct as are the long-term consequences for the parent. While the terminology and the procedures are reminiscent of criminal cases, to include the Boykin colloquy when a parent makes an admission (note: not a plea of guilty), the underlying support, language and procedures are derived from juvenile code(s), not criminal code(s). The result is: that a parent may make an admission to the allegation presented without suffering the consequence of incarceration, or the admission appearing on their employment background check, unless the parent attempts to seek employment in child care; senior care; school, church or girl/boy scout volunteer; nursing, or other types of care-giving employment contexts. This is because DNA proceedings are totally focused on the children. While the parent's action may give rise to the case, once a petition is filed by the Cabinet for Families and Children through the county attorney's office, the case number, the case procedure (both in rule, and in progression), and confidentiality requirements, all arise from the juvenile code. This is certainly not to say that in some instances criminal cases arise as a companion matter to address the seriousness of the parent's conduct; these are handled, separately, in the criminal divisions, not Family Court.

Also somewhat confusing is that each parent and the child have a separate attorney appointed to represent their legal interests, or best interest when Guardian ad Litem for the child. The appointment of that attorney and/or Guardian ad Litem should occur at the onset of the case or prior to the completion of the initial Temporary Removal Hearing. Even though a parent is not subject to incarceration as a result of the DNA petition filing alone, the action of a DNA filing will potentially affect the fundamental constitutional rights of a parent to raise and support their child as that parent deems fit. Thus, it is appropriate to have legal counsel in place to protect those fundamental rights, as well as, ensure due process, prevent malicious prosecution, or misuse of

legal procedure by a county attorney, law enforcement officer, a social worker, parent, or other relative.

PARTIES:

DNA cases are unique, even in the world of family law, in that there are many people involved. It would be amiss to presume the parties involved were solely the parents. In any other family court matter this might quite likely occur; however, this would be completely inaccurate in DNA cases. The style of the case reflects IN RE: [the child's name or initials], but the child him/herself is not a direct party. The parents through counsel, the child through counsel, and the social workers through the county attorney are the actual designated parties in DNA cases. There are a number of other participants who affect and influence the completion of a DNA action. These include social workers, CASA volunteers, mental/behavioral health counselors, and other community service partners.

DNA petitions may also be filed against any other person, or exercised care, or custodial control of the child, at the time of the incident. DNA petitions are often filed as a result of a specific occurrence and not always as a result of long-term issues, although that may also form the basis to support a petition. The petitions and affidavits to support the petition(s) are filed by the social worker through the county attorney's office.

DEFINITIONS:

A dependent child is one who is in need of care but through no fault of the parent, that parent cannot provide that care. While many parents and caregivers in these cases would like to fall in this category, the fact is few actually find themselves in this situation. This most accurately applies to a parent who, for any number of reasons such as deployment, death of a co-parent or absent co-parent, finds themselves unable to provide care, on a temporary basis, for the child and without any other resources but the Cabinet for Families and Children. This may occur due to a necessary medical procedure for the parent requiring long term hospitalization, vehicle accident requiring long term medical care for the parent or, most often, an out-of-control child/teenager who can no longer reside with the parent(s) or a child whose serious medical, emotional or mental health care has exceeded the insurance abilities of the parents. Only in a few other specific types of circumstances would a parent's conduct permit an adjudicative ruling of dependency.

A neglected child is one who is in need of care; however, the parent fails to provide this care. This designation frequently leads parents to believe it applies only to a failure to supply the child with electricity, water, a home and food. A closer review of the statutes provides for a broader array of parental conduct, or lack thereof. Neglect in this circumstance applies to a parent's failure to send the child, including a wayward teenager, to school; leaving a child with an improper caregiver; parenting while intoxicated, or under the effects of substance abuse; leaving a child home alone; or a parent's incarceration. Specifically, incarceration of a parent is the neglect of a child, not dependency. Although many incarcerated parents would have the community at large, the court, and their attorneys, believe the parent is incarcerated against their will, the fact is, that is totally inaccurate. When an individual knowingly engages in conduct likely to result in their incarceration as a consequence to that action, and that individual is a parent with the responsibilities to provide a home, food, clothing, utilities, childcare, and various

other child-raising needs when that parent purposefully removes themselves from the ability to provide that care, the parent has created a *neglected* child.

An *abused* child is one who has suffered the direct physical or sexual abuse as a result of the parents or caregivers actions. Sadly this is the easiest to identify in terms of conduct and frequently the most difficult for the attorney to address. It is important to note that abuse can also occur when corporal punishment has gone a step too far and resulted in marking or bruising to the child. This does not have to be excessive bruising. Any demarcation of the skin will apply to this definition. While it is legally acceptable for a parent to use physical punishment to discipline a child, it is not ever acceptable to leave any type of markings on the child. Since bruises cannot be dated, and the type of bruising which may occur is correlated to the specific health and body condition of each individual child, it is often simply wiser to advise parents to refrain from corporal punishment altogether.

DNA cases are also noteworthy, in that the applicability of the neglect and abuse definition(s) can also apply to the creation referred to as 'risk of harm'. In other words, a parent need not solely, or directly, engage in the conduct as defined above, but may act in such a way as to create the risk of harm for the child to be adjudged *neglected* or *abused*. In other words, if a parent leaves the child with a caregiver whom the parent knows, or should know, potentially engages in behavior that will place the child at risk of not having the necessary care, the parent is the responsible person for creating that risk of harm situation. This situation often results in both the caregiver and the parent receiving allegations against them.

CASE PHASES:

DNA cases have three (3) main phases, and any number of reviews as may be necessary in order to achieve permanency for the child. Permanency may be reunification, and should be, unless, and until, the court determines the child may not return to the home of removal under minimally safe standards. It is often the perspective of what constitutes a minimally safe standard that causes disagreement among counsel when considering whether a child may return to the home and care of the parents.

Temporary Removal Hearing:

This is the initial phase of a DNA case during which the county attorney, with the social worker as their witness, presents the allegations to the court. Hearsay is permissible in this phase, thus the social worker is often the only witness as s/he can testify as to what a parent/ teacher/child/ or other person may have stated which gave rise to the filing of the petition. It is not unusual for parents' attorneys to waive this hearing as the standard of proof required for the court to make a finding at this stage is reasonable grounds determining whether a sufficient concern arose related to the care of the child, which resulted in the filing of the petition, and as to whether the child should be removed from the parent, or caregiver's, control.

Adjudication:

This second phase is much more crucial as to any long-term consequences for the parents in terms of employment. At this juncture, the county attorney is required to prove their case by a preponderance standard. The county attorney may call any witnesses necessary, and all rules of evidence apply. The clear four corners of the petition must be proven by the county attorney. Corollary information may not be introduced, unless specifically included in the

petition and accompanying affidavit initially filed. At this stage, parents may admit, deny, or stipulate, which is akin to an Alford or no-contest plea.

Disposition:

This is the last and most important phase for the child and reunification plan for the family. At this stage, the social worker is required to have a disposition report filed with the court, circulated to all attorneys, seventy-two (72) hours prior to the disposition hearing. In that report, the social worker typically outlines the history of the case, the current status of the family, including residence, employment, counseling progress, and school progress of the child, and outlines the required tasks necessary for the parents to achieve before reunification of the family may occur.

Reviews:

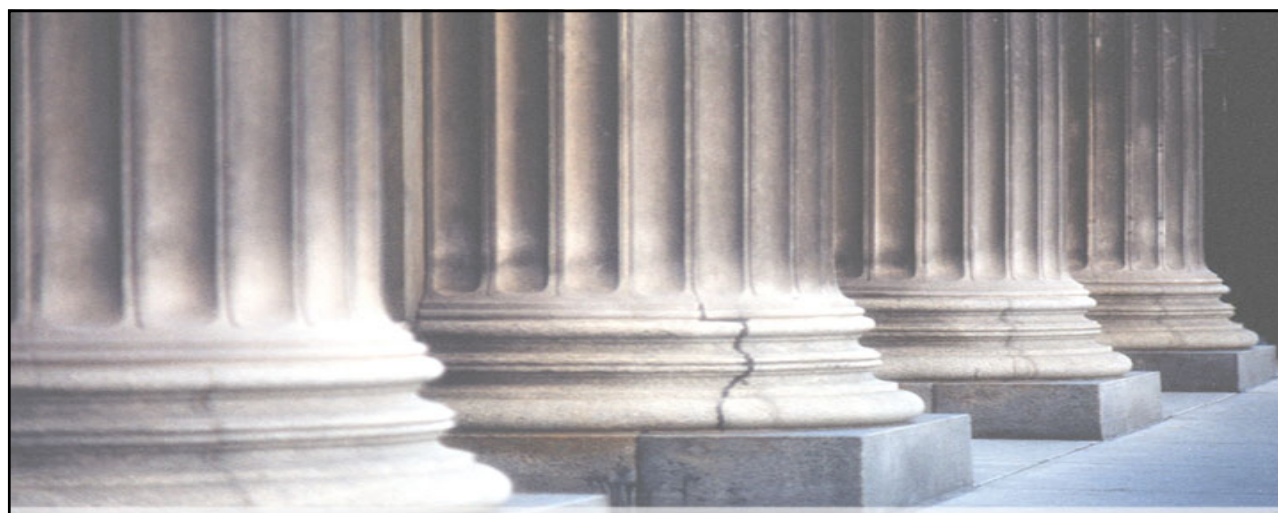
The court typically sets the next review dates at six (6) month intervals. This serves the multi-purposes of keeping the case on track with the social workers; as their case plans should be updated and filed with the court every six (6) months; keeping the parents on track with their counseling and parenting classes, as may be necessary; giving the family a clear timeline for the next hearing, which may result in expanding visitation for them, or possible reunification, depending on the case needs. This does not preclude legal counsel for the parents filing motions to advance the case on the court docket to address a specific case need.

CONCLUSION:

It is wise for new attorneys and/or attorneys new to DNA cases to familiarize themselves with the applicable statutes and to understand the complexities resulting from these cases. DNA cases are unique in the legal world, while not being complex in statutory construction, they are detailed in application and definitely not average.

TERMINATION OF PARENTAL RIGHTS

STATUTES AND STANDARDS



TERMINATION OF PARENTAL RIGHTS CASES STATUTES AND STANDARDS



Presented By:

LeeAnna Dowan, J.D.
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Involuntary Termination of Parental Rights (TPR)



KRS 625.050(2)

Involuntary TPR Petition

- Jurisdiction for an involuntary TPR is in the Circuit/Family Court in any of the following counties:
 - Where either parent resides or may be found
 - Where any juvenile court actions concerning the child have been commenced
 - Where the child resides or is present

KRS 625.050(3)

Involuntary TPR Petition

- A petition may be brought by:
 - Cabinet for Health and Family Services (CHFS)
 - Any child-placing agency licensed by CHFS
 - County attorney
 - Commonwealth attorney
 - Parent

KRS 625.050(5)

When Petition May be Filed

- No petition [for involuntary TPR] may be filed [...] prior to five (5) days after the birth of the child

KRS 625.050(4)

Contents of Petition

- (a) Name and mailing address of each petitioner
- (b) Name, sex, date of birth and place of residence of the child
- (c) Name and address of the living parents of the child
- (d) Name, date of death and cause of death, if known, of any deceased parent
- (e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father
- (f) Name and address of the person, cabinet or agency having custody of the child
- (g) Name and identity of the person, cabinet or authorized agency to whom custody is sought to be transferred
- (h) Statement that the person, cabinet or agency to whom custody is to be given has facilities available and is willing to receive the custody of the child
- (i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination
- (j) Information as to the legal status of the child and the court so adjudicating
- (k) A concise statement of the factual basis for the termination of parental rights

KRS 625.060

Parties to Involuntary TPR

- Child
- Petitioner
- CHFS, if not the Petitioner
- Biological parents (if known) and if their rights have not been previously terminated
 - Putative father need not be a party if he is exempted by KRS 625.065
- Effective March 16, 2020: Child's foster parent may intervene as a matter of right either by name or anonymously

KRS 625.065

Putative Father

Six circumstances when the unmarried biological father becomes a putative father, and therefore must be a party:

- He is known and voluntarily identified by the mother by affidavit
- He has registered with the cabinet pursuant to KRS 199.503 as a putative father prior to the birth of the child, or if he did not have notice prior to the birth of the child, within twenty-one (21) days after the birth of the child
- He has caused his name to be affixed to the birth certificate of the child
- He has commenced a judicial proceeding claiming parental right
- He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributing to the child's support
- He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child

KRS 199.503

Putative Father Registry

- For any man who may be a father but is not/has not:
 - Married the mother prior to the child's birth
 - Established paternity through court or agency prior to the filing of the adoption petition
 - Completed an acknowledgment of paternity affidavit prior to the filing of the adoption petition
- The putative father may register by providing:
 - His name, birthdate, birthplace, residence, and service address
 - If known - the mother's and child's name, birthdate, birthplace, residence, and mailing address
- CHFS maintains the registry and must attempt to contact any man registered in relation to the mother or child
- \$25 fee for the search (certified check or money order)

KRS 625.070

Service of Process

- Personal service should be used “where possible,” otherwise constructive service can be used pursuant to civil rules
- Service is not necessary if there has been a disclaimer of paternity or a voluntary TPR petition filed by parent, or TPR entered
- Service of petition to GAL shall be sufficient for personal jurisdiction over the child
- Petitioner must send courtesy copy of petition to foster parents

KRS 625.080

Hearing for Involuntary TPR

- The court shall conduct a private hearing
- The child is a party and GAL shall be appointed to represent the child’s best interests if CHFS is to be the custodian
- Parents have the right to counsel
- If indigent, the court shall appoint a separate attorney for each parent
 - If CHFS is seeking post-TPR custody, the cost is paid by the Finance and Administration Cabinet
 - Otherwise, the court may order that the cost be paid by the adoptive parent, biological parents, agency, or the petitioner
- Appointed attorneys may receive a fee up to \$500

CAC/GAL Ethical Considerations

- Z.T. v. M.T., 258 S.W.3d 31 (Ky. App. 2008) – Father argues counsel failed to zealously pursue his position. The Court held, “if counsel's errors were so serious that it is apparent from the record that the parent was denied a fair and meaningful opportunity to be heard so that due process was denied, this Court will consider a claim that counsel was ineffective.”
- L.L.R. v. W.C., K.C., 2012-CA-000716-ME, 2013 WL 760641 (Ky. App. Mar. 1, 2013) unpublished – Mother argues counsel’s failure to file pre-trial disclosures which prevented her from calling witnesses.
- J.W. v. Commonwealth, 2009-CA-002054-ME, 2010 WL 3189597 (Ky. App. Aug. 13, 2010) unpublished – Incarcerated Mother argues ineffective assistance of counsel.

CAC/GAL Ethical Considerations

- Cabinet for Health & Family Services v. H.C., 581 S.W.3d 580 (Ky. 2019) – Excusable neglect necessary for an extension to file a notice of appeal.
- D.J.V. v. G.W.D., 2017-CA-000773-ME, 2019 WL 2406970 (Ky. App. June 7, 2019) unpublished – Incarcerated Father argues ineffective assistance of appointed GAL.

Effective Assistance of Counsel

- T.W. v. Cabinet for Health and Family Services, 484 S.W.3d 302 (Ky. App. 2016) – Counsel represented both parents at TPR hearing where the basis for the TPR was that the Cabinet could not ascertain which of the parents had perpetrated abuse on the child. The Court held that where “counsel had an actual conflict of interest, a parent is not required to demonstrate prejudice caused by that representation and it must be presumed. Consequently, the only remedy is reversal and remand for a new termination hearing.”

Effective Assistance of Counsel

- A.P. v. Commonwealth, 270 S.W.3d 418 (Ky. App. 2008) – TPR reversed where Mother's counsel was not present for the first day of TPR trial and failed to cross-examine critical witnesses who testified on that date. Counsel also did not confer with Mother before consenting to the trial proceeding in his absence.

Pre-trial Disclosures Must Be Filed

- Commonwealth, Cabinet for Health and Family Services v. S.H., 476 S.W.3d 254 (Ky. 2015) – The Supreme Court upheld the Court of Appeals’ opinion reversing and remanding a TPR judgment where Cabinet failed to comply with FCRPP 7(1), which requires parties to provide a list of expected witnesses and exhibits in a permanent custody action. The Supreme Court held that FCRPP 7(1) applies to TPRs and that “a parent facing a termination hearing should be afforded every procedural protection the law allows.”

Procedural/Evidentiary Rules Apply

- Prater v. Cabinet for Human Resources, Commonwealth of Ky., 954 S.W.2d 954 (Ky. 1997) – The Supreme Court reversed TPR where the circuit court’s findings in support were based at least in part on impermissible hearsay. The Court noted that the business records exception for Cabinet records does not provide carte blanche admission of everything therein. “The factual observations of social workers recorded in CHR case records are admissible under the business records exception, because such observations would be admissible if the social worker testified in person; but the recorded opinions and conclusions of social workers are not admissible, because the persons offering those opinions are insufficiently qualified to render expert opinions.”

Procedural/Evidentiary Rules Apply

- Prater v. Cabinet for Human Resources, Commonwealth of Ky., 954 S.W.2d 954 (Ky. 1997) (Cont.) – The Court holds, “Hearsay statements made by children to social workers in the course of an abuse or neglect investigation, or otherwise, do not become admissible simply because they are memorialized in a CHR case record.” The Court follows by stating, “There is no recognized exception to the hearsay rule for social workers or the results of their investigations.”

Procedural/Evidentiary Rules Apply

- N.P. v. Commonwealth, 2002-CA-001781-MR, 2004 WL 68521 (Ky. App. Jan. 16, 2004) unpublished – The Court of Appeals reversed TPR where the circuit court relied on hearsay evidence of the Cabinet worker to establish that parent abused or neglected the child. The Court of Appeals also noted that the circuit court erred in taking judicial notice of a psychological evaluation of the father contained in a district court file because the hearsay statements and opinions contained therein were not “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”

KRS 625.080

Hearing for Involuntary TPR

- The court may allow parent visitation to continue pending the hearing if in the child's best interest
- Hearing to be held within sixty (60) days of a motion by party or the GAL

KRS 625.050(7)

Timeframe for Involuntary TPR

- Involuntary TRP petition must be fully adjudicated and final judgment entered within 6 months of service of the petition on the parents

KRS 625.090

Findings for Termination

Four requirements:

- One of four threshold requirements
- CHFS filed for TPR
- TPR in the child's best interest
- One of ten grounds for termination

KRS 625.090(1)(a)

Thresholds for Termination

Court must find **one** of the following **four** by “clear and convincing” evidence:

- Child has been adjudged to be an abused or neglected child, by any court
- Child is found to be abused or neglected in the TPR proceeding
- Child is found to have been diagnosed with neonatal abstinence syndrome at birth unless:
 - Mother was properly using prescribed medication, or
 - Mother is currently, or within 90 days of the child's birth, enrolled in and maintaining substantial compliance with both a substance abuse treatment and recovery program and a regimen of prenatal/postnatal care
- Parent has been convicted of a criminal charge relating to physical abuse or sexual abuse and the conduct is likely to occur if parental rights are not terminated

Intent

DNA Action vs. TPR Action

- Cabinet for Health & Family Services v. K.S., 585 S.W.3d 202 (Ky. 2019)
- Cabinet for Health & Family Services v. P.W., 582 S.W.3d 887 (Ky. 2019)
- Cabinet v. C.R. & C.B., 556 S.W.3d 568 (Ky. 2018): As stated in KRS 600.020(1)(a)(2), a court can find neglect if an individual "creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means." "The statute, as written, permits the court's finding where a *risk of abuse* exists and *does not require actual abuse* prior to the child's removal from the home or limitation on the contact with an abusive parent." Citing Z.T. v. M.T., 258 S.W.3d 31, 36 (Ky. App. 2008) (emphasis added).

Individualized Determinations are Required

- Cabinet for Health and Family Services v. K.H., 423 S.W.3d 204 (Ky. 2014) – “[KRS 625.090(6)] clearly mandates that the trial court must find that each parent satisfies the three prongs found in the TPR statute, including whether the child qualifies as an abused or neglected child.” Unless it is a situation in which the court can infer joint responsibility, an individualized determination that each parent abused or neglected the child is needed.

KRS 625.090(1)(b) & (c)

Other Required Findings for Termination

The court must find that:

- The Cabinet for Health and Family Services has filed a petition with the court pursuant to KRS 620.180

AND

- Termination would be in the best interest of the child

KRS 625.090(2)

Grounds for Termination

The court must find that 1 or more of the following 11 grounds exists:

- Abandonment for no less than 90 days
- Parent has inflicted/allowed non-accidental “serious physical injury”
- Parent has continuously/repeatedly inflicted/allowed non-accidental “physical injury or emotional harm”
- Parent convicted of felony involving serious physical injury toward any child

KRS 625.090(2)

Grounds for Termination (Cont.)

- Parent has failed to provide, or has been incapable of providing, “essential parental care” for 6 months; and there is no reasonable expectation of improvement
- Parent caused or allowed sexual abuse to occur
- For reasons other than poverty alone, parent has repeatedly failed to provide essential food, clothing, shelter, medical care, or education
- Involuntary TPR of another child and conditions or factors supporting the previous TPR have not been corrected

KRS 625.090(2)

Grounds for Termination (Cont.)

- Parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical abuse, sexual abuse, or neglect
- Child has been in foster care 15 out of 48 months preceding the filing of the petition for TPR
- Court or CHFS has removed the child from parents more than 2 times in a 24-month period

KRS 625.090(3)

Child's Best Interest in TPR

The court shall consider:

- Mental illness or intellectual disability of parent
- Acts of abuse or neglect toward any child in the family
- Whether reasonable efforts were made, unless not required
- Whether rehabilitation efforts of parent make it in the child's best interest to be returned to the home within reasonable time
- Physical, mental and emotional health of the child, AND
- Payment of substitute physical care and maintenance, or failure to pay if financially able to do so

Best Interest Requirement

- D.G.R. v. Commonwealth, Cabinet for Health and Family Services, 364 S.W.3d 106 (Ky. 2012) – “The trial court was presented with testimony from both sides. The Cabinet's witnesses were firmly set against reunification. But the parents' witnesses had experience with the family in more direct ways than the Cabinet witnesses did, and if believed, established that the parents were loving and had the potential to learn to care for their child. The parents' witnesses were not interested parties; they included school employees and mental health workers, all of whom had obligations to protect the child. The trial court chose to believe the parents' witnesses. Their testimony was relevant and substantive; it was sufficient to lead a reasonable person to find that the Cabinet had failed to show that termination was in the child's best interest. This Court cannot say that the trial court was clearly erroneous in choosing to believe the witnesses offered by the parents, nor that their testimony was insufficient to support the trial court's determination.”

Best Interest Requirement

- Cabinet for Health and Family Services v. T.N.S., 2016-CA-001765-ME, 2017 WL 3971614 (Ky. App. Sept. 8, 2017) unpublished – The Court of Appeals affirmed the family court’s denial of TPR. In finding that termination was not in the child’s best interest, the family court noted the child was not in a permanent foster placement and placed significant weight on Mother's testimony, her tangible improvements in the year leading up to trial, and her apparent desire to continue to improve her care of the children.

Best Interest Requirement

- Cabinet for Health and Family Services v. T.J., 2011-CA-001342-ME, 2012 WL 5077169 (Ky. App. Oct. 19, 2012) unpublished – “[T]he child's age and prospects for adoption are not, by themselves, factors which the trial court should consider in determining whether termination would be in the best interests of the child.”

Best Interest Requirement

- Commonwealth, Cabinet for Health and Family Services v. S.A.D., 2009-CA-000287-ME, 2009 WL 2837540 (Ky. App. Sept. 4, 2009) unpublished – The Court of Appeals affirmed the circuit court’s denial of TPR where the record sufficiently supported the decision. The parents were cooperating with parenting classes and treatment and continued to have at least some measure of a parental bond with their children. Additionally, one child indicated she did not wish to be adopted and the other was right on the cusp of emancipation.

Best Interest Requirement

- S.M. v. Cabinet for Health and Family Services, 2019-CA-000480-ME, 2020 WL 598346 (Ky. App. Feb. 7, 2020) unpublished – The Court of Appeals remanded for additional findings on the best interest prong of TPR. The Court noted that there was little evidence regarding the physical, emotional, or mental health of the child or the child’s prospects for improvement if TPR were granted. The extent of such evidence was CHFS worker’s hearsay statement that the child is doing well, goes to school daily, makes good grades, is happy, and calls foster mother “mom.”

Reasonable Efforts by Cabinet

- M.E.C. v. Commonwealth, Cabinet for Health and Family Services, 254 S.W.3d 846 (Ky. App. 2008) – “[W]e find that reasonable services to reunite the family were not provided to M.E.C. and her children. The goal from reunification to termination was changed after only eight months' time, of which M.E.C. was either incarcerated or hospitalized. The Cabinet never changed its plan for reunification to accommodate M.E.C. during this time. In addition, the Cabinet never provided any rationale for changing the goal.”

Reasonable Efforts by Cabinet

- H.M.R. v. Cabinet for Health and Family Services, 521 S.W.3d 221 (Ky. App. 2017) – The Court of Appeals reversed TPR where no individualized finding of abuse or neglect was made regarding Father and where the Cabinet failed to meaningfully attempt reunification. Prior to Court action, Father had regular contact with the child and provided support. Father participated in court action and requested custody. Despite requests, Father was never given a formal case plan.

KRS 625.090(4)

Evidence Refuting Termination

If the child is placed with CHFS, the parent may present testimony concerning reunification services offered and whether additional services would likely bring about lasting parental adjustment enabling a return of the child to the parent

KRS 625.090(5)

Permissive Defense to Termination

If the parent proves by a preponderance of evidence that the child will not continue to be abused or neglected if returned to the parent, the court may determine not to TPR

TPR is Discretionary

- D.G.R. v. Commonwealth, Cabinet for Health and Family Services, 364 S.W.3d 106 (Ky. 2012) – Even when a court finds clear and convincing grounds to terminate, “[a] court is never *required* to terminate under the statute as its authority to terminate is couched in the permissive ‘may’ rather than the mandatory ‘shall,’ KRS 625.090(1), and the trial court has substantial discretion in determining the best interests of the child under KRS 625.090(1)(b) and (3). Indeed, the bulk of the statute, reflects a default preference against termination, which is why it states that no termination of parental rights shall be ordered *unless* the court makes the statutory findings based on the higher standard of proof of clear and convincing evidence. The Constitution itself requires the state to meet this burden of proof before a parent's rights may be terminated because of the ‘fundamental liberty interest’ a parent has in the relationship with a child.”

TPR is Discretionary

- D.G.R. v. Commonwealth, Cabinet for Health and Family Services, 364 S.W.3d 106 (Ky. 2012) (Cont.) – “Termination proceedings are—and should be—weighted against the State. Thus, the default position in such a proceeding is that the child is to be left with the parents or returned to them, with or without ongoing services as needed. The State cannot disturb this natural order lightly. When there is substantial competent evidence that the trial court finds persuasive, as is the case here, an appellate court should not intercede.”

Incarcerated Parents

- M.P.R. v. Cabinet for Health & Family Services, 520 S.W.3d 409 (Ky. App. 2017) – “Certainly, *if* the court’s decision to terminate Father’s rights had been based *solely* on the fact that he was incarcerated, it would be in error. [...] That, however, is not what happened in the present case. Father testified to the fact that he had not attempted to contact, support, or visit with Child since the Cabinet was awarded temporary custody of Child. This was not solely due to Father’s incarceration.”

Incarcerated Parents

- R.T. v. Cabinet for Health & Family Services, 2013-CA-000751-ME, 2015 WL 1194399 (Ky. App. Mar. 13, 2015) unpublished – “Termination may well be in this child's best interest. However, the child's best interest is but one of three requisite factors under the law, and we must follow the law. Kentucky law clearly mandates that we cannot affirm the trial court's termination in the absence of substantial evidence supporting all statutory factors; and the law is equally clear that a parent's incarceration, by itself, cannot constitute substantial evidence supporting termination.”

Incarcerated Parents

- C.B.G. v. Cabinet for Health & Family Services, 2016-CA-001835-ME, 2018 WL 1980765 (Ky. App. April 27, 2018) unpublished – “Although incarceration alone is not a basis for termination [...], the court can certainly consider the lack of contact between the parent and child in assessing the likelihood of successful reintegration of the child into the family.”

Incarcerated Parents

- J.H. v. Cabinet for Human Resources, 704 S.W.2d 661 (Ky. App. 1985) – “[A]bsence, voluntary or court-imposed, may be a factor to consider in determining whether the children have been neglected[.]”

Incarcerated Parents

- E.A.C. v. Cabinet for Health & Family Services, 2012-CA-000865-ME, 2012 WL 5631711 (Ky. App. Nov. 16, 2012) unpublished – “We are not required to reverse on this basis, however, because Mother’s incarceration was not the sole basis of the order of termination. Rather, the family court considered Mother’s extensive criminal record and history of drug abuse, Mother’s past and persistent inability to parent her four older children, the length of Mother’s current incarceration, her continued need for treatment even after incarceration, and her inability to complete any tasks required by the Cabinet’s reunification case plan while she was not incarcerated. The family court’s findings do not constitute clear error on this basis.”

Incarcerated Parents

- M.L.C. v. Cabinet for Health & Family Services, 411 S.W.3d 761 (Ky. App. 2013) – The trial court failed to explain or cite to any specific evidence to support its decision. Therefore, it appeared that the trial court did rely solely on M.L.C.'s incarceration as grounds for termination.

KRS 625.090(6)

Findings and Conclusions

The court shall enter findings of fact, conclusions of law, a decision as to each parent-respondent within 30 days of either:

- Terminating the right of the parent; or
- Dismissing the petition and stating whether
 - The child should be returned to the parent, or
 - The child should remain in state custody

Relative Placement

- J.L.C. v. Cabinet for Health & Family Services, 539 S.W.3d 692 (Ky. App. 2018) – The Court of Appeals affirmed termination of parental rights and rejected appellant’s argument that the Cabinet violated KRS 620.090 & 922 KAR Sec. 1:140 by not placing children with a relative. The Cabinet is not mandated to choose relative placement over other placement options.
- P.W. v. Cabinet for Health & Family Services, 417 S.W.3d 758 (Ky. App. 2013) – There is no mandate to choose relatives over other options.

Relative Placement

- R.C.R. v. Cabinet for Human Resources, 988 S.W.2d 36 (Ky. App. 1998) – Once conditions of TPR are met, it is the duty of the Cabinet to act in the child’s best interest and placement with relative is only a consideration.
- M.S. v. Cabinet for Health & Family Services, 2018-CA-001563-ME, 2019 WL 4896437 (Ky. App. Oct. 4, 2019) unpublished – Recent opinion conforming to the holdings in P.W. and R.C.R.



Voluntary Termination of Parental Rights



KRS 625.040

Voluntary TPR Petitions

- A petition for the voluntary termination of parental rights shall be filed in the Circuit Court of the judicial circuit where the petitioner or child resides or in the Circuit Court in the county in which juvenile court actions, if any, concerning the child have commenced
- Voluntary TPRs can be filed by a parent or counsel for parent with appearance-waiver forms and consent-to-adopt forms per KRS 625.041(3) & (4)
- Voluntary TPRs cannot be filed until at least three (3) days after the child's birth

KRS 625.040(2)

Contents of Petition

ANY VOLUNTARY TPR PETITION MUST CONTAIN:

- Name & place of residence of petitioner
- Name, sex, date of birth, residence of the child
- Relationship of petitioner to the child
- Statement of factual basis for TPR
- Name of person/agency to which rights are sought to be transferred
- Statement that person who will have custody is willing and able to care for the child

KRS 625.041

Parties Involved

- Parent seeking termination
- Child, through the guardian *ad litem*
- Person/Agency that will be receiving the child following termination(?)
 - D.L.B. v. Cabinet for Health and Family Services, 418 S.W.3d 426 (Ky. App. 2014) – Voluntary consent to TPR was not valid because, in part, CHFS did not sign anything in the record to indicate that it would/could take custody.
- NOTE: A parent seeking voluntary TPR does not need to be present at hearing if he/she executed the appearance-waiver and consent-to-adopt forms prescribed by the Administrative Office of the Courts

KRS 625.0405

Appointment of Attorney for Indigent Parent

- Any parent desiring to voluntarily terminate his/her parental rights may request that the Court appoint an attorney to represent him/her, even “prior to” the filing of the petition
- The attorney shall be appointed within 48 hours of request
- The attorney shall receive a fee not to exceed \$500
 - The fee is paid by the Finance and Administration Cabinet if TPR is not granted or if the Cabinet takes post-TPR custody
 - Otherwise, the court may order fee to be paid by proposed adoptive parents, biological parents, or the agency

KRS 625.0407

Attorney Representation

- In a voluntary TPR, the attorney cannot represent **both** the biological and prospective adoptive parents
- Violation is a Class A misdemeanor

KRS 625.041

GAL to be Appointed

- The court shall appoint a guardian *ad litem* to represent the best interest of the child
- The GAL shall be paid a fee not to exceed \$500, which is paid by the petitioner unless CHFS receives custody of the child, in which case the Finance and Administration Cabinet shall pay

KRS 625.042

Hearing

- Within 3 days of the filing of the voluntary TPR petition, the court shall set a date for the final hearing. The date shall not be more than 30 calendar days after the petition is filed.
- All hearings shall be confidential
- The best interest of the child shall be paramount in deciding whether TPR is granted
- The judgment must be entered within 6 months of filing the petition

KRS 625.044

Inheritance

- Following a voluntary TPR, the child retains the right to inherit from his parent until, and unless, the child is subsequently adopted
- The same applies if there is an involuntary TPR (*See* KRS 625.104)

KRS 625.046

Effect of Termination Order

Any order for voluntary TPR shall be conclusive and binding on all parties

EARLY CHILDHOOD

GROWTH AND DEVELOPMENT





Early Childhood Growth and Development

Basic Needs

- All children, whether delayed or typical, have many psychological and physical needs.
- These needs must be met if children are to survive, thrive, and develop to their potential.
- Birth to 5 yrs of age is the most critical of any developmental periods across the lifespan.
- The areas of development and developmental needs are interrelated and interdependent.
- Ultimately, if these needs are not being met there will be an impact on the overall development of the individual.

Basic Physical and Psychological Needs

- ▶ Shelter – Protection from harm and safety
- ▶ Food – Both nutritious and appropriate to the age of the child
- ▶ Warmth and adequate clothing
- ▶ Rest AND Activity, in a balance
- ▶ Preventative Health and Dental Care – Treatment of illness, cleanliness
- ▶ Affection and consistency
 - ▶ Nurturing parents and caregivers who can be depended upon to be there
- ▶ Security and trust
 - ▶ Familiar surroundings with parents and caregivers who respond reliably, predictably, and appropriately to the needs of the infant/child
- ▶ Appropriate adult expectations as to what the child can and cannot do at each level of development



Two Additional Needs



Need to Learn

- ▶ Freedom to explore and experiment with limits clearly stated and consistently maintained.
- ▶ Access to developmentally appropriate experiences and play materials.
- ▶ Errors, mistakes, and failures are treated as important steps in the learning process.
- ▶ Adults who demonstrate in everyday life the appropriate behaviors expected of the child, be it language, social interactions or ways of handling stress. Modeling is KEY!

Need for Respect

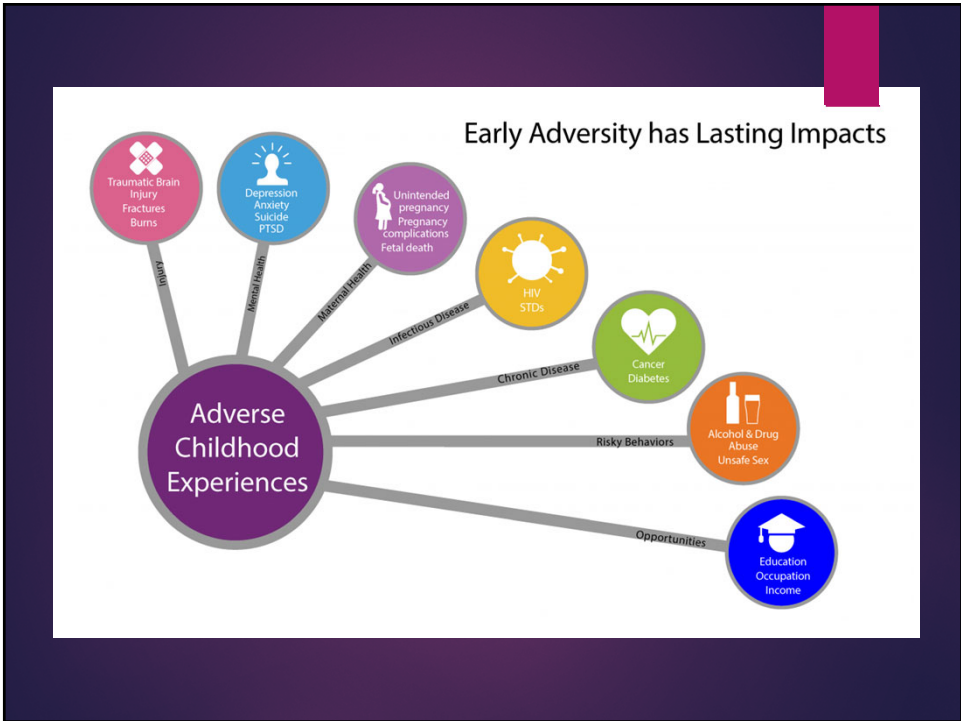
- ▶ A respectful and helpful environment in which the child's efforts (not just successes) are encouraged, approved, and aided.
- ▶ Appreciation of the child's efforts and praise for their accomplishments, small and large.
- ▶ Recognition of accomplishment is the major and essential component of child's self-esteem.
- ▶ Sincere attention to what the child is doing well, helping the child learn to respect their own accomplishments through descriptive praise.
- ▶ Awareness of tremendous effort and concentration that goes into acquiring developmental skills.

Factors that affect optimal Early Childhood Development

- Not meeting basic needs
- Difficult or lack of attachment to caregivers
- Abuse and Neglect
- Nutrition
- Lack of stimulation in the Environment
- Physical Impairments or Disabilities
- Birth trauma or early childhood trauma
- Home environmental stressors
- Emotional stress from the caregiver
- History of multiple caregivers



Brain Development and ACE's



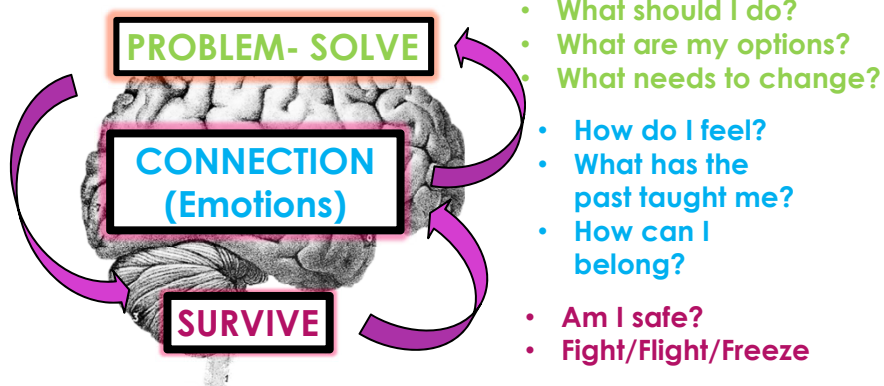
Protective Factors can help decrease effects of ACE's



KENTUCKY STRENGTHENING FAMILIESSM

- Parental Resilience
- Social Connections
- Knowledge of Child Development
- Concrete Supports in Times of Need
- Social Emotional Competence of Children
- Nurturing and Attachment

Early Childhood Brain Development: Upstairs Thinking is Connecting to Downstairs



Modified from Bailey, B. (2015). Conscious Discipline Website: <https://consciousdiscipline.com/bookstudy/chapter-2.asp>; Picture labeled for reuse: https://commons.wikimedia.org/wiki/File:P3M_V46_D167_Outer_surface_of_the_human_brain.jpg

Brain Development—How you can help your child learn and grow.

Frontal Lobe—Concrete Thinking (3 to 12 years)

Have me sort and categorize objects.
Encourage problem-solving. Let me be frustrated sometimes as I figure something out.
Help me notice patterns. ("When you do X, this always happens." "After we do Y, we always...")

Parietal Lobe—Language (Birth to 6 years)

Talk to me, sing to me, read to me.
Listen to me and respond.
Read the same stories or sing the same songs over and over so I learn to memorize.

Parietal Lobe—Touch (Birth to 6 years)

Touch me—hug me, hold my hand, massage me.
Give me lots of objects to manipulate.
Let me explore the world hands-on—pulling, pushing, pouring, picking up, dropping, turning, twisting, opening, and closing.

Prefrontal Cortex—Judgment (12–22 years)

Give me choices (when I'm calm... I can't make choices when I'm stressed or upset).
Talk to me about plans.
Help me break down big tasks into little steps.

Thought, memory and behaviour

Hearing, learning and emotions

Temporal Lobe (Birth to 6 years) and Limbic System (8 months to 2 years)

Respond in consistent ways.
Show me unconditional love.
Experience joy with me.
Talk to me about my emotions. Give me the vocabulary to understand how I feel.

Language and touch

Visual processing

Balance and coordination

Breathing, heart rate and temperature

Brain Stem (Birth)

Help me feel emotionally and physically safe.
If I am frightened or stressed, my brain goes into survival mode (brain stem function), and the rest of my brain can't grow and develop. When I feel safe, I can learn.

Occipital Lobe (Birth to 2 years)

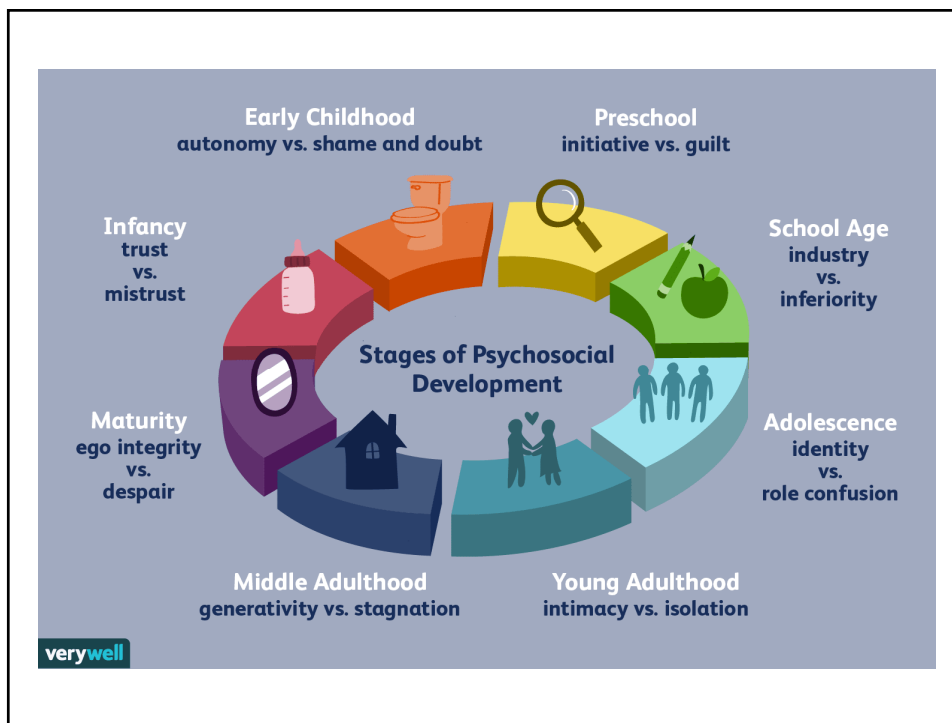
Surround me with interesting things to look at.
Play games where I follow things with my eyes.
Make sure I have plenty of outdoor time to develop distance vision.

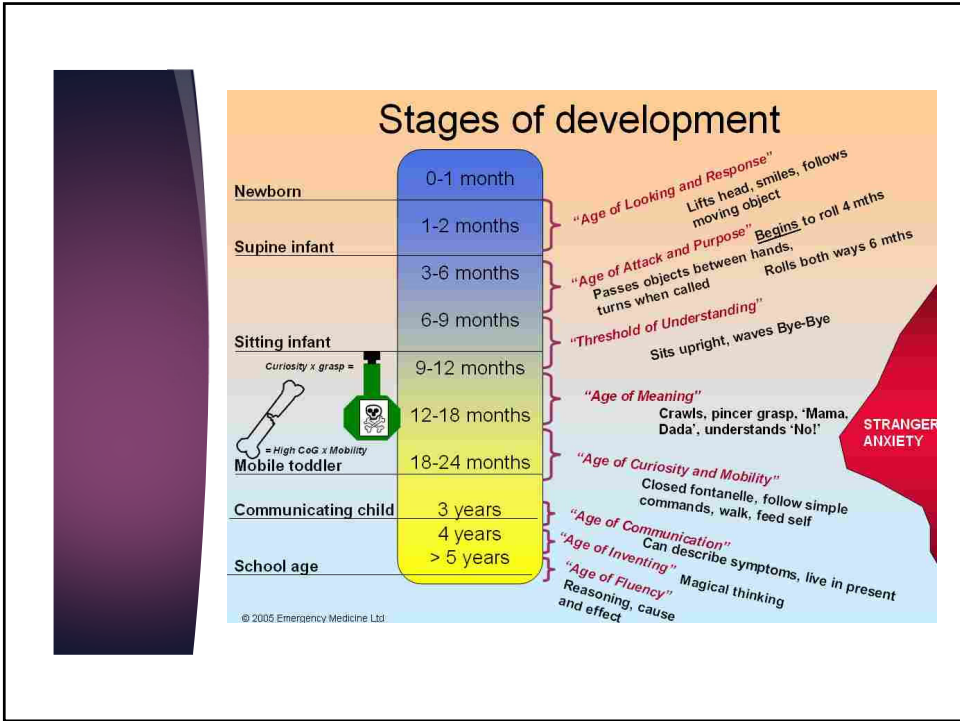
Cerebellum (Birth to 1 year)

Let me move—a LOT.
Take me to playgrounds and swimming pools.
Dance with me. Let me wiggle, roll, and jump.
Let me take some "risks" while I learn to move.

Note: Timeframe given is the "sensitive period" when that part of the brain is growing and developing the most. The brain grows and changes throughout our lifetimes.

Illustration: Macmillan Cancer Support 2012





Four Main Categories of Infant Development

- ▶ **Social:** How your baby interacts with the human face and voice. Examples include learning to smile and coo. A social delay may indicate a problem with vision or hearing or with emotional or intellectual development.
- ▶ **Language:** Receptive language development (how well baby actually understands) is a better gauge of progress than expressive language development (how well baby actually speaks). Slow language development can indicate a vision or hearing problem and should be evaluated.
- ▶ **Large motor development:** Holding their head up, sitting, pulling up, rolling over, and walking are examples of large motor development. Very slow starters should be evaluated to be certain there are no physical or health risks for normal development.
- ▶ **Small motor development:** Eye-hand coordination, reaching or grasping, and manipulating objects are examples of small motor development. Early accomplishments may predict a person will be good with their hands, but delays do not necessarily mean they are going to be all "thumbs" later.

<https://americanpregnancy.org/first-year-of-life/first-year-development/>

What Infants Can Do



Birth to 6 weeks

Recognize and turn to mother/father's voice

Focus attention on high contrast objects at about a distance of 8-12"

Imitate facial expressions

Begin to develop trust of others that their needs will be met

Track a person with their eyes



6 to 14 weeks

Listen and turn in the direction of sounds

Take turns making sounds/facial expressions with caregivers

Smile deliberately

Gain better control of head and body, and overcome some reflexes

Lift head when lying on the stomach and move from side to side

Bring both hands together and use to bat, grasp, and hold



14 to 24 weeks

Respond to familiar faces or attention by smiling, vocalizing, moving, laughing, or giggling

Anticipate comfort and stop crying when approached

Turn body to either side

Lift head and chest using arms for support

Turn over from stomach to back and then back to stomach

Reach for, grasp, and mouth toys

6 to 9 months

- ▶ Understand a few words that are used often such as mommy, daddy, baby, and bye-bye
- ▶ Vocalize simple syllables such as ba, pa, da, ma, na, and repeat
- ▶ Experiment with the effects of throwing, dropping, and banging objects
- ▶ Interaction and simple games
- ▶ Begin to show signs of separation anxiety from parent
- ▶ Sit without support or assistance
- ▶ Crawl, pull up, roll over both directions, and stand holding on to something
- ▶ Transfer objects from hand to hand across the midline of the body



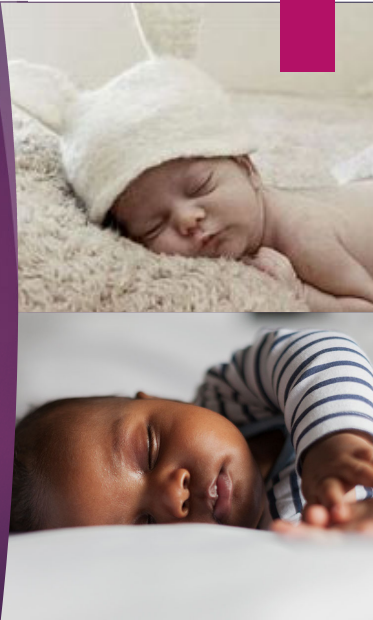
9 to 12 months

- ▶ Look at books and point to familiar named objects
- ▶ Jabber expressively, sound like making words, and vocalize to music
- ▶ Experiment with objects to find meaning, examine for detail, explore the environment, and curious
- ▶ Remember the location of a toy or object
- ▶ Place a round shape in shape sorter
- ▶ Turn pages of a stiff book
- ▶ Prefer parent or caregiver over all others and initiate action with those people when desired
- ▶ Demonstrate affection and annoyance
- ▶ Understand the meaning of "no" but not always follow it
- ▶ Finger feed themselves, use pincer grasp
- ▶ Crawl on hands and knees (or some version of crawling)
- ▶ Pull to stand and cruise around while holding on, will walk with assistance, then alone between 9 and 15 months
- ▶ Build a tower with two or three blocks



Sleep in the First Year

- ▶ Infants should sleep 17-18 hours per 24 hour day in the first 3 months. This decreases to 14-15 hours per day between 3 and 6 months and to around 13 hours by one year.
- ▶ The first few weeks of sleep are often very disorganized and have no predictable pattern.
- ▶ Towards the end of the first 14 weeks of life babies often start to regulate a sleep/wake cycle and be awake more in the day and less at night.
- ▶ "Sleeping through the night" constitutes a 5-6 hour period with no waking. Not necessarily the whole time the caregiver is sleeping.
- ▶ Between 3 and 6 months is a good time to begin establishing a good sleep routine. Most babies in this age range start to solidify naps each day with a longer night time sleep pattern.
- ▶ Some babies need very predictable sleep routines while others are more flexible. Pay attention to the baby and to comments made by caregivers regarding sleep.



Red Flags in Infancy

If by 3 months - Does not respond to loud sounds, smile, track objects with eyes, support head well, grasp objects, blink at bright lights, sucks poorly, or has floppy or stiff limbs

If by 4 months - Does not babble, reach for objects, mouth objects, or imitate sounds

If by 6 months - Does not have head control in sitting position, show affect to caregivers, turn head to locate sounds, roll over in at least one direction, or sit with help

If by 9 months - Does not actively reach for objects, bear weight on legs, babble, show interest in social games, crawl, search for objects that are hidden, or make eye contact

If by 12 months - Does not show pleasure in seeing familiar people or anxiety when separated from them, sit without support and move around in some way, show interest in new objects, or increase the complexity of babbling to make word sounds or syllables

Important Things to Remember About Infants



- ▶ Babies can communicate with their caregivers even from birth in many ways.
- ▶ Newborns do not realize they are separate from their caregivers and sometimes can experience emotions and neglect with body memory and as a personal rejection.
- ▶ In the first 8 weeks of life, infants have almost no control over their movements and most of their physical activity is reflex or involuntary.
- ▶ Babies become significantly more mobile between 6 and 9 months and the house and other areas should be carefully monitored for safety.
- ▶ Stranger anxiety is a big part of this stage, don't push too much. Set a good separation and reunion routine to decrease separation anxiety.



Toddler Development

One-Year-Olds

- ▶ Understand many words, follow simple directions, say simple words, and begin to use two-word sentences, like "drink juice" or "play ball," by age 2
- ▶ Look at books, recognize pictures, and enjoy repetitive songs or stories
- ▶ Point to some body parts
- ▶ Use trial and error to figure out simple problems such as how to use a shape sorter
- ▶ Become more interested in exploring the environment
- ▶ Have frequent temper tantrums
- ▶ Imitate adult behavior/actions
- ▶ Interested in other children
- ▶ Refuse to eat, give up bottle, or drink from a cup
- ▶ Kick, aim, throw, roll a ball
- ▶ Climb, run
- ▶ Take things apart
- ▶ Walk up stairs holding onto railing
- ▶ Scribble with fist grasp of crayons



Two-Year-Olds



- ▶ Catch a large ball, jump with both feet off the floor, increased coordination for walking and running
- ▶ Work basic puzzles with inset pieces
- ▶ Draw a straight line, copy a circle, use scissors with monitoring, and string and lace objects (fine motor skills improve)
- ▶ Understand actions and events in a simple storybook or in real life, begin to understand the sequence of events
- ▶ Listen closely to conversations (so be careful what you say)
- ▶ Answer and ask simple questions
- ▶ Understand some directions such as over/under and begin to use past tense and plural
- ▶ Imagination grows, creative story telling increases
- ▶ Match and group objects that are alike and notice differences in size, color, and shape
- ▶ Begin to show big feelings but not always in appropriate ways and have challenging behaviors such as whining, aggression, and insisting on doing things their own way
- ▶ Become fearful of loud noises, strange animals, and unfamiliar surroundings
- ▶ Value their own property and use "mine" often, even if it is not
- ▶ Enjoy playing with other children and initiate some activities
- ▶ Desire routine and structure, may get upset when it changes
- ▶ Begin to use a potty chair or toilet, though many are not successful until closer to 3
- ▶ Begin to attend to other personal needs such as teeth brushing and hand washing
- ▶ Compete for attention and respond to approval

Toddlers and Sleep

- ▶ Toddlers continue to need about 13-14 cumulative hours of sleep per 24-hour period – this is naps plus time spent sleeping at night.
- ▶ Toddlers usually sleep longer hours at night and naps may start to taper off. They typically give up a morning nap and just have one nap per day in the afternoon.
- ▶ Some toddlers will start to struggle with taking naps at all and will try to give them up completely. As toddlers head towards their 3rd birthday, if they are getting 13 hours of sleep at night, they may not need naps as much. However, if they are not, behaviors may start to develop for kids who are sleep deprived.
- ▶ For sleep safety, many families choose to switch from a crib to a toddler bed at this time, and this will often temporarily disrupt previously established sleep routines.



Red Flags for Toddlers

By 18 months – Does not walk steadily or at all, does not speak at least 15 words, does not listen or respond when others are talking to them, or is not able to point to objects when they are named

By 2 years old – Does not use two-word sentences, does not seem to know the function of typical household items (phone, toothbrush), does not imitate actions or words, or uses signs and grunts to get what they want

By 2.5 years old – Has frequent and inconsolable tantrums for longer than 15 minutes, does not start to show interest in other children or is mostly "in their own world", can not run smoothly, limps, struggles to climb stairs, or does not manage to feed themselves most of the time

By 3 years old – Does not play imagination games, is far more or less active than other children their age, is not using words to let others know what they want, or is not talking clear enough that strangers can understand them most of the time

Important Things to Remember About Toddlers



- ▶ Discipline is a big issue during this time. Setting firm but kind limits that are consistent is key. Expect lots of mistakes and be patient with learning.
- ▶ Fears and nightmares can surface at this age, even seemingly out of the blue.
- ▶ Praise for efforts, and not just success, is important to self-esteem development and ability to make effort in the long run.
- ▶ Make sure they are ready to toilet train by looking for signs of readiness.
- ▶ Temper tantrums are very common -- 25% of two-year-olds have daily tantrums -- they are learning.
- ▶ They do mostly parallel play with others at this age but may begin to develop play with other children for short times. There are lots of conflicts with social connections.
- ▶ They can name most things and start to say lots of sentences -- language development takes off at this time.



Preschool Development

Three-Year-Olds

Social-Emotional Development –

- ▶ May look on from the sidelines or engage in parallel play with peers until becoming more familiar with children, but play becomes more connected at this age; imitate adults and playmates
- ▶ Difficulty taking turns and sharing, need help to problem solve
- ▶ Can follow simple requests and one-step directions
- ▶ May wander off at times, likes to be treated like a "big kid" but still needs supervision
- ▶ Expresses intense feelings or have a silly sense of humor
- ▶ Understand the concept of mine and yours, versus just "mine" of a two-year-old
- ▶ Routines are very important and changes are often objected to
- ▶ Should be able to separate easily from parent but some resurgence of separation anxiety may occur

Cognitive Development –

- Makes mechanical toys work, takes things apart
- Matches an object in his or her hand or room to a picture in a book, sorts objects by shape and color
- Plays make-believe with dolls, animals, and people
- Can often memorize words to songs

Language Development –

- Uses simple sentences of 3-4 words, has difficulty taking turns in conversations, changes topics quickly, can have difficulty with pronunciation
- Likes finger plays and rhymes, can learn songs with repetition
- Asks many who, what, when, where, why questions
- Can tell a story but often has difficulty with sequencing

Motor Development –

- Walks without watching feet, climbs stairs with alternating feet, jumps off low objects, kicks a ball, bends over without falling down
- Plays actively and needs rest – can be cranky if overtired
- Can fatigue easily if hand coordination is expected; makes up and down, side to side, and circle lines; holds crayons and markers with finger rather than fist
- Can undress without help but needs help dressing

Social-Emotional Development –

- Argumentative, commanding to peers, and may cooperate and play in give and take fashion - likes to play caregiver roles
- More Independent
- Fears and imagines unfamiliar objects as "monsters" and may struggle to tell difference between fantasy and reality
- Aggression may develop, difficulty sharing and taking turns at times
- May know self-regulation is expected but still have a hard time doing that without assistance

Language Development –

- Expands vocabulary, uses 5-6 word sentences, memorizes rhymes and finger plays
- Likes to tell stories and family experiences but may be shy in front of groups
- Can control volume of voice for a period of time if reminded
- Speaks clearly so strangers can understand

Cognitive Development –


- Recalls parts of a story and may not get things in the right order
- Begins to represent objects in art with more accuracy and correctly names some colors
- Understands the concept of counting and may know a few numbers
- Begins to have a clearer sense of time
- Engages in fantasy play and uses lots of imagination, imaginary friends may develop

Motor Development –

- Continues increase in coordination – can walk heel to toe, climb easily, and jump rope
- Shows awareness of own limits and consequences of unsafe play but still needs supervision to cross streets and protection in many activities
- Has increased endurance and higher periods of energy
- Can throw a ball overhand and catch a bounced ball most of the time
- Builds complex Block Structures, plays with toys that have small parts
- Can copy capital letters and draw a circle, a square, and a person with at least four parts

Four Year Olds

Five-Year-Olds



Cognitive Development –

- Can count 10 or more objects
- Correctly names at least five colors
- Knows name, address, and phone number
- Knows the uses for everyday objects used around the house

Language Development –

- Takes turns in conversation with less frequent interruptions
- May begin to copy the phrases from TV shows or commercials
- Begins to use non-verbal gestures and facial gestures to communicate

Motor Development –

- Walks backward quickly, skips and runs with agility and speed, balance increases, begins swimming and bike riding, can jump over objects, swing, and climb
- Hits nails with hammer, hand-eye coordination and fine motor skills improve
- Easily completes puzzles with 10-15 pieces
- Can zip coats, button well, and tie shoes with adult coaching
- Has basic grasp of right and left
- Uses fork, spoon, and knife

Social-Emotional Development –

- ▶ Accepts limits and can follow some rules/requests but may lie rather than admit to having broken a rule
- ▶ May show off or become unpredictably shy with new people
- ▶ Enjoys dramatic play with other children, pretend play increases, cooperates well and forms small groups but may exclude peers
- ▶ Less physical aggression but more verbal threats at times
- ▶ More independent, can do lots of things on their own
- ▶ Aware of gender
- ▶ Can distinguish between reality and fantasy

Preschoolers and Sleep



- ▶ Three-year-olds may decrease sleep to 12 hours per day and then to 11 hours by age 6.
- ▶ Many preschool children do not get adequate sleep and are tired and sleepy during their day. Afternoon naps may still be needed to get enough sleep in the day. Naps are often given up by Kindergarten, and most children are capable of making it through a school day without one by age 5.
- ▶ When children are not getting enough or restful sleep they may show signs of behavior disruption or other social and emotional concerns.
- ▶ Bedtime routines and protecting bedtime are very important for preschoolers in order to get a child the sleep they need to grow, learn, and develop fully.

Red Flags for Preschoolers

By 4 Years Old – Can not throw a ball overhand, jump in place, grasp a crayon between thumb and fingers, stack blocks, separate from parents, or use sentences of more than three words. Ignores other children or does not engage in interactive play. Resists dressing or using bathroom. Not dry during the day.

By 5 or 6 Years Old – Exhibits extremely fearful, timid, or aggressive behavior. Easily distracted and unable to concentrate on an activity for more than 5 minutes. Does not respond to people when spoken to, use fantasy play, or make eye contact. Unhappy or sad most of the time, engages in limited activities. Extreme sensitivity to touch, texture, loud noises, clothing, or food. Harm to self or others.

Important Things to Remember about Preschoolers

- ▶ Preschoolers usually enjoy playing with other children and will start to play together rather than parallel with peers.
- ▶ Preschoolers start to take responsibility for their own toileting but still may have accidents during the day until age 4 and be wet at night into early elementary. It is absolutely not unusual for night wetting to continue to occur to age 7 or 8.
- ▶ Preschoolers often are more independent and more opinionated than they were at 2 years old, and sometimes conflicts can occur between parents and children during this age range.





Thank you!

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