

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Chapter 6: Court	Effective Date: July 1, 2021
	Section 12: Involuntary Termination of Parental Rights (TPR)	Version: 11

POLICY OVERVIEW

Every child has the right to appropriate care and a permanent home. The ultimate goal in permanency is to provide a safe and nurturing home, and for a child to develop and sustain meaningful relationships. Involuntary Termination of Parental Rights (TPR) ends the legal parent- child relationship. Involuntary TPR is filed when it is determined to be in the child’s best interest and will help the child attain permanency or when such filing is statutorily mandated.

PROCEDURE

DCS will petition the court for Involuntary TPR when one (1) of the following occurs:

1. The child has been removed from the home 15 of the most recent 22 months;

Note: The 15 months do not have to be continuous. DCS will not count Trial Home Visits (THV) or runaway episodes when calculating the 15 months.

2. The parent, guardian, or custodian has not made significant progress toward reunification within six (6) months of removal under the Dispositional Decree; or

Note: This includes a lack of progress when reasonable accommodations have been implemented to address a parent, guardian, or custodian’s disability.

3. The court in a Child in Need of Services (CHINS) case has entered a finding that reasonable efforts for family preservation or reunification are not required.

The petition for Involuntary TPR provides an outline of the circumstances that caused the petition to be filed. In the petition and during the TPR Fact-Finding, DCS will show the following:

1. The reasons why the child’s continued removal or out-of-home placement will not be remedied, or the continuation of the parent-child relationship poses a threat to the well-being of the child;
2. TPR is in the best interest of the child; and
3. There is a plan for the future care and treatment of the child.

The court is required to commence the TPR hearing not more than 90 days after such a petition is filed and complete the hearing not more than 180 days after such petition is filed. If the court denies the petition for TPR, reasonable efforts for reunification and preservation must resume.

If there are compelling reasons for not filing for TPR, DCS will also file to dismiss the TPR petition. If the Permanency Plan is adoption, DCS will have legal staffing every 3 months after the filing to dismiss to determine the appropriateness of refiling the TPR petition. A petition must be filed but may be dismissed on motion of DCS for one (1) of the following reasons:

1. The child is being cared for by a parent or specified relative (e.g., stepparent, grandparent, aunt, uncle, adult sibling, or relative guardian);
2. DCS has documented in the Case Plan/Prevention Plan another compelling reason for determining that terminating the parent-child relationship would not be in the best interests of the child;
3. DCS has not provided the services to the family deemed necessary for the safe return of the child to the child's home within the time period stated in the Case Plan/Prevention Plan;
4. DCS has not provided the services as stated in the Case Plan/Prevention Plan and the time for providing those services under the currently applicable Case Plan/Prevention Plan has not expired; or

Note: The clock will not start over once the 15 of 22 months has been met. Once the DCS obligation to file the TPR has been met and the dismissal has been granted, DCS will file a new TPR when the reason for dismissal no longer applies.

5. The child does not currently have a permanency plan of adoption.

DCS will consult with the child's Probation Officer (PO) in all Juvenile Delinquency/Juvenile Status (JD/JS) cases and:

1. Consider the recommendations of the PO regarding TPR, and
2. Follow local inter-agency agreements regarding procedure.

The Family Case Manager (FCM) will:

1. Seek counsel from the FCM Supervisor and the DCS Staff Attorney regarding the decision to file and prepare for TPR;
2. Request input regarding the decision to seek TPR from the Child and Family Team (CFT) and the child's Court Appointed Special Advocate (CASA) or Guardian ad Litem (GAL), if the CASA/GAL is not a member of the CFT;
3. Ensure a diligent search for any missing parent was conducted prior to the filing of the TPR petition and that an Affidavit of Diligent Inquiry (ADI) is completed, if appropriate, and provided to the DCS Staff Attorney (see policy 5.06 Locating Absent Parents);
4. Continue to recruit and/or identify a qualified prospective adoptive family for the child, including relatives who may be willing to adopt;
5. Check the status of any pending paternity cases (see policy 5.05 Genetic Testing for Alleged Fathers);
6. Once a prospective adoptive family has been identified and the TPR petition has been filed, submit a completed Indiana Adoption Program Application Title IV-E Adoption Assistance Program (AAP) or State Adoption Subsidy (SAS) and supporting documentation for an adoption subsidy eligibility determination to the DCS Central Eligibility Unit (CEU) (see policy 10.15 Eligibility Requirements for Adoption Assistance);
7. Ask the parent, guardian, or custodian if there is a need for a reasonable accommodation due to a disability;
8. Ensure the parent, guardian, or custodian is provided with notice of the TPR Hearing (see policy 6.04 Providing Notice);
9. Staff with the DCS Staff Attorney and coordinate witnesses for the TPR Hearing; and
10. Attend the TPR Hearing.

If TPR is **not granted**, the FCM will:

1. Enter the hearing date and date of the decision in the case management system;

2. Consult with the CFT to determine the most appropriate Permanency Plan and second Permanency Plan, if engaging in Concurrent Planning (see policy 5.15 Concurrent Planning), and update the plan as appropriate;
11. Continue to manage the CHINS case and ensure services are referred for the parent, guardian, or custodian in accordance with the Dispositional Decree or any modifications thereof, and ask the parent, guardian, or custodian if there is a need for a reasonable accommodation due to a disability; and
3. Consult with the DCS Staff Attorney on next steps and document in the case management system.

If TPR is **granted**, the FCM will:

1. Enter the hearing date and date of the decision in the case management system;
2. Complete the Indiana Adoption Medical History Registry;
3. Ensure that any adoption petition, notice that an adoption has been filed, or adoption decree is provided to the DCS Staff Attorney upon receipt;
4. Update the reason for lack of parental support and care in the case management system to reflect that the parental rights have been terminated; and
5. Set up a final visit between the child and the parents, if determined to be in the child's best interest (see policy 10.02 Assessing the Child's Readiness for Adoption). If the child is participating in therapy, attempt to arrange the visit so the therapist may be present.

The FCM Supervisor will:

1. Assist the FCM in the decision to pursue the TPR; and
2. Ensure information in the case management system is updated in a timely manner.

The DCS Staff Attorney will:

1. Staff with the FCM to determine whether to file TPR;
2. Prepare and file a petition for TPR (if determined to be appropriate), including the child's court approved Permanency Plan;
3. Provide proper notice/service regarding the TPR filing and hearing;
4. Contact the FCM to establish communication and coordinate planning for the TPR hearing;
5. Prepare witnesses to testify, if appropriate;
6. Represent DCS at the TPR hearing;
7. Communicate with the FCM and FCM Supervisor regarding the outcome of the TPR hearing and next steps;
8. Meet with the FCM, FCM Supervisor, LOD, as appropriate, to determine next steps if or when DCS receives notice of an adoption petition being filed; and
9. Meet with the FCM and FCM Supervisor to discuss challenging an adoption decree if DCS did not receive notice of an adoption before the adoption was granted.

Note: Any challenge to an adoption decree in a case where DCS did not have notice of the adoption must be filed within 45 days of the date the decree was issued.

The DCS Local Office Director (LOD) or LOD's designee will:

1. Sign the Consent to Adoption for cases where a prospective adoptive parent has been identified and approved to adopt a child in DCS care, and:
 - a. The period of appeal for the TPR has passed, or
 - b. Any final appellate opinion related to the TPR has been certified and the period for appeal has passed on any issues remanded to the juvenile court, or

- c. Adoption consents have been signed by all parties with a legal or potential legal claim to the child; and
 - d. The negotiations for Adoption Subsidy have been negotiated and finalized and the Title IV-E Adoption Assistance Program (AAP) agreement or State Adoption Assistance (SAS) agreement has been signed by all parties.
2. Notify, via email, the DCS Staff Attorney assigned to the adoption case that the Consent to Adoption form has been signed.

LEGAL REFERENCES

- [IC 31-10-2-3: Rights of persons with a disability](#)
- [IC 31-17-2-8.1: "Disability"; custody](#)
- [IC 31-19-9-1: Consents required](#)
- [IC 31-34-6-2: Placement with relative or de facto custodian; evaluation; background checks](#)
- [IC 31-34-21-5.6: Exceptions to requirement to make reasonable efforts to preserve and reunify families](#)
- [IC 31-35-2: Termination of Parent-Child Relationship Involving a Delinquent Child or a Child in Need of Services](#)
- [IC 31-35-3: Termination of Parent-Child Relationship with Individual Convicted of Criminal Offense](#)
- [IC 31-35-3.5: Termination of Parent-Child Relationship of an Individual Who Committed an Act of Rape](#)
- [42 USC 12102: Definition of disability](#)
- [45 CFR 1356.21\(i\): Foster care maintenance payments program implementation requirements: Application of the requirements for filing a petition to terminate parental rights](#)

RELEVANT INFORMATION

Definitions

N/A

Forms and Tools

- Case Plan/Prevention Plan (SF 2956)- available in case management system
- [Consent to Adoption \(SF 12582\)](#)
- [Indiana Adoption Medical History Registry \(SF 13342\)](#)
- [Indiana Adoption Program Application Title IV-E Adoption Assistance Program \(AAP\) or State Adoption Subsidy \(SAS\) \(SF 54351\)](#)

Related Policies

- [5.05 Genetic Testing for Alleged Fathers](#)
- [5.06 Locating Absent Parents](#)
- [5.15 Concurrent Planning](#)
- [6.04 Providing Notice](#)
- [10.02 Assessing the Child's Readiness for Adoption](#)
- [10.15 Eligibility Requirements for Adoption Assistance](#)