

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 6:</b> Court Involvement	<b>Effective Date:</b> July 1, 2009
	<b>Section 12:</b> Involuntary Termination of Parental Rights (TPR)	<b>Version:</b> 3

## POLICY

The Indiana Department of Child Services (DCS) will petition the court for Involuntary Termination of Parental Rights (TPR) when one (1) of the following occurs:

1. The court in a CHINS case has entered a finding that reasonable efforts for family preservation or reunification are not required;
2. The child has been removed from the parent for at least six (6) months under a Dispositional Decree;
3. **[REVISED]** A child has been removed from the home as a result of the child being an alleged CHINS no less than 15 of the most recent 22 months;

**Note:** The 15 months do not have to be continuous. DCS will not count trial home visits or runaway episodes when calculating the 15 months.

4. **[REVISED]** A Juvenile Delinquent/Juvenile Status Offender(JD/JS) child is IV-E eligible and was removed from the home not less than 15 of the most recent 22 months, unless the compelling reasons for not filing for TPR are documented in the Case File;

**Note:** DCS will consult with the child's probation officer in all JD/JS cases and:

- a. Follow the recommendations of probation regarding TPR, and
- b. Follow local inter-agency agreements regarding procedure.

5. The child has been in an ICPC placement for twelve (12) months or longer; or
6. The child is five (5) years old or younger and has been out of the home for ten (10) months or more.

In a Termination of Parental Rights (TPR) Fact-Finding, DCS must show:

1. The reasons for the child's 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. Termination of Parental Rights is in the best interest of the child; and
3. There is a plan for the future care and treatment of the child.

### Code References

1. [42 U.S.C. 675\(5\)\(E\): Title IV-E Case Review System](#)
2. [45 CFR 1356.21 \(h\) \(4\)\(i\): Application of the Requirements for Filing a Petition](#)
3. [IC 31-34-21-5.6: No reasonable efforts](#)
4. [IC 31-35-2: Termination of Parent-Child Relationship Involving a Delinquent Child or a CHINS](#)

## PROCEDURE

The Family Case Manager (FCM) will:

1. Assure that a diligent search for any missing parent was conducted prior to the filing of the TPR petition. See separate policy, [5.6 Locating Absent Parents](#);
2. Begin to identify, recruit, process, and approve a qualified adoptive family for the child;
3. Seek counsel from his/her supervisor and the DCS Local Office Attorney regarding the decision to file for TPR;
4. Check the status of any pending paternity cases. See separate policy, [5.5 Alleged Fathers](#).
5. Request input regarding the decision to seek TPR from the Child and Family Team (CFT);
6. Request input from the child's Guardian Ad Litem (GAL) or Court Appointed Special Advocate (CASA);
7. Notify all appropriate persons of the TPR Hearing;
8. Assure the parent/guardian/custodian is provided with the [Advisement of Rights](#) prior to the hearing. See separate policy, [6.4 Providing Notice](#);
9. Coordinate witnesses for the TPR Hearing with the DCS Local Office Attorney;
10. Attend the TPR Hearing;
11. Enter the decree date in Indiana Child Welfare Information System (ICWIS); in the Eligibility Module on the Deprivation Screen, update that the reason for lack of parental support and care is now termination of parental rights.

The Supervisor will:

1. Assist the FCM in filing the TPR; and
2. Ensure that ICWIS is updated in a timely manner.

## PRACTICE GUIDANCE

N/A

## FORMS AND TOOLS

[Advisement of Rights](#)

## RELATED INFORMATION

### **Petition to TPR**

The petition must outline the circumstances that caused the petition to be filed. 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.

### **[REVISED] Calculating When to File a Petition for TPR**

The petition for TPR must be filed when the child has been removed from his or her home no less than 15 of the most recent 22 months. The individual filing the petition will:

1. Calculate the 15 out of the most recent 22 month period from the date the child was removed;
2. Use a cumulative method of calculation when a child experiences multiple exits from and entries into foster care during the 22 month period;

3. Not include trial home visits or runaway episodes in calculating the 15 of the most recent 22 months since removal.

**Note:** If the 15 out of 22 is met but dismissal is appropriate, the TPR must still be filed and the information justifying dismissal must be submitted to the DCS Local Office Attorney with the request to file the TPR.

### **Dismissal by DCS**

A petition must be filed but may be dismissed on motion of DCS for one of the following reasons:

1. At the option of DCS, the child is being cared for by a parent or specified relative (e.g., step parent, grandparent, aunt, uncle, adult sibling or relative guardian),
2. DCS has documented in the Case 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 or Permanency Plan, or
4. DCS has not provided the services as stated in the Case Plan or Permanency Plan and the time for providing those services under the currently applicable plan has not expired.

**Note:** Do not start the clock over once the 15 of 22 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.

### **Court Denies Petition to TPR**

If the court denies the petition to TPR, reasonable efforts for reunification/preservation must start over.

### **Parental Support and Care**

Lack of parental support and care, which is referred to as "deprivation", is one of the requirements for a child to receive federal funding to cover some of the costs of substitute care and DCS's administrative expenditures. Termination of parental rights should be documented on the Deprivation screen in ICWIS as this establishes an ongoing reason for the child to be considered deprived of parental support and care. Every six months when ICWIS requires a redetermination of the child's income, resources and deprivation, the court order for TPR can serve as the verification for deprivation.