



ARIZONA DEPARTMENT of CHILD SAFETY

May 14, 2024

The Adoption and Safe Families Act (ASFA) – 1997 requires the Department to file for termination of parental rights (TPR) in the following situations, unless a compelling reason exists

- Child has been in foster care for 15 of the most recent 22 months;
- Court has determined that the child is an abandoned infant (as defined by state law);
- Court has determined that the parent has murdered, committed voluntary manslaughter, or aided, abetted, attempted, conspired, or solicited to commit such a murder or manslaughter on another of their children; or
- Court has determined that the parent has committed a felony assault resulting in serious bodily injury to the child or another of their children.

Compelling Reasons and How They Support Successful Permanency

Identifying an Appropriate Permanency Goal

All children who come to the attention of the Department deserve a permanent and stable living situation, following these practice principles:

- Children should remain at home whenever safe to do so;
- Children in out-of-home care should reside in familiar environments, with familiar people – their home neighborhoods, with relatives, with siblings;
- Important connections to children must be maintained – family, tribe, culture, faith, community;
- When out-of-home care is necessary, the length of stay should be as short as possible.

To identify the permanency goal that is in the child's best interest, the family and service team may need to weigh the child's need for minimal time in out-of-home care and the preference to achieve permanency through reunification.

Timeframes for Discussing Permanency Goals

Within 45 days of removal, and at critical points in the case thereafter (case plan staffings, permanency and review hearings, etc.), an assessment of family reunification within 12 months of removal should be completed to determine the need for a concurrent plan for the family (see Reunification Prognosis Assessment Guide DCS-1607).

At the 10-month time in care staffing with the Program Manager, consider reasons to support continuing family reunification in addition to changing the permanency goal to Guardianship or Adoption.

Compelling Reasons to not File for Termination of Parental Rights

When it is determined that filing a change to motion for TPR is not in the best interest of the child, document the facts supporting this decision. This is called a compelling reason.

The following are examples of compelling reasons to not file a motion for TPR:

- The parents need more time, but reunification is expected to occur in the foreseeable future.
- The child resides with a relative who has committed to caring for the child long-term, but has made the informed decision to not adopt.
- The child's American Indian tribe has identified another permanent living arrangement for the child.
- The permanency goal is permanent guardianship, which does not require TPR.
- The parent is terminally ill.
- A youth age 16 or older has specifically requested Another Planned Permanent Living Arrangement (APPLA) as the goal after exploring all other permanency options.

References and Resources:

DCS Policy Manual

- [Selecting the Permanency Goal Chapter 3: Section 3.1](#)
- [Concurrent Planning Chapter 3: Section 3.2](#)
- [Terminating Parental Rights Chapter 5: Section 3](#)

[Permanency Planning Staffing Process 10 months time in care](#)

Grounds for Involuntary Termination of Parental Rights

- [Child Welfare Information Gateway](#)

Understanding the Adoption and Safe Families Act

- [National Council for Adoption](#)

Child Welfare: Implementation of the Adoption and Safe Families Act

- [EveryCRSReport.com](#)

- A child age 12 or older has expressed and continues to express a desire not to be adopted after thorough exploration of adoption as a goal.
- The child is an unaccompanied refugee minor or there are international legal obligations or compelling foreign policy reasons that would preclude terminating parental rights.
- The department has been legally advised that grounds to file a petition to terminate parental rights do not exist.
- A reason identified by a juvenile court judicial officer to deny a change of goal to adoption or motion for TPR or the judge denies the permanency goal change to adoption or the motion for TPR.
- The department has not made reasonable efforts to safely reunify the family.

The following are examples of case circumstances that are not compelling reasons and should never be documented as a reason for not filing a motion for TPR

- The child's age (because children of all ages can be adopted).
- The child has special needs (as there are adoptive families who will provide permanency for children of all needs).
- The need to learn skills to support transition to adulthood (because youth should learn these skills with any permanency goal in place).
- The inability to ever reunite with a parent (because this is a valid reason to file for the termination of parental rights).

Documenting a Compelling Reason Statement

- A compelling reason statement explains why the TPR or adoption of the child is not in the child's best interest based on the child's individual circumstances. If a motion for TPR will not be filed because adoption is not in the child's best interest, a compelling reason must be documented in the Permanency section of the case plan. (See [Guardian User Manual: Case Plan](#) for guidance on where to document the Compelling Reason Statement.)
- The DCS Program Administrator or designee must approve a recommendation that TPR is not in the child's best interest.