



ARIZONA DEPARTMENT of CHILD SAFETY

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Discuss and explain permanency and legal timeframes.

Talk with parents openly and repeatedly, starting at the time of removal.

- Inform the parents that you are committed to supporting them to achieve reunification, and if that is not possible it is important to have an alternative plan.
- Ask the parents who they would have raise their child if they were no longer able.
- Discuss that adoption/TPR could happen if behavior changes are not made within 12 months of removal. Do this early and periodically.
- Discuss that TPR means that the parent may not be able to talk to or see the child and someone else will make decisions about how to raise the child.

TPR ends the legal relationship, but does not end the emotional relationship. When safe, it is often beneficial for children and parents to remain in contact after adoption.

Exploring Adoption for Timely Permanency

The decision to pursue adoption requires careful consideration of the child's individual needs, and the sufficiency of reunification services and efforts.

With the family network and team, consider the following:

- the parent's progress addressing safety threats and the likelihood of family reunification in the near future;
- the parent's engagement in parenting time (parent-child visits) and bond to their child;
- the child's attachment to the parent, especially for older children;
- the child's need for a permanent parent-child relationship;
- the child's age and willingness to consent to adoption (a child who is 12 years of age or older must consent to the adoption in open court);
- the sufficiency and timeliness of reunification services provided, including whether services recommended by a psychological evaluation or ordered by the court were provided;
- whether barriers to service provision and parent engagement were addressed, such as language and transportation barriers;
- whether guardianship or adoption will best meet the child's needs for permanency (see the Practice Guidelines on Choosing Guardianship as a Permanency Plan);
- the caregiver's willingness to adopt;
- if a change of placement would be needed to achieve adoption, the potential effects of a move on the child;
- compliance with Indian Child Welfare Act (ICWA) requirements of active efforts to reunify and placement preferences;
- applicability of the grounds for termination and supporting evidence.

Consider any change of the permanency goal with the family network and team in a case plan staffing, permanency TDM, and/or court mediation. Hold open discussions and seek input from everyone.

Pursue permanency within a timeframe that meets the child's needs, and complies with federal and state law.

When adoption is in the child's best interest, federal law requires a motion to terminate parental rights (TPR):

- when a child has been in care for 15 of the most recent 22 months
- when a court has determined that one of the following aggravating circumstances exist:
 - ▶ the child is an abandoned infant;
 - ▶ the parent has committed murder or voluntary manslaughter of another child of the parent or aided, abetted, attempted, conspired, or solicited to commit such as act; or
 - ▶ the parent committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent.

Arizona revised statute title 8-533 provides additional grounds for termination of the parent-child relationship, which must also be considered.

Explore options for permanency with the youth and caregiver

- If reunification is unlikely, discuss with the youth and the caregiver the differences between adoption and guardianship. Allow for questions and revisit the topic repeatedly.
- If a youth says no to adoption, encourage counseling to explore what adoption means to the youth, to assist the youth with their grief, and accept another adult in the role of a parent.
- If no possible relatives were identified during the diligent relative search, ask the non-relative caregivers if they would like to be considered as an adoptive family for the child, if the child becomes free for adoption.
- Share and discuss general information about progress towards the permanency goal(s) and a realistic timeframe to achieve the permanency goal(s). This type of information may help the caregiver to make decisions about continuing to care for the child.

A compelling reason statement explains why adoption (and TPR) 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 to not file a motion for TPR must be documented in the case plan.

Examples of compelling reasons include:

- Reunification is planned to occur in the near future.
- The child is being cared for by a relative who has committed to care for the child long term, but has made an informed decision to not adopt.
- The child's American Indian Tribe has identified another Planned Permanent Living Arrangement (APPLA) for the child.
- The goal is permanent guardianship, which does not require TPR.
- The parent is terminally ill.
- A youth age 16 or older has specifically requested APPLA as the goal after exploring all other permanency options.
- 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.
- No grounds to file a petition to terminate parental rights exist (such as when the Department has not made reasonable efforts by providing services to enable the child to return home safely).
- 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 following are not compelling reasons and should never be documented as a reason for not filing a motion for TPR.

- The child's age (children of all ages can be adopted).
- The need to learn skills to support transition to adulthood (youth can learn these skills with any permanency goal in place).
- The inability to ever reunite with a parent (this is a valid reason to file for TPR).

Document the compelling reason to not file for TPR in the Compelling Reason text box of the case plan, when applicable.

If a judge denies the permanency goal change or motion for TPR, document the reason the judge provided for not approving the change or motion, as the compelling reason.

The DCS Program Administrator or designee must approve a recommendation that termination of parental rights is not in the child's best interest.

Consult with the Assistant Attorney General about legal grounds for TPR, and the required filing date, when:

- It is the Department's belief that adoption is in the child's best interest, and/or the child has been in care for nine months and the reunification prognosis is poor;
- the child has been in care for five months and was *under the age of three years* when s/he entered care;
- aggravating circumstances exist so that adoption should be immediately pursued; or
- a judge denies a change of permanency goal or motion for TPR.