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DIVISION OF CHILD AND FAMILY SERVICES**

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**Manual Transmission Letter (MTL)
Family Programs Office: Statewide Child Welfare Policy Manual**

MTL # 0514-12162013

12/16/2013

TO: Lisa Ruiz-Lee, Director - Clark County Department of Family Services
Betsey Crumrine, Social Services Manager V - DCFS – District Offices
Kevin Schiller, Director - Washoe County Department of Social Services

FROM: Jill Marano, Deputy Administrator, Division of Child and Family Services

POLICY DISTRIBUTION:

Enclosed find the following policy for distribution to all applicable staff within your organization:

- Termination of Parental Rights (TPR)

This policy is/was effective: 12/16/2013

- This policy is new. Please review the policy in its entirety
- This policy replaces the following policy(s): MTL # _____ - _____ Policy Name: _____
- This policy has been revised. Please see below for the type of revision:
 - This is a significant policy revision. Please review this policy in its entirety.
 - This is a minor policy revision: (List page number & summary of change):
 - A policy form has been revised: (List form, page number and summary of change):
 - 0514.4.14 page 3 amended the definition of Reasonable Efforts.
 - 0514.5.1 (B) page 4 amended language from primary caretaker to person responsible for the child's welfare. Also, added two additional conditions that impact filing Termination of Parental Rights (TPR) Petitions.

NOTE:

- Please read the policy in its entirety and note any areas that are additionally required by your agency to be in compliance with the policy enclosed.
- This is an **All STAFF MEMO** and it is the responsibility of the person listed above to disseminate the policy enclosed to appropriate staff within his/her organization and to ensure compliance.
- The most current version of this policy is posted on the DCFS Website at the following address: <http://dcfs.nv.gov/Policies/CW/0500/>. Please check the table of contents on this page for the link to the chapter you are interested in.

0514.0 Termination of Parental Rights (TPR)

0514.1 Policy Approval Clearance Record

Check one only: <input type="checkbox"/> State Policy <input checked="" type="checkbox"/> Collaborative Policy	This policy supersedes: 0514-031810	Number of pages in Policy: 8 Date Policy Effective: 01/18/08
PART Recommendation Date:	09/25/09	Policy Lead: C. Freeman, SSCIII
DMG Approval Date:	11/20/09	Policy Lead: N. O'Neill, SSPIII
DMG Approved Revisions	Amended: 12/16/2013	Policy Lead: Debora Flowers
Review by Representative from the Office of the Attorney General:	n/a	Signature: n/a
DCFS Administrator Approval:	12/16/2013	Signature: ON FILE

0514.2 Statement of Purpose

0514.2.1 Policy Statement: Agencies providing child welfare services shall initiate procedures to terminate parental rights to free a child for adoption, when adoption is identified as the permanency goal and determined to be in the child's best interest.

0514.2.2 Purpose: Timely permanency planning is required for children in the care and custody of the child welfare agency. Planning must therefore, begin the day the child enters care. Implementing and maintaining case management practices that include family engagement, diligent search, concurrent planning, full disclosure, provision of required services to the family, and involvement of the Child and Family Teams throughout the life of the case should facilitate timely decision making when termination of parental rights must be considered.

The agency is required to make and finalize alternate permanency plans by no later than 12 months after the child's removal. ASFA requires that adoption proceedings be completed within 24 months of the child's entry into foster care. The purpose of this policy is to ensure that permanency-planning decisions involving adoption are made timely, are consistent with state and federal time frames and consider the best interest of the child.

Children may be legally freed for adoption through termination of parental rights or voluntary relinquishment. This policy identifies the circumstances in which the agency is required to file termination of parental rights proceedings for children in the care and custody of the agency.

0514.3 Authority

Public Law 105-89 Adoption and Safe Families Act (ASFA)
 45 CFR 1356.21; .21(b)
 25 U.S.C. 1903
 NRS 126
 NRS 127.051; .052
 NRS 128
 NRS 432B.393; .553; .580; .590; .630
 NAC 127.042; .043; .065; .245; .260

0514.4 Definitions

- 0514.4.1 Adoption Review Team:** A multi-disciplinary team of experienced staff members (i.e. adoption supervisor, adoption case managers, and clinical developmental professionals and recruitment staff) who make adoptive placement recommendations and review adoption issues. The team may provide additional staff support and direction when recommendations for relinquishment are considered.
- 0514.4.2 Compelling Reasons:** Refers to reasons, meeting specific criteria documented and submitted for review by the court, as to why a petition to terminate parent rights will not be filed.
- 0514.4.3 Concurrent Planning:** Refers to working towards a primary permanency goal of reunification while, at the same time implementing an alternative permanency plan.
- 0514.4.4 Consent to Adopt:** Refers to a voluntary written agreement by a birth parent, an individual legally recognized as a parent, or an agency that has assumed legal custody of a child, to the adoption of a child. Children 14 years of age and over must provide written consent for his/her adoption. The consent is prepared and filed with the court by the adoptive parent's attorney.
- 0514.4.5 Diligent Search:** Means identifying, locating and contacting relatives regarding their interest in providing a temporary or permanent placement for or adopting a child prior to or when the child is placed in substitute care. Diligent search also includes a timely and thorough effort to locate absent parent(s) of children in substitute care.
- 0514.4.6 Engagement:** Refers to the skills wherein the caseworker actively involves the child and family in the development of a positive and trusting relationship for purposes of assessment and case planning based on strengths and needs of the child and family. Engagement includes the identification of the family's agenda (what the family is invested in) and joining in a way that motivates and empowers the family.
- 0514.4.7 Full Disclosure:** Means that the birth family, child welfare agency, resource family and legal system are all informed and share pertinent information regarding the case and family history for purposes of case planning and permanency planning options.
- 0514.4.8 Indian Child:** Means any unmarried person under age 18 who is either a member of an Indian tribe, or is eligible for membership in an Indian tribe, and is the biological child of a member of an Indian tribe. 25 U.S.C. 1903 Tribal membership and eligibility are determined by the tribe.
- 0514.4.9 Indian Child Welfare Act:** Refers to the federal legislation designed to reduce the trans-racial placement of American Indian and Alaska Native children. The law gives tribal courts jurisdiction over child welfare custody proceedings involving Indian children: Protective Services, Substitute Care, and Adoptions. If the child may be an Indian child, requirements of the Indian Child Welfare Act must be met. 25 U.S.C.1901 et seq.
- 0514.4.10 Legal or Legally Presumed Father:** Refers to a person who is recognized as the legally presumed father under NRS 126.051 or a legal father under NRS 126.053. A father is legally presumed if; 1) He and the child's mother are married to each other and the child is born during the marriage or within 285 days after the marriage is terminated; 2) He and the mother were cohabitating for at least six months prior to conception and continue to cohabitate through the period of conception; 3) Before the child's birth, the parents attempt to marry but the marriage was declared invalid; 4) While the child is under age 18, the father receives the child into his home and openly holds out the child as his natural child; and 5) Blood tests or test for genetic identification show a probability of 99 percent or more that he is the father. A person who signs an affidavit for the voluntary acknowledgement of paternity, which is filed with the Office of Vital Statistics, is a legal father.

- 0514.4.11 Permanency Goal:** Refers to the hierarchy of permanency goal options that ensures legal and emotional permanency for a child, which are in ascending order of priority, 1. Reunification, 2. Adoption, 3. Legal Guardianship, 4. Permanent Placement with a fit and willing relative, 5. Other Planned Permanent Living Arrangement.
- 0514.4.12 Permanency Hearing:** Refers to a court review held to determine the permanent placement of a child; the time of the hearing represents a deadline within which the final direction of the case is to be determined.
- 0514.4.13 Putative Father:** Means a person who is alleged or reputed to be the father of an illegitimate child.
- 0514.4.14 Reasonable Efforts:** Refers to the services and efforts conducted by the agency to: 1) Maintain the family unit and prevent the unnecessary removal of a child from his/her home, as long as the child's safety is assured; and/or 2) To exercise 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; and/or 3) Effect the safe reunification of the child and family (if temporary out-of-home placement is necessary to ensure the immediate safety of the child); and/or 4) Make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible.
- 0514.4.15 Relinquishment:** Refers to a legal process through which a birth or legal parent voluntarily gives up parental rights with the intent that the child will be adopted.
- 0514.4.16 Substantiated:** Means a report made pursuant to NRS 432B.220 was investigated and that credible evidence of the abuse or neglect exists.
- 0514.4.17 Termination of Parental Rights (TPR):** An involuntary court action that permanently ends the legal parent-child relationship. Termination frees the child for adoption.

0514.5 Procedures

- 0514.5.1** At a minimum, each agency must require review of requests for TPR by a department manager and agency legal counsel.
- A. Grounds for Termination of Parental Rights as defined by (NRS 128.105):** Based on the parent's conduct, legal grounds for TPR include the following:
1. Abandonment of the child;
 2. Neglect of the child;
 3. Unfitness of the parent;
 4. Failure of parental adjustment;
 5. Risk of serious physical, mental or emotional injury to the child if he were returned to, or remains in, the home of his parents;
 6. Only token efforts by the parent(s);
 - To support or communicate with the child;
 - To prevent neglect of the child;
 - To avoid being an unfit parent; or
 - To eliminate the risk of serious physical, mental or emotional injury to the child; or
 - With respect to termination of parental rights of one parent, the abandonment by that parent.
- B. Other Conditions that Impact Filing TPR Petitions or Scheduling Permanency Hearings:**
1. When the court determines that reasonable efforts to reunify are not required: Within 30 days of this determination, a permanency hearing is required. At that time, the court may determine that TPR and placement for adoption is the appropriate plan for the child. Absent compelling reasons not to file TPR, the petition must be filed within 60 days of the court's determination that reasonable efforts are not required. NRS

432B.393 identifies the following circumstances in which the agency is not required to make reasonable efforts for reunification if the court determines that:

- A parent or other primary caretaker of the child 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, or of another child of the parent or primary caretaker other person responsible for the child's welfare, which resulted in substantial bodily harm to the abused or neglected child;
 - Caused the abuse or neglect of the child, a sibling of the child or another child in the household, and the abuse or neglect was so extreme or repetitious as to indicate that any plan to return the child to his home would result in an unacceptable risk to the health or welfare of the child; or
 - Abandoned the child for 60 or more days, and the identity of the parent of the child is unknown and cannot be ascertained through reasonable efforts.
 - 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 a sibling of the child have been terminated by a court order upon any basis other than the execution of a voluntary relinquishment of those rights by a natural parent, and the court order is not currently being appealed;
 - The child or a sibling of the child was previously removed from his home, adjudicated to have been abused or neglected, returned to his home and subsequently removed from his home as a result of additional abuse or neglect;
 - The child is less than 1 year of age; the father of the child is not married to the mother of the child and the father of the child:
 - 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; or
 - 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 pursuant to NRS 432B.630.
 - The child, a sibling of 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; or
 - A parent of the child is required to register as a sex offender pursuant to the provisions of chapter 179D of NRS or the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C. §§ 16901 et seq.
2. At the end of the 14th month of the child's stay in substitute care: If the child has been in substitute care for 14 of the most recent 20 months, the worker must calculate the time from the date the child entered foster care. The worker determines if there have been any exits and entrances to foster care during the 14 or more month period. Trial home visits, of up to six months, and runaways are not counted in calculating the 14 months. The petition to terminate parental rights must be filed by the end of the 14th month.
 3. Abandoned infant: If the court determines an infant has been abandoned, the termination petition must be filed within 60 days of the determination.
 4. Parent convicted of a felony: If a parent has been convicted of any of the following felonies, the TPR petition must be filed within 60 days of the court's determination

that reasonable efforts to reunify are not required: a) murder or voluntary manslaughter of another child of the parent; b) aiding or abetting, attempting, conspiring, or soliciting to commit murder or manslaughter; c) felony assault resulting in serious bodily injury to the child or another child of the parent. 45 CFR 1356.21

- C. Decision to File a Petition to Terminate Parental Rights:** The caseworker, supervisor, and department manager, in consultation with agency legal staff must determine whether a petition to terminate parental rights will be filed when reunification is no longer a viable permanency goal option and any one of the following conditions is present:
1. When statutory grounds identified in section 204 IA of this policy are present;
 2. The child has resided outside of the home for 14 of any 20 consecutive months;
 3. Parental rights have been terminated on other children of the parent;
 4. The court has determined the child to be an abandoned infant; or
 5. Reasonable efforts to reunify have been waived by the court.
 6. Reasonable efforts are not required.
- D. Compelling Reasons Not to File for Termination of Parental Rights:** In some cases, the agency may determine that it would not be in the child's best interest to file for TPR. Selection of a compelling reason must be based solely on the individual circumstances of the child and family, on a case-by-case basis, with emphasis on the best interest of the child. Selection of a compelling reason in all cases must be staffed and reviewed by the supervisor, department manager and legal counsel at least 60 days prior to each permanency hearing to ensure that the reason selected is valid and case plan specific. The compelling reason must be detailed in the case plan and reports to the court. The list of compelling reasons outlined below does not automatically exempt a case from TPR consideration. Each child and family's situation and circumstances must be carefully evaluated before a compelling reason is considered, as follows:
1. The family's permanency goal is reunification and the agency and the court have determined that the parent has made significant progress and continues to make diligent efforts to complete the requirements of the case plan, but requires more than 14 months to complete all requirements;
 2. The parent is terminally ill, does not want parental rights terminated and has designated the child's present caretaker, with the caretaker's agreement, as the child's permanent caretaker;
 3. There are no, or insufficient, legal grounds to file for TPR as determined by agency legal counsel;
 4. Adoption is not an appropriate plan for the child for the following reasons:
 - The child is age 14 or older and will not consent to adoption. (Even after counseling has been provided to address child's questions, fears and concerns about TPR and adoption);
 - The child has severe emotional or behavioral challenges or a serious medical condition and reunification remains an appropriate goal;
 - The child is unable to function in a family setting as documented and supported through professional assessments;
 - The child is in relative placement with a permanency goal of guardianship and guardianship is expected to be completed within 12 months;
 - The child is in relative placement and adoption has been adequately explored but cannot be achieved, however continued placement with the relative caregiver is determined to be the best permanent plan for the child;
 5. There are international legal obligations or compelling reasons that would preclude terminating parental rights;
 6. For an Indian Child, the tribe has identified another permanency plan for the child; and/or

7. The court determines the agency has not, in accordance with NRS 432B.393 provided the child's family with the services the agency deems necessary for reunification when reasonable efforts were required.

E. TPR Referral Process: Referral to terminate parental rights is initiated when adoption is identified as the permanency goal for the child and legal grounds for termination exist. The caseworker's recommendation to refer the matter for termination must be reviewed by the supervisor and department manager.

1. The worker will follow the protocol established in their region by the agency and legal counsel. To request the services of the District Attorney (DA) or Deputy Attorney General (DAG), the caseworker completes the TPR worksheet and checklist. All questions must be answered on the worksheet and supportive documentation provided as requested by the agency's legal counsel. Especially important are efforts to locate the parents, legal custodian and/or legal guardians. A diligent search must have been completed to locate the parents, legal custodian and/or legal guardians. Refer to Diligent Search Policy.
2. Completed referral packets must be submitted for supervisory approval and submittal to the DA or DAG within 30 calendar days from the date adoption is approved as the permanency goal by the court, or when the agency determines filing for TPR is in the child's best interest.
3. For children covered by the Indian Child Welfare Act, notice must be sent by registered mail to the child's parents, Indian custodians, and the child's tribe.
4. Upon referral for TPR, the worker will concurrently seek a Court Order to initiate efforts to recruit for, and/or identify, an adoptive family for any child(ren) not already placed in a pre-adoptive home.

F. Effect of the Order Terminating Parental Rights: An order terminating parental rights frees the child from the custody and control of his or her parent(s). With the TPR order, the agency is vested with custody and control of the child with authority to place and consent to the child's adoption.

The parent(s) has 30 days from the date of filing the notice of entry of the termination of parental rights to file an appeal with the Supreme Court. (The worker should consult with the agency legal counsel for the most accurate date regarding this provision). If an appeal is filed, the child is not considered legally free for adoption. Pending the outcome of the appeal, placement with a resource family committed to being a permanent placement resource for the child should be considered if the child is not already in placement. The resource parent must be fully advised of the child's legal status and the appeal process.

A child (or the legal guardian of the child) who has not been adopted, and whose parental rights have been terminated or relinquished, may petition the Court for restoration of parental rights (NRS 128.170). The natural parent or parents for whom restoration of parental rights is sought must be fully informed of the legal rights, obligations and consequences of restoration and must consent, in writing, to the petition. The public child welfare agency shall cooperate with the Court and provide any information necessary to determine whether restoration of parental rights is in the child's best interest.

G. ICWA: As part of the TPR process, a determination must be made if the Indian Child Welfare Act applies to the case. TPR proceedings involving Indian Children differs from non-Indian children. Direction from legal counsel must be obtained to ensure all legal requirements are met.

0514.5.2 Timelines:

- A. The change in the child's legal status must be documented in the case notes and legal status windows in UNITY within 5 business days after final orders completing the TPR (and appeals) process are received by the agency.

0514.5.3 Forms/Tools:

- A. FPO 0514A - TPR Checklist

B. FPO 1001A - Diligent Search Handbook

0514.5.4 Documentation:

- A. Case File Documentation (paper): N/A
- B. UNITY Documentation (electronic):

Table 0514.1: UNITY Documentation for Policy 0514

Applicable UNITY Screen	Data Required
Legal Status Case Notes	The change in the child's legal status must be documented in the case notes and legal status windows in UNITY within 5 business days after final orders completing the TPR (and appeals) process are received by the agency.

0514.5.5 Supervisory Responsibility:

- A. Participate in case reviews to determine whether referral for TPR is appropriate, or if compelling reasons exist which make filing TPR contrary to the best interests of the child. Ensure adherence to policy and agency protocols.

0514.6 Child Welfare Agency Action

0514.6.1 Development of Internal Policies:

- A. Each jurisdiction shall establish protocols for filing of TPR petitions in consultation with the agency's legal counsel (DA or DAG).

0514.6.2 Forms and Report Requirements:

- A. To be determined by agencies as necessary to initiate TPR petitions.

0514.6.3 Compliance Timelines:

Table 0514.2: Timelines for Child Welfare Agency Response to Policy Development

Requirement	Deadline	Starting Date	Responsible Party	Actions to be Taken
Protocols for filing of TPR petitions	60 Days	Effective Date of Policy	Agency and Agency's Legal Counsel	Establish Protocols

1003.7 State Responsibilities

0514.7.1 Participants in Policy Development

- A. FPO Staff: Cynthia Freeman, SSCIII
- B. Child Welfare Agency Representatives: PART Members
- C. External Stakeholders:

0514.7.2 Technical Assistance:

- A. Technical Assistance Received: N/A
- B. Resources:
 1. Child Welfare League of America, Standards of Excellence for Adoption Services
 2. Criteria and Procedures for Determining a "Compelling Reason" Not to File A TPR Paper, March 2005, Center for the Study of Social Policy
 3. Making Sense of the ASFA Regulations-A Roadmap for Effective Implementation, 2001 ABA Center on Children and the Law
 4. Making it Permanent, Reasonable Efforts to Finalize Permanency Plans for Foster Children, 2002, ABA Center on Children and the Law
 5. Termination of Parental Rights, Oregon Administrative Rules

0514.7.3 Clearance Process:

Table 0514.3: Policy Clearance Record

Policy Name & MTL Number	Workgroup Name & Review Dates	DAG Review Dates	PART Review Dates	DMG Approval Dates	DCFS Admin. Approval Date	Effective Date
0514-121613	n/a	n/a	n/a	12/16/13	12/16/13	12/16/13
0514-031810	n/a	n/a	n/a	03/10/08	03/10/08	03/10/08
0514-011109	n/a	n/a	09/25/09	11/20/09	11/20/09	01/18/08
0514-011808	n/a	n/a	n/a	01/18/08	01/18/08	01/18/08
200 Termination of Parental Rights	n/a	n/a	n/a	11/14/05	11/14/05	11/14/05

0514.7.4 Policy Impacts:

A. State Plan Reference:

1. Tab 25 – Nevada IV-E State Plan (2009)
2. Item 28 – Nevada Child and Family Services Plan (SFY 2010 – 2014)

0514.8 Policy Cross Reference

0204 Case Planning

1001 Diligent Search

0514.9 Attachments

FPO 0514A - TPR Checklist

FPO 1001A - Diligent Search Handbook