

RESTORATION OF PARENTAL RIGHTS

Attachment E- Practice Guidelines

Introduction to Restoration of Parental Rights (NRS 128.170-190)

A child who has not been adopted and whose natural parent or parents have had their parental rights terminated or have relinquished their parental rights, or the legal custodian or guardian of such a child, may petition a court for the restoration of the parental rights of the natural parent or parents of the child. The natural parent or parents for whom restoration of parental rights is sought to be restored must consent in writing to the petition.

Case Plan Review

If a child's parent(s) are subject to an order of termination of parental rights (TPR) and a permanency goal of adoption has not been achieved, or will not imminently be achieved, the Child and Family Team (CFT) shall consider the appropriateness of restoration of parental rights and reunification on at least an annual basis, following a determination that there is no potential adoptive placement resource for the child. At this time, consideration should be given to inclusion of the parent(s) in CFT meetings. The following criteria will guide the determination of whether the agency should change the permanency goal and initiate or join in filing of a petition to restore parental rights:

- the length of time in foster care since TPR;
- the age of the child;
- the wishes of the child;
- the ability of the child to protect him/herself;
- continued/ongoing contact (relationship) between the child and parent(s);
- parental deficiencies identified in the record prior to TPR;
- services recommended during the reunification case that were or were not completed;
- current agency assessment of parental functioning ability;
- parental consent/desire to restore parental rights;
- to what extent any services can or should be provided to the parent(s) in support of successful reunification; and
- the likelihood of successful reunification within a reasonable period of time after the restoration of parental rights.

In the event that restoration of parental rights is determined to be in the child's best interest, the agency may file a petition for restoration of parental rights, or collaborate with the child's court appointed legal counsel to do so.

Child's Right to Petition the Court

The case worker of a child who meets these requirements shall connect the child with legal counsel, upon the child's request to petition the Court for restoration of parental rights by:

- calling the attorney already assigned to represent the child; or
- making a referral for legal services; or
- requesting legal counsel for the child at the next review hearing; or
- if no hearing is scheduled within a reasonable length of time, request an early review hearing at which to request legal counsel for the child; or
- contact the agency's legal counsel for assistance.

As the legal custodian of any child who files such a petition, the agency which provides child welfare services must be served with a notice of the hearing. 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; including but not limited to the following:

- the ability of the child to protect him/herself; and
- parental deficiencies identified in the record prior to TPR; and
- services recommended during the reunification case that were or were not completed; and
- current agency assessment of parental functioning ability; including any deficiencies that have been corrected since the TPR.

Court Order for Restoration of Parental Rights

Upon entry of an order for restoration of parental rights issued pursuant to Nevada Revised Statutes (NRS) 128.190, any child who is the subject of the petition becomes the legal child of the natural parent or parents whose rights have been restored, and they shall become the child's legal parents on that date with all the rights and duties of parents. It is the prerogative of the Court to include direction on the disposition of the dependency case in the order restoring parental rights. The agency which provides child welfare services is obligated to comply with the provisions of the court order.

It is recommended that the agency which provides child welfare services consult with the child's legal counsel and collaborate to develop recommendations for the Court. Such recommendations may include, but are not limited to, returning the child immediately and closing the case, requiring that the agency which provides child welfare services offer transition planning and/or reunification services or to specifying conditions to be met prior to returning the child to the parent's physical custody and/or closing the case.

Upon entry of an order that includes returning the child immediately and closing the case, the agency which provides child welfare services must return the child to the custody of the parents whose rights were restored. If the agency believes that return of the child to the parent(s) whose rights have been restored would likely result in the child being abused or neglected the agency may remove the child or petition for protective custody under the authority granted by NRS Chapter 432B. The agency should contact their legal counsel for assistance in such a case.

UNITY Documentation:

Upon entry of an order for restoration of parental rights issued pursuant to NRS 128.170, the assigned case worker shall enter a new Legal Status (CFS100) of Parental Rights Restored. Case Plan Maintenance (CFS076) shall also be updated as necessary to reflect any changes in CFT Meetings, Permanency Goals, Objectives, Well Being, Assessment Summary and Approval