



Amber Howell
Administrator

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD AND FAMILY SERVICES**

**4126 Technology Way – 3rd Floor
Carson City, Nevada 89706
(775) 684-4400**

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

MTL # 0501-12162013

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:

- **Adoption and Safe Families Act 1997 (ASFA): Reasonable Efforts to Maintain Child in Home**

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):

NOTE: All changes were made as a result of SB 98 Legislation in the 2013 Legislative Session.

- 0501.3.1(f) added to page 1 Federal Citation.
- 0501.4.1(2) added to page 3 expanded definition of Reasonable efforts.
- 0501.5.1 deleted/added language to page 3 in determining reasonable efforts required or have been made.
- 0501.5.1 added language #4 and #5 to page 3 and 4 under "The court may waive reasonable efforts if."
- 0501.5.1 added language under #5 page 4 to "Staff must ensure that court documents include consideration of:"

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.

0501.0 Adoption and Safe Families Act 1997 (ASFA): Reasonable Efforts to Maintain Child in Home

0501.1 Policy Approval Clearance Record

<input checked="" type="checkbox"/> Collaborative Policy Date Effective: 12/22/06, 10/21/2013	This policy supersedes: 0501 Adoption and Safe Families Act 1997 (ASFA): Reasonable Efforts to Maintain Child in Home	Number of pages in Policy: 6
PART Review & Approval	Renegotiated PIP requirement 09/06 due 12/30/06	Policy Lead: n/a
DMG Approval	12/22/2006	Policy Lead: Ellen Westphal, SSPS
DMG Approved Revisions	Reformatted 09/21/07	Policy Lead: Marjorie Walker, SSPS
DMG Approved Revisions	Amended 12/16/13	Policy Lead: Debora Flowers SSPS III
DCFS Administrator Approval:	12/16/13	Signature: On File
Review by Representative from the Office of the Attorney General:	NA	Signature: NA

0501.2 Statement of Purpose

501.2.1 Policy Statement: This policy addresses the “reasonable efforts” requirements for Nevada public child welfare agencies set forth in Title IV-E of the Social Security Act, 42 U.S.C. §§620-632, 670-679, and the Adoption and Safe Families Act of 1997 (ASFA), which was enacted to remedy chronic problems with the child welfare system.

501.2.2 Purpose: The purpose of this policy is to provide guidance to ensure that reasonable efforts are made to prevent a child’s removal from the home, to finalize a permanency plan to reunify family, or to secure a new permanent home for the child.

0501.3 Authority

Social Security Act (Section 471 (a) (15))[42 U.S.C. Section 671 (a) (15)], as amended by the Adoption and Safe Families Act, 1997, P.L. 105-89:

- 1) Reasonable efforts to prevent removal, contrary to the welfare findings
 - a. 42 U.S.C. §671(a)(15)(B)(i): The State (child welfare agency) demonstrate a plan that ensures that reasonable efforts are made to preserve families prior to placing children in foster care.
 - b. 45 CFR §1356.21(c): “Contrary to the welfare of a child” findings in the first court rulings that sanctions (even temporarily) the removal of child from the home, otherwise the child loses all eligibility for federal Title IV-E finding throughout the entire stay in foster care.
 - c. 45 CFR §1356.21(b)(1): Findings must be made that reasonable efforts were made to prevent the child’s removal from the home within 60 days of the child’s removal – if the findings are not made or are not sufficient, the child loses eligibility for all federal Title IV-E funding throughout the entire stay in foster care.
 - d. 45 CFR §1356.21(d): Failure to make a finding that it is contrary to the child’s welfare to return home or to make a finding that reasonable efforts were made to prevent the child’s removal at the required time, cannot be overcome by a retroactive court order. The finding is lost for the child’s entire stay in foster care, no matter how long that may be. Both findings must be “explicitly documented” and made on “a case-by-case basis.” Referencing state statute to substantiate the findings is not adequate – the finding must be explicit.
 - e. 65 Fed. Reg. 4056 (Jan. 25, 200): Contrary to the welfare findings and findings regarding reasonable efforts may not simply reference a report to the court. To be legally sufficient, the findings must reference specific facts from the report. Checklists are acceptable, as long as the checklist is specific as to facts, not just statute.

- f. 42 U.S.C. § 671: Each state plan must also provide that those reasonable efforts are not required to be made concerning a parent of a child if a court makes certain determinations.
- 2) Reasonable efforts to reunify families
- a. 42 U.S.C. § 671(a)(15)(B)(ii): The State (child welfare agencies) must demonstrate a plan that ensures that reasonable efforts are made to reunify families, making it possible for children to safely return to their home.
 - b. 45 CFR § 1356.21(g)(2): a case plan must be developed within 60 days of the date of the child's removal.
 - c. 65 Fed. Reg. § 4052 (Jan. 25, 2000): Even where court approval is required by state law, state agencies should set the case plan and act on it while waiting for such approval.
 - d. 65 Fed. Reg. § 4029 (Jan. 25, 2000): States (child welfare agency) have "up to 60 days from a child's removal from the home to develop the case plan."
- 3) Reasonable efforts to finalize the permanency plan
- a. 42 U.S.C. § 671 (a)(15)(C): The State (child welfare agency) must demonstrate a plan that ensures that reasonable efforts are made to "place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child."
 - b. 45 CFR § 1356.21(b)(2)(i): Judicial findings that reasonable efforts were made to achieve the permanency goal in the case plan must be made within 12 months of the child's removal from the home and at least every 12 months thereafter.
 - c. 45 CFR § 1356.21(d)(3): Judicial findings that reasonable efforts were made by the child welfare agency to achieve the permanency goal in the case plan must be "as meaningful as possible and child specific." Judicial determinations that merely reference state statute in an attempt to satisfy this requirement are insufficient – findings must be made that reference specific facts of the case.
 - d. 45 CFR § (b)(2)(ii): If there is no finding that reasonable efforts were made by the child welfare agency to achieve the permanency goal, then the child becomes ineligible for Title IV-E funding from the end of the 12th month from the date that the child entered care. If the finding is that reasonable efforts were not made, then the child becomes ineligible for Title IV-E funding from the end of the month in which the finding was made. In either case, the child remains ineligible for Title IV-E funding until the court makes a finding that reasonable efforts have been made to achieve the permanency goal.
 - e. 65 Fed. Reg. 4056 (Jan. 25, 2000): Reasonable efforts must be made on a case-by-case basis. A reference to a report made to the court made be made, but to be legally sufficient, the findings must reference specific facts from the report. Checklists are acceptable, as long as the checklist is specific as to facts, not just statute.
 - f. 65 Fed. Reg. 4053 (Jan. 25, 200): The judicial review required to be held six months after the child enters care must determine, in part, "the extent of compliance with the case plan" by all parties, not just the parents. Findings relating to reasonable efforts to achieve the permanency goal are appropriate at any time, and are not limited to the permanency hearing.

[*Significant ASFA Cites* provided by the American Bar Association]

Nevada Revised Statutes:

- 1) NRS 432B.393 (1)–(7): Preservation and reunification of family of child to prevent or eliminate need for removal from home before placement in foster care and to make safe return to home possible; determining whether reasonable efforts have been made.
- 2) NRS432B.550: Determination of custody of child by court; determination of whether agency which provides child welfare services has made reasonable efforts required.
- 3) NRS 432B.580: Semiannual review by court of placement of child.
- 4) NRS 432B.590: Annual hearing on disposition of case; when presumption that best interests of child will be served by termination of parental rights arises.

Nevada Administrative Code:

- 1) NAC 432B.240: Provision of services to preserve family and prevent placement of child

0501.4 Definitions

0501.4.1 Reasonable Efforts: Refers to the services and efforts conducted by the agencies 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;
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;
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
3. Make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible". (45 CFR 1356.21(b))

0501.4.2 Placement Prevention: Refers to current or prior services to prevent family disruption and unnecessary removal of children from their homes (as appropriate). These services may include family assessments, safety planning, diligent efforts to locate absent parents or relative resources, intensive family preservation, post-adoption support services, case management, counseling, day care, respite services, homemaker services, services designed to increase parenting skills, family budgeting, coping with stress, health, and nutrition.

0501.5 Procedures

0501.5.1 The Adoption and Safe Families Act of 1997 and State law require that "reasonable efforts" must be made to prevent the removal of children from their homes and, whenever, possible, to reunify children placed in foster care with their families. In determining whether reasonable efforts are not required **OR** whether reasonable efforts have been made pursuant to NRS 432B.393 (3) (4), the court shall ensure that each determination is:

- a. Made by the court on a case-by-case basis;
- b. Based upon specific evidence;
- c. Expressly stated by the court in its order;
- d. Consider whether any of the efforts made were contrary to the health and safety of the child; and
- e. Consider efforts made, if any, to prevent the need to remove the child from the home and to finalize the plan for the permanent placement of the child.

Reasonable efforts must be made at the following case junctures:

1. Investigation, removal and initial placement of a child into foster care;
2. Reunification;
3. Six month review; and
4. Permanency.

The court may find that lack of efforts is reasonable when there is no safe way to make efforts to prevent removal. If the court finds that continuation in the home is "contrary to the welfare of the child," the court must make this determination in the first court ruling that sanctions (even temporarily) the removal of child from the home, otherwise the child loses all eligibility for federal Title IV-E finding throughout the entire stay in foster care.

The court may waive "reasonable efforts" if:

1. certain felonies have been committed against the child or another child of the parent; or
2. the parent has previously had parental rights to another child involuntarily terminated, or
3. "aggravated circumstances" are present as specified and defined by state law.
4. 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

5. 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.

Whenever possible, the investigator should staff the removal of a child with a supervisor or manager. Reasonable efforts findings must be detailed and contain facts relevant to the case. Staff must ensure that court documents include consideration of:

- all reasonable efforts made to keep a child in the home;
- why reasonable efforts could not be made;
- why reasonable efforts are not required (if applicable);
- accessible and available services provided that are designed to improve the ability of a family to provide a safe and stable home for each child in the family;
- services provided to the child and family and service provider outcomes; and
- any concurrent placement planning that was discussed with the family.

A. Initial assessment to prevent removal from home

When a complaint of child abuse or neglect is initially received, agency staff must complete a thorough assessment to determine specific issues that brought about the complaint. Once specific issues have been determined, staff must determine if providing assistance to the family through the direct or indirect assistance would mitigate the potential danger to the child and allow the child to remain in their home.

Requirement	Deadline	Actions to Be Taken
Reasonable efforts to prevent removal or reasonable efforts are not required	Begins a initial contact and continues through life of a case	<ul style="list-style-type: none"> • Complete assessment and appropriate services offered • Family Preservation Services • Family Support <ul style="list-style-type: none"> ○ Referral to the Division of Welfare and Support Services ○ Referral to housing ○ Referral for counseling ○ Referrals to outpatient substance abuse programs ○ Referrals for mental health services ○ Referrals for domestic violence services ○ Referrals for Parenting Program ○ Referrals for Informal Services • UNITY case note documentation of services offered to prevent the need for removal must be entered within five (5) working days.

B. Reunification

The agency must develop an appropriate and comprehensive case plan to address the safe return of the child to the family whenever it would be detrimental for a child to remain safely in their home during crisis period. This case plan outlines the agency’s reasonable efforts for reunification. The case plan must ensure the child receives protection, safe and proper care, timely case management, and those services are provided to the child, parents or other caretakers as appropriate, in order to improve conditions in the home to facilitate the safe return of the child to a safe home.

A case plan must be based upon the needs of the child and family as determined during the initial assessment. The case plan must be developed in partnership with the family through a Child and Family Team process. The case plan must document the specific needs of the child and family as well as what pre-placement preventive services were provided (if any) in order that the child may have remained in the home. The case plan must also address a visitation plan for parent (or other person responsible for the child’s welfare) and child as well as siblings if they are separated. The child’s safety and well being must always be the paramount concern when developing the plan.

Reasonable services available within the agency or community and a timeline for parental and home safety goals must be set within the plan. Public child welfare staff must meet regularly with the family to determine if progress is being made toward unification and if other services are needed as a result of progress made.

Requirement	Deadline	Actions to Be Taken
Court findings that the agency has made reasonable efforts to finalize reunification or an alternative permanency plan or reasonable efforts are not required	12 months from actual removal	<ul style="list-style-type: none"> • Develop a case plan; • Provide timely case management; • Provide services such as <ul style="list-style-type: none"> ○ Referral to the Division of Welfare and Supportive Services; ○ Referral for low cost housing; ○ Referrals for counseling; ○ Referrals for outpatient substance abuse treatment programs; ○ Referrals to physical, dental and visual health services; ○ Referrals for mental health services; ○ Referrals for domestic violence services; • Schedule of visitation to ensure visits are facilitated and occur; • Continue efforts to locate relatives; • ICPC home studies for placement; • Placement stabilization services (including case plans and services for caregivers and children); and • UNITY case note documentation of safety threats requiring removal, and concurrent permanency must be entered within five (5) working days.

C. Permanency

Concurrent permanency placement planning of the child must be considered while working to reunify the family. The plan must be discussed with the family and/or a Child and Family Team to address the needs of the child while in foster care or if reunification is not in the best interest of the child.

Requirement	Deadline	Examples of Reasonable Efforts
Mandatory filing of termination of parental rights petition	When a child has been placed outside of his/her home 14 of the last 20 months from actual removal	<ul style="list-style-type: none"> • Discussions with the Child and Family Team must include: <ul style="list-style-type: none"> a. Who would be a good caretaker for the child; b. What services the child will require ongoing; c. Where, when and how often visitation should occur; d. If parental rights should be terminated; • Legal representation for parents and children; • Hearing(s) to terminate parental rights; • Identification of an adoptive placement; • Services for adoptive parents and child; • ILP services; • Adoption subsidizes; and • UNITY case note documentation of services offered to reunify the family, safety threats requiring removal, services offered to improve conditions and concurrent permanency placement needs of the child must be entered within five (5) working days.

0501.5.2 Timelines

Staff must also be cognizant of time frames in which certain actions must be taken. The following table provides timelines:

Table 0501.1: Timelines for ASFA Reasonable Efforts

Requirement & Action to be Taken	Timeline	Starting Date	Responsible Party
Case plan filed with court	45 days	Date of Actual removal	Caseworker
Court finding of reasonable efforts to prevent removal or reasonable efforts are not required	60 days	Date of Actual removal	Caseworker
Six-month periodic review	6 months	Date of Actual removal	Caseworker

Court finding that agency has made reasonable efforts to finalize the permanency plan at the permanency hearing	12 months or 30 days after the plan is adopted by the court or whichever comes sooner.	Date of Actual removal	Caseworker
Mandatory filing of petition to terminate parental rights.	14 of the last 20 months	Date of Actual removal	Caseworker

0501.5.3 Forms: N/A

0501.6 Jurisdictional Action

0501.6.1 Development of Internal Policies: Adhere to State policy

0501.6.2 Timelines: Adhere to timelines in policy

0501.6.3 Tools & Forms: Not applicable

0501.6.4 Documentation:

A. Case File Documentation (paper):

Table 0501.2: Case File Documentation for ASFA Reasonable Efforts Policy

File Location	Data Required
Case record – court reports	Reasonable efforts or no reasonable efforts required court findings

B. UNITY Documentation (electronic):

Table 0501.3: UNITY Documentation for ASFA Reasonable Efforts Policy

Applicable UNITY screen	Data Required
Case plan services, Case notes	Case plan services

0501.6.5 Supervisory Responsibility: Supervisors are expected to review and approve case plans and case-specific services, and to provide appropriate documentation to the court that comports with reasonable efforts requirements.

0501.7 State Responsibilities

0501.7.1 Participants in Policy Development: Not applicable

0501.7.2 Technical Assistance: Not applicable

0501.7.3 Clearance Process: Renegotiated Program Improvement Plan 09/06 requirement, approved by DMG

0501.7.4 State Oversight: The State has the responsibility to conduct quality assurance activities that measure compliance with reasonable efforts.

0501.8 Policy Cross Reference

0509 Nevada Initial Assessment Policy

0203 Case Management

0204 Case Planning

1001 Diligent Search

0501.9 Attachments: Not applicable