

Practice Guidelines for Determining when to File a Termination of Parental Rights (TPR)

Introduction to Termination of Parental Rights (NRS 128.105)

When determining when to file a TPR the best interests of the child must be presumed to be served by the termination of parental rights and documentation of the plan to TPR must be included in the permanency plan. 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.

Considerations Before Filing for a Termination of Parental Rights

The decision to terminate parental rights shall be made when reunification is no longer a viable permanency option and one of the following conditions is present. There are several things the agency worker should consider when determining whether or not to move forward with a TPR.

1. Are the parents actively working their case plan?
2. Have the parents met the condition for return?
3. Have I discussed consent and relinquishment?
4. Am I providing reasonable efforts to reunify the child with their parents?
5. Are there compelling reason NOT to file a TPR?
6. Have I documented my compelling reasons?
7. Has the Court ordered no more reasonable efforts?
8. Has the child been in the care of the Agency for 14 out of the last 20 month?
 - I. Consider multiple episodes, this does not have to be consecutive time.
9. What is in the best interest of the child?
10. Have I considered other permanency options, such as Guardianship with KinGAP?

Compelling Reason not to File a 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.

1. Selection of a compelling reason in all cases must be staffed and reviewed by the supervisor/manager and/or legal counsel at least sixty (60) days prior to each permanency hearing to ensure that the reason selected is valid and case plan specific.
2. The compelling reason must be detailed in the case plan and reports to the court. Each child and family's situation and circumstances must be carefully evaluated before a compelling reason is considered,

Some examples of Compelling Reasons include, but are not limited to:

1. The family's permanency plan 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 fourteen (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:
 - a. The child is age fourteen (14) or older and will not consent to adoption.
 - b. Best practice includes periodically revisiting adoption with child to address the child's questions, fears and concerns about TPR and adoption and/or explore the reasons behind the child's decision to not be adopted);
 - c. The child has severe emotional or behavioral challenges, or a serious medical condition and reunification remains an appropriate plan;
 - d. The child is unable to function in a family setting as documented and supported through professional assessments;
 - e. The child is in relative placement with a permanency plan of guardianship and guardianship is expected to be completed within twelve (12) months;
 - f. 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 intranational 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 active efforts were required.

What is NOT a Compelling Reason

Not everything is considered a compelling reason, and while the best interest of the child must still be considered, below are a few examples of when a situation is not considered a compelling reason.

1. When a parent just recently started services and is asking for more time
2. When a parent has been incarcerated a good portion of the case (have to consider case specific factors – ask attorney)
3. When an adoptive resource has not been identified

UNITY Documentation:

The assigned case worker shall enter a new case note, within five business days, that provides the reason or the compelling reason not to move forward with TPR.