



Policy Series: 100: Case Management

Policy Name: Termination of Parental Rights

Policy Number: 117

Regulations: FS 39.806; 39.6231

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Policy: Case Managers will work closely with the Children's Legal Services (CLS), and follow all related protocols, to effectively and efficiently manage the Termination of Parental Rights (TPR) process, thus serving the best interest of the child and leading to permanence for the child.

Procedure:

1. If, in preparation for any judicial review hearing, the case managers believe that the parents of the child (ren) have not complied with their responsibilities as specified in the case plan, although able to do so, the case manager, with supervisor approval, will schedule a Permanency Staffing to discuss the possibility of changing the goal of the case and putting into place the alternative or concurrent plan.
2. In all cases a Permanency Staffing will be held at least one month prior to the Permanency Hearing set by the court. When the decision is made to change the goal to adoption, the case manager and the Child Welfare Legal Services Attorney shall state to the court its intent to initiate termination of parental rights proceedings.
3. If, at the time of the 12-month permanency hearing, a child is not returned to the physical custody of the birth parents, Communities Connected for Kids will request CLS initiate termination of parental rights proceedings within 30 days. In cases where reunification is imminent and through a staffing it has been determined that Termination of Parental Rights would not be in the child's best interest, case management may request through the Children's Legal Services that the court find extraordinary circumstances. Only if the court finds that the situation of the child is so extraordinary and that the best interests of the child will be met by such action at the time of the judicial review may the case plan be extended. If the court decides to extend the plan, the court shall enter detailed findings justifying the decision to extend, as well as the length of the extension.
4. In such cases where extraordinary circumstances are not found, Communities Connected for Kids and CLS shall file a petition for termination of parental rights.
5. The case manager shall provide to the CLS attorney copies of all documentation (the TPR timeline) pertaining to preparation of any such report and the case manager and attorney shall cooperate fully in preparation of the report. In addition, the case manager is responsible to submitting an Adoptions case plan when the petition is filed.



6. A termination of parental rights petition need not be filed if:
 - a) the child is being cared for by a relative who chooses not to adopt the child per FS 39.6231 ;
 - b) the court determines that filing such a petition would not be in the best interests of the child; or
 - c) when reasonable efforts are required and Communities Connected for Kids has not provided the child's family, such timely services as deemed necessary for the safe return of the child to his or her home.
7. The assigned case manager shall provide a Uniform Child Custody Enforcement Act Affidavit (UCCFA), and other requested documents i.e. Certified Birth Certificate to the child welfare attorney to prepare the petition for termination of parental rights within the applicable time period. The attorney and the case manager shall sign the petition.
8. The child welfare attorney shall meet with the assigned case manager in preparation for the termination hearing. The attorney shall be responsible for deciding which witnesses to use and for the preparation of witnesses. The case manager shall be responsible for notifying staff who are needed to testify and for providing them with necessary casework materials to review.

Grounds for Termination of Parental Rights and Expedited Termination of Parental Rights
(Reference Ch. 39.806)

1. A petition for the termination of parental rights may be filed under any of the following circumstances:
 - a) When the parent or parents have voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to Communities Connected for Kids for subsequent adoption and the Communities Connected for Kids is willing to accept custody of the child.
 - I. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.
 - II. The surrender and consent may be withdrawn after acceptance by Communities Connected for Kids only after a finding by the court that the surrender and consent were obtained by fraud or under duress.
 - b) Abandonment as defined in s. [39.01\(1\)](#) or when the identity or location of the parent or parents is unknown and cannot be ascertained by diligent search within 60 days.
 - c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, safety, well-being, or physical, mental, or emotional health of the child irrespective of the provision of services. Provision of services may be evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.
 - d) When the parent of a child is incarcerated in a state or federal correctional institution and either:
 - I. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;
 - II. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. [775.084](#), a habitual violent felony offender as defined in s. [775.084](#), or a sexual predator as defined in s. [775.21](#); has been convicted of first degree or second degree murder in violation of s. [782.04](#) or a sexual battery that constitutes a capital, life, or first degree felony violation of s. [794.011](#); or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense"



means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction;

III. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason that termination of the parental rights of the incarcerated parent is in the best interest of the child. When determining harm, the court shall consider the following factors: the age of the child; the relationship between the child and the parent; the nature of the parent's current and past provision for the child's developmental, cognitive, psychological, and physical needs; the parent's history of criminal behavior, which may include the frequency of incarceration and the unavailability of the parent to the child due to incarceration; any other factor the court deems relevant.

- e) A petition for termination of parental rights may also be filed when a child has been adjudicated dependent, a case plan has been filed with the court, and the child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever came first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the parent and child. Such 12-month period may begin to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with Communities Connected for Kids or a person other than the parent and the approval by the court of a case plan with a goal of reunification with the parent, whichever came first.
- f) When the parent or parents engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child's sibling. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity. As used in this subsection, the term "egregious conduct" means abuse, abandonment, neglect, or any other conduct of the parent or parents that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious conduct may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.
- g) The parent or parents have materially breached the case plan. Time is of the essence for permanency of children in the dependency system. In order to prove the parent or parents have materially breached the case plan, the court must find by clear and convincing evidence that the parent or parents are unlikely or unable to substantially comply with the case plan before time to comply with the case plan expires.
- h) The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification under s. 39.522(2) unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child.



- i) When the parent or parents have subjected the child to aggravated child abuse as defined in s. [827.03](#), sexual battery or sexual abuse as defined in s. [39.01](#), or chronic abuse.
 - j) When the parent or parents have committed murder manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery that resulted in serious bodily injury to the child or to another child. Proof of a nexus between the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery to a child and the potential harm to a child or another child is not required.
 - k) When the parental rights of the parent to a sibling have been terminated involuntarily.
 - l) The parent or parents have a history of extensive, abusive, and chronic use of alcohol or a controlled substance which renders them incapable of caring for the child, and have refused or failed to complete available treatment for such use during the 3-year period immediately preceding the filing of the petition for termination of parental rights.
 - m) A test administered at birth that indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant, and the biological mother of the child is the biological mother of at least one other child who was adjudicated dependent after a finding of harm to the child's health or welfare due to exposure to a controlled substance or alcohol as defined in s. 39.01, after which the biological mother had the opportunity to participate in substance abuse treatment.
 - n) On three or more occasions the child or another child of the parent or parents has been placed in out-of-home care pursuant to this chapter, and the conditions that led to the child's out-of-home placement were caused by the parent or parents.
 - o) The court determines by clear and convincing evidence that the child was conceived as a result of an act of sexual battery made unlawful pursuant to s. 794.011, or pursuant to a similar law of another state, territory, possession, or Native American tribe where the offense occurred. It is presumed that termination of parental rights is in the best interest of the child if the child was conceived as a result of the unlawful sexual battery. A petition for termination of parental rights under this paragraph may be filed at any time. The court must accept a guilty plea or conviction of unlawful sexual battery pursuant to s. 794.011 as conclusive proof that the child was conceived by a violation of criminal law as set forth in this subsection.
 - p) The parent is convicted of an offense that requires the parent to register as a sexual predator under s. 775.21.
2. Reasonable efforts to preserve and reunify families shall not be required if the court that holds jurisdiction has determined that any of the events described in paragraphs (1) (b-d) or 1 (f-m) have occurred.
 3. When a petition for termination of parental rights is filed under subsection (1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of adoption to allow continuation of services until the termination is granted or until further orders of the court are issued.
 4. When an expedited termination of parental rights petition is filed, reasonable efforts shall be 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.



5. Orders terminating the rights of a parent are admissible in evidence in subsequent termination of parental rights proceedings concerning a sibling of the child.



Terminating the Rights of One Parent
(Reference Ch. 39.811)

1. The parental rights of one parent may be severed without severing the parental rights of the other parent only under the following circumstances:
 - (a) If the child has only one surviving parent;
 - (b) If the identity of a prospective parent has been established as unknown after sworn testimony;
 - (c) If the parent whose rights are being terminated became a parent through a single-parent adoption;
 - (d) If the protection of the child demands termination of the rights of a single parent; or
 - (e) If the parent whose rights are being terminated meets any of the criteria specified in s. [39.806\(1\)\(d\)](#) and (f)-(m).

Contact Following TPR

1. The termination of parental rights does not affect the rights of grandparents (if visitation was previously petitioned for and granted) unless the court finds that continued visitation is not in the best interests of the child or that such visitation would interfere with the permanency goals for the child. This is subject to review if adoption is pursued.
2. If the court terminates parental rights, it may, as appropriate, order that the parents, siblings, or relatives of the parent whose rights are terminated be allowed to maintain some communication or contact with the child pending adoption if the best interests of the child support this continued communication or contact, except as provided in paragraph (a). If the court orders such continued communication or contact, which may include, but is not limited to, visits, letters, and cards or telephone calls, the nature and frequency of the communication or contact must be set forth in written order and may be reviewed upon motion of any party, or, for purposes of this subsection, an identified prospective adoptive parent. If a child is placed for adoption, the nature and frequency of the communication or contact must be reviewed by the court at the time the child is placed for adoption.

Approved: Carol Deloach
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