

## **FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** \_\_\_\_\_

**DIVISION** \_\_\_\_\_

**PERSON COMPLETING THIS STATEMENT** \_\_\_\_\_

**TELEPHONE NO.** \_\_\_\_\_ **FAX NO.** \_\_\_\_\_ **EMAIL:** \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** \_\_\_\_\_

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes \_\_\_\_\_ No \_\_\_\_\_
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes \_\_\_\_\_ No \_\_\_\_\_
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes \_\_\_\_\_ No \_\_\_\_\_

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
  - (b) The reason for adoption of the more costly rule;
  - (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
  - (d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.
4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:
    - (a) What is the cost to implement the federal rule or regulation?

### **Current Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_

### **Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue \_\_\_\_\_

Federal Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Special Revenue \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_

Federal Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Special Revenue \_\_\_\_\_

Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

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6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

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7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes \_\_\_\_\_ No \_\_\_\_\_

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

## **Statement of Necessity and Rule Summary Permanency Efforts for Children in Foster Care**

### **Statement of Necessity.**

This rule revision packet will allow the Division of Children in Family Services (DCFS) to update its policy based on Acts 2019, Nos. 317, 541, 558, and 984, thereby furthering the Division's efforts to move children in foster care to permanency safely and swiftly.

### **Summary.**

Effective January 1, 2020, the Division of Children and Family Services Policy & Procedure Manual is being revised as follows:

- Policy VI-A: Out-of-Home Placement Criteria and VI-B: Consideration of Relatives and Fictive Kin for Children in Foster Care and related procedures
  - Establishes the conditions and protocols for trial home placement of a juvenile with a non-custodial parent as allowed by Act 541 of the 92<sup>nd</sup> General Assembly, Regular Session.
- Policy VI-C: Maintaining Family Ties in Out-of-Home Placements
  - Reflects that if the court orders supervised visitation, the parent shall receive a minimum of four (4) hours of supervised visitation per week unless otherwise ordered (i.e., if the court determines that the visitation is not in the best interest of the juvenile or would impose an extreme hardship on one of the parties) per Act 558 of the 92<sup>nd</sup> General Assembly, Regular Session.
- Policy VI-G: Case Review Judicial Hearings for Children in Out-of-Home Placements
  - Updates policy to note that the court shall consider all evidence of an effort made by the parent, guardian, or custodian to remedy the conditions that led to the removal of a juvenile regardless of when the effort was made and give the evidence the appropriate weight and consideration in relation to authorizing a permanency plan for the juvenile per Act 984 of the 92<sup>nd</sup> General Assembly, Regular Session.
  - Amends the order of preference for permanency goals to include authorizing a plan to obtain a guardianship or adoption with a fit and willing relative per Act 984 of the 92<sup>nd</sup> General Assembly, Regular Session.
- Policy VIII-M: Resumption of Services Post-Termination and Reinstatement of Parental Rights
  - Allows the three (3) year waiting period for resumption of services to a parent post-termination of parental rights to be waived if it is in the best interest of the child per Act 317 of the 92<sup>nd</sup> General Assembly, Regular Session.

## NOTICE OF RULE MAKING

The Director of the Division of Children and Family Services of the Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: § 9-28-103.

**Effective January 1, 2020**, the Division of Children and Family Services Policy & Procedure Manual is being revised as follows:

- Policy VI-A: Out-of-Home Placement Criteria and VI-B: Consideration of Relatives and Fictive Kin for Children in Foster Care and related procedures
  - Establishes the conditions and protocols for trial home placement of a juvenile with a non-custodial parent as allowed by Act 541 of the 92<sup>nd</sup> General Assembly, Regular Session.
- Policy VI-C: Maintaining Family Ties in Out-of-Home Placements
  - Reflects that if the court orders supervised visitation, the parent shall receive a minimum of four (4) hours of supervised visitation per week unless otherwise ordered (i.e., if the court determines that the visitation is not in the best interest of the juvenile or would impose an extreme hardship on one of the parties) per Act 558 of the 92<sup>nd</sup> General Assembly, Regular Session.
- Policy VI-G: Case Review Judicial Hearings for Children in Out-of-Home Placements
  - Updates policy to note that the court shall consider all evidence of an effort made by the parent, guardian, or custodian to remedy the conditions that led to the removal of a juvenile regardless of when the effort was made and give the evidence the appropriate weight and consideration in relation to authorizing a permanency plan for the juvenile per Act 984 of the 92<sup>nd</sup> General Assembly, Regular Session.
  - Amends the order of preference for permanency goals to include authorizing a plan to obtain a guardianship or adoption with a fit and willing relative per Act 984 of the 92<sup>nd</sup> General Assembly, Regular Session.
- Policy VIII-M: Resumption of Services Post-Termination and Reinstatement of Parental Rights
  - Allows the three (3) year waiting period for resumption of services to a parent post-termination of parental rights to be waived if it is in the best interest of the child per Act 317 of the 92<sup>nd</sup> General Assembly, Regular Session.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule on the DHS Legal Notices website at <https://humanservices.arkansas.gov/resources/legal-notices>. Public comments must be submitted in writing at the above address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). All public comments must be received by DHS no later than November 3, 2019. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-320-6266.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. **4501829309**

Mischa Martin, Director  
Division of Children and Family Services

## **VI. SERVICES TO REUNIFY FAMILIES**

### **POLICY VI-A: OUT-OF-HOME PLACEMENT CRITERIA**

7/201901/20205

The state of Arkansas is not a voluntary placement state. The removal of a child from his or her home must occur pursuant to a judicial order placing custody of the child with the Department. After the Department removes the child or the court grants custody of the child to the Department, the child shall be placed in a licensed or approved foster home, shelter, ~~or~~ facility, or an exempt child welfare agency as defined at A.C.A. § 9-28-402.

When a child is in the custody of the Department of Human Services, DCFS shall ensure that the out-of-home placement is in the best interest of the child, is the least restrictive possible, is matched to the child's physical and therapeutic needs (e.g., caretakers have the skills and training sufficient to meet the child's individual needs), and is close in proximity to the child's parents and the child's school. All efforts to place a child within Arkansas shall be thoroughly explored and documented before consideration is given to out-of-state placement.

If the biological parent expresses a preference for placing a child in a home of the same or similar religious background to the biological parents, the Division will place the child with a family that meets the genetic parent's religious background. If a family with the same or similar religious background is not available, the Division will place the child with a family of a different religious background but that is knowledgeable and appreciative of the child's religious background.

When it is in the best interest of each of the children, the Department shall attempt to place siblings together while in out-of-home placements. Siblings include those individuals who would be considered a sibling under state/tribal law if it were not for the disruption in parental rights, such as a termination of parental rights or death of a parent. When it is in the best interest of each of the children, the Department shall attempt to place together infants with minor mothers who are in foster care.

The state shall check all appropriate child abuse and neglect registries for information on any prospective foster or adoptive parent and any household member age fourteen (14) and up living in the home before the prospective parent may be finally approved for placement of that child. This will be done regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child. The state shall also request any other state in which a prospective parent or any household member age fourteen (14) and up has resided in the preceding five (5) years to check any child abuse and neglect registry it maintains for such information. The state will comply with any request received from another state to check its own child abuse and neglect registry.

In addition, a child in the custody of the Department shall not be placed in an approved home of any foster or adoptive parent unless all household members eighteen (18) and one-half years of age and older, excluding children in foster care, have had an Arkansas State Police Criminal Record Check.

A child in the custody of the Department shall also not be placed in an approved home of any foster or adoptive parent unless all household members eighteen (18) and one-half years of age and older, excluding children in foster care, have a fingerprint-based FBI Criminal Background Check.

No child shall be placed in the home of a foster parent where a records check reveals a felony conviction for child abuse or neglect, for spousal abuse or domestic battery, for a crime against children (including child pornography), or a crime involving violence, including rape, sexual assault, or homicide. No child shall be placed in the home of a foster parent if the record check reveals a criminal conviction for physical assault, battery, or a drug related offense, if the offense was committed within the past five (5) years. The placement decision shall be based on an individual assessment of the child's needs.

In all custodial placements by DCFS, preferential consideration will be given to an adult relative over a nonrelated caregiver if the relative caregiver meets all relevant child protection standards and it is in the best interest of the child to be placed with the relative caregiver. All potential out-of-state relative placements will be given the same opportunity as in-state relative placements to choose to become foster homes.

In order to assist in placing the child with an appropriate relative, the court will order the parent(s) to provide the necessary information to the Department to locate appropriate relatives:

- A. The names, addresses, and phone numbers of any relatives who may be placement resources for the child;
- B. The names, addresses, and phone numbers and other identifying information on any putative father(s) of the child;
- C. Any information regarding possible membership or descent from an Indian tribe;
- D. Information necessary to determine financial eligibility for services or foster care.

If the relative meets all relevant child protection standards and it is in the child's best interest to be placed with the relative caregiver, the FSW shall discuss with the relative the following two (2) options for placement of the child in the relative's home:

- A. The relative becoming a DCFS provisional foster home prior to becoming a regular DCFS foster home (if the relative opts to have his or her home opened as a provisional foster home, the relative shall not be paid a board payment until the relative is opened as a regular foster home); or,
- B. The relative obtaining legal custody of the child.

For more information on these placement options, refer to Policy VI-B: Consideration of Relatives and Fictive Kin for Children in Foster Care.

Fictive kin to the child may be an appropriate placement option for a child provided the individual meets all relevant child protection standards and it is in the child's best interest to be placed with fictive kin. Fictive kin are defined as persons not related by blood or marriage but who have a strong, positive emotional tie to the child, and have a positive role in the child's life such as, godparents, neighbors, or family friends. If an appropriate fictive kin is identified as a placement option for a child, the FSW shall discuss with the fictive kin the following two (2) options for placement of the child in the fictive kin's home:

- A. The fictive kin becoming a DCFS provisional foster home prior to becoming a regular DCFS foster home (if the fictive kin opts to have his or her home opened as a provisional foster home, the fictive kin shall not be paid a board payment until the fictive kin is opened as a regular foster home); or,
- B. The fictive kin obtaining legal custody of the child.

The child shall remain in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined at A.C.A. § 9-28-402(12), until:

- A. The relative or fictive kin's home is opened as a provisional foster home or regular foster home; or,
- B. The court grants custody of the child to the relative or fictive kin after a written approved home study is presented to the court.

Placement or custody of a child in the home of a relative or other person shall not relieve the Department of its responsibility to actively implement the goal of the case.

The court may order a child to remain in a placement if the court finds the placement is in the best interest of the child (with the exception that the court shall not order a child to remain in a placement in a foster home that has been closed or suspended by a child placement agency) after hearing evidence from all parties. The court shall not specify a particular provider for placement or family services, when DHS is the payer or provider; however, the court may order a child to be placed into a licensed approved placement (i.e., no child shall be placed in a foster home that has been closed or suspended by a child placement agency) after a hearing where the court makes a finding that it is in the best interest of the child based on bona fide consideration of evidence and recommendations from all the parties.

If the court orders a child to be placed into a licensed approved placement as outlined above, a IV-E eligible child may still remain IV-E claimable. However, if the court orders a child into a specific placement and it is determined that the court did not make a finding based on bona fide consideration of evidence and recommendations from all parties- a IV-E eligible child's IV-E claimability may be affected.

If the health or welfare of a child is in immediate danger while in a court-ordered placement, the Division may immediately remove the child from the court-ordered placement. If the Division must move a child from a court-ordered placement due to the health or welfare of a child being in immediate danger, the Division shall notify all parties within twenty-four (24) hours of the change in placement. Regarding this type of placement change, a hearing may be requested by a party to the case, and the hearing shall be held within five (5) business days of receiving the request.

In all cases in which family services are ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay, in whole or in part, for these services. This determination and the evidence supporting it shall be made in writing in the court order ordering family services. If the court determines that the parent, guardian, or custodian is able to pay, in whole or part, for the services, the court shall enter a written order setting forth the amounts the parent, guardian, or custodian can pay for the family services ordered and ordering the parent, guardian, or custodian to pay the amount periodically to the provider from whom family services are received. If a child is committed to a youth services center or detained in a juvenile detention facility and is covered by private health insurance, the court may order the parent or guardian to provide information on the health insurance coverage (including a copy of the health insurance policy and pharmacy card when available) to the detention or youth services center.

A child of a parent who is in DHS custody, is also considered a dependent juvenile and is eligible to receive foster care maintenance payments and is deemed to be a recipient of aid to families with dependent children. Titles XIX and XX services will be available to the child in the state in which the child resides.

Children who are in the custody of the Department shall be allowed trial home placements with parents, for a period not to exceed sixty (60) days, except as approved by the Department, and in any event not to exceed six (6) months. This includes trial home placements with the juvenile's parent(s) from whom custody was removed (or other person from whom custody was removed). The Department values child safety and will not place any child in trial home placement unless safety factors have been mitigated and sixty (60) days is the intended maximum trial home placement. Use of trial home placement for a period exceeding sixty (60) days will be reserved for extenuating circumstances. At the end of the sixty (60) days, unless an extension is requested by the Department for good cause, the court shall either place custody of the child with the parent, or the Department shall return the child to a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined in A.C.A. § 9-28-402.

When a child leaves the custody of the Department and the court grants custody to the parent or another person, the Department is no longer the legal custodian of the child, even if the Juvenile Division of Circuit Court retains jurisdiction.



## POLICY VI-B: CONSIDERATION OF RELATIVES AND FICTIVE KIN FOR CHILDREN IN FOSTER CARE

018/20203

The Division of Children and Family Services (DCFS) believes that safe and appropriate relatives and fictive kin are the best placements for children who must be removed from their homes to ensure safety. Research confirms that children in foster care fare much better when placed with relatives and fictive kin than in traditional foster homes or other placement settings. Placement with relatives and fictive kin helps to minimize trauma, improve well-being, and increase permanency for children in foster care. DCFS will strive to ensure that a child's first placement is with a relative or fictive kin if at all possible.

"Relative" means a person within the fifth degree of kinship to the child or at least one of the children in a sibling group, including step-siblings and half-siblings, by virtue of blood or adoption. In all custodial placements by the Department of Human Services in foster care or adoption, preferential consideration shall be given to an adult relative over a nonrelated caregiver if the relative caregiver meets all relevant child protection standards and it is in the best interest of the child to be placed with the relative caregiver.

When considering placement options for a child in foster care, relative includes non-custodial parents as parents are presumed to be the most appropriate caregiver for a child unless evidence to the contrary is presented. When a child enters foster care, the Department will immediately evaluate the appropriateness of non-custodial parents for trial home placement of their child.

When a non-custodial parent is not an immediate placement option, the Department will seek other relatives as potential caregivers in an effort to preserve the bond between the child and family. If these provisions are met, ~~The Department shall will~~ discuss with ~~the~~ relative (who is not the non-custodial parent) the following two (2) options for placement of the juvenile in the relative's home:

- A. The relative becoming a DHS provisional foster home prior to becoming a regular foster home; or,
- B. The relative obtaining legal custody of the juvenile.

Per A.C.A. § 9-27-354, placement or custody of a juvenile in the home of a relative shall not relieve the Department of its responsibility to actively implement the goal of the case.

"Fictive kin" means a person not related to a child by blood or marriage, but who has a strong, positive, emotional tie to a child and has a positive role in a child's life. If there are no available ~~and/or~~ appropriate relatives within the fifth degree of kinship to the child, then DCFS ~~will~~shall attempt to identify appropriate fictive kin, to include people beyond the fifth degree of kinship by virtue of blood or adoption, as a placement option for the child. If the fictive kin meet all relevant child protection standards and it is in the best interest of the child to be placed with the fictive kin, the Department shall discuss with the fictive kin the following two (2) options for placement of the juvenile in the relative's home:

- A. The fictive kin becoming a DHS provisional foster home prior to becoming a regular foster home; or,
- B. The fictive kin obtaining legal custody of the juvenile.

The juvenile shall remain in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency until ~~the a trial home visit occurs with a non-custodial parent, a~~ relative or fictive kin's home is opened as a provisional or regular foster home or the court grants custody of the juvenile to the relative or fictive kin after a written approved home study is presented to the court.

## MARK-UP

If the relative or fictive kin chooses to obtain legal custody of the juvenile, a protective services case must be opened on the child and a case plan developed to establish permanency for the child. The Division must provide services similar to the services that would have been provided if the child was placed in foster care, and the case plan must address these services. For example, the child's health, education, and ~~for~~ counseling needs should be addressed in the case plan. Relatives and fictive kin have the option of obtaining permanent custody or guardianship if all efforts toward reunification are exhausted ~~and~~ or to achieve case plan goals for permanency. If the court grants permanent custody, or guardianship is granted, the protective services case will be closed.

If Termination of Parental Rights (TPR) is an option for the case, the relative or fictive kin is eligible to adopt the child and can receive services identified in Policy VIII-I: Adoption Subsidy and related procedures, if the child is eligible.

### PROCEDURE VI-B1: Trial Home Visit with Non-Custodial Parents

01/2020

The Family Service Worker will:

- A. Immediately ask the child, child's parent(s), or legal guardian(s) from whom custody was removed, and any available relatives or fictive kin to provide information on non-custodial parent(s) to include, as available:
  - 1) The names, addresses, last known address, last known place of employment, and phone numbers of the non-custodial parent(s);
  - 2) The names, addresses, phone numbers, and other identifying information of any relative or collateral who could assist in location of the non-custodial parent(s);
  - 3) Information pertaining to stability of the non-custodial parent(s) such as:
    - a. History of and any current substance misuse issues;
    - b. History of and any current domestic violence issues;
    - c. History of and any current mental or behavioral health issues;
    - d. Current or previous restraining orders or protection orders with child or immediate family members.
- B. Collaborate with the Resource Worker to assess appropriateness of the non-custodial parent.
  - 1) For initial, immediate placement the following must be conducted and considered:
    - a. Verification that the individual is the non-custodial parent;
    - b. An expedited Child Maltreatment Central Registry Check (via CFS-316: Request for Arkansas Child Maltreatment Central Registry Check);
    - c. An expedited State Police Criminal Record check (via CFS-342: State Police Criminal Record Check);
    - d. A Vehicle Safety Program Check (i.e., driving points);
    - e. A Lexis Nexis search;
    - f. A Court Connect search for applicable counties;
    - g. A visual inspection of the home guided by the Non-Custodial Parent Information and Questionnaire and also to include:

## MARK-UP

- i. Follow up on immediate concerns identified by child or collaterals during the removal;
  - ii. Review of information gathered during the visual inspection of the home;
  - iii. Assessment of how other children or adults in the home may affect the child being considered for placement;
  - iv. Assessment of how the child being considered for placement may impact the household members.
- 2) The following must also be submitted within two (2) weeks of placement (results do not have to be received in order to place with the non-custodial parent if there are no other health or safety concerns):
  - a. FBI (non-state) Criminal Record Check if the non-custodial parent has lived or worked (if different) in another state in the last five (5) years;
  - b. Request for Child Maltreatment Central Registry check from any state in which the non-custodial parent has lived or worked (if different) for the past five (5) years.
- C. If placement with the non-custodial parent appears viable, interview the child, if age appropriate, to assess how the child may feel about placement with the non-custodial parent and make individualized placements on a case-by-case basis in the best interest of the child.
- D. If placement is viable:
  - 1) Contact the OCC Attorney immediately if child is being moved from one Out-of-Home Placement to another and provide notice of the placement change to all other parties to the case as required by law and outlined in Policy VII-L: Changes in Out-of-Home Placement and related procedures if that placement was not considered to be a temporary placement (see Appendix I: Glossary).
  - 2) Provide the child's parent(s) with PUB-11: What Happens When Your Child and Family Are Involved with DCFS?
  - 3) Provide the non-custodial parent with PUB-15: A Relative's Guide to the Arkansas Child Welfare System.
  - 4) Place the child in the non-custodial parent's home and:
    - a) Ensure the non-custodial parent acknowledges they will not allow the alleged perpetrator access to the child that is not supervised by the Division until the investigation is complete and will not allow any contact with the alleged offender that is not approved or authorized by the Division or the court after the investigation is completed (if found true).
    - b) Document placement selection on the Case Plan by keying the "Plan Goals" and the "Needs/Svc" screens in the "Treatment" portion of the "Case Plan" section of CHRIS.
    - c) Assist the non-custodial parent in applying for benefits if appropriate, such as benefits under the Temporary Employment Assistance (TEA) Program or the Supplemental Nutrition Assistance Program (SNAP).
- E. Keep the Resource Worker informed of any changes to the child's need for a placement with the non-custodial parent and any other relevant information.
- F. Hold staffings, as needed, in accordance with Procedure IV-C1: Case Staffings and update the Child and Adolescent Needs and Strengths (CANS) Assessment and case plan.

### The Resource Worker will:

- A. Process all necessary background checks by (see Procedure VII-C1: Background Check Processing for more information):
  - 1) Conducting an expedited Child Maltreatment Central Registry Check (via CFS-316: Request for Arkansas Child Maltreatment Central Registry Check);
  - 2) Conducting an expedited State Police Criminal Record check (via CFS-342: State Police Criminal Record Check);

## MARK-UP

- 3) Submitting a Vehicle Safety Program (DMV) Check (driving record points will be computed in DCFS Central Office, and the results, including qualification or disqualification, will be forwarded to the Resource Worker for inclusion in the non-custodial parent's file);
- 4) Submitting a Non-state Criminal Record Check if the non-custodial parent has lived or worked (if different) in another state in the last five (5) years; and,
- 5) Submitting requests for Child Maltreatment Central Registry check from any state in which non-custodial parent has lived or worked (if different) for the past five (5) years.
- B. Conduct a visual inspection of the non-custodial parent's home as guided by the Non-Custodial Parent Information and Questionnaire.
- C. Keep the child's FSW informed of progress and any challenges associated with processing of the background checks.

The FSW and Resource Supervisors will:

- A. Conference with and support the FSW and Resource Worker as necessary.
- B. Review and approve placement with non-custodial parent.

## **PROCEDURE VI-B~~21~~: Provisional Foster Home Placement for Children in Foster Care**

0201/202015

The Family Service Worker will:

- A. Ask the child's parent(s) or legal guardian(s) from whom custody was removed to provide information on appropriate relatives and fictive kin to include, as available (if not already provided at time of removal):
  - 1) The names, addresses, and phone numbers of any relatives or fictive kin who may serve as appropriate placement resources for the child;
  - 2) The names, addresses, phone numbers, and other identifying information of any putative father(s) of the child.
- B. Assist with completion of CFS-450: Prospective Provisional Foster Parent Information and Questionnaire as appropriate to the specific case ~~and~~/or local county procedures.
- C. Keep the Resource Worker informed of any changes to the child's need for a provisional placement and any other relevant information.
- D. Ensure that the Resource Worker conducts a review of the prospective provisional home to include:
  - 1) An expedited Child Maltreatment Central Registry Check (via CFS-316: Request for Arkansas Child Maltreatment Central Registry Check);
  - 2) An expedited State Police Criminal Record check (via CFS-342: State Police Criminal Record Check);
  - 3) A vehicle safety check; and,
  - 4) Submission of the FBI (non-state) FBI-Criminal Record Check (~~FBI~~ results do not have to be received in order to open the provisional foster home, but results must be received and clear within six (6) months in order to make a determination as to whether to approve as a regular DCFS foster home).
  - 5) A visual inspection of the home (via CFS-446: In Home Consultation Visit Report).
- E. If the provisional foster home placement appears viable, interview the child, if age appropriate, to assess how the child may feel about placement with the relative and make individualized placements on a case-by-case basis in the best interest of the child.
- F. Collaborate with the Resource Worker to evaluate:
  - 1) How the other children and adults in the home will affect the successful development of a child in foster care; and,
  - 2) How the child in foster care will impact the other members of the home.

MARK-UP

- G. If, after the Resource Worker has completed all necessary steps to open the family as a provisional home (see below for more information), it is determined that placement with the family is in the best interest of the child:
- ~~1)~~ Arrange at least one (1) pre-placement visit for the child ~~before the initial placement and before any~~
  - ~~2)~~ ~~subsequent changes in placement if possible and appropriate~~ if it is not the child's initial placement;
  - ~~1)~~
  - ~~3)~~ Contact the OCC Attorney immediately if child is being moved from one Out-of-Home Placement to
  - ~~4)~~ another and provide notice of the placement change to all other parties to the case as required by law and as outlined in (see Procedure Policy VII-KL: Changes in Out-of-Home Placement and related procedures) if that placement was not considered to be a temporary placement
  - ~~5)2)~~ (see Appendix I: Glossary);
  - ~~6)3)~~ Provide the child's parent(s) with PUB-11: What Happens When Your Child and Family Are Involved with DCFS;
  - ~~7)4)~~ Provide the prospective provisional foster family with PUB-15: A Relative's Guide to the Arkansas Child Welfare System;
  - ~~8)5)~~ Place the child in the provisional home and:
    - a) When a child is placed in a provisional foster home for a seventy-two (72) hours hold, ensure that the provisional foster parents acknowledge they will not allow the alleged perpetrator access to the child that is not supervised by the Division until the investigation is complete and will not allow any contact with the alleged offender that is not approved or authorized by the Division or the court after the investigation is completed (if found true);
    - b) Ensure that the provisional foster parents understand that they must work with their Resource Worker to complete any corrective actions necessary to bring the home into compliance with Minimum Licensing Standards and DCFS Policy within six (6) months ~~or their home will be closed and the child removed;~~
    - c) Document placement selection on the ~~CFS-6010-~~ Case Plan by keying the "Plan Goals" and the "Needs/Svc" screens in the "Treatment" portion of the "Case Plan" section of CHRIS;
    - d) Assist the provisional foster parents in applying for benefits if appropriate. Until the provisional foster home is opened as a regular foster home, the relative or fictive kin may apply for and receive benefits for which the provisional foster parents may be entitled due to the placement of the child in the home, such as benefits under the Temporary Employment Assistance (TEA) Program or the Supplemental Nutrition Assistance Program (SNAP);
    - e) Assess the situation with the Resource Worker and Supervisor(s) if the family does not come into compliance within six (6) months of the placement of the child in the home and recommend to OCC on how the case should proceed (i.e., remain in foster care or have a completed approved home study and recommend custody to the relative);
    - f) Collaborate with the Resource Worker to ensure that the relative(s) is completing the process for foster home approval. If the relative's home is not fully licensed as a foster home within six (6) months of the placement of the child in the home:
      - i. The Department shall remove the child from the relative's home and close the relative's provisional foster home and place child in an approved or licensed placement; or,
      - ii. The court shall remove custody from the Department and grant custody of the child to the relative.
  - I. Complete the ~~CFS-6024-~~ Permanency Planning Hearing Court Report and submit to the FSW Supervisor for review and approval.
  - J. If approved by the FSW Supervisor, submit the CFS-6024-Permanency Planning Hearing Court Report to the OCC attorney, CASA, and all other required parties within fourteen (14) days prior to any Permanency Planning Hearing scheduled for the case.

**MARK-UP**

- K. Hold staffings, as needed, in accordance with Procedure IV-C1: Case Staffings and update the Child and Adolescent Needs and Strengths (CANS) Assessment and case plan.
- L. Invite the Adoption Specialist to the staffing when appropriate.
- M. Conduct a staffing to discuss closure when appropriate.

The Resource Worker will:

- A. Assist with completion of CFS-450: Prospective Provisional Foster Parent Information and Questionnaire as appropriate to specific case ~~and/or~~ local county procedures.
- B. Process all necessary background checks by (see Procedure VII-C1: Background Check Processing for more information):
  - 1) Conducting an expedited Child Maltreatment Central Registry Check (via CFS-316: Request for Arkansas Child Maltreatment Central Registry Check);
  - 2) Conducting an expedited State Police Criminal Record check (via CFS-342: State Police Criminal Record Check);
  - 3) Conducting a Vehicle Safety Program (DMV) Check (driving record points will be computed in DCFS Central Office, and the results, including qualification or disqualification, will be forwarded to the Resource Worker for inclusion in the applicant file; see Procedure VII-C1 for forms which must be completed); and,
  - 4) Submitting the FBI (non-state) Criminal Record Check (~~FBI~~ results do not have to be received in order to open the provisional foster home, but results must be received and clear within six (6) months in order to approve as a regular DCFS foster home).
- C. Completing a visual inspection of the home ~~(via CFS-446: In Home Consultation Visit Report)~~. See Procedure VII-C2: In Home Consultation Visit for more information.
- D. Based on the results of the background checks listed above and the visual inspection of the home, begin the process for requesting any necessary Alternative Compliances or DCFS Policy Waivers, if applicable.
- E. Explain to the relative/fictive kin that, if opened as a provisional foster home, they will not receive a board payment until they are opened as a fully approved DCFS Foster Home which must occur within six (6) months of being opened as a provisional foster home.
- F. Explain to the relative/fictive kin other processes related to becoming a provisional and, ultimately, a regular DCFS foster home (see Policy VII: Development of Foster Homes and related procedures).
- G. Keep the child's FSW informed of progress ~~and/or~~ any challenges to opening the relative as a provisional foster home.
- H. Collaborate with the child's FSW to evaluate:
  - 1) How the other children and adults in the home will affect the successful development of a child in foster care; and,
  - 2) How the child in foster will impact the other members of the home.
- I. If the relative/fictive kin and relative/fictive kin's home are appropriate to open as a provisional foster home, complete CFS-452: Provisional Foster Home Verification and CFS-474: Provisional Foster Home Checklist with the family and file in the provider record.
- J. Enter a relative into CHRIS as a Provider opening two (2) placement services: Provisional (Relative) Placement (No Board) Service, and Foster Family Home Service. The Provisional (Relative) Placement (No Board) Service must be quickly approved (once the necessary requirements are received), while the Foster Family Home Service has Applicant Status awaiting compliance (all required checks, certifications and training) for approval. In CHRIS, the relative will have only one (1) Provider Number showing two (2) services provided by the family.
- K. Enter fictive kin into CHRIS as a Provider opening two (2) placement services: Provisional (Fictive Kin) Placement (No Board) Service, and Foster Family Home Service. The Provisional (Fictive Kin) Placement (No Board) Service must be quickly approved (once the necessary requirements are received), while the Foster Family Home Service has Applicant Status awaiting compliance (all required checks, certifications

## MARK-UP

and training) for approval. In CHRIS, the fictive kin will have only one (1) Provider Number showing two (2) services provided by the family. Provisional (Fictive Kin) will mirror the same Board Rate as Provisional (Relative) which carries the payment scale status of "None."

- L. Request any necessary policy waivers ~~and~~/or alternative compliances to waive non-safety standards for the relative/fictive kin prior to referring to training.
- M. Refer to Policy VII: Development of Foster Homes, to continue with the process of opening the provisional foster home as a regular DCFS foster home.
- N. Support the relative/fictive kin throughout the process of becoming a provisional and regular DCFS foster home.
- O. Assess the situation with the FSW and Supervisor(s) if the relative does not come into compliance within six (6) months of the placement of the child in the home.

The FSW Supervisor will:

- A. Conference with and support the FSW on the case as necessary.
- B. Review and approve the CFS-6024: Permanency Planning Hearing Court Report.

The Resource Worker Supervisor will:

- A. Upon receipt of a notification email from a worker who has removed children and identified a prospective provisional placement (see Procedure VI-B1: Provisional Foster Home Placement for Children in Foster Care for more information), be responsible for ensuring completion of CFS-450: Prospective Provisional Foster Parent Information and Questionnaire within forty- eights (48) hours of receipt of notification.
- B. Conference with and support the Resource Worker as necessary regarding opening the provisional foster home.

## **PROCEDURE VI-B~~32~~: Relative and Fictive Kin Custody for Children in Foster Care**

0201/201205

The Family Service Worker will:

- A. Ask the parent(s) or legal guardian(s) from whom custody was removed to provide information on appropriate relatives to include, as available (if not already provided):
  - 1) The names, addresses, and phone numbers of any relatives who may be placement resources for the child;
  - 2) The names, addresses, phone numbers, and other identifying information on any putative father(s) of the child.
- B. If appropriate relatives cannot be identified or are otherwise not able to serve as a placement resource, ask the parent(s) or legal guardian(s) from whom custody was removed to provide information on appropriate fictive kin to include, as available (if not already provided):
  - 1) The names, addresses, and phone numbers of any fictive kin who may be placement resources for the child.
- C. Interview the child, if age appropriate, to assess how the child may feel about placement with a specific relative or fictive kin.
- D. Complete the home study, to include Central Registry Checks, State Police Criminal Background Checks, and Vehicle Safety (DMV) Program Checks on all applicable household members, on the relative or fictive kin and submit to the FSW Supervisor for review and approval.
- E. Based on the results of the background checks listed above, request any necessary DCFS Policy Waivers.
- F. If FSW Supervisor approval is attained, submit the home study to the court with the recommendation to place the child with the relative or fictive kin so that the relative or fictive kin may obtain legal temporary custody.



## MARK-UP

- G. Open a protective services case on the child if the court grants temporary custody to the relative or fictive kin.
- H. Schedule a staffing within thirty (30) days of opening the protective services case.
- I. Invite the child's parents, relatives, the child (if age appropriate), and community providers as appropriate. During the staffing these individuals will determine the permanency goal for the child: reunification, adoption, guardianship, permanent custody with the relative, or APPLA.
- J. Complete or update the FAST within thirty (30) days of opening the protective services case and submit to the FSW Supervisor for review and approval.
- K. Develop or update the ~~CFS-6010~~ Case Plan within thirty (30) days of opening the protective services case and submit to the FSW Supervisor for review and approval.
- L. Complete the ~~CFS-6024~~ Permanency Planning Hearing Court Report and submit to the FSW Supervisor for review and approval.
- M. After receiving approval from the FSW Supervisor for the ~~CFS-6024~~ Permanency Planning Hearing Court Report, submit to the OCC attorney within fourteen (14) days prior to any Permanency Planning Hearing scheduled for the case.
- N. Submit the ~~CFS-6024~~ Permanency Planning Hearing Court Report to OCC, CASA, and all parties no later than fourteen (14) days before the scheduled Permanency Planning Hearing.
- O. Hold staffings, as needed, in accordance with Procedure IV-C1: Case Staffings and update the FAST.
- P. Invite the Adoption Specialist to the staffing when appropriate.
- Q. Conduct a staffing to discuss closure when appropriate.

The FSW Supervisor will:

- A. Review and approve the home study.
- B. Review and approve the FAST within thirty (30) days of the FSW opening the protective services case.
- C. Review and approve the case plan within the thirty (30) days of the FSW opening the protective services case.
- D. Review and approve the ~~CFS-6024~~ Permanency Planning Hearing Court Report prior to the FSW's submission of this report to the OCC attorney.
- E. Conference with and support the FSW on the case as necessary.

The Adoption Specialist will:

- A. Attend staffings when invited.
- B. Keep his or her Adoption Supervisor informed of the child's permanency goal and progress toward that goal.



## POLICY VI-C: MAINTAINING FAMILY TIES IN OUT-OF-HOME PLACEMENTS

0104/201208

Removal from the home and subsequent out-of-home placement are traumatic events for children. One way this trauma may be minimized is by maintaining family ties in out-of-home placements. Moreover, the Division believes that strengths of families and supporting these strengths contribute to life-long permanent relationships for children. This belief is supported by research demonstrating that children who maintain positive family ties while in out-of-home placement achieve better short- and long-term outcomes. If court orders differ from the requirements outlined in this policy and related procedures regarding visits and contact with family members, the Division will comply with court orders accordingly.

### CONTACT WITH PARENTS

In order to maintain and strengthen the parent-child relationship, visits and other forms of contact with parents and their children in out-of-home placements are essential. Visits between parents, including noncustodial and putative parents as applicable, and their children will occur at least weekly, based upon the child's best interest. More frequent visits are encouraged, as appropriate. A positive drug or alcohol screen in and of itself will not result in the postponement ~~and/or~~ withholding of visits between a parent and child in DHS custody unless:

- A. The parent is under the influence of drugs ~~and/or~~ alcohol at the time of the scheduled visit and has observable behavior indicating impairment of parenting capacity; or,
- B. A court order specifies that a parent's positive screen will result in the withholding of parent-child visits.

There is a legal presumption that visits may be unsupervised unless evidence has been provided to and the court has made a ruling that unsupervised visitation is not in the best interest of the children involved. The burden is upon Division staff to provide evidence regarding why visits must be supervised or may be unsupervised.

If the court orders supervised visitation, the parent from whom custody of the child has been removed will receive a minimum of four (4) hours of supervised visitation per week. The court may order less than four (4) hours of supervised visitation if the court determines that the supervised visitation is not in the best interest of the child or will impose an extreme hardship on one (1) of the parties.

-Visits which have been ordered to be supervised may be graduated to unsupervised depending on the dynamics of the case. Any Division staff member as well as approved student interns and volunteers may supervise visits. However, the appropriate supervisor will individualize each assignment to supervise visits. When making the assignment the supervisor will consider the family's history, current level of functioning, and any other applicable factors as well as the skill set of the individual selected to supervise the visit.

The preferred location for visits is the parent's home or, if that is not possible, in the most home-like setting possible. Office visits are a last resort. Visits are encouraged to include any variety of quality family time activities such as visiting a library/story time at a library, playing at a park, making and enjoying a meal together, etc., as appropriate for an individual family.

While children are in out-of-home placements, the Division, in conjunction with foster parents and placement providers, will update parents regarding their children's lives including providing information regarding, without limitation, status of physical, behavioral, and emotional health, progress in school, involvement in extracurricular activities, and achievements. Parents will be invited to participate in their children's school, faith-based, and extracurricular activities as appropriate.

The specific plan for visits between a child in out-of-home placement and his or her parents, as appropriate, will be included in the case plan. As the family prepares for reunification, the frequency ~~and/or~~ length of visits will increase while the level of supervision will decrease accordingly. The case plan will be updated as needed to reflect changes regarding visits and other contact.

Foster parents and approved relative and fictive kin volunteers may communicate directly with biological parents when appropriate and in the child's best interest to give updates on the child's progress, inform them of the child's school and extracurricular activities, and share photos. Foster parents and approved relative and fictive kin volunteers are also encouraged to consider supporting the parent-child relationship in other ways such as helping the child write letters to his or her parents, creating Life Books with the children to then share with the biological parents, and presenting a positive view of the child's parents to the child to the extent possible.

In addition, since foster parents can model positive parenting skills that may help the biological parents to achieve reunification, foster parents may consider hosting parent-child visits, if appropriate and acceptable to all individuals involved.

When assessing the appropriateness of foster parents and approved relative and fictive kin volunteers communicating directly with biological parents, holding parent-child visits in the foster parent home, or transporting the child to parent-child visits, the Division will ensure the foster parents and approved relative and fictive kin volunteers thoroughly understand all court orders related to parent-child contact and consider:

- A. Various family dynamics;
- B. Progress of the case at that point in time; and,
- C. Experience and other skills sets of the foster family or approved relative and fictive kin volunteers.

DCFS staff members will discuss with foster parents, approved relative and fictive kin volunteers, and biological parents the level of comfort that both sets of parents have with foster parents or approved relative and fictive kin volunteers providing transportation to parent-child visits or, as applicable to foster parents hosting/supervising parent-child visits. Staff will not expect foster parents to host/supervise parent-child visits ~~and/or~~ transport to parent-child visits:

- A. During the first placement they have as foster parents;
- B. During the first month of any open foster care case regardless of the number of times they have served as foster parents.

Exceptions to the above guidelines may be made if the foster parents express an interest in assisting with parent-child visits under these conditions. Even when foster parents state they are willing to assist with parent-child visits during the first placement they have as foster parents or during the first month of any open foster care case, the FSW will make a decision regarding the foster parents' involvement with parent-child visits after carefully assessing each individual case and the dynamics involved. Even after the first month of an open foster care case, if foster parents desire to assist with parent-child visits, the FSW will continue to assess on a case by case basis the appropriateness of foster parent involvement for each foster care placement.

The Division will assist the foster parents and approved relative and fictive kin volunteers and biological parents in establishing appropriate expectations and boundaries regarding communication and interaction (e.g., frequency and specific times the biological parent may call ~~and/or~~ visit the foster home). Any direct interaction between the biological parents and foster parents or approved relative and fictive kin volunteers in no way relieves the Division of its duty to ensure the biological parents remain current on all aspects of their case and their children.

#### **CONTACT WITH SIBLINGS**

Sibling relationships are emotionally powerful and critically important not only in childhood, but over the course of a lifetime with sibling relationships likely to be the longest relationships most people experience. Siblings include those individuals who would be considered a sibling under state/tribal law if it were not for the disruption in parental rights, such as a termination of parental rights or death of a parent.

For children in out-of-home placements, sibling relationships can provide a significant source of continuity, stability, and comfort while in foster care. As such, when it is in the best interest of each of the children and barring extenuating circumstances, siblings are entitled to be placed together in out-of-home placements.

Siblings may be placed separately only if:

- A. Allegations of abuse between siblings are under investigation ~~and/or~~ have been founded;
  - 1) An assessment must be conducted by a mental health professional within five (5) days of placing siblings in different placements due to the abuse allegations between the siblings that are under investigation ~~and/or~~ have been founded.
    - a) The siblings may continue in the separated placements if the assessment by the mental health professional supports continuing the separated placements because placing the siblings together would be detrimental to the health, safety, or well-being of one or more of the children as related to the abuse allegations ~~and/or~~ investigation findings;
- B. An assessment by a mental health professional determines that placing the siblings together would be detrimental to the health, safety, or well-being of one or more of the children; or,
- C. The Division presents evidence to the court that there are no available placements that can take the entire sibling group.

If children must be separated, the Division will attempt to place them in close proximity in order to facilitate regular and meaningful contact. The Division will ensure the reasons for the separation of siblings into different foster homes or other approved placements are regularly reassessed and targeted recruitment efforts continue to reunite the siblings. The case plan must include when siblings will be reassessed to determine if they can be reunited at a later point in time. If the reassessment determines reunification is appropriate, the plan for placing siblings together will be documented in the case plan as well.

In an effort to maintain sibling connections for those siblings who are placed separately, the siblings' case will be reviewed by the court at least once every ninety (90) days to determine whether there have been reasonable efforts to reunite the siblings and to allow regular and meaningful contact with the siblings. If the court approves a paper review, the 90-day court reviews of separated siblings may be satisfied by such a review and a hearing is not required.

In addition, siblings who must be placed separately will have consistent and meaningful contact at least weekly when possible. While face-to-face visits in home-like settings or other family-friendly locations are preferred and encouraged, other forms of communication such as phone calls, emails, and Skype or FaceTime (or similar program) conversations are permissible, as age and developmentally appropriate, to meet the weekly contact requirement. However, siblings who are placed separately will have at least bi-weekly face-to-face visits unless ~~an~~ a FSW Supervisor grants a visit waiver. The plan for sibling visits and other contact will be outlined in the case plan. Visits or other forms of contact with siblings will not be withheld by DCFS or any placement provider as a behavioral consequence unless there are documented safety concerns for one or more of the siblings.

Siblings also have the right to remain actively involved in each other's lives. Aside from regularly scheduled visits, the Division, foster parents, approved relative and fictive kin volunteers, and other placement providers will work together to allow siblings to share celebrations including birthdays, holidays, graduations, and other meaningful milestones when possible. The Division, foster parents, approved relative and fictive kin volunteers, and other placement providers will also collaborate to ensure siblings attend each other's extracurricular events such as athletic events, musical performances, and faith-based events when reasonable and practical.

The Division will ensure siblings are included in one another's case plan staffing decisions and permanency planning decisions as age and developmentally appropriate. Siblings will also be notified when another sibling has a change in placement or exits foster care as age and developmentally appropriate. When a sibling leaves foster care, that sibling will be allowed, as appropriate, to maintain contact with a sibling who remains in an out-of-home placement. The Division will also strive to help children in foster care maintain relationships with their

siblings who are not in out-of-home placements or who have been adopted or placed in permanent custody or guardianship.

#### **CONTACT WITH RELATIVES AND OTHER FICTIVE KIN**

In an effort to ensure foster care supports the permanency and well-being of the children in DHS custody, children may have an opportunity to visit or have other forms of contact with non-custodial parents, grandparents, great-grandparents, other relatives, and fictive kin provided the visits are in the best interest of the children. It is the responsibility of the Division to explore the willingness and appropriateness of identified relatives and fictive kin interested in being involved in the lives of children in out-of-home placements.

#### **CONTACT AFTER TERMINATION OF PARENTAL RIGHTS**

If it is in the child's best interest, visits with relatives may continue after Termination of Parental Rights (TPR). Visits after TPR will continue until an adoptive placement is made or the out-of-home placement case is closed. The Division will encourage adoptive parents to consider allowing contact between biological relatives and fictive kin with their adopted children, as appropriate. Continuation of visits with relatives does not include the parents for whom the agency has obtained TPR.

## **POLICY VI-G: CASE REVIEW JUDICIAL HEARINGS FOR CHILDREN IN OUT-OF-HOME PLACEMENT**

01068/201203

### **ADJUDICATION & DISPOSITION HEARINGS**

Following a probable cause hearing, an adjudication hearing shall be held to determine whether the allegations in a petition are substantiated by a preponderance of the evidence. The dependency-neglect adjudication hearing shall be held within thirty (30) days after the probable cause hearing under A.C.A. § 9-27-315. On motion of the court and parties for good cause shown, it may be continued for no more than thirty (30) days following the first thirty (30) days (i.e., up to sixty (60) days after the probable cause hearing). However, if necessary and relevant evidence cannot be obtained in a timely manner the dependency-neglect adjudication hearing may be continued for up to an additional thirty (30) days (i.e., up to ninety (90) days after the probable cause hearing) upon motion of the court or any party.

In dependency-neglect cases, a written adjudication order shall be filed by the court within thirty (30) days of the date of the hearing or prior to the next hearing, whichever is sooner. The Office of Chief Counsel (OCC) is responsible for drafting and filing court orders. The court can determine the case disposition at the adjudication or at a separate hearing. A disposition determines what actions the agency will take in the case.

A judicial determination as to whether reasonable efforts were made or were not required to prevent removal must be made no later than sixty (60) days from the date the child is removed from the home. If a judicial determination concerning reasonable efforts to prevent removal is not made within the specified timeframe, the child will be ineligible for IV-E foster care maintenance payments for the duration of that stay in foster care.

### **SIX-MONTH REVIEW HEARINGS**

The court will review out-of-home placement cases no less than every six (6) months, including children in out-of-home cases who are placed out-of-state. The first six-month review shall be held no later than six (6) months from the date of the original out-of-home placement of the child. However, the court may require a review prior to the sixth-month review hearing. In addition, at any time during the life of an out-of-home placement case, any party may request the court to review the case, and the party requesting the hearing shall provide reasonable notice to all parties.

At each sixth-month hearing the court will review the case sufficiently to determine the future status of the child based on the child's best interest. The court shall determine and include in its orders the following:

- A. Whether the case plan, services, and placement meet the needs and best interest of the child, with the child's health, safety, and educational needs specifically addressed;
- B. Whether the Division has made reasonable efforts to provide family services;
- C. Whether the case plan is moving towards an appropriate permanency plan for the child, per A.C.A. § 9-27-338;
- D. Whether the visitation plan is appropriate for the child, the parent(s), or any siblings, if separated.

The court may order any studies, evaluations, or post-disposition reports, if needed. All such documents will be provided in writing to all parties and counsel at least (2) two days prior to the review hearing. All parties will be given a fair opportunity to dispute any part of a study, evaluation, or post-disposition report.

In making its findings, the court shall consider the following:

- A. The extent of compliance with the case plan, including but not limited to, a review of the Division's care for the health, safety, and education of the child while the child has been in an out-of-home placement;
- B. The extent of progress made toward alleviating or mitigating the causes necessitating the out-of-home placement;

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- C. Whether the child should be returned to his or her parent(s) and whether the child's health and safety can be protected by his or her parent(s) if returned home;
- D. An appropriate permanency plan pursuant to A.C.A. § 9-27-338 for the child, including concurrent planning (e.g., adoption, legal guardianship, APPLA, as appropriate).

Pertaining to title IV-E eligibility requirements, the judicial review is conducted by court review, not an administrative review process. During each six-month review, the court shall make determinations based upon the best interest of the child. The best interest of the child shall be paramount at every stage of the judicial process.

### PERMANENCY PLANNING HEARING

Each child in an out-of-home placement, including children placed out-of-state, shall have a permanency planning hearing (PPH) no later than twelve (12) months of the date the child is considered to have entered foster care and not less frequently than every twelve (12) months thereafter during the continuation of foster care. A child will be considered to have entered foster care on the earlier of:

- the date of the first judicial finding that the child has been subjected to child abuse or neglect, or
- the date that is sixty (60) days after the date on which the child is removed from the home.

In-state and out-of-state options, including interstate placement, if appropriate, will be considered when making reasonable efforts to place the child in a timely manner in accordance with the permanency plan. Reasonable efforts will be made to complete the steps necessary ~~in order~~ to finalize the legal permanent placement of the child. If the child is in an out-of-state placement at the time of the hearing, the court will determine whether the placement continues to be appropriate and is in the best interest of the child. When the court determines that reasonable efforts to return the child home are not required, the court shall hold a permanency planning hearing within thirty (30) days of the determination ~~in order~~ to enter a new disposition in the case to determine the child's future status. A permanency planning hearing shall also be held after a child has been in an out-of-home placement for fifteen (15) of the previous twenty-two (22) months, excluding the time spent while the child is on a trial home placement and runaway status. The permanency planning hearing will be conducted by the court, not by an administrative body.

When it becomes necessary to transfer a case to another venue, the court will contact the judge in the other venue to confirm that the transfer will be accepted. After confirmation has been received, the transferring judge will enter a transfer order with the time and date of the next hearing and the location of the court in the new venue. The transferring judge will immediately transmit the order to the judge in the new venue. A copy of the order will be provided to all parties and attorneys to the case. The transferring court will copy and send all court records to the judge in the new venue.

The Division must obtain a judicial determination that reasonable efforts were made to finalize the permanency plan for the child no later than twelve (12) months of the date the child entered foster care. If a child remains in an out-of-home placement after the initial permanency planning hearing, an annual permanency planning hearing shall be held to reassess the permanency goal selected for the child. If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made, the child will be ineligible under title IV-E from the end of the 12<sup>th</sup> month following the date the child is considered to have entered foster care or the end of the 12<sup>th</sup> month following the month in which the most recent judicial determination of reasonable efforts to finalize a permanency plan was made, and remains ineligible until such a judicial determination is made.

Reasonable efforts to finalize an alternate permanency plan such as placing a child ~~with~~ for a fit and willing relative or fictive kin for adoption or with a legal guardian, including identifying appropriate in-~~S~~state and out-of-~~s~~state placements, ~~should will~~ be made concurrently with reasonable efforts to reunify the child and family.

The permanency planning hearing (PPH) shall determine the permanency goal for the child that includes, listed in order of preference, in accordance with the best interest, health, and safety of the child:

MARK-UP

- A. Placing custody of the child with a fit parent at the permanency planning hearing.
- B. Returning the child to the guardian or custodian from whom the child was initially removed at the permanency planning hearing.
- C. Authorizing a plan to place custody of the child with a parent, guardian, or custodian only if the court finds that:
  - 1) The parent, guardian, or custodian is complying with the established case plan and orders of the court, making significant progress toward achieving goals established in the case plan and diligently working toward reunification or placement in the home of the parent, guardian, or custodian.
    - ~~a) A parent's, guardian's, or custodian's resumption of contact or overtures toward participating in the case plan or following court orders in the months or weeks immediately preceding the permanency planning hearing are insufficient grounds for authorizing a plan to return or be~~
    - ~~b)a) placed in the home as the permanency plan~~Regardless of when the effort was made, the court shall consider all evidence of an effort made by the parent, guardian, or custodian to remedy the conditions that led to the removal of the child(ren) from the custody of the parent, guardian, or custodian and give the evidence the appropriate weight and consideration in relation to the safety, health, and well-being of the child(ren).
    - ~~e)b)~~ The burden is on the parent, guardian, or custodian to demonstrate genuine, sustainable investment in completing the requirements of the case plan and following court orders in order to authorize a plan to return or be placed in the home as the permanency goal.
  - 2) The parent, guardian, or custodian is making significant and measurable progress toward remedying the conditions that:
    - a) Caused the child's removal from the home or the child's continued removal from the home; or,
    - b) Prohibits placement of the child in the home of a parent.
  - 3) Placement of the child in the home of the parent, guardian, or custodian shall occur within a time frame that is consistent with the child's developmental needs but no later than three (3) months from the date of the PPH.
- ~~D.~~ Authorizing a plan to obtain a guardianship or adoption with a fit and willing relative or fictive kin.
- ~~D.E.~~ Authorizing a plan for adoption with the Division filing a petition for termination of parental rightsTPR, unless:

- 1) The child is being cared for by a relative and the court finds that:
  - a. Either:
    - ~~i. , TPR is not in the best interest of the child; t~~The relative has made a long-term commitment to the child; and ~~, the relative~~is willing to pursue adoption, guardianship, or permanent custody of the child; or
    - ~~i.~~
    - ii. The child is being cared for by his or her minor parent who is in foster care and TPR is not in the best interest of the child; and,
  - b. That termination of parental rights is not in the best interest of the child;
- 2) The Division has documented in the case plan a compelling reason why filing a petition to terminate~~ion parental rights is petition would not be~~ in the child's best interest and the court approves the compelling reason as documented in the case plan; or
- 3) The Division has not provided the family of the child with services, consistent with the time period in the case plan, the services the Division deemed necessary for the safe return of the child to the child's home if reunification services were required to be made to the family.

*Termination of Parental Rights*

At any time during the course of a case, DHS, the attorney ad litem, or the court can request a hearing on whether or not reunification services should be terminated. The requesting party shall provide notice to the parties at least fourteen (14) calendar days before the hearing. The notice shall identify the grounds for recommending termination of reunification services in sufficient detail to put the family on notice.



## MARK-UP

The requesting party shall present the case. The court shall conduct and complete a hearing on a “no reunification services” request within fifty (50) days of the date of written notice to the defendants. However, upon good cause shown, the hearing may be continued for an additional twenty (20) days.

The court shall determine whether reunification services shall be terminated and enter an order of that determination. If the court determines that reunification services shall be terminated, the court shall hold a permanency planning hearing within thirty (30) days after the determination. If the court determines the permanency goal to be TPR, the Department shall file a petition to terminate parental rights within thirty (30) days from the date of the entry of the order establishing such goal. The court shall conduct and complete a TPR hearing within ninety (90) days from the date the termination of parental rights petition is filed, unless continued for good cause. After an order of termination of parental rights is filed, the court shall review the case at least every six (6) months until permanency is achieved for the child. A permanency hearing shall be held each year following the initial hearing until permanence is achieved. (Refer to Policy VIII-C.) The court reviews continue, even if a case is on appeal.

The court may terminate parental rights on one (1) parent and not the other parent if the court finds that it is in the best interest of the child.

### *Post-TPR Visits*

If it is in the child’s best interest, visits with siblings and with relatives may take place after TPR. Visitation after TPR will continue until an adoption placement is made or the out-of-home placement case is closed. Continuation of visits with relatives does not include the parents for whom the agency has obtained TPR.

**E.F.** Legal guardianship - If the court grants legal guardianship no further services or periodic reviews are required. If a legal guardianship supported by a subsidy is put in place, the Division will conduct an annual review of the family’s and child’s circumstances and an annual report to the court will be filed.

**F.G.** Permanent custody with a fit and willing relative - If the court grants permanent custody no further services or periodic reviews are required.

**G.H.** Independence (see definition in Appendix I: Glossary), including an Another Planned Permanent Living Arrangement (APPLA). In the case of a child who has attained age sixteen (16), the permanency planning hearing will determine the services needed to assist the child to make the transition from foster care to successful adulthood. Independence shall be selected only if the Division has documented to the circuit court a compelling reason for determining that it would not be in the best interest of the child to follow one (1) of the permanency plans above.

If DHS concludes, after considering reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative, that the most appropriate permanency plan for a child is placement in another planned permanent living arrangement, DHS will document to the court the compelling reason for the alternate plan.

The Department may seek the services of the Federal Parent Locator Service to search for absent parents at any point in order to facilitate a permanency plan.

### **Notification of Hearings and Reviews**

The Department shall provide the foster parent(s) of a child, and any pre-adoptive parent or relative providing care for the child with timely notice of, and the right to be heard in, permanency planning hearings and six-month periodic reviews held with respect to the child during the time the child is in the care of such foster parent, pre-adoptive parent or relative caregiver. Notice of, and the right to be heard, does not include the right to standing as a party to the case.

In any permanency planning hearing, including any hearing regarding the transition of the child from foster care to transitional living, procedural safeguards shall be applied to assure the court or administrative body conducting



the hearing consults with age-appropriate children regarding the proposed permanency or transition plans. The hearing shall also address procedural safeguards with respect to parental rights pertaining to the removal of the child from the home of his or her parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

Judicial determinations regarding "contrary to the welfare," reasonable efforts to prevent removal, and reasonable efforts to finalize the permanency plan in effect, including judicial determinations that reasonable efforts are not required, must be explicitly documented and made on a case-by-case basis and so stated in the court order.

Reasonable efforts are not required to reunify the child and family if:

- A. The court has determined that the parent has subjected the child to aggravated circumstances (see Glossary);
- B. The court has determined that the parent has committed:
  - 1) Murder of any child;
  - 2) Manslaughter of any child;
  - 3) Aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or such a manslaughter; or
  - 4) A felony battery that results in serious bodily injury to any child; or,
  - 5) Abandoned an infant as defined by A.C.A. § 9-27-303; or,
  - 6) Registered with a sex offender registry under the Adam Walsh Protection and Safety Act of 2006.
- C. The parental rights of the parent with respect to a sibling have been terminated involuntarily.

If reasonable efforts and "contrary to the welfare" judicial determinations are not included as required in the court orders, a transcript of the court proceedings is the only other documentation acceptable to verify that the required determinations have been made.

Neither affidavits nor nunc pro tunc orders will be acceptable as verification documentation in support of reasonable efforts and "contrary to the welfare" judicial determinations.

Court orders that reference state law to substantiate judicial determinations are not acceptable, even if state law provides that removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal can only be ordered after reasonable efforts have been made.

At any hearing in which the Department of Human Services is ordered by the court to provide services for a family, the court shall provide the Department with the opportunity to be heard. When DHS is not a party to the case, failure by the court to provide at least five (5) working days' notice to DHS renders any part of the order pertaining to DHS void. Refer to Policy II-G for information related to FINS cases.

## POLICY VIII-M: Resumption of Services Post-Termination and Reinstatement of Parental Rights

0401/201208

### OVERVIEW

Given that behavior change and the work of change is a part of the child welfare system's daily challenge, the Division recognizes that there may be parents who previously had their parental rights terminated, but at a later point in time significantly alter the life circumstances that contributed to the removal of their children and the subsequent termination. These parents may qualify for resumption of services as described in the policy below. Based on the outcome of the resumption of services, the court may then consider reinstatement of parental rights. Resumption of services and a subsequent reinstatement of parental rights may provide additional permanency options for children in foster care, particularly for youth who have been in the foster care system for an extended period of time without finding a permanent family.

### INITIAL ELIGIBILITY

The Department of Human Services, Division of Children and Family Services (DCFS) or an attorney ad litem may file a motion to resume services for a parent whose parental rights were previously terminated. Resumption of services may be considered if the child:

- A. ~~Does not have a legal parent~~ is currently in the custody of the Department;
- B. Is not in an adoptive placement, pre-adoptive placement, or under another permanent placement and there is some evidence that the child is not likely to achieve permanency within a reasonable period of time as viewed from the child's perspective; or,
- C. Was previously adopted, appointed a permanent guardian, or placed in the permanent custody of another individual and the adoption, guardianship, or custodial placement was disrupted or otherwise dissolved.

In addition, at least three (3) years must have passed between the date the order terminating parental rights was entered and the date a motion to resume services on behalf of that parent is filed. The three-year waiting period may be waived by the court if it is in the best interest of the child. It must also be determined that the parent in no way interfered with the child's ability to achieve permanency prior to the consideration of resumption of services.

### ASSESSMENT

If all of the criteria above are met, the agency must then assess whether the parent and child are appropriate candidates for resumption of services before DCFS requests to file a motion to resume services. This will be determined, at a minimum, through:

- A. An initial walk-through of the parent's home to identify any safety factors or risk concerns;
- B. Discussions with the parent, child, parties to the case, and relevant stakeholders (e.g., child's therapist, child's teacher, etc.); and,
- C. The completion of a home study.

The home study will include background checks to identify current issues and differentiate between current maltreatment and criminal issues versus issues occurring prior to the termination of parental rights.

Through the assessment above, it must be determined that the parent is appropriate at the time of filing the motion for resumption of services. DCFS Area Director approval must be obtained prior to moving forward with a petition for resumption of services.

When determining whether to grant or deny a motion to resume services, the court will consider:

- A. Efforts made by DCFS to achieve adoption or other permanent placement for the child, including any barriers preventing permanency from being achieved;

- B. Current status of the parent, including the extent to which the parent has remedied any conditions that led to the termination of parental rights (TPR);
- C. Willingness of the parent to participate in services offered; and,
- D. The child's wishes regarding resumption of contact, visitation, or placement with the parent.

#### RESUMPTION OF SERVICES

If an order granting a motion for resumption of services is entered, a staffing will be held within **thirty (30)** days. An ~~updated~~ Child and Adolescent Needs and Strengths (CANS) assessment and corresponding case plan will also be developed within **thirty (30)** days. Extensive services or supports should not be required to establish parental fitness. Rather, services and supports offered through a case plan for resumption of services will be designed to help facilitate the re-establishment of the parent-child bond. Examples may include regular visitation and family counseling. Such services and supports will be put in place through the case plan in an effort to work toward a reinstatement of parental rights, if appropriate, and, ultimately, a stable and permanent reunification.

If multiple counties have been involved over the life of a case that is deemed appropriate for resumption of services, the applicable DCFS Area Directors will collaborate to determine which county will serve as primary regarding the development, execution, and oversight of the case plan.

A parent will not be named as a party to a motion filed for resumption of services, but the parent will have the right to be heard at a hearing on the motion. The court may order the parent to pay for some or all of the costs associated with the court-ordered family services.

#### REINSTATEMENT OF PARENTAL RIGHTS

Based on the outcome of the resumption of services, the court may then consider reinstatement of parental rights, as appropriate. Services to the family must continue for at least 180 days before DHS or an attorney ad litem may file a petition to reinstate parental rights. A petition to reinstate parental rights will be filed in the circuit court that had jurisdiction over the petition to terminate parental rights. Parental rights may be reinstated if the court finds by clear and convincing evidence that:

- A. Reinstatement of parental rights is in the best interest of the child; and,
- B. There has been a material change in circumstance for the parent since TPR.

If parental rights are reinstated, the case will remain open until the child has resided with the parent for at least six **(6)** months.

An order reinstating parental rights restores all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including custody, control, and support of the child. However, an order reinstating parental rights does not vacate or affect the validity of a previous order terminating parental rights.