

TPR MANDATES UNDER ASFA

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Health and safety of child is to be paramount concern.

Termination petitions MUST be filed for regarding all children in foster care where:

- Any foster child in care 15 out of the most recent 22 months (calculated as starting at time of finding of abuse or neglect or 60 days after temporary placement in foster care, whichever is sooner)
- Any foster child determined by court to be abandoned
- Any foster child whose parent has been criminally convicted of certain crimes

Termination of parental rights petitions MUST be filed for all children in the above situations UNLESS

The child is in the care of a relative or

- The agency documents in the most recent case plan a “compelling reason” why it is not in the child’s best interests to have a termination petition filed. The compelling reason information may be made available to a court. “COMPELLING REASON” can include the following types of situations
- Child is in care on a PINS or JD order and the review of the specific facts and circumstances of the child’s placement demonstrate that the appropriate goal is either a return to the parent or guardian or independent living
- The child has a permanency goal other than adoption because of the best interests of the child such as a situation where the child’s therapist feel it would emotionally harmful to the child or where a safe return to a parent is imminent
- The child is 14 or older and will not consent to adoption
- There are insufficient legal grounds for a TPR
- The child is in care solely on an Article 10 and the disposition is still pending and a review of the specific facts and circumstances of the child’s placement demonstrate that the appropriate goal is discharge to parent or guardian
- The agency determines that the parent’s incarceration or in patient drug treatment is a significant reason for the foster care placement and the parent has maintained a relationship with the child
- The agency has not provided the services it deems necessary to attempt to reunify unless the services were not legally required.

If the agency is required to file the termination by the above rules but does not file, or if the court orders filing and agency does not file, the foster parents, without further order or the law guardian at court’s direction, may file a termination petition and the agency is then obligated to join the petition. The Judge can always order the agency to file a petition for termination.