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## I. STATEMENT OF POLICY

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It is the policy of the Department of Children and Family Services that the \*case manager is responsible for the completion of the Termination of Parental Rights packet (TPR 1 and 2 or regionally developed packet) which provides the **BGC** Attorney with case record information that supports the conditions which must exist to terminate parental rights on the grounds to be alleged in the TPR petition. **Refer to 6-1500, Involuntary Termination of Parental Rights.** \*\*

\*\*\*

## II. PROCEDURES

### A. COMPLETING THE TERMINATION OF PARENTAL RIGHTS \* (TPR) \*\* PACKET


The TPR packet is \* **completed by the FC case manager and forwarded** to the Child Welfare Manager, who prepares a cover memo to the **BGC** attorney, indicating approval of this plan. This packet must be submitted to the **BGC** \*\* attorney within 30 days of the department's \*\*\* decision \* **to pursue** \*\* \*\*\* termination of parental rights. If additional information or documentation is requested by the \*\*\* attorney, the \* **case manager** \*\* must provide the requested documentation \*\*\* within 10 working days of the request. \*\*\*

\* The attorney responsible for the case provides notification of TPR packet submission to the FC case manager. The attorney and case manager work directly with each other while preparing to file the petition. \*\*

\*\*\*

### B. \* **ACTIONS** \*\* THE ABSENT PARENT IS LOCATED PRIOR TO THE TERMINATION HEARING

If \* **an absent** \*\* parent is found after the decision has been made to pursue termination of parental rights, the allegation of abandonment or failure to maintain contact is not negated. \*\*\* The \* **case manager informs the parent of** \*\* \*\*\* the child's situation, completes an assessment of the \* **parent's** \*\* functioning \*\*\* and determines the parent's wishes as to the permanent plan for the child. The various permanent plans and information about surrender \* **is** discussed with emphasis placed on the need to achieve a timely permanent plan for the child. \* **Refer to 6-205, Assessment of Family Functioning; 6-840, Permanent Plan Goal Reunification with Parents or Principal Caretaker; 6-845, Permanent Plan Goal Adoption; 6-854, Permanent Plan Goal Guardianship; 6-860, Permanent Plan Goal Alternative Permanent Living Arrangement; and 6-1400, Voluntary Surrender of a Child in DCFS Custody.** \*\*

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The **\* case manager** should staff the **parents' situation** **\*\*** **\*\*\*** with the supervisor **\* and Child Welfare Manager** **\*\*** as soon as possible to **\*\*\*** to determine if the decision to terminate the parent's rights should be changed. If the located parent is a previously non-custodial parent, not involved in the abuse/neglect situation and has been unaware of the child's involvement with the department, the department should petition the court to modify the disposition and release the child to the custody of this parent. **\* Refer to 6-400, Placement of the Child. \*\***

If the parent has been found after the Termination of Parental Rights petition has been filed, the **\* case manager** must submit the **parent's** **\*\*** address **\*\*\*** to the court and curator ad hoc, if one was appointed, in order for the parent to be served the petition and letter of notice of termination if granted.

### C. EXPERT EVALUATIONS

Psychological or psychiatric evaluations should not routinely be needed when making a decision to terminate parental rights. Psychological or psychiatric evaluations should only be needed to verify mental illness or other mental disability impacting the capacity of the parent to safely care for the child. If such evaluations were obtained earlier in the casework process, they may need to be updated, preferably by the same evaluator(s). The new evaluation, in conjunction with other case record information, may help support the contention that the parents have or have not had improvement in their conduct or condition from the original evaluation. The old and new evaluations, along with the observations of **\* case managers** **\*\*** involved in the case, form the basis for the petition. It must be demonstrated the protective capacity of the parents has not improved and the home of the parents remains unsafe for the child.


### D. PROCEDURE FOR FILING A TERMINATION OF PARENTAL RIGHTS CASE

The **\* BGC** Attorney or the District Attorney **(DA)** **\*\*** may petition for termination of parental rights based on **\*\*\*** agreements **\* between** **\*\*** **\*\*\*** various District Attorneys and the **\* BGC Attorneys.** **\*\***

- **\*\*\***

The court appoints an attorney as curator ad hoc in all cases where the parent cannot be served the petition personally, by domiciliary service, or by registered mail. The letter of appointment is **\*\*\*** forwarded to the department **\* who then** **\*\*** **\*\*\*** provides the curator ad hoc **\* with** **\*\*** all available information pertinent to the location of an absent parent, including names and addresses of known relatives, within 15 days of receipt of a copy of the court order **\*\*\***.

Once a petition to terminate parental rights has been filed, the parent is without authority to execute an act of surrender or otherwise to affect the custody of the child except:

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- The parent may execute an act of surrender in favor of the department with the approval of the court.
- The parent may consent to a judgment terminating his parental rights as provided in \* **Children's Code** Article 1033; or \*\*
- The parent may execute an act of surrender in favor of the foster \* **caretakers** \*\* with the approval of the court.

\* If the parent chooses to execute an act of surrender after the petition to terminate parental rights has been filed, the DCFS Form 448, Statement of Family History – Medical/Genetic History of Biological Families, shall be completed and the DCFS Form 447, Notification of Voluntary Registry Act to Biological Parent, shall be provided to the parent. Refer to 6-1415, Execution of the Surrender. The Foster Care case manager must consult with the Regional BGC attorney to determine if the Department desires to accept a voluntary surrender at that time, or continue pursuit of an involuntary TPR.

If the termination of parental rights petition is not granted and the decision is made to forego an appeal, or an appeal is denied, the case shall be re-staffed with the Child Welfare Manager to determine the appropriate case plan. If defects in case preparation or presentation are identified, and the parent's capacity to parent continues to remain below minimum sufficient level to have the child reunited, the best plan may be to refile the termination petition. \*\*


- \*\*\*

#### \* E. WHO CAN REVIEW THE CASE RECORD

When the District Attorney (DA) is representing the Department in Child in Need of Care proceedings, then the DA is permitted by law to review all records pertaining to foster children. In no instance, shall the name or identifying information regarding a reporter in abuse and neglect cases be disclosed. A copy of the case record may be offered to whoever is handling the case on behalf of the Department.

Upon written motion of the attorney for the child or the parent, the court may order the DA or the Department to permit the attorney to review information as described in Ch. C. Art. 1027 as follows:

- Reports of investigation;
- Reports of evaluations or tests pertaining to the child;
- Case records maintained by the Department pertaining to the child and the parent, except information otherwise protected under R.S. 46:56 or by restrictive order;
- Any videotape of a child who is under the age of 17 or has a developmental disability as defined in R.S. 28:451.2(12) (LA Ch. C. Art. 323).

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R.S. 46:56 prohibits access to records containing the identity of the reporter of child abuse or neglect. Ch. C. Art 1027D prohibits the court from ordering the product or inspection of the work product or writing reflecting the mental impressions, conclusions, opinions, or theories of an attorney.

## F. COURT TESTIMONY

The author of any report used as evidence should be prepared to appear at the hearing. The custodian of the case record must be available and prepared to authenticate the case record. The case manager who has been responsible for maintaining the parents' record is considered the official custodian.

### 1. Testimony of the FC case manager

The case manager should prepare his testimony by reviewing a chronological account of events with the parents (case notes) and gathering a packet of reference materials (court reports, case plans, correspondence, etc.). The case manager is expected to be familiar with the entire case record, including events prior to his assignment of the case, and be able to provide testimony to the court on the current status of the family.


The case manager may take notes to the hearing and refer to the notes, with the court's permission, if needed. Notes taken into the courtroom should be limited in nature, as they are subject to review by the court.

### 2. Testimony of a Foster Child

If a foster child is subpoenaed to testify, the FC case manager should contact the BGC or child's attorney to determine if an objection should be filed based on any concerns the testimony will have on the child. \*\*

## \* G. \*\* PAYMENT OF ATTORNEYS REPRESENTING DCFS \*\*\* OR EXPERT WITNESSES CALLED BY OR WITH THE CONCURRENCE OF DCFS

Legal questions should be directed to \* the BGC Attorney for resolution. Only in extraordinary circumstances should there be private attorney fees for services provided at the request of DCFS. There should be a general understanding between the BGC Attorney and DCFS staff concerning situations when private attorneys should be engaged to represent DCFS. The BGC \*\* Attorney should be consulted regarding other specific situations in which a private attorney may be required to represent DCFS. When staff requests a private attorney to consult or represent DCFS, the attorney shall be paid through TIPS using the following codes and procedures.

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- The TIPS code 400 460 includes legal consultation as well as medical treatment consultation essential to developing a case plan, or assessing progress on a case plan, or preparing a case for court hearings. The code should be used to pay for travel expenses billed in relation to the consultation in accordance with state travel regulations and to pay for any waiting or travel time billed in relation to the consult.
- The TIPS code 800 856 -- Incidental Expense/Legal Services is used for representation of DCFS in court hearings, other dispositions or meetings of a legal nature other than MDT staffings involving child welfare cases and preparation time required for court hearings and/or legal research.
- For fact or expert witnesses called by or with the concurrence of DCFS use the TIPS code 800 857 Court Testimony for payment for testimony given in court and related expenses by a psychologist \*\*\* physician or other expert witness including former state employees called as a result of involvement in a child welfare case. The fees of witnesses will be paid in accordance with \* the rate DCFS typically provides that professional for services. \*\* For medical \*\*\* the hourly rate should be no more than the provider's Medicaid hourly rate for a routine office visit. For therapeutic providers this hourly fee would be the equivalent of no more than the hourly fee DCFS would provide for a session of individual therapy in accordance with \* Louisiana Behavioral Health Partnership rates. \*\* For former state employees the hourly fee would be the equivalent of the employee's hourly wage at the time the employee terminated with the department. Payment of a current state employee called as a witness in relation to his work with clients through employment with the state shall not be paid as an expert witness.

#### \* H. \*\* COMPLETE TIPS/LARE DATA REQUIREMENTS

Refer to Program Policy Manual Chapter 7. LARE.


#### \* I. \*\* NOTIFY REGIONAL SOCIAL SERVICES ANALYST

The case manager shall notify the Regional IV-E Social Services Analyst by the FAST III, Change Redetermination Form, \*\* when \*\*\* parental rights have been terminated in order to notify Child \*\* Support Enforcement \*\*\* to terminate future collections of payments.

#### \* J. POST-TERMINATION SERVICES

- Continued Visitation

Children's Code Article 1037.1 permits the court to order continuing contact between the child and parent, sibling, or other biological relatives pending adoption only after making a finding of fact that it is in the best interest of the child. It is the responsibility of the FC

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case manager and supervisor to assure the Department's recommendation regarding continuing contact and the basis for the recommendation is presented to the court.

Any recommendation for post-termination contact with parents, siblings, or other biological relatives pertains only to the period of time pending the adoption finalization. In those situations in which ongoing contact is considered important to the child's future well-being and successful adoptive placement, a home which agrees to ongoing contact will be sought; however, the department has no authority to require prospective adoptive parents enter into a Continuing Contact Agreement. The FC case manager shall assess if continued contact with parents, siblings, or other biological relatives with whom the child has an established and significant relationship is in the child's best interest, and, if so, the continued contact should be addressed in the child's case plan.

- **Louisiana Adoption Voluntary Registry**

The parents shall be notified of the Louisiana Adoption Voluntary Registry administered by the Department to facilitate voluntary contact between anyone adopted in Louisiana and his/her birth family. The VR-11, Louisiana Adoption Voluntary Registry flyer shall be provided to any parent who has their parental rights to a child terminated by the Department. Documentation of this discussion is added to case notes.

- **Concrete Services**

The FC case manager shall inform parents of the availability of concrete services in their local area to assist with meeting any identified needs. \*\*

## \* **K. APPEAL**

### 1. Court Transcripts


DCFS will pay for court transcripts when requested by a BGC Attorney for the purpose of appealing a decision adverse to the Department. Payment of such fees is processed at the Regional Office using TIPS FC code 800 855, Incidental Expense/Legal Expense Court Transcript.

### 2. Case Manager Action during an Appeal \*\*

Case activities continue as they did prior to the granting of the termination petition while an appeal is pending. For example:

- parents' SP case continues to be open;
- case plans for the parents continue to be implemented;
- parents' visitation continues unless the court has determined otherwise;
- \* contact is continued with significant others, as previously \*\* \*\*\*



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- notices of all hearings are \*\*\* made to parents; and ,
- parents continue to make major decisions concerning the child \*\*\*

The Foster Care \* **case manager** should continue to explore previous **caretakers**, \*\* relatives, friends of the child and foster parents in an effort to locate an adoptive home. While the case is under appeal and \*\*\* there is no identified adoptive resource, the Foster Care \* **case manager** cooperates with the Adoption **case manager** who **searches** for an adoptive home by exploring adoptive home records, LARE and the National Adoption Exchange. The Foster Care **case manager** \*\* refers the child to the Home Development Unit to develop a child specific recruitment plan to locate an adoptive home.

### III. FORMS AND INSTRUCTIONS

\* DCFS CW Form TPR-1, Termination of Parental Rights Packet  
 DCFS CW Form [TPR-2 Notice of Termination of Parental Rights Law](#)  
 DCFS CW Form [Fast III Change Redetermination Form](#)  
 DCFS CW [Form 447, Notification of Voluntary Registry Act to Biological Parent](#)  
 DCFS CW [Form 448, Statement of Family History – Medical/Genetic History of Biological Families](#) \*\*  
 \*\*\*

### IV. REFERENCES

\* [DCFS CW Policy 6-205, Assessment of Family Functioning](#)  
[DCFS CW Policy 6-400, Placement of the Child](#)  
[DCFS CW Policy 6-840, Permanent Plan Goal Reunification with Parents or Principal Caretaker](#)  
[DCFS CW Policy 6-845, Permanent Plan Goal Adoption](#)  
[DCFS CW Policy 6-854, Permanent Plan Goal Guardianship](#)  
[DCFS CW Policy 6-860, Permanent Plan Goal Alternative Permanent Living Arrangement](#)  
[DCFS CW Policy 6-1400, Voluntary Surrender of a Child in DCFS Custody](#)  
[DCFS CW Policy 6-1500, Involuntary Termination of Parental Rights](#)  
[DCFS CW Policy Chapter 7, LARE](#)  
[LA Children's Code Article 323](#)  
[LA Children's Code Article 1004.1](#)  
[LA Children's Code Article 1027](#)  
[LA Children's Code Article 1033](#)  
[LA Children's Code Article 1037.1](#)  
[R.S. 28:451.2\(12\)](#)  
[R.S. 46:56](#) \*\*