
 <b>Department of Children &amp; Family Services</b> <i>Building a Stronger Louisiana</i>	<b>Division/Section</b>	Child Welfare
	<b>Chapter No./Name</b>	6 – Foster Care (FC)
	<b>Part No./Name</b>	15 – Involuntary Termination of Parental Rights (TPR)
	<b>Section No./Name</b>	Involuntary Termination of Parental Rights (TPR)
	<b>Document No./Name</b>	6-1500 Grounds for Termination of Parental Rights
	<b>Effective Date</b>	November 1, 2020

## I. STATEMENT OF POLICY


### A. GROUNDS FOR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

The Louisiana Children's Code Article 1015 provides the following grounds as the legal basis for immediate involuntary termination of parental rights:

1. Conviction of murder of the child's other parent.
2. Unjustified intentional killing of the child's other parent.
3. Conviction of a sex offense \* as defined in R.S. 15:541 by the natural parent which resulted in the conception of the child.
4. Misconduct of the parent toward this child or any other child of the parent or any other child of the parent which constitutes extreme abuse, cruel and inhuman treatment, or grossly negligent behavior below a reasonable standard of human decency, including but not limited to the conviction, commission, aiding or abetting, attempting, conspiring, or soliciting to commit any of the following:
  - a. Murder
  - b. Unjustified intentional killing
  - c. Aggravated crime against nature as defined by R.S. 14:89.1(A)(2) \*\*
  - d. Rape
  - e. Sodomy
  - f. Torture
  - g. Starvation
  - h. A felony that has resulted in serious bodily injury
  - i. Abuse or neglect which is chronic or life threatening or results in gravely disabling physical or psychological injury or disfigurement
  - j. Abuse or neglect after the child is returned to the parent's care and custody while under department supervision, when the child had previously been removed for his safety from the parent pursuant to a disposition judgment in a child in need of care proceeding

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- k. The parent's parental rights to one or more of the child's siblings have been terminated due to neglect or abuse and prior attempts to rehabilitate the parent have been unsuccessful, \* and the court has determined pursuant to Article 672.1, that current attempts to reunite the family are not required. \*\*
  - l. Sexual exploitation or abuse which shall include, but is not limited to \*\*\* \* acts which are prohibited by R.S. 14:43.1, 43.2, 46.3, 80, 81, 81.1, 81.2, 82.1(A)(2), 89 and 89.1. \*\*
  - m. Human Trafficking when sentenced pursuant to the provisions of R.S. 14:46.2 (B)(2) or (3).
5. Abandonment of the child by placing him in the physical custody of a nonparent or the department or by otherwise leaving him under circumstances demonstrating an intention to permanently avoid parental responsibility by any of the following:
  - a. For a period of at least four months as of the time of the hearing, despite a diligent search, the whereabouts of the child's parent continue to be unknown.
  - b. As of the time the petition is filed, the parent has failed to provide significant contributions to the child's care and support for any period of six consecutive months.
  - c. As of the time of the petition is filed, the parent has failed to maintain significant contact with the child by visiting him or communicating with him for any period of six consecutive months.
6. Unless sooner permitted by the court, at least one year has elapsed since a child was removed from the parent's custody pursuant to a court order; there has been no substantial parental compliance with a case plan for services which has been previously filed by the department and approved by the court as necessary for the safe return of the child; and despite earlier intervention, there is no reasonable expectation of significant improvement in the parent's condition or conduct in the near future, considering the child's age and his need for a safe, stable and permanent home.
7. The child is in the custody of the department pursuant to a court order or placement by the parent; the parent has been convicted and sentenced to a period of incarceration of such duration that the parent will not be able to care for the child for an extended period of time considering the child's age and his need for a safe, stable and permanent home; and despite notice by the department, the parent has refused or failed to provide a reasonable plan for the appropriate care of the child other than foster care.
8. The relinquishment of an infant \* pursuant to Chapter 13 of Title XI of this Code. \*\* \*\*\*

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9. Commission of a felony rape or sex offence as defined in 15:541 by the natural parent which resulted in the conception of the child. \*\*\*
10. The child is in the custody of the department pursuant to a court order for at least one year, unless sooner permitted by the court, and the identity of the child's father remains unknown and all the following:
  - a. In the course of investigating the case and providing services to the family the department has been unable to learn the identity of the father.
  - b. No party to the proceedings or the mother, if not a party, is able to provide a first and last name of a putative father or alias sufficient to provide a reasonable possibility of identification and location.
  - c. The department has obtained all of the following:
    - i. A certified copy of the child's birth certificate with no one indicated thereon as the father of the child, or the father listed has been determined not to be the biological father of the child.
    - ii. A recent certificate from the putative father registry indicating that no person is listed or registered as the child's father.
    - iii. A recent certificate from the clerk of court in the parish in which the child was born indicating that no acknowledgement with respect to this child has been recorded.


**B. ACCORDING TO CHILDREN'S CODE 1004, THE FOLLOWING PARTIES MAY FILE FOR TERMINATION OF PARENTAL RIGHTS WHEN CERTAIN CONDITIONS OUTLINED IN CHILDREN'S CODE 1015 ARE MET:**

1. \* At any time, including in any hearing in a child of need of care proceeding, the court on its own motion may order the filing of a petition on any ground authorized by Article 1015.
2. Counsel appointed for the child pursuant to Article 607 may petition for the termination of parental rights of the parent of the child if the petition alleges a ground authorized by Article 1015(5), (6), or (7) and although eighteen months have elapsed since the date of the child's adjudication as a child in need of care, no petition has been filed by the district attorney or the department \*\* \*\*\*.
3. The District Attorney (DA) may \* petition for the termination of parental rights of the parent of the child on any ground authorized by Article 1015 \*\* \*\*\*.

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4. DCFS may file for termination of parental rights under any one of the following circumstances:
  - a. When the child has been subjected to abuse or neglect after the child was returned to the parent's care and custody while under Department supervision,\* and termination is authorized by Article 1015(4)(j);
  - b. The parent's rights to one or more of the child's siblings have been terminated due to neglect or abuse and prior attempts to rehabilitate the parent have been unsuccessful, and termination is authorized by Article 1015(4)(k);
  - c. The child has been abandoned and termination is authorized by Article 1015(5);
  - d. When the child has been placed in state custody and termination is authorized by Article 1015(5); \*\* \*\*\*
  - e. When the parent is incarcerated \* and termination is authorized by Article 1015(7);
  - f. When the child is in foster care, and despite diligent efforts by the department to identify the child's father, his identity is unknown and termination is authorized by Article 1015(10);
5. Foster Parents who intend to adopt the child may petition for the termination of parental rights of the foster child's parents when adoption is the permanent plan for the child, the child has been in state custody under the foster parent's care for seventeen of the last twenty-two months, and the department has filed to petition for such termination. \*\*
6. The child's attorney may file under any one of the following circumstances:
  - a. When the child has been abandoned;
  - b. When the child has been placed in state custody, and at least one year has elapsed, unless pursuant to a court order and there has been no substantial parental compliance with the case plan; and there is no reasonable expectation of significant improvement in the parent's condition in the near future; or
  - c. When the parent is incarcerated.
7. Any interested person under certain circumstances, refer to Article 1004.

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8. \* When a child is conceived as the result of a sex offense as defined in R.S. 15:541, the victim of the sex offense may petition to terminate the rights of the perpetrator of the sex offense.

**C. ACCORDING TO CHILDREN’S CODE 1004.1 THE TERMINCATION OF PARENTAL RIGHTS MUST BE FILED WHEN THE FOLLOWING CONDITIONS APPLY:**

1. Efforts to reunify were made for 12 months, but the child cannot be safely returned home:
  - a. The federal requirement for filing a petition to terminate parental rights is when the child has been in care for 17 of the last 22 months. The calculation of 17 \*\* of the last 22 months begins with:
    - i. The date of the first judicial finding that the child was subjected to child abuse or neglect; or
    - ii. 60 days from the date the child was removed from the home, whichever occurs first.
  - b. A judicial determination that the child was subjected to child abuse or neglect usually occurs more than 60 days after the child was removed from the home. The LA Children’s Code Article 1004.1 and department policy calculate the required date for filing a termination of parental rights as being when the child has been in foster care for “17 of the last 22 months”, which is calculated from the date the child was removed from the home.
  - c. In cases where a judicial determination is made less than 60 days after the child enters foster care, the petition to terminate parental rights must be filed within 15 months after the child entered care.
  - d. The time for filing the petition to terminate parental rights includes all episodes of foster care that occurred within the 22 month time period.
  - e. Time when a child was on runaway status or on trial home visit is deducted from the total time in care when calculating the 17 months since the child entered care or the 15 months since the judicial determination the child was subjected to child abuse or neglect.
  - f. If termination of parental rights was not pursued according to the above timetable because compelling reasons existed, the calculation is not used again regarding the same child.

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2. When a child has been determined by a court of competent jurisdiction to be an abandoned infant:
  - a. The petition to terminate parental rights must be filed within 60 days of the judicial determination that the child is an abandoned infant.
3. When the parent has been convicted of murder of another child of the parent, voluntary manslaughter of another child of the parent, aiding or abetting, attempting, conspiring or soliciting to commit such a murder or voluntary manslaughter, or felony assault that results in serious bodily injury to the child or another child of the parent:
  - a. The petition to terminate parental rights must be filed within 60 days of the judicial determination that reasonable efforts to reunify the child and parent are not required.
4. In the circumstances noted above, the Department may elect not to file a petition to terminate parental rights if:
  - a. The child is being cared for by a relative;
  - b. The Department has documented a compelling reason for determining filing a petition to terminate parental rights would not be in the best interest of the child. Refer to 6-825, Ongoing Family Case Planning Meetings, Quarterly Staffing, and Permanency Planning Staffing Administrative Reviews, and 6-845, Permanent Plan Adoption; or
  - c. The Department has not provided the family services determined to be necessary for the safe return of the child to the home, consistent with the time period in the case plan, when reasonable efforts to reunify the family are required.

## II. PROCEDURES

DCFS must file and pursue a termination of parental rights petition against the parents to comply with the Ch. C. Article 1004.1 mandates when the child has been in state custody for 17 of the last 22 months.

If DCFS determines an exception to filing for termination of parental rights exists, the compelling reasons why filing is not in the best interest of the child is documented in the case plan and subsequent court reports. Refer to 6-825, Ongoing Family Case Planning Meetings, Quarterly Staffing, and Permanency Planning Staffing Administrative Reviews.

Foster \*caregivers who intend to adopt the child may file when the child has been in state custody under the foster caregivers' care for 18 out of the last 22 months and the Department has not filed a petition for termination of parental rights. The foster caregivers\*\* must hire their own attorney and pay for all expenses related to the petition.

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### III. FORMS AND INSTRUCTIONS

There are no forms associated with this policy.

### IV. REFERENCES

CW Policy [6-825](#) Ongoing Family Case Planning Meetings, Quarterly Staffing, and Permanency Planning Staffing Administrative Reviews  
 CW Policy [6-845](#) Permanent Plan Goal Adoption  
[LA Children's Code Article 1004.1](#)  
[LA Children's Code Article 1015](#)  
 LA Children's Code Chapter 13  
 Act 239