



Federal Child Welfare Review

**ASFA
Revisited**

**Ensuring Safety, Timely
Permanency, and Child
and Family Well-Being**

**THE ADOPTION AND
SAFE FAMILIES ACT OF
1997 (ASFA)**

(Public Law 105-98)

42 U.S.C. §§ 620-679.

HISTORY /OVERVIEW

Builds on requirements outlined in

P.L 96-272

**The Adoption Assistance and
Child Welfare Act of 1980.**

“REASONABLE EFFORTS” =

Federal \$\$\$\$\$\$

PURPOSE

- To provide states a framework for developing a legal and administrative structure for the effective and efficient delivery of child welfare services that result in the **safety, permanency, and well being** of children who have been abused or neglected.
- To provide states financial incentives to establish and maintain a child welfare system that is **outcome focused, data driven, and solution oriented** within a process of **continuous quality improvement**.

The Act was based on the following principles:

- The safety and well being of children is the paramount concern that must guide aspects of the child welfare system.
- Children should be safely maintained in their home with appropriate services whenever possible.
- Foster care is a *temporary* setting and not a place for children to grow up.
- Permanency planning efforts for children should begin as soon as a child enters foster care and should be expedited by the provision of appropriate services to families.
- The child welfare system must focus on results and accountability.

The Act thus requires on-site periodic federal review of factors related to:

- **Child safety.**
- **Reasonable efforts and timely permanency.**
- **Child and family well being.**

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ADOPTION & SAFE FAMILIES ACT

Safety/Stability ~ Permanence ~ Child and Family Well Being

Title IV-E Review **Form ~ Documentation**

Eligibility/Court Findings:

- Income/placement requirements (DHS)
- Contrary to welfare to remain in home.
- Reasonable efforts to prevent removal.
- Placement and supervision with state agency.
- Timely review at 6/12 months.
- Reasonable efforts to achieve timely permanency.

Child & Family Services Review

Substance ~ Application

14 Performance Measures

Outcome Factors:

- Children safely maintained in home when possible/appropriate.
- Children in care of the state protected from abuse/neglect.
- Permanency and stability in living situation.
- Continuity of family relationships/important connections maintained.
- Family has enhanced capability to meet child's needs.
- Appropriate services to meet child's educational needs provided.
- Appropriate services to meet child's physical and mental health needs provided.

System Factors:

- Statewide data system.
- Efficient and effective case (court) review system.
- Internal/external quality assurance.
- Training child welfare professionals and foster parents.
- Array of services.
- Collaboration among stakeholders.
- Foster parent licensing and recruitment retention.

SUMMARY OF KEY PROVISIONS

The Act establishes limits to the amount of time children should remain without permanency in their living situation.

- Reunification in 12 months or less.
- Adoption in 24 months or less.

The Act requires that states file a petition to terminate parental rights and pursue adoption for children who have been **in care for 15 of most recent 22 months**, unless **“*compelling reasons*”** are identified.

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Compelling reasons not to file a petition to terminate parental rights include, but are not limited to, the following:

- Adoption is not the appropriate permanency goal for the child.
- No grounds exist to file a petition to terminate parental rights.
- The child is an unaccompanied refugee minor as defined in 45 CFR 400.111.
- There are international legal obligations or compelling foreign policy reasons that preclude terminating parental rights.
- The state has not provided the child's family, during the period set in the case service plan, with the services the state considers necessary for the child's safe return to his or her home, if reasonable efforts to reunify the family are required.

The Act requires initial and updated case plans *customized* to the individual needs and strengths of the family and relevant to the problems requiring placement of the child.

The case plan must:

- Identify the specific permanency plan.
- Outline *specific* goals and tasks relevant to remediating the problem that brought the children into care.
- Identify services to be provided to achieve the plan.
- Establish *real time* timelines for service provision, goal achievement, and achievement of the permanency plan.
- Specify how the safety and well being of the child will be maintained while they are in care.

The Act requires that the case plan be developed and updated *jointly* by the state/contracted agency and the parents.

If the parents are unable or unwilling to participate in the case plan development, the agency must document within the plan efforts made to engage the parents in the process.

The Act requires that notice of all court/administrative reviews and the opportunity to be heard is provided to foster parents, relatives, and preadoptive parents.

The Act removes jurisdictional barriers
to adoption.
Interstate Compact.

The Act promotes “concurrent planning.”

Establishment of an initial plan for reunification services and efforts, while simultaneously establishing an alternative permanent plan, in the event it is needed.

**COURT REVIEWS
AND
REASONABLE EFFORTS**

The Act requires a “contrary to the welfare of the child” finding be made in the first court order (directing the child into placement). Reasons must be noted.

The Act requires Administrative/court review of the case plan at disposition and subsequent six month review hearings.

The Act requires Permanency Planning Hearings (PPH) be conducted within 12 months of the child entering care and 12 months from each subsequent PPH.

REASONABLE EFFORTS

Provision by the investigating or supervising agency of the services, support, and assistance needed to prevent the unnecessary removal of children from their homes; reunite children with their parents when temporary removal is necessary; or achieve an alternative permanency placement when a judicial determination is made that it is not in the child's best interests to return home.

The Act requires a **reasonable efforts** finding to prevent out-of-home care must be made **within 60 days of placement in foster care and documented in a court order.**

Exception: MCL 722.638/MCR 3.965 (D)

If a finding is made that efforts were not required, the court must schedule a permanency planning hearing within 28 days of finding.

The Act requires that a **reasonable efforts finding** be made and documented in the court order at each PPH, including the **specific efforts that were made.**

If reasonable efforts are no longer required for reunification, reasons must be documented, and the agency must pursue an order terminating parental rights or designate an alternative permanency plan.

Reasonable efforts to reunify the family (determination)

- Have parents been adequately assessed, including needs/strengths/limitations, in a timely manner?
- Have parents been provided the assistance, services, and support necessary to help them become capable of providing adequate safety, care, and nurture for their children?
- Have parents been provided appropriate services for their *specific needs*? Have services been provided in a timely manner?
- Have parents been provided a sufficient opportunity to maintain their parental bond with their children and improve their parenting skills.

Reasonable efforts to achieve other permanency plan of adoption, legal guardianship, placement with a fit and willing relative, or another planned permanency living arrangement should address:

- Recruitment efforts by agency.
- Administrative/legal process/filing.
- Services to family.
- Services to youth.

The Act encourages “judicial leadership” in moving the case toward timely permanency and ensuring the safety and well being of children and families under the court’s jurisdiction.

JUDICIAL LEADERSHIP

“Judicial responsibility for impartiality does not preclude judicial leadership”

(Technical Assistance Brief, NCJFCJ – 2006)

WHY *Judicial Leadership* is essential to achieving positive outcomes for families and children in the child welfare system.

1. Jurisdiction implies a sacred trust – pledge to ensure the care and safety of child while the parent is unable/unwilling, and to facilitate “timely” restoration of child to safe, stable and permanent home.
2. Complexity of legal, social, cultural, clinical issues requires someone who knows what is supposed to be happening in the case, with the authority to ensure that it does.

Aspects of Judicial Leadership From the Bench

- Establish a courtroom environment of respect and safety, including cultural and community sensitivity.
- Actively monitor care and supervision of child by agency
- Ensure timeliness of required statutory hearings, including avoiding repeated adjournments and continuances and/or protracted termination trials. (See SCAO Case Flow Management Standards.)
- Ensure thoroughness of hearings (i.e., safety, permanency, and well being issues are addressed at each hearing).
- Ensure thoroughness and accuracy of court orders and timeliness of distribution.

**Aspects of Judicial Leadership From the Bench,
cont.**

- Set clear expectations for all parties and stakeholders, and hold them accountable within their roles and responsibilities within the case.
- When legal and child welfare professionals do not perform at standards set by the court, require supervisors to appear at hearings or issue “reasonable efforts were not made” rulings as sanctions.
- Ask questions from a position of knowledge (know what you need to know).
- Maintain an awareness of available services within the community and their effectiveness in addressing child/family needs.

Available Technologies to Support Positive Outcomes for Children and Families

- *CONCURRENT PLANNING*
- *PERMANENCY PLANNING MEDIATION*
- *FRONT LOADING SERVICES*
 1. Comprehensive Preliminary Hearings
 2. Timely adjudication and disposition
 3. Frequent/meaningful parenting time early in placement
 4. Individualized/Interactive parenting classes/coaching
 5. Accountability for timely service referrals
 6. Advocacy for needed resources and services

Current Michigan models of collaboration in improving compliance with ASFA requirements:

- Permanency Options Workgroup.
- Adoption/Permanency Forum.
- GTF Training.
- SCAO CIP Initiatives.