

## Overview of Adoption and Safe Families Act of 1997

Prior to the passage of the Adoption and Safe Families Act in 1997 (ASFA), federal law did not require states to initiate termination of parental rights proceedings based on a child's length of stay in foster care. ASFA's goal is to focus on the child's safety and shorten the time that children spend in foster care. The following are key provisions of ASFA:

- **The safety of children is the paramount concern that must guide all child welfare services.** ASFA requires that child safety be the paramount concern when making service provision, placement and permanency planning decisions.
- **Set New Time Frame for Permanency Hearings.** Former federal law required a dispositional hearing within 18 months of a child's placement into out-of-home care. ASFA establishes a permanency planning hearing for children in care that occurs within 12 months of a child's entry into care. At the hearing, there must be a determination of whether and when a child will be returned home, placed for adoption and a termination of parental rights petition will be filed, referred for legal guardianship, or another planned permanent living arrangement if the other options are not appropriate.
- **Made filing a petition to terminate parental rights mandatory.** The State must file a petition to terminate parental rights on behalf of any child regardless of age under these circumstances:
  - The child has been in foster care for 15 out of the most recent 22 months. A child would be considered as having entered foster care on the earlier of either the date of the first judicial finding of abuse or neglect, or 60 days after the child is removed from the home.
  - A court has determined that an infant has been abandoned (as defined in state law) or
  - Reasonable efforts are not required because a court has made a judicial finding of aggravated circumstances. These are outlined in the next section.
  - Exceptions can be made to these requirements if:
    - (1) A child is being cared for by a relative;
    - (2) The state agency documents in the case plan which is available for court review, a compelling reason why filing is not in the best interest of the child; or
    - (3) The state agency has not provided to the child's family, consistent with the time period in the case plan, the services deemed necessary to return

the child to a safe home.

- **Expedited Permanency in case of aggravated circumstances and severe abuse.** States continue to be required to make reasonable efforts to preserve and reunify families. In making decisions about the removal of a child from, and the child's return to, his or her home, the child's health and safety shall be the paramount concern. The reasonable efforts requirement does not apply in cases in which a court has found that:
  1. The parent has subjected the child to "aggravated circumstances" as defined in state law (including but not limited to abandonment, torture, chronic abuse, and sexual abuse);
  2. The parent has committed murder or voluntary manslaughter or aided or abetted, attempted, conspired or solicited to commit such a murder or manslaughter of another child of the parent;
  3. The parent has committed a felony assault that results in serious bodily injury to the child or another one of their children; or
  4. The parental rights of the parent to a sibling have been involuntarily terminated

In these cases, states would NOT be required to make reasonable efforts to preserve or reunify the family but are required to hold a permanency hearing within 30 days and to make reasonable efforts to place the child for adoption, with a legal guardian, or in another permanent placement.

- **Permanency planning efforts for children should begin as soon as a child enters foster care and should be expedited by the provision of services to families.** ASFA's provision for concurrent planning allows a State to begin planning for a child's adoption/guardianship while simultaneously providing the family reasonable efforts towards a plan of reunification.
- **Requires States to Check Prospective Foster and Adoptive Parents for Criminal Backgrounds.** States are required to provide procedures for criminal record checks for any prospective foster or adoptive parents, before the parents are approved for placement of a child eligible for federal subsidies. When a criminal record check reveals a felony conviction for child abuse or neglect, spousal abuse, another crime against a child (including child pornography), rape, sexual assault, or homicide, final approval of foster or adoptive parent status shall not be granted. In a case of a felony conviction for physical assault, battery, or a drug-related offense that was committed in the past five years, approval could not be granted. States can opt out of this provision either through a written notice from the Governor to HHS, or

through state law enacted by the state legislature.

- **Requires Notice of Court Reviews and Opportunity to be Heard to Foster Parents, Preadoptive Parents and Relatives.** A foster parent, any preadoptive parent or relative caring for a child must be given notice of, and an opportunity to be heard in, any review or hearing involving the child. This provision does not require that any foster or preadoptive parent or relative be made a party to such a review or hearing.
- **Authorizes the Use of the Federal Parent Locator Service.** Child welfare agencies can now use the Federal Parent Locator Service to assist in locating absent parents.