
OVERVIEW

The best permanency plan for an Indian child is usually with his or her own family. However, this option is sometimes impossible and alternative permanency plans must be arranged. Several options exist and some have greater advantage in Indian cases than others.

Cultural considerations give the caseworker a different set of priorities.

Example: In non-Indian cases, after the option of returning the child to the home, termination of parental rights and adoption are usually the most desirable options in permanency planning due to the stability of the legal situation. In most Indian cases, termination of parental rights and adoption are the **least** desirable options, due to the priority on maintaining permanence in the context of the extended family and tribe.

If (after considering reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative) the caseworker concludes that the most appropriate permanency plan for an Indian child is another planned permanent living arrangement (APPLA), the Adoption and Safe Families Act (ASFA) specifies that the caseworker must document the compelling reasons for the alternate plan to the court.

Compelling Reason Examples

Examples of compelling reasons for establishing APPLA may include, but are not limited to, the tribe's identification of another planned permanent living arrangement for the Indian child and the youth is at least age 16 or an Indian youth who opposes termination and adoption.

Compelling reasons in foster care policy FOM 722-7, Foster Care - Permanency Planning, must be followed. In addition, the following reasons may be used as a compelling reason for Indian children and documented in the service plan:

- The Indian child is placed with a member of the Indian child's extended family as defined in policy.
- Active efforts were not provided.
- The active efforts that were provided have not failed.

- The tribe or supervising agency has identified a different permanency goal to be in the best interest of the Indian child (i.e., not supporting a petition for termination of parental rights).
- The Indian Child Welfare Act's (ICWA)/Michigan Indian Family Preservation Act (MIFPA) specific legal standard applicable to termination of parental rights, evidence beyond a reasonable doubt, has not been met.
- Parent(s) are making substantial progress in treating a substance/alcohol abuse problem and continued progress could allow future reunification without endangering the Indian child.
- There is no qualified expert witness testimony that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child, as required by ICWA/MIFPA.

LEGAL BASIS

Adoption and Safe Families Act, 42 USC 601 et seq.

Indian Child Welfare Act, 25 USC 1901 et seq.

Michigan Indian Family Preservation Act, MCL 712B. 1 - 41.