

§4041. Departmental responsibilities

1. Rehabilitation and reunification.

[PL 2001, c. 559, Pt. CC, §4 (RP).]

1-A. Rehabilitation and reunification. A child is considered to have entered foster care on the date of the first judicial finding that the child has been subjected to child abuse or neglect or on the 60th day after the child is removed from the home, whichever occurs first. When a child is considered to have entered foster care, the responsibility for reunification and rehabilitation of the family must be shared as follows.

A. The department shall:

(1) Develop a rehabilitation and reunification plan as provided in this subparagraph.

(a) In developing the rehabilitation and reunification plan, the department shall make good faith efforts to seek the participation of the parent. Information that must be included in developing the plan includes the problems that present a risk of harm to the child, the services needed to address those problems, provisions to ensure the safety of the child while the parent engages in services, a means to measure the extent to which progress has been made, and visitation that protects the child's physical and emotional well-being. With this information, the department shall prepare a written rehabilitation and reunification plan.

(b) The department shall circulate the plan to the parties at least 10 days before a scheduled court hearing and shall present the plan to the court for filing at that hearing.

(c) The rehabilitation and reunification plan must include the following:

(i) The reasons for the removal of the child from home;

(ii) The changes that are necessary to eliminate jeopardy to the child while in the care of a parent;

(iii) Rehabilitation services that will be provided and must be completed satisfactorily prior to the child's returning home;

(iv) Services that must be provided or made available to assist the parent in rehabilitating and reunifying with the child, as appropriate to the child and family, including, but not limited to, reasonable transportation for the parent for visits and services, child care, housing assistance, assistance with transportation to and from required services and other services that support reunification;

(v) A schedule of and conditions for visits between the child and the parent designed to provide the parent and child time together in settings that provide as positive a parent-child interaction as can practicably be achieved while ensuring the emotional and physical well-being of the child when visits are not detrimental to the child's best interests;

(vi) Any use of kinship support, including, but not limited to, placement, supervision of visitation, in-home support or respite care;

(vii) A reasonable time schedule for proposed reunification, reasonably calculated to meet the child's needs; and

(viii) A statement of the financial responsibilities of the parent and the department during the reunification process;

(2) Provide the parent with prompt written notice of the following, unless that notice would be detrimental to the best interests of the child:

- (a) The child's residence and, when practicable, at least 7 days' advance written notice of a planned change of residence; and
 - (b) Any serious injuries, major medical care received or hospitalization of the child;
- (3) Make good faith efforts to cooperate with the parent in the pursuit of the plan;
 - (4) Periodically review with the parent the progress of the plan and make any appropriate changes in that plan. If the parties disagree about the proposed changes in the plan, any party may seek an informal conference with all other parties in an effort to resolve the disagreement, prior to initiating court action. If the parties are unable to agree after an informal conference, the parties may have access to the court's case management system. This subparagraph may not be construed to limit the court's authority to manage and control any cases within the court;
 - (5) Petition for judicial review and return of custody of the child to the parent at the earliest appropriate time; and
 - (6) Petition for termination of parental rights at the earliest possible time that it is determined that family reunification efforts will be discontinued pursuant to subsection 2 and that termination is in the best interests of the child. [PL 2001, c. 559, Pt. CC, §5 (NEW).]
- B. The responsibilities of the parent include, as appropriate to the child and family, that the parent:
- (1) Rectify and resolve problems that prevent the return of the child to the home;
 - (2) Cooperate with the department in the development of the plan, as described in paragraph A;
 - (3) Take part in a reasonable rehabilitation and reunification plan. Use of rehabilitation and other services by a parent may not be used to constitute an admission by the parent;
 - (4) Maintain meaningful contact with the child pursuant to the plan. When a parent has moved from the area where the child has been placed, the parent shall make arrangements to visit the child at or near the child's placement. If a significant practical barrier to parental contact with the child arises, any party aware of the barrier shall notify the other parties and all parties shall make efforts to overcome the barrier to contact;
 - (5) Seek and utilize appropriate services to assist in rehabilitating and reunifying with the child;
 - (6) Pay reasonable sums toward the support of the child within the limits of the parent's ability to pay;
 - (7) Maintain contact with the department, including prompt written notification to the department of any change of address; and
 - (8) Make good faith efforts to cooperate with the department in developing and pursuing the plan. [PL 2001, c. 559, Pt. CC, §5 (NEW).]
- C. Unless excused for good cause shown, at any hearing held under section 4034, subsection 4 or within 10 days of the filing of the petition if a hearing under section 4034, subsection 4 is not held, the department shall present to the court for review a preliminary rehabilitation and reunification plan, a plan to avoid removal of the child from home or decision not to commence reunification.
- (1) A preliminary plan must be developed with the custodial parent and the department caseworker if the parent is willing to engage in the development of the plan.
 - (2) The preliminary plan must include the following: a statement of the problems causing risk to the child identified by the department and by the parent; preliminary identification by the parent and by the department of services needed; a description of the visitation plan or explanation of why visits are not scheduled; the names, addresses and telephone numbers of any relatives or family friends known to the department and parent to be available as resources

for rehabilitation and reunification; and the department's preliminary assessment of any kinship placements.

(3) Prior to review by the court, the department shall provide a copy of the preliminary plan to counsel for the parents, or to the parents if they do not have counsel, and to the guardian ad litem.

(4) The court may review the preliminary plan in a hearing that does not allow testimonial evidence with all parties and counsel present or may hold a summary hearing at which the court may limit testimony to the testimony of the caseworker, parent, guardian ad litem, person to whom trial placement was given, foster parents, preadoptive parents or relatives providing care and may admit evidence, including reports and records, that would otherwise be inadmissible as hearsay evidence.

(5) The preliminary plan remains in effect until the court enters a jeopardy order under section 4035. A party may file an amended plan at any time before the jeopardy order is entered with the written agreement of all parties. [PL 2001, c. 559, Pt. CC, §5 (NEW).]

D. The department may make reasonable efforts to place a child for adoption or with a legal guardian concurrently with reunification efforts if potential adoptive parents have expressed a willingness to support the rehabilitation and reunification plan. [PL 2001, c. 559, Pt. CC, §5 (NEW).]

[PL 2001, c. 559, Pt. CC, §5 (NEW).]

2. Determination of need to commence or discontinue rehabilitation and reunification efforts.

The following provisions determine when rehabilitation and reunification efforts are not necessary or may be discontinued.

A. [PL 1997, c. 715, Pt. B, §11 (RP).]

A-1. [PL 2001, c. 696, §33 (RP).]

A-2. The court may order that the department need not commence or may cease reunification efforts only if the court finds at least one of the following:

(1) The existence of an aggravating factor; or

(2) That continuation of reunification efforts is inconsistent with the permanency plan for the child.

(a) When 2 placements with the same parent have failed and the child is returned to the custody of the department, the court shall make a finding that continuation of reunification efforts is inconsistent with the permanency plan for the child and order the department to cease reunification unless the parent demonstrates that reunification should be continued and the court determines reunification efforts to be in the best interests of the child.

(b) If the permanency plan provides for a relative or other person to have custody of the child and the court has ordered custody of the child to that relative or other person, the court shall make a finding that continuation of reunification efforts is inconsistent with the permanency plan for the child and order the department to cease reunification unless the parent demonstrates that reunification should be continued and the court determines reunification efforts to be in the best interests of the child. [PL 2001, c. 696, §34 (NEW).]

B. [PL 1997, c. 715, Pt. B, §11 (RP).]

B-1. When the department discontinues efforts to return the child to a parent, it shall give written notice of this decision to that parent at the parent's last known address. This notice must include the specific reasons for the department's decision, the specific efforts the department has made in working with the parent and child and a statement of the parent's rights under section 4038. The

department shall seek an order authorizing it to discontinue reunification efforts. Within 10 days of sending written notice of the decision to discontinue reunification efforts, the department shall file a motion for approval of discontinuance of reunification efforts with supporting affidavits. If the parents file a responsive pleading within 21 days, the court shall conduct a summary proceeding in accordance with the provisions of section 4034, subsection 4. If no responsive pleading is filed, the court may hold a summary hearing in accordance with the provisions of section 4034, subsection 4 or may decide the matter without a hearing. [PL 1997, c. 715, Pt. B, §11 (NEW).]

C. If the department discontinues efforts to return the child to a parent but does not seek termination of parental rights, then subsection 1-A, paragraph A, subparagraph (1), division (c), subdivision (v) and subsection 1-A, paragraph A, subparagraph (2) still apply. [PL 2005, c. 397, Pt. B, §5 (AMD).]

[PL 2005, c. 397, Pt. B, §5 (AMD).]

3. Notice to guardian ad litem. The department shall notify the guardian ad litem, as described in section 4005, of any substantial change in circumstances that may have an impact on the best interests of the child. A substantial change in circumstances includes but is not limited to any change in the child's residence.

[PL 1991, c. 356 (AMD).]

SECTION HISTORY

PL 1979, c. 733, §18 (NEW). PL 1983, c. 772, §§5,6 (AMD). PL 1983, c. 862, §71 (AMD). PL 1985, c. 739, §15 (AMD). PL 1989, c. 759 (AMD). PL 1991, c. 161 (AMD). PL 1991, c. 356 (AMD). PL 1995, c. 694, §D46 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 715, §B11 (AMD). PL 2001, c. 559, §§CC4,5 (AMD). PL 2001, c. 696, §§33,34 (AMD). PL 2005, c. 397, §B5 (AMD).

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