



MDCPS Policies & Procedures

Termination of Parental Rights



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Section 1: Termination of Parental Rights, Generally

1.1 Definition.

Termination of Parental Rights (TPR) ends the legal parent-child relationship. TPRs may be effectuated voluntarily or involuntarily.

1.2 Voluntary TPR.

Voluntary TPR occurs when a child's parent(s) voluntarily relinquish their parental rights to the child consistent or in accordance with statutory requirements.¹

1.3 Involuntary TPR.

A. Involuntary TPR proceedings are initiated when MDCPS determines that TPR is in the best interest of the child and a court of competent jurisdiction orders the TPR. In the child's disposition order, the Court determines whether the agency must make reasonable efforts to reunify the child with their parents.

1. If reasonable efforts **are** required, the court may terminate parental rights if:
 - a. The child has been adjudicated abused or neglected;
 - b. The child has been in MDCPS custody for the last six (6) months with a service agreement in place;
 - c. MDCPS made reasonable efforts to assist the parent with complying with the service agreement; and
 - d. And TPR is appropriate because reunification is not desirable based on one or more of the grounds for TPR.²
2. If reasonable efforts **are not** required, the court may terminate parental rights if:
 - a. The child has been adjudicated abused or neglected;
 - b. The child has been in MDCPS custody for at least sixty (60) days;
 - c. The Court has determined that MDCPS does not need to make reasonable efforts to reunify the child with the parent;

¹ Miss. Code Ann. § 93-15-111.

² Miss. Code Ann. § 93-15-115.



- d. The Court held a permanency hearing and determined that reunification is not in the best interest of the child; and
 - e. Future contacts between the child and parent are not desirable based on one or more of the grounds for TPR³ (see **Section 1.4: Grounds for TPR**).
- B. Involuntary TPR proceeds may also be initiated when MDCPS can show that a parent’s conduct constitutes abandonment or desertion of a child or a parent is mentally, morally, or otherwise unfit to raise the child.

1.4 Grounds for TPR.

Mississippi law outlines nine grounds that support TPR⁴:

A. Eight Grounds Found in Miss. Code Ann. § 93-15-121 are:

1. The parent has been diagnosed with a severe mental illness by a qualified medical professional, and there is documentation of the diagnosis;
2. The parent has been diagnosed with an extreme physical incapacitation by a qualified medical professional that prohibits the parent from caring for the child, and there is documentation for the diagnosis;
3. The parent is suffering from habitual alcoholism or other drug addiction and has failed to complete treatment;
4. The parent is unwilling to provide reasonably necessary food, clothing, shelter, or medical care for the child;
5. The parent has failed to exercise reasonable visitation or communication with the child;
6. The parent’s abuse or neglectful conduct has caused substantial erosion of their relationship with the child or an extreme deep seated antipathy by the child toward the parent;
7. The parent has committed an abusive act for which reasonable efforts to maintain the children in the home would not be required, or a series of physically, mentally, or

³ Miss. Code Ann. § 93-15-117.

⁴ Miss. Code Ann. § 93-15-121 and Miss. Code Ann. § 93-15-119.



emotionally abusive incidents, against the child or another child making future contacts between the parent and the child undesirable;⁵

8. The parent has been convicted of any one of the following offenses:
 - a. Against a child:
 - i. Rape;
 - ii. Sexual Battery;
 - iii. Molestation;
 - iv. Exploitation;
 - v. Felonious abuse or battery;
 - vi. Carnal knowledge of a step or adopted child or a child of a cohabitating partner; or
 - vii. Human trafficking.
 - b. Against any person:
 - i. Murder or voluntary manslaughter of another child of the parent;
 - ii. Aiding, abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of the child or another child of the parent; or
 - iii. A felony assault that results in the serious bodily injury to the child or another child of the parent.
9. The ninth ground that supports TPR can be found in Miss. Code Ann. §93-15-119. The parent has abandoned or deserted the child; the parent is mentally, morally, or otherwise unfit to raise the child; or the parent has committed an unlawful sexual act against the other parent and the child was conceived as a result of that unlawful sexual act.

If more than one ground for TPR exists, MDCPS Workers should use all of the grounds that apply to the specific case to support the TPR.

⁵ Miss. Code Ann. § 43-21-603(7)(c)



Section 2: Worker Responsibilities

2.1 When to Initiate TPR

- A. When a child's primary permanency plan is established as adoption, the MDCPS Worker must submit a TPR packet to the Permanency Support Services/TPR Unit within thirty (30) calendar days.
- B. Upon receipt by State Office, the Permanency Support Services/TPR Unit will review the packet, remedy any deficiencies, and then submit the TPR referral to the Attorney General's Office.
- C. MDCPS is required to file a petition or join an existing TPR petition when the Court orders that the child's permanent plan should be adoption because:
 1. A child has been in custody for six (6) months, the parents are not complying with the terms of the Family Service Plan (FSP), and there are no compelling reasons to extend the time frame; or
 2. When a child of any age has been in foster care for fifteen (15) of the most recent twenty-two (22) months. (Trial home visits and runaway episodes should not be used in calculating the fifteen (15) months); or
 3. When a court has determined that a child is an abandoned infant; or
 4. When a parent has been convicted of a felony against a child (see **1.4 Grounds for TPR**).

2.2 Exceptions to Filing TPR

- A. MDCPS may choose not to file for TPR if any of the following apply:
 1. The child is being cared for by a relative;
 2. MDCPS has documented compelling reasons why TPR would not be in the best interest of the child; or
 3. MDCPS has not provided services that are necessary for the safe reunification of the family (provided reasonable efforts are required), or services were not available or accessible.⁶

⁶ Section 6.3.b.2, [MSA 2d](#) at 19, *Olivia Y. v. Bryant*, 351 F.Supp.2d 543 (5th Cir. Nov. 18, 2004).



- B. Despite the exceptions to filing for TPR, MDCPS must file for TPR when a court of competent jurisdiction orders it.

2.3 TPR Procedures

- A. For TPR cases, MDCPS Workers are required to:

1. Complete a diligent search and make reasonable efforts to locate the parent(s) (if the TPR is involuntary), and document in MACWIS all efforts to locate the parent(s);
 - a. MDCPS Workers must submit the Diligent Search Request Form to the Permanency Support Services/TPR Unit, who will run a search for the parents and send potential contact information, including addresses, telephone numbers, and the names of potential relatives back to the requesting Worker within twenty-four (24) hours.
 - b. MDCPS Workers are required to send correspondence to all addresses listed, call all telephone numbers, and contact all known relatives. The Worker must conduct a diligent search for the child's natural parents and any interested relative for the first two (2) months after the child enters foster care. This includes efforts to locate the child's biological father, even if the identity of the child's father is unknown or the father's whereabouts are unknown;
 - c. Diligent Searches include, but are not limited to:
 - i. Contacting all known previous addresses of the child's parents;
 - ii. Calling all previous telephone numbers listed in the case file;
 - iii. Sending letters to General Delivery in a town or city where the Worker believes the parent to be residing but has no specific address;
 - iv. Contacting the County Clerk in charge of motor vehicle registration;
 - v. Requesting a law enforcement records check;
 - vi. Contacting the State Department of Labor;
 - vii. Contacting the Department of Corrections;
 - viii. Contacting the state hospitals;
 - ix. Contacting all known relatives, friends, and previous employers;



- x. Checking the telephone directory;
 - xi. Contacting utility and telephone companies;
 - xii. Contacting Child Support Enforcement;
 - xiii. Accessing the Location Services through the post office; and
 - xiv. Utilizing social media.
2. Discuss the case with their Supervisor and obtain the Supervisor's approval to pursue TPR;
 - a. If TPR is ordered by the court, agency staff must comply;
 3. Discuss the TPR process with the child's parents, through face to face contact. The worker must explain voluntary surrenders, what TPR means for them and their child, and MDCPS' decision to file for TPR, including a discussion of why the agency plans to file.
 4. Submit a TPR referral through MACWIS and a TPR packet to their supervisor. Once the RD approves the TPR request, and the packet has been sent to the Permanency Support Services/TPR Unit at State Office, the Worker must document all case activity in MACWIS.

2.4 TPR Packet Checklist

- A. All TPR packets must include the following items before submitting the packet to the Permanency Unit:
 1. For Voluntary Relinquishments:
 - a. MDCPS Form 461- Voluntary Termination of Parental Rights Packet Checklist B;
 - b. Current Attorney General's Office Memorandum (Pages 1 and 2 only);
 - c. Current summary of facts of the case, including;
 - i. A detailed history of the case;
 - ii. Why the children are in custody;
 - iii. The extent to which the parents, including the mother and all potential fathers, have taken steps to comply with the MDCPS service plan;



- iv. Other biological children of the parents, and, if so, where they are placed;
 - v. Whether the parents have ever had their parental rights terminated on any previous occasions;
 - vi. Whether the parents have drug problems or other health problems that would prohibit reunification;
 - vii. Whether the parents have visited and maintained contact with the children; and
 - viii. Whether the parents have provided any material support to the child while in custody.
- d. Child(ren)'s birth certificate(s);
 - e. Two (2) originals of Form MDCPS-SS-459 and one (1) original of 459A or 459B, if applicable;
 - f. If one parent is deceased, a certified copy of the death certificate(s);
 - g. Adjudicatory court order of the child(ren); and
 - h. Permanency court order changing the permanent plan to adoption and authorizing the agency to proceed with TPR. In some cases the TPR Packet may not include a Permanency Order. For example, the parents may execute a 459 prior to the permanency hearing.
2. For Involuntary TPR actions:
- a. MDCPS Form 461- Termination of Parental Rights Packet Checklist A;
 - b. Current Attorney General's Office Memorandum;
 - c. Current summary of facts of the case;
 - i. A brief history of the case;
 - ii. Why the children are in custody;
 - iii. The extent to which the parents have taken steps to comply with the MDCPS service plan;
 - iv. Other biological children of the parents, and, if so, where they are placed;



- v. Whether the parents have ever had their parental rights terminated on any previous occasions;
- vi. Whether the parents have drug problems or other health problems that would prohibit reunification;
- vii. Whether the parents have visited and maintained contact with the children; and
- viii. Whether the parents have provided any material support to the child while in custody;
 - A. A parent's inability to provide gifts due to lack of funds will not be held against the parents.
- d. Child(ren)'s birth certificate(s);
- e. Two (2) originals of Form MDCPS-SS-459, if available and one (1) original of 459A or 459B, if applicable;
- f. If one or both parents are deceased, a certified copy of the death certificate(s);
- g. Attested adjudicatory court order of the child(ren);
- h. Attested permanency court order changing the permanent plan to adoption and authorizing the agency to proceed with TPR;
- i. Summaries and/or court reports prepared on the child(ren) and his/her family;
- j. A copy of all written Adult Case Plan/Service Agreements;
 - i. Case Plans and Service Agreements should be signed by the parent. Case Plans and Service Agreements without signatures will be accepted only when the signed agreements are not accessible.
- k. The child(ren)'s medical records that document abuse and neglect;
- l. Psychological evaluation of the child if the child is four (4) years of age or older or will turn four (4) within ninety (90) days after submission of the TPR packet (if available);
- m. Psychological reports on parents, including necessary release, if applicable;
- n. Any additional information to support TPR, including but not limited to;



- i. DNA test results;
- ii. Felony convictions for crimes against children as outlined in **1.4(8)(a)** above;
- iii. Drug test results; and
- iv. Diligent Search Affidavit, if applicable.