

ATTACHMENT I

Compelling Reasons for Determining That Termination of Parental Rights Would Be Detrimental To The Child [WIC Section 366.26 (c) (1) (A) – (B)] and diligent efforts that shall be made to assess and address those barriers to seeking the most permanent plan:

A. The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment through legal guardianship, and the removal of the child from the custody of his or her relative would be detrimental to the emotional well-being of the child.

Relative Care: A child living with a relative who is determined to be the most appropriate relative caregiver available is an acceptable permanent plan and is an exception to the requirement of filing a petition for termination of parental rights.

- 1. Assess the caregiver's reasons for not considering adoption. Determine if there are options to address the perceived barriers to adoption.**
- 2. If the relative is not the best placement or match for the child or cannot care for the child for the long term, explore other relatives/siblings who are willing to provide legal permanence for the child.**
- 3. Use Family Group Decision Making/TDM to engage the family in making a determination of the best long term relative caregiver or to identify other possible relative placements.**

B. The court finds a compelling reason for determining that termination would be detrimental to the child due to:

(i) Parents or guardians have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.

- 1. Assess the quality of the visits and the quality of the child's relationship to the parents or guardians, weighed against the child's need for legal permanence.**
- 2. Explore the options available to search for an adoptive home that will maintain regular visitation with birth family through establishing a post-adoption contact agreement.**
- 3. Re-explore the possibility of reunification and/or re-activate the search for relatives (for hearings subsequent to the WIC 366.26)**
- 4. Use permanency-planning mediation.**

(ii) A child age 12 or older objects to termination of parental rights

- 1. Explore the reason(s) for the child's objection, and clear up any misconceptions. Explore, with the child, options that will meet his or her need to maintain contact with birth family members.**
- 2. Include the need for permanency in the treatment plan if the child is already engaged in therapy. If not, engage the child in therapy to address permanency needs and prepare for adoptive planning.**
- 3. Refer the child to APSS and/or PRU to work with the child and for matching/recruitment efforts to identify a permanency planning family willing to maintain contact with birth relatives, if applicable.**

(iii) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

- 1. Explore the child's treatment needs, and type of placement and support required upon discharge.**
- 2. Work with the child's service provider, and build permanency into the discharge plan.**
- 3. Explore services such as wraparound, APSS and family preservation that can support child moving to a permanent family.**
- 4. Document the search for a family who would be able to meet the child's needs, including relatives and families with whom the child has had a previous nurturing relationship.**
- 5. Activate initiation of the applicant assessment when relatives, previous caregivers or non-related extended family members in the child's life want to adopt.**
- 6. If there is no identified permanency caregiver, refer to PRU to work with the child and for matching/recruitment efforts.**
- 7. Include active visitation for the identified permanency caregiver in the case plan while the child is in the residential treatment facility.**

(iv) The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances, that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment and the removal of the child from the physical custody of his or her foster parent or Indian custodian would be detrimental to the emotional well-being of the child. This clause does not apply to any child who is either (I) under six years of age or (II) a member of a sibling group where at least one child is under six years of age and the siblings are, or should be, permanently placed together

- 1. Assess the caregiver's reasons for not considering adoption. Determine if there are options, including the option of TCA for Indian children, to address the perceived barriers to adoption. Assess the child's relationship to the non-relative caregiver, weighed against the child's need for legal permanence. Engage the child in discussions for his or her hopes for the future.**

NOTE: Meeting the child's need for permanence is DCFS' primary goal. A permanent family can help the child overcome the losses of previous relationships, including a temporary caregiver.

(v) There would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest as compared to other benefit of legal permanence through adoption.

- 1. Search for an adoptive family willing to accept the sibling group or an adoptive family willing to maintain sibling contact.**
- 2. Explore the possibility of post-adoption contact agreement for siblings.**
- 3. Use permanency-planning mediation.**

(vi) The child is an Indian child and there is a compelling reason for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to: (I) Termination of parental rights would substantially interfere with the child's connection to his or her tribal community or the child's tribal membership rights. (II) The child's tribe has identified guardianship, long-term foster care with a fit and willing relative, or another planned permanent living arrangement for the child.

- 1. Explore the option of TCA with the tribe to address the perceived barriers to adoption, including the fact that TPR is not required for TCA.**
- 2. Perform active efforts that comply with the order of adoptive placement preference for Indian children. See Procedural Guide 1200-500.05, The Indian Child Welfare Act (ICWA).**
- 3. If a preferred adoptive placement is not available for an Indian child, explore the availability of a prospective adoptive parents committed to enabling the child to participate in the cultural and ceremonial events of the child's tribe and who agree to an extended family visitation and/or Post-adoption Contact Agreement.**