

Guide to Title IV-E Requirements

This information packet has been prepared to provide information to South Carolina family court judges on the Title IV-E Foster Care Maintenance Payments Program and the requirements for specific judicial findings to establish eligibility for the program.

I.	INTRODUCTION.....	2
II.	POSSIBLE ECONOMIC IMPACT	2
III.	REQUIRED JUDICIAL FINDINGS	3
A.	GENERAL REQUIREMENTS.....	3
B.	CONTRARY TO THE WELFARE FINDING	4
C.	REASONABLE EFFORTS TO PREVENT REMOVAL FINDING.....	5
DSS Did/Did Not Make Reasonable Efforts.....	6	
DSS Unable to Make Reasonable Efforts.....	8	
Reasonable Efforts Not Required	9	
D.	REASONABLE EFFORTS TO FINALIZE THE PERMANENT PLAN FINDING.....	10
Interstate Compact on the Placement of Children	14	
IV.	VOLUNTARY PLACEMENTS IN FOSTER CARE	14
V.	CONCLUSION	15
SUMMARY CHARTS	16	
ENDNOTES.....	18	

I. INTRODUCTION

Title IV-E of the Social Security Act provides federal funds to each of the fifty states, the District of Columbia, and Puerto Rico for the care and supervision of children in foster care. Known as *foster care maintenance payments*, these funds are monthly reimbursement payments to states to help cover the costs of providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to the child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child was enrolled at the time of placement in foster care.ⁱ In association with the child, States can also claim IV-E reimbursement funds for administrative and training costs of DSS staff, and the costs of recruiting and training foster parents.

Title IV-E Foster Care Maintenance Payments is an entitlement program for foster children who meet the federal IV-E eligibility requirements. Eligibility determinations are child specific and made on a case-by-case basis. In order for a state to claim maintenance payments on behalf of a foster child, specific eligibility criteria must be met.

Although IV-E eligibility is child specific, the eligibility criteria that must be met are not based on the actions of the child. Eligibility is established by the 1996 South Carolina Aid to Families with Dependent Children (AFDC) income guidelinesⁱⁱ, the actions of the Department of Social Services, and specific case determinations made by family court judges.

II. POSSIBLE ECONOMIC IMPACT

In order to establish or maintain eligibility for a foster child, Title IV-E requires courts to hold hearings and make requisite findings within federally mandated time frames. The failure to satisfy the eligibility requirements results in loss of funds, impacting DSS's ability to adequately serve families in desperate need of services. The economic impact on South Carolina was most recently demonstrated in fiscal year July 2009-June 2010, during which DSS lost \$198,765.00 in federal IV-E funds because of the absence of required

findings, primarily related to permanency planning. An additional \$447,725.00 was lost as a result of overdue permanency planning hearings.

III. REQUIRED JUDICIAL FINDINGS

A. General Requirements

The family court plays a major role in the determination of IV-E eligibility for foster care maintenance payments. One criterion for eligibility requires a family court judge to make certain time sensitive findings regarding children coming into foster care and children already placed in foster care. These findings must be: 1) set forth in the court orders; 2) signed by the judge; 3) child specific; and 4) made on a case-by-case basis.

The purpose of the four aspects of the required findings is to ensure family courts hear and weigh the facts and circumstances of each case, at each stage of the case. The federal requirement that family court judges make specific findings provides an important safeguard against the inappropriate removal of children from their homes and/or the inappropriate retention of children in foster care.

Expressed Congressional intent is that Title IV-E eligibility be established on a case-by-case basis. It is contrary to the purpose of Title IV-E for a family court judge to sign an agreed upon court order or a pre-written court order that contains the required findings when the judge has not actually weighed the evidence and made the appropriate case specific determinations. In enacting Title IV-E, Congress was concerned that Title IV-E not become a mere conduit for federal funds: “We concluded, based on our review of the States’ documentation of judicial determinations over the past years, that, in many instances, these important safeguards had become precisely what Congress was concerned that they not become ... a mere pro forma exercise in paper shuffling to obtain Federal funding....” (S. Rept. No. 336, 96th Cong., 2d Sess. 16 (1980)).

There are several ways in which the family court may demonstrate that it has reviewed and considered the facts and circumstances of each case and made the required child

specific determinations. The court order should name the child(ren) and the adult respondents not only in the case caption but also in the body of the order. The court order should discuss the alleged or founded facts and circumstances that necessitated the child's removal. The court order may incorporate by reference the information found in the caseworker's report, the guardian ad litem's report, the foster care review board's report, and/or any police reports. The court order may also, consistent with any state and federal laws governing the release of such information, refer to any medical or therapeutic reports concerning family members.

B. Contrary to the Welfare Finding

When a child is removed from the home, Title IV-Eⁱⁱⁱ requires a family court judge to find that it is *contrary to the child's welfare to remain in the home*, or as the case may be, *to return to the home*.

This finding is the first and most important determination that must be made in order to establish eligibility for IV-E foster care maintenance payments. One of the critical goals of Title IV-E and the Adoption and Safe Families Act (ASFA) is to prevent unnecessary and inappropriate removal of children from their homes. Requiring a family court judge to consider the facts and circumstances of each case and to make a *contrary to the welfare* finding assures the federal government that a child's placement in foster care is necessary.

The *contrary to the welfare* finding must be in the very first court order regarding the child's removal from the home. The first court order regarding the child's removal may be an *ex parte* order of removal, a probable cause hearing order, or a merits/removal hearing order^{iv}, depending upon the manner in which the case was initiated.

In order to establish IV-E maintenance payment eligibility for a child, a family court judge must find that *remaining in or returning to the home would be contrary to the child's welfare* and that finding must be set forth in the resulting court order. Title IV-E does not enumerate specific wording to use in court orders that would satisfy IV-E eligibility requirements. However, the court order must convey that the family court judge

determined that the child's life, health, or physical safety would be in jeopardy if the child were allowed to remain in or return to the home. If such a finding or determination is not contained in the first removal order, the only other acceptable documentation to establish IV-E eligibility is a transcript of the hearing that demonstrates the judge made the required finding.^v The court order must clearly convey that the necessary parties were present in the courtroom, and that the court considered the evidence and made the requisite judicial findings on the record. If the *contrary to the welfare* determination is not in the first removal order or is not contained in the transcript of the first removal hearing, the child will not be eligible for IV-E foster care maintenance payments for the duration of the foster care placement. The absence of the finding that *remaining in the home (or returning to the home) is contrary to the child's welfare*, leads to a presumption that the court determined the child could have been safely maintained in the home and the state's removal of the child was inappropriate and unwarranted. If the court does not make the contrary to the welfare finding, a state may not submit an affidavit or a *nunc pro tunc* order, with the requisite finding, to establish IV-E eligibility.^{vi} Neither an affidavit nor a *nunc pro tunc* order with the required finding that *it is contrary to the child's welfare to remain in the home* can retroactively rectify or justify an unwarranted removal so that the state may benefit from IV-E foster care maintenance payments for a child whose placement in foster care was presumptively unnecessary in the first place.

C. Reasonable Efforts to Prevent Removal Finding

In addition to the *contrary to the welfare* finding, Title IV-E requires the court to make a *reasonable efforts to prevent removal* finding in order to satisfy the initial eligibility criteria for foster care maintenance payments. In order for DSS to satisfy the reasonable efforts requirement, a family court judge must find one of the following: 1) *DSS made reasonable efforts to prevent removal of the child from the home*; or 2) *DSS was unable to make reasonable efforts to prevent removal of the child from the home (or reasonable efforts to prevent removal were not possible)*; or 3) *reasonable efforts were not required to prevent removal of the child from the home*. (See discussion below.) This finding must be made no later than 60 days from the date the child was removed from the home.

A child will not be eligible for IV-E foster care maintenance payments if a family court judge: omits a reasonable efforts finding; or finds that *DSS should have made but failed to make reasonable efforts to prevent removal of the child from the home or reunify the family*; or makes a similar finding.

There is no federal statutory definition or check list of what constitutes *reasonable efforts*. A family court judge determines what constitutes *reasonable efforts* on a case-by-case basis at the time the judge considers the facts and circumstances of the individual case.

DSS Did/Did Not Make Reasonable Efforts

A critical requirement for securing Title IV-E funding is for DSS to make reasonable efforts to keep the family together, or when removal of a child is necessary, to make reasonable efforts to reunite the family in a timely manner. The health and safety of children are the paramount concerns when DSS and a family court judge determine what efforts should be made to keep families together or to reunite families when children are removed.

Although there is no check list for reasonable efforts provided by federal statute, South Carolina law does provide a guideline for evidence DSS must present to the court in connection with the determination of what may constitute reasonable efforts. Based on the requirements of a probable cause hearing order found in South Carolina Code Ann. Sections 63-7-720, the court should consider the following:

- 1) the services DSS made available to the family before assuming legal custody of the child and how the services related to the needs of the family;
- 2) the efforts DSS made to provide the services to the family prior to assuming legal custody of the child^{vii};
- 3) why the efforts to provide the services did not eliminate the need to assume legal custody of the child;
- 4) whether DSS convened a meeting with the parents, extended family and other relevant persons, as provided for in Section 63-7-640, prior to assuming legal custody of the child, to determine, among other things, if there were any reasonable alternatives to placing the

child in foster care. (The meeting should discuss whether there are any services that could be provided immediately that would remove the risk of harm to the child and make the home safe; or are there any relatives or non-relatives willing to care for the child while the parents work on making the home safe)^{viii};

5) what efforts were made to place the child with a relative or non-relative known to the child; and

6) whether the efforts to eliminate the need for DSS to assume legal custody of the child were reasonable including, but not limited to, whether services were reasonably available and timely offered, reasonably adequate to address the needs of the family, reasonably adequate to protect the child and realistic under the circumstance, and whether the efforts to place the child in a familiar environment were reasonable.

With the exception of the fourth requirement above, South Carolina Code Ann. Section 63-7-1660(G), concerning the content of a merits/removal order, requires the same findings.

The Administration of Children and Families Child Welfare Policy Manual^{ix} also provides questions to guide a judge's consideration of reasonable efforts:

1) Would the child's health or safety have been compromised had the agency attempted to maintain the child in his/her home?

2) Was the placement/treatment plan customized to the individual needs of the family or was it a "boiler plate" plan?

3) Did the agency provide services to ameliorate factors present in the child or parent, i.e. physical, emotional, or psychological, that would inhibit a parent's ability to maintain the child safely in the home?

4) Do limitations exist with respect to service availability, including transportation issues? If so, what efforts did the agency undertake to overcome these obstacles?

The requirement for a *reasonable efforts* finding is an important due process protection for the parents and children affected by a state's intervention into their lives. Thus, family court judges must require the presentation of evidence to support both a contrary to the

welfare finding and a reasonable efforts finding. Judges must avoid signing orders that contain IV-E foster care maintenance payment eligibility language without determining the contrary to the welfare issue or the reasonable efforts issue. The contrary to the welfare finding and the reasonable efforts findings are appealable issues and require scrutiny by the family court.

The issues of whether a child's retention or return to the home is contrary to the child's welfare and whether reasonable efforts to reunite the family were made or are required to be made are not for DSS's determination. Parties to a case, including defendant parents, may not be aware of the importance, implications or consequences such findings have on the outcome of the case. It is essential that a family court judge consider the evidence and make the requisite contrary to the welfare and reasonable efforts determinations. When agreements are read into the record or pre-written orders are signed by a judge without the required determinations having been made, defendants may be deprived of their fundamental due process rights.

DSS Unable to Make Reasonable Efforts

If a family court judge finds that DSS was unable to make reasonable efforts, the judge must explicitly set forth that the lack of reasonable efforts was appropriate and specify the exigent circumstances that relieved DSS of making reasonable efforts. For example, a judge may find that, *due to the urgent nature of the situation and the immediate danger to the child, lack of reasonable efforts to prevent removal or to reunify the family was appropriate*. However, "[e]ven when children are removed in emergency situations, the court must consider whether appropriate services were or should have been provided".^x

If the evidence proves the child was in imminent and substantial danger, the court should then consider whether there were feasible options to DSS assuming legal custody and placing the child in foster care.

Reasonable Efforts Not Required

Under South Carolina law^{xi}, there are eight aggravating circumstances under which a family court judge may determine that reasonable efforts to prevent removal or to reunify a family are not required. DSS has to seek court approval in order to forego making reasonable efforts to reunite the family. The court may relieve DSS of making reasonable efforts if it finds that one or more of the following conditions exists:

1) the parent has subjected the child or another child while residing in the parent's domicile to one or more of the following aggravated circumstances:

- a. severe or repeated abuse;
- b. severe or repeated neglect;
- c. sexual abuse;
- d. acts that the judge may find constitute torture; or
- e. abandonment;

2) the parent has been convicted of or pled guilty or nolo contendere to murder of another child, or an equivalent offense, in this jurisdiction or another;

3) the parent has been convicted of or pled guilty or nolo contendere to voluntary manslaughter of another child, or an equivalent offense, in this jurisdiction or another;

4) the parent has been convicted of or pled guilty or nolo contendere to aiding, abetting, attempting, soliciting, or conspiring to commit murder or voluntary manslaughter of the child or another child while residing in the parent's domicile, or an equivalent offense, in this jurisdiction or another;

5) physical abuse of a child resulted in the death or admission to the hospital for in-patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting;

- a. an offense against the person as provided for in Title 16, Chapter 3;
- b. criminal domestic violence as defined in Section 16-25-20;
- c. criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65; or
- d. the common law offense of assault and battery of a high and aggravated nature, or an equivalent offense in another jurisdiction;

6) the parental rights of the parent to another child of the parent have been terminated involuntarily;

7) the parent has a diagnosable condition unlikely to change within a reasonable time, including, but not limited to, alcohol or drug addiction, mental deficiency, mental illness or extreme physical incapacity, and the condition makes the parent unable or unlikely to provide minimally acceptable care of the child;

8) other circumstances exist that the court finds make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the permanent plan for the child.

D. Reasonable Efforts to Finalize the Permanent Plan Finding

Once a child has entered foster care, in order to continue to receive Title IV-E funds, DSS must make reasonable efforts to finalize a permanent plan for the child. The determination of whether DSS has made reasonable efforts to finalize a permanent plan must be made within 12 months from the date the child was deemed to have entered foster care and at least once every 12 months thereafter for as long as the child remains in foster care.

When determining the question of whether DSS made reasonable efforts to finalize the permanent plan for a child, a family court judge should consider whether the efforts of DSS

and the services offered to the family in the past 12 months were reasonably available, timely, meaningful, and realistic under the circumstances.

The permanent plan options, in order of preference^{xii}, are:

- 1) **Reunification** with parent(s);
- 2) **Termination of Parental Rights (TPR) and Adoption** by: a) relative; b) foster parent; or c) other person;
- 3) **Guardianship or custody** with a relative or non-relative;
- 4) **Placement with a relative who is a licensed foster parent** (kinship foster care^{xiii}) and committed to long term care of the child;
- 5) **Another Planned Permanent Living Arrangements** (APPLA) with a specified adult who is a licensed foster parent and committed to a long term nurturing relationship with the child; or if the child is in a children's home, group home, or similar setting, DSS has identified an individual who is willing to maintain ongoing, lasting contact with the child and provide family-like relations.

In order for DSS to recommend and for the court to order a permanent plan other than reunification, DSS must provide the family court with specific reasons why reunification with the parent is not in the child's best interest and why that option was ruled out before selecting the next permanent plan. For example, reunification must always be ruled out before ordering TPR and adoption as the child's permanent plan. TPR and adoption must be ruled out before ordering guardianship or custody. In order for adoption to be ruled out, a family court judge must find that TPR is not in the child's best interest.

If DSS has determined that the first three permanent plan options are not possible but that placement with a relative or APPLA is the best permanent plan for the child, DSS must document for the court all the efforts it made to bring about the other plans and the compelling reasons why the permanent plan cannot be reunification, TPR and adoption, or

guardianship or custody. Examples of cases where the court may find that kinship foster care or APPLA is in the child's best interest are:

- 1) the case of an older teen who does not wish to be adopted and specifically requests that APPLA be established as his/her permanency plan;
- 2) the case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents have committed to raising him/her to the age of majority and to facilitating visitation with the disabled parent; or,
- 3) an Indian Child Welfare Act case where the tribe has identified another planned permanent living arrangement for the child.^{xiv}

In assessing the reasonable efforts made by DSS to finalize a permanent plan for the child, a family court judge should consider whether DSS's activities associated with making and finalizing a permanent plan are consistent with the permanency goal. The judge may consider any of the following (this list is by no means comprehensive and is provided solely as illustrative considerations):

- 1) Did DSS devise a placement plan with the parents (when possible) as soon after removal as possible?
- 2) Has a concurrent permanent plan been established?
- 3) Is DSS helping the family to identify and access resources and/or services needed to help the family reunify? Examples include: DSS Emergency Assistance Funds, Temporary Assistance for Needy Families (TANF), Family Independence program, Medicaid, housing referrals, Supplemental Nutrition Assistance Program (SNAP) (formerly the food stamp program), ABC Child Care program, referral to child support enforcement, and vocational rehabilitation.
- 4) Is DSS monitoring the parent's progress towards completing the objectives of the placement plan?
- 5) Is DSS meeting with the parents to identify and discuss ongoing issues and assess the parents' progress towards reunification?

- 6) Where referrals made and services started as soon after removal as possible?
- 7) Did DSS complete a diligent search for the absent parent?
- 8) Did DSS locate and contact the noncustodial parent as quickly as possible after removal?
- 9) Did DSS assess the noncustodial parent's ability to provide care for the child, and, if appropriate, provide services to enable the non-custodial parent to safely care for the child?
- 10) Did DSS conduct a relative search to identify, locate and contact relatives for possible placement, guardianship or custody of the child within 30 days of the child's placement in foster care?
- 11) Did DSS timely perform home studies on relatives?
- 12) Is DSS helping relatives identify and access resources to help care for child?
(See #3)
- 13) Is DSS facilitating frequent parent-child visits?
- 14) Are sibling visits occurring frequently?
- 15) Are sibling groups placed in the same home for foster care or adoption?
- 16) Has the child been assessed for adoption?
- 17) Is DSS making child specific adoption recruitment efforts?
- 18) Has an adoptive family been identified?
- 19) Has the child been placed in a prospective adoptive home?
- 20) Is DSS providing Independent Living Services to the foster child, if appropriate?

If a family court judge does not make a finding that DSS made reasonable efforts to finalize the permanent plan within 12 months from the date the child entered foster care, the child will lose IV-E foster care maintenance payment eligibility for the remaining period of the foster care placement. If the initial finding of *reasonable efforts to finalize the permanent plan* is timely made but the family court does not make a second *reasonable efforts to finalize the permanent plan* finding within 12 months of the initial finding, the child will lose IV-E foster care maintenance payment eligibility until such a finding is made and contained in a signed court order.

If the family court finds that DSS failed to make reasonable efforts to finalize the permanent plan for the child, the child will be ineligible for IV-E funding for the duration of the child's placement in foster care.

Interstate Compact on the Placement of Children

If a child is subject to the Interstate Compact on the Placement of Children (ICPC) and South Carolina is the "sending state" (meaning that a child in SCDSS's custody has been sent to live with a person in another state under the ICPC), South Carolina must retain jurisdiction over the child in order to determine issues related to custody, care, supervision and disposition, just as if the child remained in foster care in South Carolina. SCDSS must retain jurisdiction over the child until the child is adopted, reaches the age of majority, becomes self-supporting, or South Carolina (as the sending state) and the receiving state concur to the transfer of custody of the child to the out-of-state placement. Under the ICPC, if South Carolina is the "sending" state, permanency planning hearings are to be held based on the date the child entered foster care in South Carolina. For example, assume a child entered foster care in South Carolina on October 1, 2009 and, pursuant to the ICPC, was sent to Virginia in February 2010. The date the child entered foster care would be October 1, 2009. In order for the child to continue IV-E eligibility, South Carolina must have a permanency planning hearing, and the family court must make the requisite *reasonable efforts to finalize a permanency plan* finding by the end of October 2010.

IV. VOLUNTARY PLACEMENTS IN FOSTER CARE

Sometimes families experience crisis situations or other circumstances which temporarily prevent the parents from adequately performing their parental roles. At other times, relatives, with whom the child is residing, express their inability to further provide care for the child. In such situations, the child may be placed in foster care under a *Voluntary Placement Agreement*. Voluntary placements in foster care are temporary and generally will not extend beyond 180 days. If the crisis has not subsided within 180 days, so that the child can safely return home, DSS may file a complaint for removal of the child.

A child who enters foster care under a voluntary placement agreement may be eligible to receive IV-E foster care maintenance payments. The child will be eligible for IV-E foster care maintenance payments for 180 days without a court order. However, if the child is to remain in foster care beyond 180 days, the court must make a finding that *the child's placement in foster care is in the child's best interest* in order to continue the child's IV-E eligibility. This finding must be made within 180 days from the date the child was voluntarily placed in foster care.^{xv} Again, there is no statutorily prescribed language for the court order, but the order does have to set forth that placement in foster care is in the child's best interest or returning home would be contrary to the child's welfare. Section 472(e) of the Social Security Act provides that no federal payment may be made for a child voluntarily placed in foster care pursuant to a voluntary placement agreement and who remains in voluntary placement beyond 180 days, unless there has been a judicial determination within the first 180 days to the effect that the placement is in the best interests of the child. If the required finding is not made within 180 days from the date the child was placed in foster care, the child will no longer be eligible for IV-E foster care maintenance payments for the duration of the foster care placement.

V. CONCLUSION

Congress established the Title IV-E Maintenance Payments eligibility requirements that judges make the *contrary to the welfare* and *reasonable efforts* findings to ensure that each child's placement or retention in foster care is warranted. Family court judges, when making findings that are crucial to Title IV-E funding, also contribute to ensuring that state intervention into family life comports with due process and is necessary for the safety and well-being of children.

FINDING	TIMELINE	ORDER REQUIREMENTS	CONSIDERATIONS	SUGGESTED LANGUAGE
<p><i>Contrary to the Welfare</i></p>	<p>First order of removal</p> <ul style="list-style-type: none"> • Ex Parte Order • Probable Cause Hearing Order • Merits/Removal Hearing Order <p><i>Failure to make a CTW finding in the first removal order will render the child ineligible for IV-E Foster Care Maintenance Payments for the entire foster care episode.</i></p>	<ul style="list-style-type: none"> • Must be detailed findings/explain basis for finding • Child specific • Made on case-by-case basis • Signed by Judge <p>For an Ex Parte order incorporate by reference and attach the caseworker's <i>Affidavit of Imminent & Substantial Danger</i></p> <p>The court order should include a detailing of the child's specific situation that makes remaining in or returning to the home contrary to the child's welfare.</p>	<ul style="list-style-type: none"> • Are the circumstances in the home such that it is unsafe for the child to remain in, or return to, the home? • Was the child in imminent and substantial danger? • Is removal in the child's best interest? 	<ul style="list-style-type: none"> • It is contrary to the child's welfare to remain in the home. • It is not in the child's best interest to remain in the home. • The child is without proper care, custody, or supervision and removal is necessary to protect the child from further harm. • Continuation in the home would be contrary to the welfare of the child. • The child was in imminent and substantial danger and needed to be removed to protect the safety and welfare of the child. • Retention of the child in the home (or return of the child to the home) would place the child at an unreasonable risk of harm and the child cannot reasonably be protected without removal from the home. • It is contrary to the welfare of the child to remain in the home and it is in the best interest of the child to be placed in foster care.
<p><i>Reasonable Efforts to Prevent Removal of the Child or Reunify the Family</i></p>	<p>Within 60 days of the child's removal from the home</p> <ul style="list-style-type: none"> • Probable Cause Hearing • Merits/Removal Hearing <p><i>Failure to make a finding within 60 days of removal will render the child ineligible for IV-E Foster Care Maintenance Payments.</i></p>	<ul style="list-style-type: none"> • Must be detailed findings/explain basis for finding • Child specific • Made on case-by-case basis • Signed by Judge <p>Incorporate by reference and attach the caseworker's <i>Affidavit of Reasonable Efforts</i></p>	<ul style="list-style-type: none"> • Was DSS involved with the family prior to the child's removal? If so, <ul style="list-style-type: none"> -What preventative/protective services were offered in an effort to keep the family together and prevent removal? - Were the services customized to the needs of the family? • Were there alternatives to placement in foster care? <ul style="list-style-type: none"> - Relative or non-relative placement? - Was there a Risk Assessment? • Was a meeting convened pursuant to §63-7-640? 	<ul style="list-style-type: none"> • DSS, as outlined in its Affidavit of Reasonable Efforts, has made reasonable efforts to prevent removal of the child from the home. • The following Reasonable Efforts were made to prevent removal of the child from the home... • Based on the following aggravating circumstances...reasonable efforts to reunify the family are not required. • Based on the following exigent circumstances...the lack of reasonable efforts to prevent removal or reunify the family was appropriate.

FINDING	TIMELINE	ORDER REQUIREMENTS	CONSIDERATIONS	SUGGESTED LANGUAGE
<i>Cont... Reasonable Efforts to Prevent Removal of the Child or Reunify the Family</i>	<i>A negative finding to the effect that DSS failed to make reasonable efforts to prevent removal will render the child ineligible for IV-E Foster Care Maintenance Payments.</i>	The court order should detail the reasonable efforts made by DSS, or why reasonable efforts were not possible or not required.		<ul style="list-style-type: none"> • Due to the circumstances presented, the immediate danger to the child would not have been mitigated by the provision of services by DSS. • Due to the nature of DSS's first contact with the family, reasonable efforts to prevent removal was not possible. Those circumstances were... • Reasonable efforts were not possible due to the following emergency situation...
Reasonable Efforts to Finalize a Permanent Plan	<p>Within 12 months of the date the child entered foster care and within every 12 months thereafter.</p> <p>A negative finding to the effect that DSS failed to make Reasonable Efforts to finalize a permanent plan will render child IV-E ineligible for the remaining time in foster care.</p>	<ul style="list-style-type: none"> • Must be detailed finding/document activities related to achieving permanency • Must state the permanent plan • Child specific • Made on case-by-case basis • Signed by Judge 	<ul style="list-style-type: none"> • What efforts have been made to reunify the family? • Were the services meaningful to the needs of the family? • If reunification is not possible, what efforts have been made towards adoption? • What efforts have been made to identify relatives or familiar non-relatives for adoption, custody or guardianship? 	<ul style="list-style-type: none"> • DSS has made reasonable efforts to finalize the permanent plan of...

Voluntary Placement Agreements

Placement in foster care is in the child's best interest	Within 180 Days of placement in foster care	<ul style="list-style-type: none"> • Must be detailed findings/explain basis for finding • Child specific • Made on case-by-case basis • Signed by Judge 	Reasonable efforts to prevent removal are not required No requirement for the court to make a finding regarding reasonable efforts to finalize a permanent plan. (Although DSS is still required to make efforts to ensure timely permanence for the child)	Placement in foster care is in the child's best interest. Return home is contrary to child's welfare and placement in foster care is in child's best interest.
--	---	--	--	---

ⁱ Social Security Act, § 475(4)(A), (42 U.S.C. 675).

ⁱⁱ To determine IV-E eligibility, DSS must apply the former AFDC program's income guideline to establish whether the child would have been considered a "needy" child under the plan that was in effect on July 16, 1996.

ⁱⁱⁱ *See also* S.C. Code Ann. § 63-7-720 (2010), "[A]n order issued as a result of a probable cause hearing... concerning a child of whom the department has assumed legal custody shall contain the finding by the court... whether continuation of the child in the home would be contrary to the welfare of the child. S.C. Code Ann. § 63-7-740(A)(1) (2010), "[T]he family court may order that a child be taken into emergency protective custody...if...the family court judge determines there is probable cause to believe that by reason of abuse or neglect there exists an imminent and substantial danger to the child's life, health, or physical safety..." S.C. Code Ann. § 63-7-1660(E) (2010), "[T]he court shall not order that a child be removed from the custody of the parent or guardian unless the court finds...that retention of the child in or return of the child to the home would place the child at unreasonable risk of harm affecting the child's life, physical health or safety, or mental well-being and the child cannot reasonably be protected from this harm without being removed."

^{iv} S.C. Code Ann. § 63-7-720 (2010).

^v 45 CFR 1356.21(d)(1) (2002).

^{vi} 45 CFR 1356.21(d)(2) (2002).

^{vii} When available, DSS Emergency Assistance Services can provide a maximum of \$5,000.00 per family in a 365 day period. Among other things, these funds can be used if the caseworker determines that the use of these funds can or will prevent the removal of the child from the home, or will allow a child who has been removed to return home; or reunify a child who has been in an out-of-home placement for less than six months. These funds are generally used to pay for medical diagnostic services necessary to determine the likelihood of abuse or neglect, and/or for utilities and rent, or other similar expenses to allow the family to maintain a safe home. *See* SCDSS Human Services and Policy Procedure Manual, Chapter 7, Child protective and Preventive Services, §732.

^{viii} *See* S. C. Code Ann. § 63-7-670 (2010).

^{ix} *See* S.C. Code Ann. §63-7-640 (2010).

^x U.S. Dept. of Health and Human Services, Child Welfare Policy Manual, January 21, 2010.

^{xi} U.S. Dept. of Health and Human Services, Child Welfare Policy Manual, January 21, 2010.

^{xii} S.C. Code Ann. §63-7-1640(C). For federal requirements, see 45 C.F.R. 1356.21(b)(3)(2002).

^{xiii} 45 CFR 1355.20 (2002), SCDSS Human Services Policy and Procedure Manual Section 825, Revised May 14, 2009.

^{xiv} S.C. Code Ann. § 63-7-2320 (2010), Kinship Foster Care Program; S.C. Code Ann. § 63-7-2330 (2010), Placement with relatives.

^{xv} 45 C.F.R. 1356.21(h)(3) (2002).

^{xvi} Social Security Act §472(a)(2)(A); 45 CFR 1356.21(k)(3) (2002); 45 CFR 1356.22(a) (2002).