

366.26 Hearing: Termination of Parental Rights

Terminate Parental Rights IF

Finding under 361.5(b)(1) that reunification services shall not be ordered

or

Finding under 366.21 that whereabouts of a parent have been unknown for 6 mo. or more or that the parent failed to visit or contact for 6 mo., or that parent has been convicted of a felony indicating parental unfitness
366.26(c)(1)

or

Finding under 366.21 or 366.22 that the court has terminated reunification services
366.26(c)(1)

AND

CCE THAT CHILD IS LIKELY TO BE ADOPTED

UNLESS

Child is living with relative who is unable or unwilling to adopt child due to circumstances that do not include unwillingness to accept legal or financial responsibility
366.26(c)(1)(A)

or

Child is under 6 years of age or a member of a sibling group where at least one child is under 6 years of age where siblings should be placed together, and is living with foster parent or Indian custodian who is unable or unwilling to adopt child due to circumstances that do not include unwillingness to accept legal or financial responsibility
366.26(c)(1)(B)(iv)

or

Parents have maintained regular visitation and contact with child and child would benefit from continuing the relationship
366.26(c)(1)(B)(i)

or

Child is 12 years of age or older and objects to TPR
366.25(c)(1)(B)(ii)

or

Child is placed in residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if parents cannot resume custody when residential care is no longer needed
366.26(c)(1)(B)(iii)

or

There would be substantial interference with child's sibling relationship
366.26(b)(1)(B)(v)

or

but

is willing & capable of providing a stable & permanent environment through legal guardianship

and

removal of child from the custody of his or her relative or other current home would be detrimental to the child's emotional well-being

OR

If the court finds that TPR would not be detrimental to the child AND that the child has a probability for adoption but is difficult to place* and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and, without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the child within a period not to exceed 180 days.

* due to membership in a sibling group, or presence of a diagnosed medical, physical, or mental handicap, or the child is 7 yrs old or older

366.26(c)(3)

The court has found that active efforts were not made as required in 361.7

or

The child is an Indian child & there is a compelling reason for determination that TPR would not be in the best interest of the child, including but not limited to:

TPR would substantially interfere with the child's connection to his/her tribal community or the child's membership rights
366.26(c)(1)(B)(vi)

or

The child's tribe has identified guardianship, foster care with a fit and willing relative, tribal customary adoption, or another permanent living arrangement (APPLA) for the youth age 16 or above
366.26(c)(1)(B)(vi)

or

The child is a nonminor dependent, and the nonminor's tribe has identified tribal customary adoption for the nonminor
366.26(c)(1)(B)(vi)

Charts developed by permanency expert Gail Johnson Vaughan in collaboration with Kelly Beck of the National Institute for Permanency Family Connectedness at Seneca Family of Agencies for the JRTA project at CFCC. The information in this document is based on laws in effect at the time of publication (October 2019). Federal and state laws may change at any time. This information sheet may not be altered without the consent of the JRTA project. Graphic design provided by Sierra Health Foundation.