

Reasonable Efforts and Waiver of Reasonable Efforts

Nevada's Reasonable Efforts Statute:

NRS 432B.393

1. Except as otherwise provided in this section, an agency which provides child welfare services shall make reasonable efforts to preserve and reunify the family of a child:
 - (a) Before the placement of the child in foster care, to prevent or eliminate the need to remove the child from the home; and
 - (b) To make it possible for the safe return of the child to the home.
2. In determining the reasonable efforts required by subsection 1, the health and safety of the child must be the paramount concern. The agency which provides child welfare services may make reasonable efforts to place the child for adoption or with a legal guardian concurrently with making the reasonable efforts required pursuant to subsection 1. If the court determines that continuation of the reasonable efforts required by subsection 1 is inconsistent with the plan for the permanent placement of the child, the agency which provides child welfare services shall make reasonable efforts to place the child in a timely manner in accordance with that plan and to complete whatever actions are necessary to finalize the permanent placement of the child.
3. An agency which provides child welfare services is not required to make the reasonable efforts required by subsection 1 if the court finds that:
 - (a) A parent or other primary caretaker of the child has:
 - (1) Committed, aided or abetted in the commission of, or attempted, conspired or solicited to commit murder or voluntary manslaughter;
 - (2) Caused the abuse or neglect of the child, or of another child of the parent or primary caretaker, which resulted in substantial bodily harm to the abused or neglected child;
 - (3) Caused the abuse or neglect of the child, a sibling of the child or another child in the household, and the abuse or neglect was so extreme or repetitious as to indicate that any plan to return the child to the home would result in an unacceptable risk to the health or welfare of the child; or
 - (4) Abandoned the child for 60 or more days, and the identity of the parent of the child is unknown and cannot be ascertained through reasonable efforts;
 - (b) A parent of the child has, for the previous 6 months, had the ability to contact or communicate with the child and made no more than token efforts to do so;
 - (c) The parental rights of a parent to a sibling of the child have been terminated by a court order upon any basis other than the execution of a voluntary relinquishment of those rights by a natural parent, and the court order is not currently being appealed;
 - (d) The child or a sibling of the child was previously removed from the home, adjudicated to have been abused or neglected, returned to the home and subsequently removed from the home as a result of additional abuse or neglect; or
 - (e) The child is less than 1 year of age, the father of the child is not married to the mother of the child and the father of the child:
 - (1) Has failed within 60 days after learning of the birth of the child, to visit the child, to commence proceedings to establish his paternity of the child or to provide financial support for the child; or
 - (2) Is entitled to seek custody of the child but fails to do so within 60 days after learning that the child was placed in foster care.
 - (f) The child was delivered to a provider of emergency services pursuant to [NRS 432B.630](#).

4. Except as otherwise provided in subsection 6, for the purposes of this section, unless the context otherwise requires, “reasonable efforts” have been made if an agency which provides child welfare services to children with legal custody of a child has exercised diligence and care in arranging appropriate and available services for the child, with the health and safety of the child as its paramount concerns. The exercise of such diligence and care includes, without limitation, obtaining necessary and appropriate information concerning the child for the purposes of [NRS 127.152](#), [127.410](#) and [424.038](#).

5. In determining whether reasonable efforts have been made pursuant to subsection 4, the court shall:

- (a) Evaluate the evidence and make findings based on whether a reasonable person would conclude that reasonable efforts were made;
- (b) Consider any input from the child;
- (c) Consider the efforts made and the evidence presented since the previous finding of the court concerning reasonable efforts;
- (d) Consider the diligence and care that the agency is legally authorized and able to exercise;
- (e) Recognize and take into consideration the legal obligations of the agency to comply with any applicable laws and regulations;
- (f) Base its determination on the circumstances and facts concerning the particular family or plan for the permanent placement of the child at issue;
- (g) Consider whether the provisions of subsection 6 are applicable; and
- (h) Consider any other matters the court deems relevant.

6. An agency which provides child welfare services may satisfy the requirement of making reasonable efforts pursuant to this section by taking no action concerning a child or making no effort to provide services to a child if it is reasonable, under the circumstances, to do so.

Sample Definitions of Reasonable Efforts:

*Source: Child Welfare Information Gateway, Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children: Summary of State Laws. Current through July 2009.
www.childwelfare.gov/systemwide/laws_policies/statutes/reunify.cfm*

[Reasonable] efforts consist of accessible, available, and culturally appropriate services that are designed to improve the capacity of families to provide safe and stable homes for their children. These services may include family therapy, parenting classes, drug and alcohol abuse treatment, respite care, parent support groups, and home visiting programs.

Selected State Statutory Definitions

Alabama

Ala. Code § 12-15-301(6)

“Reasonable efforts” are efforts made to preserve and reunify families prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from his or her home, and to make it possible for a child to return safely to his or her home.

In determining the reasonable efforts to be made with respect to a child, and in making these reasonable efforts, the health and safety of the child shall be the paramount concern.

Arkansas

Ann. Code § 9-27-303

Reasonable efforts are measures taken to preserve the family and can include reasonable care and diligence on the part of the department or agency to utilize all available services related to meeting the needs of the juvenile and the family.

Colorado

Rev. Stat. § 19-1-103(89)

The term “reasonable efforts” means the exercise of diligence and care for children who are in out-of-home placement or are at imminent risk of out-of-home placement. The term includes supportive and rehabilitative services that are required to prevent unnecessary placement of a child outside of a child’s home or to foster the safe reunification of a child with a child’s family, as described in § 19-3-208.

Iowa

Ann. Stat. § 232.102

The term “reasonable efforts” refers to efforts made to preserve and unify a family.

Reasonable efforts may include, but are not limited to, family-centered services if the child’s safety in the home can be maintained during the time the services are provided.

The term “family-centered services” means services and other support intended to maintain a child safely with the child’s family or with a relative, to return a child, safely and in a timely manner, to the home of the child’s parent or relative, or to promote achievement of concurrent planning goals by identifying and helping the child secure placement for adoption, with a guardian, or with other alternative permanent family connections. Family-centered services are adapted to the individual needs of a family in regard to the specific services and other support provided to the child’s family and the intensity and duration of service delivery. Family-centered services are intended to preserve a child’s connections to the child’s neighborhood, community, and family and to improve the overall capacity of the child’s family to provide for the needs of the children in the family.

Minnesota

Ann. Stat. § 260.012

Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child’s family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community.

When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

- Relevant to the safety and protection of the child
- Adequate to meet the needs of the child and family
- Culturally appropriate
- Available and accessible
- Consistent and timely
- Realistic under the circumstances

In the case of an Indian child, the responsible social services agency must provide active efforts, as required by the Indian Child Welfare Act of 1978.

Mississippi

Ann. Code § 43-51-3

Family preservation services are services designed to help families alleviate risks or crises that might lead to out-of-home placement of children. The services may include procedures to maintain the safety of children in their own homes, support to families preparing to reunify or adopt and assistance to families in obtaining services and other sources of support necessary to address their multiple needs in a culturally sensitive environment.

Family support services are preventive community-based activities designed to alleviate stress and to promote parental competencies and behaviors that will increase the ability of families to successfully nurture their children and will enable families to use other resources and opportunities available in the community. These services may include supportive networks designed to enhance child-rearing abilities of parents and to help compensate for the increased social isolation and vulnerability of families.

Examples of these services and activities include:

- Respite care for parents and other caregivers
- Early developmental screening of children to assess their needs and assistance in obtaining specific services to meet their needs
- Mentoring, tutoring, and health education for youth
- A range of center-based activities, such as informal interactions in drop-in centers and parent support groups, and home visiting programs

New Jersey

Ann. Stat. § 30:4C-15.1

The term “reasonable efforts” means attempts by an agency to assist parents in remedying the circumstances and conditions that led to placement of the child and to reinforce family structure, including:

- Consultation with the parent in developing a plan for appropriate services
- Providing the services agreed upon
- Informing the parent of the child’s progress, development, and health
- Facilitating appropriate visitation

New York

Soc. Serv. Law § 384-b

The term “diligent efforts” means reasonable attempts by an agency to assist, develop, and encourage a meaningful relationship between the parent and child that include but are not limited to:

- Consulting and cooperating with the parents to develop a plan for appropriate services
- Making suitable arrangements for the parent to visit with the child
- Providing services and other assistance so that problems preventing the child’s discharge from care can be resolved
- Informing the parents of the child’s progress, development, and health
- Making suitable arrangements with a correctional facility for an incarcerated parent to visit with the child, if such visiting is in the best interests of the child

North Dakota

Code § 27-20-32.2

The term “reasonable efforts” means the exercise, by the agency granted authority over the child, of due diligence in using appropriate and available services to meet the needs of the child and his or her

family in order to prevent removal of the child from the child's family or, after removal, to use appropriate and available services to eliminate the need for removal, to reunite the child and his or her family, and to maintain family connections. In determining reasonable efforts to be made with respect to a child under this section, and in making reasonable efforts, the child's health and safety must be the paramount concern.

Waiver of Reasonable Efforts:

*Source: Child Welfare Information Gateway, Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children: Summary of State Laws. Updated through July 2009.
www.childwelfare.gov/systemwide/laws_policies/statutes/reunify.cfm*

Under the provisions of ASFA, reasonable efforts to preserve or reunify the family are not required when the court has determined any of the following:

- The parent subjected the child to aggravated circumstances as defined by State law. The definition of aggravated circumstances may include, but is not limited to, abandonment, torture, chronic abuse, and sexual abuse.
- The parent committed voluntary manslaughter of another child of the parent.
- The parent aided or abetted, attempted, conspired, or solicited to commit such a murder or such voluntary manslaughter.
- The parent committed a felony assault that results in serious bodily injury to the child or another child of the parent.
- The parental rights of the parent to a sibling of the child were terminated involuntarily.

In all States, the District of Columbia, and Puerto Rico, reasonable efforts are not required under these circumstances. In addition, several States and Puerto Rico provide one or more additional grounds for not making reasonable efforts. The following are examples of these additional grounds (provisions applicable in Nevada are in **bold**):

- **The parent abandoned the child** (28 States and Puerto Rico).
- **The parent abandoned an infant** (nine States).
- The parent was convicted of murder or voluntary manslaughter of the child's other parent (12 States).
- **The child was removed from the home previously due to abuse or neglect and was removed again due to a subsequent incident of abuse or neglect** (nine States and Puerto Rico).
- The parent was convicted of a sexual offense that resulted in the child's conception (three States).
- The parent failed to comply with the terms of a reunification plan (six States and Puerto Rico).
- The parent has been incarcerated for a substantial term in relation to the child's age, and there is no suitable relative to care for the child (seven States).

- The parent suffers from a mental illness of such duration or severity that there is little likelihood that the parent will be able to resume care for the child within a reasonable time (six States and Puerto Rico).
- The parent suffers from chronic abuse of drugs or alcohol and has refused or failed treatment (seven States and Puerto Rico).
- The parent indicated a lack of interest in reunification with the child (two States and Puerto Rico).

Other grounds found in one or two States include:

- A newborn infant tests positive for the presence of alcohol or a controlled substance (Florida).
- The parent withheld medical treatment or food from the child (Ohio).
- ***A putative father has failed to establish paternity of the child*** (Montana and ***Nevada***).
- The parent allowed the child to be present where a clandestine illegal laboratory is operated (Utah).
- The parent is a convicted sexually violent predator (Washington).