

Federal Law

- ✓ Reasonable efforts required to “preserve and reunify families **prior to placement to prevent or eliminate need for removing child from his or her home and to make it possible for the child to return safely to his or her home.**” 42 U.S.C. §671 (a)(15).
 - Health and Safety of child shall be paramount concern
 - Exceptions to the reasonable efforts at 42 U.S.C. § 671(a)(15)(C)-(E).
- ✓ **Active Efforts** required under Indian Child Welfare Act. See 25 U.S.C. §1912(d).
See also §7.309.1.A.

State Statutes

- ✓ Reasonable efforts are defined as 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. See C.R.S. §19-1-103(89).
- ✓ Reasonable efforts are deemed to be met when county/city provides services in accordance with §19-3-208, C.R.S. See § 19-3-100.5(4), C.R.S., §19-1-103(89), C.R.S. Services must be designed to:
 - Serve immediate health, safety, and well-being of children
 - Reduce the risk of future maltreatment of children who have previously been abused or neglected and protect children who are members of the same household
 - Avoid unnecessary placement of children into foster care
 - Facilitate, if appropriate, speedy reunification
 - Promote best interests of child
 - Take into account the racial background of child if out-of-home placement is necessary (but no delays in placement).
- ✓ Procedural requirements related to reasonable efforts:
 - Petition seeking removal of child. C.R.S. §19-3-502(2.5).
 - Order of legal custody to department. C.R.S. §19-1-115(6)(a), (b), (7).
 - Continuation of out-of-home placement. C.R.S. §19-1-115(6).
 - Report of RE required at dispositional hearing. C.R.S. §19-3-507(1)(b).

State Regulations

- ✓ IV-E eligibility requires court order within 60 days of placement finding RE were made to prevent the removal (unless exception applies). §7.001.41.B.3.
- ✓ Reasonable efforts to prevent out-of-home placement/maintain family unit. §7.202.52.N.
- ✓ Service plan must document reasonable efforts to prevent removal/reunite. §7.301.24.L.

State Cases

***People ex rel T.M.W.*, 208 P.3d 272 (Colo. App. 2009); *In the Interest of M.S.*, 129 P.3d 1086 (Colo. App. 2005)**

- ✓ Failure to raise issue of perceived deficiency of department’s reasonable efforts to reunite the family in district/ juvenile court results in waiver of right to raise reasonable efforts on appeal.

***People ex rel. S.N.-V*, 300 P.3d 911 (Colo. App. 2011)**

- ✓ Court of Appeals declines to follow precedent of *M.S.*, holding that estoppel doctrines do not bar parent from raising reasonableness of efforts on appeal.

<p><u>State Statutes</u></p> <ul style="list-style-type: none"> ➤ Purposes of Children’s Code* <ul style="list-style-type: none"> ✓ Preservation and strengthening of family ties whenever possible, including improvement of home environment. . C.R.S. §19-1-102(1)(b). ✓ Securing for any child removed from the custody of parents the necessary care, guidance, and discipline to assist in becoming a responsible and productive member of society. C.R.S. §19-1-102(1)(d). <i>*To carry out these purposes, Children’s Code must be liberally construed to serve the welfare of children and best interests of society. C.R.S. §19-1-102(2).</i> ➤ Stability and preservation of the families of this state and the safety and protection of children are matters of statewide concern. C.R.S. §19-3-100.5. <p><u>State Regulations</u></p> <ul style="list-style-type: none"> ➤ Services intended to strengthen ability of families to protect & care for their own children. §7.200. ➤ Goal of services is to support intactness of families through provision of services aimed at stabilizing family situation & strengthening parents/guardians in fulfilling responsibilities to children. §7.200. ➤ Family Services Plan must incorporate following principles. §7.301.2. <ul style="list-style-type: none"> ✓ Child’s safety is paramount. ✓ Children belong in families. ✓ Families need the support of communities. ✓ Community partners are key to achieving strong outcomes for children and families. 	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Goal of Services</p>
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State Statutes

- Appropriate treatment plan defined as a treatment plan approved by the court that is **reasonably calculated to render the particular respondent fit to provide adequate parenting to the child within a reasonable time and that relates to the child's needs**. C.R.S. §19-1-103(10).
- For purposes of determining the appropriate treatment plan in EPP cases, the report shall include a list of services available to families that are **specific to the needs of the child and the child's family** and that **are available in the community where the family resides**. The report shall establish a **priority of the services** if multiple services are recommended. C.R.S. §19-1-107 (2.5).

State Regulations

- Assessment
 - ✓ **Colorado Risk Assessment Continuum** must inform identification of family's current safety, risk and needs; must include level of functioning, **areas of strengths and weaknesses**, specific problems to be addressed, and changes that must occur to remedy the problems that brought family into the agency. §7.301.1. *See also* §7.202.5.B (In investigation of reports, county department must assess **risk, needs, and strengths** of children and families); §7.301.231. (discussing integration of safety and risk assessment into Family Services Plan).
 - Colorado Family Risk Assessment is intended to aid in determining whether services are to be provided and appropriate level of services. §7.202.54.
 - *See also* §7.202.62.E (discussing use of Family Risk Reassessment and use to assess degree of enhancement of parental capabilities, risk reduction, and establishment of links to the community).
 - ✓ "Safe" is a condition where there is no present or impending threat of moderate to severe harm to a vulnerable child from current known family conditions, **or the protective capacities in the family are sufficient to control existing dangers or threats of danger and protect the vulnerable child.**" §7.202.3. *See also* §7.202.52; 7.202.53; §7.202.533 (detailing Colorado Safety Assessment Instrument).
 - ✓ Family support system and strengths must be documented in Family Services Plan assessment. §7.301.1.B.3.

State Regulations (cont.)

- Determination/Provision of Services
 - ✓ Ongoing services must be based on safety and risk issues identified through the NCFAS and the family social history and assessment summary in FSP. §7.202.62(B).
 - ✓ Areas rated as **highest strengths** in NCFAS/NCFAS-R shall be considered in developing the FSP. §7.301.1.G.
 - ✓ FSP must document that services to be provided are directed at areas of need **identified in the assessment**. §7.301.23.
 - ✓ Services shall be provided to protect the child/youth from further abuse or neglect **through building parental capabilities and increasing parental involvement**. §7.202.62.B.
 - ✓ Provision of services shall be done in a manner to preserve family when such preservation can safely be done; if family cannot be safely preserved, services shall be provided to preserve continuity within extended family and/or home community when feasible. §7.202.62.B.
 - ✓ County dept. of human/social services shall adopt family engagement practices
 - Focus on strengths and interests of child, youth and family
 - Promote family and youth choice
 - Actively support that all families receive timely access to culturally responsive services
 - Supports relationship building and community participation
 - Extends beyond immediate family to those identified by family as source of support and strength who will serve beyond the involvement of the child welfare system to help sustain reunification and/or ability to safely parent the children.
 - ✓ Goal of Core Services is to **focus on family strengths** by directing intensive services that support and strengthen families and protect the child. §7.303.11.
 - ✓ Family Stability Services support plan must identify family's strengths, unique needs; and appropriate service and supports based on strengths and needs. §7.310.

State Cases

- ***People ex rel. D.G.*, 140 P.3d 299 (Colo. App. 2006).**
 - ✓ Purpose of treatment plan is to “preserve the parent-child legal relationship by assisting the parent in overcoming the problems that required intervention into the family.”
- ***People in the Interest of M.M.*, 726 P.2d 1108 (Colo. 1986).**
 - ✓ Appropriateness of treatment plan must be measured against the circumstances when the adjudication occurred and ultimately by the likelihood of success in reunifying the family.
- ***See also People in the Interest of R.J.A.*, 994 P.2d 470 (Colo. App. 1999); *People ex rel J.M.B.*, 60 P.3d 790 (Colo. App. 2002); *People ex rel. T.T.*, 128 P.3d 328 (Colo. App. 2005).**

<p><u>State Statutes</u></p> <ul style="list-style-type: none"> ➤ An individual case plan, developed with the input or participation of the family, is required to be in place for all abused and neglected children and the families of such children in each case... regardless of whether the child or children involved are placed out of the home or under court supervision. C.R.S. §19-3-209. <p><u>State Regulations</u></p> <ul style="list-style-type: none"> ➤ The family, including relatives with caretaking responsibilities for children in the household, shall be involved in all phases of assessment and case planning. §7.301.1.B.1. ➤ Family's perception of the problem, understanding of reason for child welfare involvement, and view of what needs to change, must be included in Family Services Plan assessment. §7.301.1.B.3. ➤ County must assure the following participate in creation of Family Services Plan: caseworker; child/youth; parent/legal guardian/immediate and extended family members as appropriate to the family and child's service needs; service providers, including kin caregivers and other out-of-home caregivers. All parties must sign plan & reason for absence of signatures shall be documented on plan. If unable to involve children, parents, or provider, plan must document efforts to do so and reasons for inability to do so. §7.301.22. ➤ Family stability services support plan must identify family-generated goals within service time frames. §7.310.A.4. ➤ Within 30 calendar days after termination of a placement, county department must complete a written summary documenting that the caseworker has discussed with child and family goals that have been achieved and not achieved; established a clear plan for follow-up services if needed; and involved the foster care provider in the evaluation of services, progress, and the child's further needs. §7.304.67. 	<p>Family/Youth Involvement in Service Planning</p>
<p><u>State Regulations</u></p> <ul style="list-style-type: none"> ➤ When child cannot safely return to home, services must be provided to achieve alternative permanent plan that provides for safety and well-being in a timely manner. §7.202.62.B. ➤ NCFAS/NCFAS-R must be completed within 60 calendar days of the date the investigation/assessment was assigned. §7.301.1.F. ➤ Family Services Plan must be completed within 60 calendar days of opening an assessment in TRAILS. §7.301.21. 	<p>Timing of Services</p>

State Statutes

- Required Services. C.R.S. §19-3-208(2)(b).
 - ✓ Services shall be available and provided, as determined necessary and appropriate by individual case plans
 - Screening, assessments, and individual case plans
 - Home-based family and crisis counseling
 - Information and referral services
 - Visitation services
 - Placement services
 - ✓ Examples of services that must be provided “based upon the state’s capacity to increase federal funding or any other moneys . . . and as determined necessary and appropriate by individual case plans:” (**argue capacity to increase & note Children’s Code clear intent not to conflict with federal law, §19-1-103(89)**)
 - Transportation to services when other appropriate transportation is not available
 - Child care
 - In-home supportive homemaker services
 - Diagnostic, mental health, and health care services
 - Drug and alcohol treatment services
 - After care services to prevent return to out-of-home placement
 - Family support services while child is in out-of-home placement
 - Financial services
 - Family preservation services
 - EPP services may include, but are not limited to, transportation services, visitation services, psychological counseling, drug screening and treatment programs, marriage and family counseling, parenting classes, housing and day care assistance, and homemaker services. C.R.S. §19-1-107 (2.5).

State Regulations

- Core Services. §7.303.1 *et seq.*
 - ✓ Broad array of core services listed in §7.303.1; 7.303.14.
 - For example, permissible “hard” services include transportation services to include fares, repair, fuel, insurance, and bus passes; housing funds; etc.
 - ✓ Must be made available to any client who meets criteria for services as documented in Family Services Plan. §7.303.12.
 - ✓ Eligibility criteria: §7.303.13.B.
 - child must meet Program Area 4, 5, or 6 criteria, **and**
 - child must meet out-of-home placement criteria, **and/or**
 - child must require more restrictive level of care, but may be maintained at less restrictive or in-home care if provided core services.
 - ✓ Counties can either purchase or directly provide. If purchased, counties must select contractors with skills and resources to deliver the services. §7.304.662.C.

For information about your county’s core services, review its annual Core Services Report. See also CDHS’s annual Core Services Evaluation Report (submitted to Governor and typically available online at <http://www.colorado.gov/cs/Satellite/CDHS-ChildYouthFam/CBON/1251588683608>).

<p>➤ Medical/Dental Services</p> <ul style="list-style-type: none"> ✓ Child must have medical examination before placement or medical screening or as soon as is reasonably possible after placement. §7.304.61.A. ✓ Full medical exam must be scheduled within 14 days of placement and full dental exam must be scheduled within 8 weeks. §7.304.62.G. <p>➤ Optional County Services</p> <ul style="list-style-type: none"> ✓ Family Stability Services. <i>See</i> C.R.S. §19-1-125; §7.310 <i>et seq.</i> <ul style="list-style-type: none"> – Must be provided in context of support plan. (e.g., Family Services Plan) – Goals are to assist in provision of appropriate and necessary short term services to stabilize families and promote reintegration. – Examples: respite care (< 24 hours); in-home services; therapeutic services; crisis intervention services. – To determine whether your county offers these and the extent of its program, review your county’s annual Core Services Program report. ✓ Integrated care management program. <i>See</i> §7.303.2. ✓ Collaborative management program. <i>See</i> §7.303.3. <p>➤ Other Permanency Services</p> <ul style="list-style-type: none"> – Relative Guardianship Assistance Program. <i>See</i> §7.311 <i>et seq.</i> – Adoption Assistance. <i>See</i> §7.306.31 <i>et seq.</i> 	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Scope of Services (cont.)</p>
<p><u>State Regulations</u></p> <ul style="list-style-type: none"> ➤ Investigation must include consideration of ethnic, religious, accepted work-related practices of agricultural communities, and accepted child-rearing practices of the culture in which the child participates. §7.202.52.H. ➤ Assessment tools or resources available through community agencies shall be incorporated in the assessment, based on the culture, ethnicity and other needs of the family. §7.301.1.B.2. ➤ Culture/religion/ethnicity and how these affect the needs of the child(ren) must be documented in Family Services Plan assessment. §7.301.1.B.3. ➤ FSP must document that services to be provided are culturally and ethnically appropriate. Appropriate cultural or ethnic considerations should include, but are not limited to, consideration of the child’s family, community, neighborhood, faith or religious beliefs, school activities, friends, and the child’s and family’s primary language. §7.301.23. 	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Culturally Competent Services</p>