

## Title IV-E for Judges Best Interests of the Child and Reasonable Efforts Findings

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### Judge's Inquiry<sup>1</sup> on Reasonable Efforts to Prevent Placement

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Basic Question: Why can't the child be maintained at home safely today?

Specific questions for the agency:

1. What are the circumstances or conditions which caused the child to have to be removed? What was the specific reason that the child could not be adequately protected at home and the specific harm that may have occurred if the child remained in the home?
2. What services were offered to avoid removal?
3. What services were in fact provided to avoid removal?
4. What services, if any, could have avoided the removal?
5. To the extent that there were services that could have prevented the removal, why were they not offered?
6. Have there been any prior referrals or agency involvement?
7. If there have been prior referrals or agency involvement, were the attendant circumstances or conditions sufficient to put the agency on notice of underlying issues that would likely result in a later removal but for the provision of appropriate services?
8. If the answer to the previous question is yes, did the agency provide services at that time that were reasonably calculated to remedy the underlying issues that made a later removal likely? If not, then that failure constitutes a failure to make reasonable efforts to avoid this removal.

### Reasonable Efforts to Prevent Placement

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*Minnesota Statutes § 260.012 (d) and Minnesota Statutes § 260C.178 (e)*

**Timing:** Required at the emergency protective care hearing, if court orders removal of the child.  
*Minnesota Statutes § 260C.178, subd. 1 (e)*

### Findings

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1. The agency has made reasonable efforts to prevent placement; or
2. The agency has made reasonable efforts to prevent the placement of the child in foster care by working with the family to develop and implement a safety plan; or
3. Given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which could allow the child to safely remain in the home.

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<sup>1</sup> Judge R. Michael Key, Judge, Troup County Juvenile Court, entitled "Advanced Reasonable Efforts" presented to the Advanced Child Abuse and Neglect Institute at the National Council of Juvenile and Family Court Judges, June 24, 2014

Findings should be case specific and provide detail about what the agency's efforts were or what the agency considered. The specificity may be provided by referencing the petition or a court report by date. *45 CFR 1356.21(d)*

### **Options When Agency Has Not Made Reasonable Efforts**

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Options for the court when the agency has not made reasonable efforts to prevent placement when such efforts are required<sup>2</sup>:

1. When there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent and the services or efforts put in place to ensure the child's safety.
2. If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

*Minnesota Statutes § 260C.178, subd. 1 (e)*

### **Active efforts under the Indian Child Welfare Act**

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*25 U.S.C. §1911(d)* requires the provision of active efforts to prevent the breakup of the Indian family.

*Minnesota Statutes § 260.012 (c)* requires court review of the agency's provision of active efforts at the emergency protective care hearing, disposition, required reviews of children in foster care, the permanency progress review hearing, termination of parental rights proceedings, and permanency proceedings

A link to the [Minnesota Tribal State Agreement](#) is provided to judges as guidance on what active efforts are.

<https://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-5022-ENG>

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<sup>2</sup> There is a category of cases where reasonable efforts to prevent placement are not required. These case types are:

1. egregious harm;
2. previous involuntary termination of parental rights
3. previous involuntary transfer of permanent legal and physical custody to a relative under *Minnesota Statutes Chapter 260C*
4. abandoned infant
5. sexual abuse
6. parent is a registered predatory offender
7. provision of services or further services for reunification would be futile.

See *Minnesota Statutes §260.012(a)* and *Minnesota Statutes §260C.178 (g)* The reasonable efforts finding for this case type is: Reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.