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To: MaGIK Users

From: Mary Beth Bonaventura, Director
Jane Bisbee, Deputy Director of Field Operations
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Wade Hornbacher, Deputy Director of Legal Operations
Department of Child Services (DCS)

Subject: Legislative Change: Terminating Parent-Child Relationship due to an “Act of Rape”
DCS-16-02

This administrative letter provides guidance on a recent legislative change which allows a parent who is the victim of an “act of rape” [[IC35-42-4-1](#) or [IC 35-42-4-3\(a\)](#)] from which a child was conceived to file a petition to terminate the parent-child relationship between the child and the alleged perpetrator of the act of rape.

Below is a summary of the law that is effective July 1, 2016:

- Requires a court to terminate the parent-child relationship if the court finds:
 1. By clear and convincing evidence that the alleged perpetrator committed an act of rape against the parent who filed the petition to terminate the parent-child relationship and that the child was conceived as a result of the act of rape; and
 2. Termination of the parent-child relationship would be in the best interests of the child.
- Requires a court to stay the termination of the parent-child relationship due to an act of rape proceedings if the court receives a notice from the Department of Child Services (DCS) that the child is the subject of a pending Child In Need of Services (CHINS) petition;

Note: The Court will stay the proceeding for the termination of parent-child relationship until the court in which the CHINS petition is pending enters a dispositional decree.



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- Prohibits a parent who is at least 18 years of age at the time the act of rape occurred from filing a petition to terminate of the parent-child relationship due to an act of rape more than 180 days after the birth of the child; and
- Prohibits a parent who is less than 18 years of age at the time the act of rape occurred from filing a petition to terminate of the parent-child relationship due to an act of rape more than 2 years after reaching the age of 18.

This law requires the court to send notice of the petition to terminate of the parent-child relationship due to an act of rape at the time of filing to the local DCS office in the county in which the petition is filed.

If the local DCS office receives notice of a petition to terminate the parent-child relationship due to an act of rape, the Local Office Director (LOD) or designee will:

1. Send a copy of the request to the Local Office Attorney;
2. Determine if there is a pending CHINS petition for the child who is the subject of the petition to terminate the parent-child relationship;
3. Complete the notification and return to the court within 30 days of receipt of the notice; and
4. Keep a copy of the notification in a local office file. If there is an open case, a copy of the notification should be uploaded into MaGIK.

If you have any questions regarding the information presented in this administrative letter, please address them to the DCS policy mailbox at DCSPolicy@dcs.in.gov.

Sincerely,

Mary Beth Bonaventura
Department of Child Services



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