



STATE STATUTES

CURRENT THROUGH JULY 2021

Grounds for Involuntary Termination of Parental Rights

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Every State, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands have statutes providing the circumstances under which a person's parental rights to his or her child may be terminated by a court. Termination of parental rights ends the legal parent-child relationship. Once the relationship has been terminated, the child is legally free to be placed for adoption with the objective of securing a more stable, permanent family environment that can meet the child's long-term parenting needs.

Termination may be voluntary or involuntary. Birth parents who wish to place their children for adoption may voluntarily relinquish their rights.¹ When addressing whether parental rights

¹ For State-by-State details on voluntary relinquishment, see Information Gateway's publication [Consent to Adoption](#).

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should be terminated involuntarily, the laws in most States require that a court do the following:

- Determine, by clear and convincing evidence, that the parent is unfit²
- Determine whether severing the parent-child relationship is in the child's best interests

GROUNDINGS FOR TERMINATION OF PARENTAL RIGHTS

The grounds for involuntary termination of parental rights are specific circumstances under which it is determined that the child cannot be maintained safely in his or her home because of the risk of harm by the parent or the inability of the parent to provide for the child's basic needs. Each State is responsible for establishing its own statutory grounds, and these vary by State.

The most common statutory grounds for determining parental unfitness include the following:

- Severe or chronic abuse or neglect
- Sexual abuse
- Abuse or neglect of other children in the household
- Abandonment of the child

- Long-term mental illness or deficiency of the parent(s)
- Long-term alcohol- or drug-induced incapacity of the parent(s)
- Failure to support or maintain contact with the child
- Involuntary termination of the rights of the parent to another child

The above factors become grounds for terminating parental rights when the parent has failed to correct the conditions and/or parental behaviors that led to State intervention and is unable to provide a safe home for the child, despite reasonable efforts by the State agency to provide services to prevent out-of-home placement or to achieve family reunification after out-of-home placement.³

In approximately 34 States and Puerto Rico, a parent's rights can be terminated if he or she has been convicted of committing sexual abuse or another sexual offense.⁴ In 17 States and Puerto Rico, a parent's rights can be terminated upon conviction for child sexual exploitation (including prostitution or child pornography).⁵ A conviction for human trafficking or sex trafficking of a minor can result in termination of a parent's rights in eight States and Puerto Rico.⁶ In 26 States

² The U.S. Supreme Court, in *Santosky v. Kramer* (455 U.S. 745 [1982]), set the standard of proof in termination of parental rights proceedings at clear and convincing evidence.

³ For more information on the reasonable efforts requirement, see Information Gateway's [Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children](#).

⁴ The word "approximately" is used to stress the fact that States frequently amend their laws and applies to all data in this publication. The information in this publication is current only through July 2021. The States that provide for termination of rights upon criminal conviction for a sexual offense include Alabama, Alaska, California, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wisconsin.

⁵ Arkansas, California, Connecticut, Illinois, Indiana, Kentucky, Louisiana, Maine, Mississippi, Missouri, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, and Utah

⁶ Indiana, Louisiana, Maine, Mississippi, Missouri, Tennessee, Texas, and Wisconsin

and Guam, a man's parental rights can be terminated if he committed rape or sexual assault of the child's mother and the child was conceived as a result.⁷ Being required to register as a sex offender constitutes a ground for termination in nine States.⁸

A felony conviction of the parent(s) for a crime of violence against the child or another family member is a ground for termination in every State, the District of Columbia, Puerto Rico, and the Virgin Islands. In 27 States, a conviction for any felony that results in long-term incarceration and requires the child to enter foster care because of a lack of alternatives also may constitute grounds for termination of that person's parental rights.⁹ All States recognize abandonment of a child as grounds for termination, while 15 States specifically include cases in which a newborn infant has been relinquished to a safe-haven provider or otherwise abandoned.¹⁰

TIMEFRAMES FOR TERMINATION PROCEEDINGS

The Adoption and Safe Families Act (ASFA) requires State agencies to file a petition to terminate parental rights, with certain exceptions, when any of the following apply:¹¹

- A child has been in foster care for 15 of the most recent 22 months.

- A court has determined that any of the following apply:
 - The child is an abandoned infant.
 - The parent committed murder or voluntary manslaughter of another child of the parent; aided, abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter; or committed a felony assault that resulted in serious bodily injury to the child or another child of the parent.

In response to ASFA, many States have adopted limits to the maximum amount of time a child can spend in foster care while the parent is provided with the opportunity to engage in the services required by a service plan to correct the conditions that led to the child's placement in out-of-home care. Many States have adopted the ASFA standard that requires the State agency to file a petition to initiate termination proceedings when the child has been in out-of-home care for 15 out of the most recent 22 months, and the parent has not been making progress in meeting service plan requirements. Some States, however, specify other timeframes, such as shorter time limits for very young children.

⁷ California, Connecticut, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Maine, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Washington, Wisconsin, and Wyoming

⁸ Alaska, California, Florida, Hawaii, Minnesota, Pennsylvania, South Dakota, West Virginia, and Wyoming

⁹ Alabama, Alaska, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Louisiana, Massachusetts, Michigan, Montana, New Hampshire, New York, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Texas, Utah, and Wyoming

¹⁰ Arkansas, California, Delaware, Illinois, Iowa, Louisiana, Missouri, New Jersey, New York, North Carolina, Tennessee, Texas, Utah, Wisconsin, and Wyoming

¹¹ ASFA (P.L. 105-89) amended title IV-E of the Social Security Act, which establishes guidelines that States must comply with as a condition for receiving Federal title IV-E funds.

EXCEPTIONS

While State laws require that proceedings to terminate parental rights be initiated when statutory grounds are met, approximately 35 States, the District of Columbia, and the U.S. Virgin Islands¹² provide for exceptions under some circumstances, including one or more of the following:

- The child has been placed under the care of a relative.
- The State agency has documented in the case plan a compelling reason to believe that terminating the parent's rights is not in the best interests of the child.
- The State agency has not provided the parent with the services required by the service plan to facilitate safe reunification.

In six States and the Virgin Islands, the court will not terminate parental rights over the objection of an older child unless the court finds the child lacks the mental capacity or maturity to decide.¹³ In five States, a parent's rights cannot be terminated if the sole reason the parent has not provided adequate care is due to poverty.¹⁴ In three States and Puerto Rico, a parent's rights cannot be terminated due solely to the legitimate practice of religious beliefs.¹⁵ In California and Montana,

the rights of an Indian parent may not be terminated unless a qualified expert witness has testified that leaving the child in the parent's custody is likely to result in serious emotional or physical harm to the child.

WHEN PARENTAL RIGHTS MAY BE REINSTATED

A termination action can sever the rights of one parent without affecting the rights of the other parent. If the rights of both parents are terminated, the State assumes legal custody of the child along with the responsibility for finalizing a permanent placement for the child, either through adoption or guardianship, within a reasonable amount of time.

Approximately 25 States have provisions for reinstating the rights of a parent whose rights have been terminated.¹⁶ In 18 States, if a permanent placement has not been achieved within a specific timeframe, a petition may be filed with the court requesting reinstatement of the parent's rights.¹⁷ In 12 States, the statutes specify that reinstatement is available only to older children who have not attained a permanent placement.¹⁸ In all cases, the court must determine whether the parent has made substantial progress in correcting the conditions that led to the termination of

¹² The States that currently provide for these exceptions include Alabama, Alaska, California, Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Maine, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, and Wyoming.

¹³ California (age 12 or older), Colorado (age 12 or older), Iowa (age 10 or older), New Mexico (age 14 or older), New York (age 14 or older), Virginia (age 14 or older), and the Virgin Islands (age 15 or older)

¹⁴ Florida, Nebraska, North Carolina, Pennsylvania, and Texas

¹⁵ Delaware, Georgia, and Utah

¹⁶ Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Iowa, Louisiana, Maine, Michigan, Minnesota, Nevada, New York, North Carolina, Oklahoma, Oregon, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin

¹⁷ Arkansas (3 years), California (3 years), Colorado (3 years), Delaware (2 years), Georgia (3 years), Hawaii (1 year), Illinois (3 years), Maine (1 year), Minnesota (4 years), New York (2 years), North Carolina (3 years), Oklahoma (3 years), Oregon (18 months), Texas (2 years), Utah (2 years), Virginia (2 years), Washington (3 years), and Wisconsin (1 year)

¹⁸ Delaware (age 14), Hawaii (age 14), Illinois (age 13), Louisiana (age 15), New York (age 14), North Carolina (age 12), Oklahoma (age 14), Oregon (age 12), Texas (age 12), Utah (age 12), Virginia (age 14), and Washington (age 12)

his or her parental rights and now is able and willing to provide the child with a safe home. The court also must find that reinstatement of the parent's rights is in the best interests of the child and that the parent and the child both agree to the reinstatement.

In seven States, the State agency must submit a permanency plan to the court, with reintegration as a permanency goal, which describes the transition services that will be provided to the child and family to support reintegration.¹⁹ In 11 States, the court may order a trial home placement or a period of supervision by the State agency before the restoration of rights is finalized.²⁰

In Alaska, a parent may petition for restoration of rights only in cases in which a birth parent has voluntarily relinquished his or her rights at any time before an adoption has been finalized. In Iowa, a petition for setting aside a termination may be made only in cases in which the parent has relinquished a newborn. In Arkansas, Utah, and West Virginia, reinstatement may be considered when an adoptive placement has disrupted.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

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¹⁹ Arkansas, Colorado, Hawaii, Maine, New York, Virginia, and Washington

²⁰ Arkansas, Colorado, Hawaii, Maine, New York, North Carolina, Oregon, Texas, Utah, Virginia, and Washington



U.S. Department of Health and Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau



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