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Grounds for Involuntary Termination of Parental Rights

Every State, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands have statutes providing for the termination of parental rights 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 should be terminated involuntarily, most States require that a court:

- 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

¹ For State-by-State details on voluntary relinquishment, see Child Welfare Information Gateway's publication *Consent to Adoption* at <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/consent/>.

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.

Grounds for Termination of Parental Rights

The grounds for involuntary termination of parental rights are specific circumstances under which the child cannot be returned safely home because of 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:

- 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

³ For more information on the reasonable efforts requirement, see Child Welfare Information Gateway's *Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children* at <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/reunify/>.

In approximately 30 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 14 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 six States.⁶ In 21 States, a man's parental rights can be terminated when 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 may also constitute grounds for termination of parental rights.⁹ All States recognize abandonment of a child as grounds for termination, while 12 States specifically include cases in which a newborn infant has been relinquished to a safe-haven provider.¹⁰

⁴ The word "approximately" is used to stress the fact that States frequently amend their laws. This information is current only through December 2016. The States that provide for termination of rights upon criminal conviction for a sexual offense include Alaska, California, Connecticut, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wisconsin.

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

⁶ Indiana, Louisiana, Maine, Tennessee, Texas, and Wisconsin.

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

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, Iowa, Louisiana, Missouri, New Jersey, North Carolina, Texas, Utah, Wisconsin, and Wyoming.

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:¹¹

- A child has been in foster care for 15 of the most recent 22 months.
- A court has determined that:
 - 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 the 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 shorter time limits, particularly for very young children.

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 34 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 four 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.

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, Utah, Vermont, Washington, West Virginia, and Wyoming.

¹³ California (a child 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, and Pennsylvania.

¹⁵ Delaware, Georgia, and Utah.

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 22 States have provisions for reinstating the rights of a parent whose rights have been terminated.¹⁶ In 13 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 10 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 his or her parental rights and now is able and willing to provide the child 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 six 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 seven States, the court may order a trial home placement before the restoration of rights is finalized.²⁰

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

¹⁷ California (3 years), Colorado (3 years), Delaware (2 years), Georgia (3 years), Hawaii (1 year), Illinois (3 years), Maine (1 year), Minnesota (3 years), New York (2 years), North Carolina (3 years), Oklahoma (3 years), Virginia (2 years), and Washington (3 years).

¹⁸ Delaware (age 14 or older), Hawaii (age 14), Illinois (age 13), Louisiana (age 15), Minnesota (age 15), New York (age 14), North Carolina (age 12), Oklahoma (age 15), Virginia (age 14), and Washington (age 12).

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

²⁰ Colorado, Hawaii, Maine, New York, North Carolina, Virginia, and Washington.

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 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 as complete as possible, 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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Alabama*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Ala. Code § 12-15-319**

If the court finds from clear and convincing evidence that the parents of a child are unable or unwilling to discharge their responsibilities to their child, it may terminate the parental rights of the parents. In making this determination, the court shall consider, but not be limited to, the following:

- The parent has abandoned the child.
- Emotional illness, mental illness, or mental deficiency of the parent or excessive use of alcohol or controlled substances has rendered the parent unable to care for the child.
- The parent has tortured, abused, cruelly beaten, or otherwise maltreated the child; attempted to torture, abuse, cruelly beat, or otherwise maltreat the child; or the child is in clear and present danger of being thus tortured, abused, cruelly beaten, or otherwise maltreated as evidenced by the treatment of a sibling.
- The parent has been convicted of and imprisoned for a felony.
- The parent has committed any of the following:
 - » Murder or manslaughter of another child of that parent
 - » Aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of another child of that parent
 - » A felony assault or abuse that results in serious bodily injury to the surviving child or another child of that parent
- Unexplained serious physical injury to the child proved to be the result of the intentional conduct or willful neglect of the parent.
- Reasonable efforts to rehabilitate the parent have failed.
- Parental rights to a sibling of the child have been involuntarily terminated.
- The parent has failed to provide for the material needs of the child or to pay a reasonable portion of support of the child when the parent is able to do so.
- The parent has failed to maintain regular visits with the child in accordance with a visitation plan.
- The parent has failed to maintain consistent contact or communication with the child.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ala. Code § 12-15-317**

The Department of Human Resources is required to file a petition for termination of parental rights when the child has been in foster care for 12 of the most recent 22 months, unless:

- The child is being cared for by a relative.
- The Department of Human Resources has documented in the individualized service plan, which shall be available for review by the juvenile court, a compelling reason for determining that filing a petition would not be in the best interests of the child.
- The department has not provided to the family of the child, consistent with the time period in the individualized service plan of the department, such services as the department deems necessary for the safe return of the child to his or her home, if reasonable efforts are required to be made with respect to the child.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Alaska*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Alaska Stat. §§ 47.10.011; 47.10.080; 47.10.086; 47.10.088**

The parent's parental rights may be terminated if the court finds by clear and convincing evidence that:

- The child has been subjected to conduct or conditions described below.
- The parent has not remedied the conduct or conditions in the home that place the child at substantial risk of harm.
- The Department of Health and Social Services has complied with requirements concerning reasonable efforts.

Any of the following may be grounds for termination:

- The parent has abandoned the child.
- A parent is incarcerated, and the court finds, based on clear and convincing evidence, that:
 - » The period of incarceration that the parent is scheduled to serve during the child's minority is significant considering the child's age and the child's need for an adult's care and supervision.
 - » There is not another parent willing and able to care for the child.
 - » The incarcerated parent has failed to make adequate provisions for care of the child during the period of incarceration that will be during the child's minority.
- The parent has subjected the child to circumstances that pose a substantial risk of harm, including, but not limited to, abandonment, torture, chronic mental injury, chronic physical harm, or sexual abuse.
- A custodian with whom the child has been left is unwilling or unable to provide care, supervision, or support for the child, and the whereabouts of the parent or guardian is unknown.
- The child has suffered substantial physical harm or there is a substantial risk that the child will suffer substantial physical harm as a result of conduct by or conditions created by the child's parent or by the failure of the parent to supervise the child adequately.
- Conduct by or conditions created by the parent have resulted in mental injury to the child or placed the child at substantial risk of mental injury as a result of:
 - » A pattern of rejecting, terrorizing, ignoring, isolating, or corrupting behavior that would, if continued, result in mental injury
 - » Exposure to conduct by a household member against another household member that is a crime against the person, including homicide, assault, or sexual assault
 - » Repeated exposure to conduct by a household member against another household member that is a crime against the person, including assault, reckless endangerment, or stalking
- The child has been in foster care for 15 of the most recent 22 months, and reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Homicide of a parent of the child or a child
 - » Aiding, abetting, attempting, or soliciting to commit a homicide of a parent of the child or a child
 - » A felony assault that resulted in serious bodily injury to a child
- The parent has sexually abused the child or another child of the parent or is registered or required to register as a sex offender or child kidnapper.
- The child has been sexually abused as a result of the parent's conduct or failure to protect the child.
- The parent has willfully failed to provide the child with needed medical treatment.
- The parent is unable to discharge his or her parental duties due to:
 - » Emotional illness, mental illness, or mental deficiency
 - » Use of alcohol or controlled substances
- The child has committed an illegal act as a result of pressure, guidance, or approval from the parent.
- Parental rights to another child of the parent have been involuntarily terminated, and conditions that led to the termination have not been corrected.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Alaska Stat. § 47.10.088

The Department of Health and Social Services shall file a petition for termination of parental rights when the child has been in foster care for at least 15 of the most recent 22 months unless:

- The department has documented compelling reasons why termination of parental rights would not be in the best interests of the child. This may include the child being cared for by a relative.
- The department is required to make reasonable efforts according to the case plan and has not provided to the parent the family support services that the department has determined are necessary for the safe return of the child to the home.

Circumstances Allowing Reinstatement of Parental Rights**Citation: Alaska Stat. § 47.10.089**

After a termination order is entered and before the entry of an adoption or legal guardianship decree, a person who voluntarily relinquished parental rights to a child under this section may request a review hearing, upon a showing of good cause, to vacate the termination order and reinstate parental rights relating to that child. A court shall vacate a termination order if the person shows, by clear and convincing evidence, that reinstatement of parental rights is in the best interests of the child and that the person is rehabilitated and capable of providing the care and guidance that will serve the moral, emotional, mental, and physical welfare of the child.

American Samoa*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Ann. Code §§ 45.0401; 45.0103(19)**

The court may, upon petition, terminate all rights of a parent or parents to a child when the court has determined that the child is neglected by one or both parents or dependent.

'Neglected or dependent child' means a child:

- Whose parent, guardian, or legal custodian has abandoned him or her or has subjected him or her to mistreatment or abuse or whose parent, guardian, or legal custodian has allowed another to mistreat or abuse the child without taking lawful means to stop such mistreatment or abuse and to prevent it from recurring
- Who lacks proper parental care through the actions or omissions of the parent, guardian, or legal custodian
- Whose environment is injurious to his or her welfare
- Whose parent, guardian, or legal custodian fails or refuses to provide proper or necessary subsistence, education, medical care, or any other care necessary for his or her health, guidance, or well-being
- Who is homeless, without proper care, or not domiciled with his or her parent, guardian, or legal custodian through no fault of his or her parent, guardian, or legal custodian

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Arizona*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Rev. Stat. § 8-533**

Grounds to terminate the parent-child relationship shall include any of the following, with due consideration for the best interests of the child:

- The parent has abandoned the child.
- The parent has neglected or willfully abused a child.
- The parent is unable to discharge parental responsibilities because of mental illness, mental deficiency, or a history of chronic abuse of dangerous drugs or alcohol, and there are reasonable grounds to believe that the condition will continue for a prolonged period.
- The parent has been convicted of a felony of such nature as to prove the unfitness of that parent, including murder or manslaughter of another child of the parent, or if the sentence of that parent is of such length that the child will be deprived of a normal home for a period of years.
- The potential father failed to file a paternity action within 30 days of completion of service of notice as prescribed in § 8-106(G).

- The putative father failed to file a notice of claim of paternity.
- The parents have relinquished their rights to a child to an agency or have consented to the adoption.
- The identity of the parent is unknown and continues to be unknown following 3 months of diligent efforts to identify and locate the parent.
- The parent has had parental rights to another child terminated within the preceding 2 years for the same cause and is currently unable to discharge parental responsibilities due to the same cause.

The following may also be grounds for termination of parental rights:

- The child is being cared for in an out-of-home placement, the agency responsible for the child's care has made a diligent effort to provide appropriate reunification services, and one of the following circumstances exists:
 - » The child has been in an out-of-home placement for a cumulative total period of 9 months or longer, and the parent has substantially neglected or willfully refused to remedy the circumstances that cause the child to be in an out-of-home placement.
 - » The child who is under age 3 has been in an out-of-home placement for a cumulative total period of 6 months or longer, and the parent has substantially neglected or willfully refused to remedy the circumstances that cause the child to be in an out-of-home placement, including refusal to participate in reunification services offered by the department.
 - » The child has been in an out-of-home placement for a cumulative total period of 15 months, the parent has been unable to remedy the circumstances that cause the child to be in an out-of-home placement, and there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care and control in the near future.
- All of the following are true:
 - » The child was cared for in an out-of-home placement pursuant to court order.
 - » The agency responsible for the care of the child made diligent efforts to provide appropriate reunification services.
 - » The child was returned to the legal custody of the parent from whom the child had been removed.
 - » Within 18 months after the child was returned, the child was removed from that parent's legal custody, the child is being cared for in an out-of-home placement, and the parent is currently unable to discharge parental responsibilities.

The failure of an alleged parent who is not the child's legal parent to take a test requested by the department or ordered by the court to determine if the person is the child's natural parent is prima facie evidence of abandonment, unless good cause is shown by the alleged parent for that failure.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Arkansas

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code § 9-27-341

An order forever terminating parental rights shall be based upon a finding by clear and convincing evidence that it is in the best interests of the child, including consideration of one or more of the following grounds:

- The child has lived outside the home of the parent for a period of 12 months, and the parent has willfully failed to provide significant material support in accordance with the parent's means or to maintain meaningful contact with the child.
- The presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by terminating the parental rights of the presumptive legal father.
- A parent has abandoned the child.
- A parent has executed consent to termination of parental rights or adoption of the child.
- The court has found the child or a sibling dependent-neglected as a result of neglect or abuse that could endanger the life of the child, sexual abuse, or sexual exploitation, any of which was perpetrated by the child's parent or stepparent.
- The parent has manifested the incapacity or indifference to remedy the parent's circumstances that prevent return of the child to the custody of the parent. The inability or incapacity to remedy or rehabilitate includes, but is not limited to, mental illness, emotional illness, or mental deficiencies.

- The parent is incarcerated for a period of time that would constitute a substantial period of the child's life.
- The parent is found by a court of competent jurisdiction, including the juvenile division of circuit court, to have:
 - » Committed murder or manslaughter of any child or to have aided or abetted, attempted, conspired, or solicited to commit such crime
 - » Committed a felony battery that results in serious bodily injury to any child or to have aided or abetted, attempted, conspired, or solicited to commit such crime
 - » Subjected any child to aggravated circumstances
 - » Had his or her parental rights involuntarily terminated as to a sibling of the child
 - » Abandoned an infant, as defined by § 9-27-303(2)

'Aggravated circumstances' means:

- A child has been abandoned, chronically abused, subjected to extreme or repeated cruelty, sexually abused, or a determination has been or is made by a judge that there is little likelihood that services to the family will result in successful reunification.
- A child has been removed from the custody of the parent or guardian and placed in foster care or in the custody of another person three or more times in the past 15 months.
- A child or a sibling has been neglected or abused to the extent that the abuse or neglect could endanger the life of the child.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

California

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Welf. & Inst. Code §§ 361.5(b); 366.26(c)(1)

Reunification services need not be provided to a parent when the court finds, by clear and convincing evidence, any of the following:

- The whereabouts of the parent are unknown.
- The parent is suffering from a mental disability that renders him or her incapable of utilizing those services.
- The child or a sibling of the child had been removed from the custody of his or her parent as a result of an adjudication of dependency due to physical or sexual abuse, the child had been returned to the custody of the parent, and the child is being removed again due to additional physical or sexual abuse.
- The parent has caused the death of another child through abuse or neglect.
- The child was brought within the jurisdiction of the court under § 300(e) because of the parent's conduct.
- The parent has inflicted severe sexual abuse or severe physical harm the child, a sibling, or a half-sibling.
- The child was conceived by means of the commission of an act of sexual abuse against a child that was committed by the parent.
- The parent of the child willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the child.
- The parent or other person having custody of an infant voluntarily surrendered physical custody of the child to a safe-surrender site pursuant to § 1255.7 of the Health and Safety Code.
- The court ordered termination of reunification services for any siblings or half-siblings of the child because the parent failed to reunify with the sibling or half-sibling after the sibling or half-sibling had been removed from that parent, and this parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half-sibling from that parent.
- The parental rights of a parent over any sibling or half-sibling of the child had been permanently severed, and the parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half-sibling of that child from the parent.

- The parent of the child has been convicted of a violent felony, including murder, voluntary manslaughter, or rape.
- The parent of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment during a 3-year period immediately prior to the filing of the petition that brought that child to the court's attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan on at least two prior occasions, even though the programs identified were available and accessible.
- The parent of the child has advised the court that he or she is not interested in receiving family reunification services or having the child returned to or placed in his or her custody.
- The parent has on one or more occasions willfully abducted the child or child's sibling or half-sibling from his or her placement, refused to disclose the child's whereabouts, and refused to return physical custody of the child to his or her placement.
- The parent knowingly participated in, or permitted, the sexual exploitation of the child. This shall not include instances in which the parent or guardian demonstrated by a preponderance of the evidence that he or she was coerced into permitting, or participating in, the sexual exploitation of the child.

Any of the following circumstances shall constitute a sufficient basis for termination of parental rights:

- A court finds that reunification services shall not be offered.
- The whereabouts of a parent have been unknown for 6 months.
- The parent has failed to visit or contact the child for 6 months.
- The parent has been convicted of a felony indicating parental unfitness.
- The court has continued to remove the child from the custody of the parent or guardian and has terminated reunification services.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Welf. & Inst. Code § 366.26(e)(1), (e)(2)

Parental rights shall not be terminated if:

- The child is living with a relative who is unable or unwilling to adopt the child.
- The court finds a compelling reason for determining that termination would be detrimental to the child due to one or more of the following circumstances:
 - » The parents have maintained regular visitation and contact with the child.
 - » A child age 12 or older objects to the termination.
 - » The child is placed in a residential treatment facility and adoption is unlikely or undesirable.
 - » The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances.
 - » There would be substantial interference with a child's sibling relationship.
 - » The child is an Indian child and there is a compelling reason for determining that termination of parental rights would not be in the best interests of the child, including, but not limited to:
 - Termination would substantially interfere with the child's connection to his or her Tribal community or Tribal membership rights.
 - The child's Tribe has identified guardianship, foster care with a fit and willing relative, Tribal customary adoption, or another planned permanent living arrangement for the child.
 - The child is a nonminor dependent, and the nonminor and the nonminor's Tribe have identified Tribal customary adoption for the nonminor.

The court shall not terminate parental rights if the court has found that reasonable efforts were not made or that reasonable services were not offered or provided. In the case of an Indian child:

- The court has found that active efforts were not made.
- The court has not found, beyond a reasonable doubt, that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.
- The court has ordered Tribal customary adoption.

Circumstances Allowing Reinstatement of Parental Rights**Citation: Welf. & Inst. Code § 366.26(e)(3), (h)(3)**

If a child who is the subject of a Tribal customary adoption has a developmental disability or mental illness as a result of conditions existing before the adoption to the extent that the child is considered unadoptable, and the adoptive parent(s) had no prior knowledge of the condition, a petition setting forth those facts may be filed by the adoptive parent(s) with the juvenile court that granted the adoption petition. If these facts are proved to the satisfaction of the juvenile court, it may make an order setting aside the adoption order. The set-aside petition shall be filed within 5 years of the issuance of the adoption order. Whenever a final decree of Tribal customary adoption has been vacated or set aside, the biological parent(s) of the child may petition for return of custody. The disposition of the child after the court has entered an order to vacate an adoption shall include consultation with the child's Tribe.

A child who has not been adopted at least 3 years after parental rights were terminated, and the court has determined that adoption is no longer the permanent plan, may petition the juvenile court to reinstate parental rights. The child may file the petition prior to the expiration of this 3-year period if the Department of Social Services or adoption agency that has custody of the child and the child stipulate that the child is no longer likely to be adopted. A child older than age 12 shall sign the petition unless there is good cause as to why the child could not do so. The court shall grant the petition if it finds by clear and convincing evidence that the child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interests. If the court reinstates parental rights over a child who is younger than age 12 and for whom the new permanent plan will not be reunification with a parent, the court shall specify why it is in the child's best interests to reinstate parental rights.

Colorado*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Rev. Stat. § 19-3-604**

The court may order a termination of the parent-child legal relationship upon the finding by clear and convincing evidence of any one of the following:

- The child has been abandoned by his or her parents.
- The parent has been found to be unfit due to one of the following:
 - » Emotional illness, mental illness, or mental deficiency of the parent of such duration or nature as to render the parent unlikely within a reasonable time to care for the ongoing physical, mental, and emotional needs and conditions of the child
 - » A single incident resulting in serious bodily injury or disfigurement of the child
 - » Long-term incarceration of the parent of such duration that the parent is not eligible for parole for at least 6 years after the date the child was adjudicated dependent or neglected or, if the child is under age 6, the parent is not eligible for parole for at least 36 months
 - » Serious bodily injury or death of a sibling due to proven parental abuse or neglect
 - » An identifiable pattern of habitual abuse
 - » An identifiable pattern of sexual abuse of the child
 - » The torture of or extreme cruelty to the child, a sibling of the child, or another child of either parent
- The parent has not attended visitations with the child as set forth in the treatment plan unless good cause can be shown for failing to visit.
- The parent exhibits the same problems addressed in the treatment plan without adequate improvement.
- The parent is unfit, and the conduct or condition of the parent is unlikely to change within a reasonable time.

In determining unfitness, the court shall consider, but not be limited to, the following:

- Conduct toward the child of a physically or sexually abusive nature
- History of violent behavior
- A single incident of life-threatening or serious bodily injury or disfigurement of the child
- Excessive use of intoxicating liquors or controlled substances that affects the ability to care and provide for the child
- Neglect of the child
- Injury or death of a sibling due to proven parental abuse or neglect, murder, voluntary manslaughter, or circumstances in which a parent aided, abetted, or attempted the commission of or conspired or solicited to commit murder of a child's sibling

- Reasonable efforts by child-caring agencies that have been unable to rehabilitate the parent or parents
- Prior involvement with the Department of Human Services concerning an incident of abuse or neglect involving the child followed by a subsequent incident of abuse or neglect
- Felony assault committed by a parent that resulted in serious bodily injury to the child or to another child of the parent
- That the child has been in foster care under the responsibility of the county department for 15 of the most recent 22 months
- Whether, on two or more occasions, a child in the physical custody of the parent has been adjudicated dependent or neglected
- Whether, on one or more prior occasions, a parent has had his or her parent-child legal relationship terminated with another child

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Rev. Stat. §§ 19-3-604; 19-3-702(5)(a)

A petition to terminate parental rights will be filed when the child has been in foster care for 15 of the most recent 22 months unless:

- The child is placed with a relative of the child.
- The department has documented in the case plan that such motion would not be in the best interests of the child.
- Reasonable efforts to reunify the child with the parent, as identified in the case plan, have not been provided.
- The child has been in foster care under the responsibility of the county department for such period of time due to circumstances beyond the control of the parent, such as incarceration of the parent for a reasonable period of time, court delays or continuances that are not attributable to the parent, or such other reasonable circumstances that the court finds are beyond the control of the parent.

The county Department of Social Services may not be required to petition for termination of parental rights when:

- The parents or guardians have maintained regular parenting time and contact with the child, and the child would benefit from continuing this relationship.
- A child who is age 12 or older objects to the termination of the parent-child legal relationship.
- The child's foster parents are unable to adopt the child because of exceptional circumstances, but are willing and capable of providing the child with a stable and permanent environment, and the removal of the child from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the child.
- The criteria listed above have not yet been met.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Rev. Stat. § 19-3-612

A former parent's legal rights may be restored if certain conditions are met, both the child and the former parent want reinstatement, a trial period is successful, and it is found to be in the best interests of the child. Reinstatement is a recognition that the situation of the former parent and child has changed since the time of the termination of parental rights, and reunification is now appropriate and in the best interests of the child.

A county department or the child's guardian ad litem may file a petition to reinstate the parent-child legal relationship if:

- The child is age 12 or older or is part of a sibling group.
- Both the child and the former parent consent to the reinstatement of the relationship.
- The child does not have a legal parent, is not in an adoptive placement, is not likely to be adopted within a reasonable period of time, and other permanency options have been exhausted.
- The child is in the legal custody of a county department.
- The parent's rights were terminated at least 3 years before the filing of the petition.
- The dependency action did not involve substantiated allegations of sexual abuse, egregious abuse or neglect against a child, a near fatality, or a suspicious fatality or near fatality.

A child who is age 16 or older, or his or her guardian ad litem, also may file a petition to reinstate the parent-child legal relationship if the conditions listed above can be met.

At the initial hearing, the court shall consider and make findings about the following conditions for pursuing a reinstatement of parental rights:

- Whether the conditions for filing the petition listed above have been established by clear and convincing evidence
- Whether the child is of a sufficient age and maturity to be able to express his or her preference about the reinstatement
- Whether the former parent has remedied the conditions that led to the child's removal and termination of parental rights

- What temporary transition services would be needed by the child and the former parent to have a successful reinstatement
- Whether the former parent can provide a safe and stable home for the child
- Whether the former parent has participated in an assessment that concludes that reinstatement of parental rights is in the best interests of the child

Connecticut

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Gen. Stat. §§ 17a-111a(a); 17a-112(j)

The Commissioner of Children and Families shall file a petition to terminate parental rights if:

- The child has been in the custody of the commissioner for at least 15 consecutive months or at least 15 of the preceding 22 months.
- The child has been abandoned.
- A court of competent jurisdiction has found that:
 - » The parent has killed, through a deliberate, nonaccidental act, a sibling of the child or has attempted, conspired, or solicited to commit the killing of the child or a sibling of the child.
 - » The parent has assaulted the child or a sibling of a child, through deliberate, nonaccidental act, and such assault resulted in serious bodily injury to the child.

The superior court may grant a petition filed pursuant to this section if it finds by clear and convincing evidence that:

- The Department of Children and Families has made reasonable efforts to locate the parent and to reunify the child with the parent, unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts or determines that such efforts are not required.
- Termination is in the best interests of the child.
- The court finds that at least one of the following is true:
 - » The child has been abandoned by the parent.
 - » The child has been neglected, abused, or uncared for and has been in the custody of the department for at least 15 months, and the parent of such child has been provided specific steps to take to facilitate the return of the child to the parent and has failed to achieve such degree of personal rehabilitation that would encourage the belief that within a reasonable time, considering the age and needs of the child, the parent could assume a responsible position in the life of the child.
 - » The child has been denied, by reason of an act or acts of parental commission or omission, including, but not limited to, sexual molestation or exploitation, severe physical abuse, or a pattern of abuse, the care, guidance, or control necessary for the child's physical, educational, moral, or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights.
 - » There is no ongoing parent-child relationship, which means the relationship that ordinarily develops as a result of a parent having met on a day-to-day basis the physical, emotional, moral, and educational needs of the child and to allow further time for the establishment or reestablishment of such parent-child relationship would be detrimental to the best interests of the child.
 - » The parent of a child younger than age 7 who is neglected, abused, or uncared for has failed, is unable, or is unwilling to achieve such degree of personal rehabilitation that would encourage the belief that within a reasonable period of time, considering the age and needs of the child, the parent could assume a responsible position in the life of the child, and such parent's parental rights of another child were previously terminated pursuant to a petition filed by the commissioner.
 - » The parent has killed through a deliberate, nonaccidental act another child of the parent or has attempted, conspired, or solicited such killing or has committed an assault, through a deliberate, nonaccidental act that resulted in serious bodily injury of another child of the parent.
 - » The parent committed an act that constitutes sexual assault or compelled a spouse or cohabitor to engage in sexual intercourse by the use of force or by the threat of the use of force, if such act resulted in the conception of the child.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Gen. Stat. §§ 17a-111a(b); 17a-112(k)

A petition to terminate rights shall be filed when the child has been in the custody of the Commissioner of Children and Families for at least 15 of the most recent 22 months unless:

- The child has been placed in the care of a relative.
- There is a compelling reason to believe that termination of rights is not in the best interests of the child.
- The parent has not been offered the services specified in the permanency plan to reunify the parent with the child.

In determining whether to terminate parental rights, the court shall consider the following:

- The timeliness, nature, and extent of services made available to the parent and the child to facilitate the reunion of the child with the parent
- Whether the department has made reasonable efforts to reunite the family
- The terms of any applicable court order entered into and agreed upon by any individual or agency and the parent, and the extent to which all parties have fulfilled their obligations under that order
- The feelings and emotional ties of the child with respect to the child's parents, any guardian of the child, any person who has exercised physical care, custody, or control of the child for at least 1 year and with whom the child has developed significant emotional ties
- The age of the child
- The efforts the parent has made to adjust his or her circumstances, conduct, or conditions to make it in the child's best interests to return home in the foreseeable future, including, but not limited to:
 - » The extent to which the parent has maintained contact with the child, including visitations, communications, or contributions
 - » The maintenance of regular contact or communication with the child's guardian or other custodian
- The extent to which a parent has been prevented from maintaining a meaningful relationship with the child

Circumstances Allowing Reinstatement of Parental Rights

Citation: Gen. Stat. §§ 45a-719; 52-212a

The court may grant a motion to set aside a judgment terminating parental rights and grant a petition for a new trial on the issue of the termination of parental rights. The court shall consider the best interests of the child, and no motion or petition may be granted if a final decree of adoption has been issued prior to the filing of any such motion or petition. Any person who has legal custody of the child or who has physical custody of the child pursuant to an agreement, including an agreement with the department or a licensed child-placing agency, may provide evidence to the court concerning the best interests of the child at any hearing held on the motion to set aside a judgment terminating parental rights.

For the purpose of this section, 'best interests of the child' shall include, but not be limited to:

- A consideration of the age of the child
- The nature of the relationship of the child with the child's caregiver
- The length of time the child has been in the custody of the caregiver
- The nature of the relationship of the child with the birth parent
- The length of time the child has been in the custody of the birth parent
- Any relationship that may exist between the child and siblings or other children in the caregiver's household
- The psychological and medical needs of the child

The determination of the best interests of the child shall not be based on a consideration of the socioeconomic status of the birth parent or the caregiver.

Unless otherwise provided by law and except in cases in which the court has continuing jurisdiction, a civil judgment rendered in the superior court may not be set aside unless a motion to set aside is filed within 4 months following the date on which it was issued. The continuing jurisdiction conferred on the court in preadoptive proceedings pursuant to § 17a-112(o) does not confer continuing jurisdiction on the court for purposes of reopening a judgment terminating parental rights. The parties may waive the provisions of this section or otherwise submit to the jurisdiction of the court, provided the filing of an amended petition for termination of parental rights does not constitute a waiver of the provisions of this section or a submission to the jurisdiction of the court to reopen a judgment terminating parental rights.

Delaware*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Ann. Code Tit. 13, § 1103**

The procedure for termination of parental rights may be initiated whenever it appears to be in the child's best interests and that one or more of the following grounds exist:

- The child has been abandoned.
- The parent has abandoned a baby in accordance with Tit. 16, § 907A and failed to manifest an intent to exercise parental rights within 30 days.
- The parent is found by the court to be mentally incompetent and, from evidence of two qualified psychiatrists selected by the court, found to be unable to discharge parental responsibilities in the foreseeable future.
- The parent has been found by a court of competent jurisdiction to have:
 - » Committed a felony-level offense against the person in which the victim was a child
 - » Aided, abetted, attempted, conspired, or solicited to commit an offense described above
 - » Committed or attempted to commit the offense of Dealing in Children, as set forth in Tit. 11, § 1100
 - » Committed the felony-level offense of endangering the welfare of a child
- The parent's parental rights over a sibling of the child have been involuntarily terminated in a prior proceeding.
- The parent has subjected a child to torture, chronic abuse, sexual abuse, and/or life-threatening abuse.
- The child has suffered unexplained serious physical injury, near death, or death under such circumstances that indicate that such injuries, near death, or death resulted from the intentional or reckless conduct or willful neglect of the parent.

A procedure to terminate parental rights may also be initiated when it is found that the parent has failed to plan adequately for the child's physical needs or mental and emotional health and development, and one or more of the following conditions are met:

- In the case of a child in the care of the Department of Services for Children, Youth and Their Families:
 - » The child has been in the care of the department for 1 year, or for 6 months in the case of a child who comes into care as an infant, or there is a history of previous placement or placements of the child.
 - » There is a history of neglect, abuse, or lack of care of the child.
 - » The parent is incapable of discharging parental responsibilities due to extended or repeated incarceration.
 - » The parent is not able or willing to assume prompt legal and physical custody of the child, and to pay for the child's support in accordance with the parent's financial means.
 - » Failure to terminate the relationship of parent and child will result in continued emotional instability or physical risk to the child.
- In the case of a child in the home of a stepparent, guardian, permanent guardian, or blood relative:
 - » The child has resided in the home of the stepparent, guardian, permanent guardian, or blood relative for a period of at least 1 year or for a period of 6 months in the case of an infant.
 - » The court finds the parent is incapable of discharging parental responsibilities, and there appears to be little likelihood that the parent will be able to discharge such parental responsibilities in the near future.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ann. Code Tit. 13, § 1103**

The court shall not terminate a parent's rights solely because the parent, in good faith, provides for his or her child, in lieu of medical treatment, treatment by spiritual means alone through prayer.

Circumstances Allowing Reinstatement of Parental Rights**Citation: Ann. Code Tit. 13, § 1116**

A petition for reinstatement of parental rights may be filed in family court on behalf of any child when:

- The child is at least age 14 at the time of the petition is filed.
- Parental rights in the child are currently vested in the Department of Services for Children, Youth and Their Families (DSCYF) regardless of the date parental rights were terminated.
- The child is currently in DSCYF custody.
- Adoption of the child is not possible or appropriate.
- The child consents to the reinstatement.

- The parent or parents who are subject to reinstatement consent.
- At least 2 years have elapsed since the final termination order or the child is age 17.

The family court shall retain jurisdiction to reinstate parental rights in any case where the family court previously terminated parental rights. A petition for reinstatement of parental rights may be filed by the child, the child's attorney, the child's guardian ad litem, or DSCYF against one or both parents. The court, in its discretion, may also appoint an attorney to represent the child.

Should the elements of this section be met, the court shall hold a hearing on the petition for reinstatement of parental rights. The court may grant the petition if it finds by clear and convincing evidence that reinstatement is in the best interests of the child. Upon issuance of a final order reinstating parental rights, the effect of such order shall be that all of the rights, duties, privileges, and obligations recognized by law between parent and child shall be reinstated, including, but not limited to, rights of inheritance.

District of Columbia

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code §§ 16-2353; 16-2354

The court may terminate parental rights when it finds that the termination is in the best interests of the child, and there is evidence of one of the following grounds:

- The parent has abandoned the child.
- Drug-related activity continues to exist in the child's home environment after intervention and services have been provided.
- The parent has been convicted of:
 - » Murder or voluntary manslaughter of a child sibling or another child
 - » Aiding, abetting, attempting, or soliciting to commit such murder or voluntary manslaughter
 - » A felony assault that has resulted in serious bodily injury to the child, a child sibling, or another child
- The child has been subjected to intentional and severe mental abuse.
- Parental rights to another child of the parent have been involuntarily terminated.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Code § 16-2354

A petition shall be filed when the child has been in court-ordered custody for 15 of the most recent 22 months unless:

- The child is being cared for by an approved kinship caregiver, and adoption is not the child's permanency plan.
- There exists a compelling reason for determining that filing such a motion would not be in the best interests of the child.
- The District has not offered or provided to the family of the child, consistent with the time period in the case plan, such services as are necessary for the safe return of the child to the child's home, if reasonable efforts are required to be made with respect to the child.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Florida

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. § 39.806

Grounds for the termination of parental rights may be established under any of the following circumstances:

- The parent has abandoned the child.
- The parent's conduct toward the child or other children threatens the life; safety; well-being; or physical, mental, or emotional health of the child, irrespective of the provision of services.
- The parent is incarcerated and one of the following applies:
 - » The time for which the parent is expected to be incarcerated will constitute a substantial portion of the child's minority.
 - » The incarcerated parent has been determined by the court to be a violent, career criminal; a habitual, violent, felony offender; or a sexual predator.

- » The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child.
- A child has been adjudicated dependent, a case plan has been filed with the court, and:
 - » The child continues to be abused, neglected, or abandoned by the parents.
 - » The parent has materially breached the case plan by making it unlikely that he or she will be able to substantially comply with the case plan before the time for compliance expires.
- The child has been in care for any 12 of the last 22 months and the parents have not substantially complied with the case plan so as to permit reunification, unless the failure to substantially comply with the case plan was due to the parent's lack of financial resources or to the failure of the department to make reasonable efforts to reunify the parent and child.
- The parent has engaged in egregious conduct or knowingly failed to prevent egregious conduct that threatens the life; safety; or physical, mental, or emotional health of the child or the child's sibling.
- The parent has subjected the child to aggravated child abuse, sexual battery, sexual abuse, or chronic abuse.
- The parent or parents have committed murder or voluntary manslaughter of another child or a felony assault that results in serious bodily injury to the child or another child, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.
- The parental rights of the parent to a sibling have been terminated involuntarily.
- The parent has a history of extensive, abusive, and chronic use of alcohol or a controlled substance that renders him or her incapable of caring for the child and has refused or failed to complete available treatment for such use during the 3-year period immediately preceding the filing of the petition for termination of parental rights.
- A test administered at birth that indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant, and the biological mother of the child is the biological mother of at least one other child who was adjudicated dependent after a finding of harm to the child's health or welfare due to exposure to a controlled substance or alcohol, after which the biological mother had the opportunity to participate in substance abuse treatment.
- On three or more occasions the child or another child of the parent has been placed in out-of-home care, and the conditions that led to the child's out-of-home placement were caused by the parent.
- The court determines by clear and convincing evidence that the child was conceived as a result of an act of sexual battery.
- The parent is convicted of an offense that requires the parent to register as a sexual predator under § 775.21.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Stat. § 39.806

A petition may be filed when the parents have substantially failed to comply with a case plan for 12 months unless the failure to comply was due to:

- A lack of financial resources of the parent
- A failure of the Department of Children and Family Services to make reasonable efforts to reunify the parent and child

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Georgia

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code §§ 15-11-310; 15-11-311

In considering the termination of parental rights, the court shall first determine whether one of the following statutory grounds for termination of parental rights has been met:

- The parent has subjected his or her child to aggravated circumstances.
- The parent has willfully failed to comply with a decree to support his or her child for 12 months or longer.
- A child is abandoned by his or her parent.

- A child is dependent due to lack of proper parental care or control by his or her parent, reasonable efforts to remedy the circumstances have been unsuccessful or were not required, the cause of dependency is likely to continue or will not likely be remedied, and the continued dependency will cause or is likely to cause serious physical, mental, emotional, or moral harm to such child.

If any of the statutory grounds for termination has been met, the court shall then consider whether termination is in a child's best interests, with consideration of the following:

- The child's sense of attachments, including his or her sense of security and familiarity
- The child's wishes and long-term goals
- The child's need for permanence, stability, and continuity of relationships with a parent, siblings, and other relatives
- Any other factors considered by the court to be relevant

If the court determines that a parent has subjected his or her child to aggravated circumstances because the parent has committed the murder of the other parent of the child, the court shall presume that termination of parental rights is in the best interests of the child.

In determining whether a child is without proper parental care and control, the court shall consider, without being limited to, the following:

- The parent is unable to provide adequately for his or her child due a medically verified deficiency of his or her physical, mental, or emotional health.
- The parent is incapable of providing adequately for the physical, mental, emotional, or moral needs of his or her child due to the excessive use of or history of chronic unrehabilitated substance abuse.
- The parent has been convicted and incarcerated for an offense that has a demonstrably negative effect on the quality of the parent-child relationship, including, but not limited to, any of the following:
 - » Murder or manslaughter of another child of the parent
 - » Manslaughter of the other parent of the child
 - » Aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of another child the parent or the child's other parent
 - » A felony assault that results in serious bodily injury to the child or another child of the parent
- The parent has engaged in egregious conduct of a physically, emotionally, or sexually cruel or abusive nature toward his or her child or toward another child of the parent.
- The parent inflicted physical, mental, or emotional neglect on his or her child or another child of the parent.
- The parent caused serious bodily injury or death of a sibling of the child under circumstances that indicate that such injury or death resulted from parental neglect or abuse.

In determining whether a child who is not in the custody and care of his or her parent is without proper parental care and control, the court also shall consider, without being limited to, whether the parent, without justifiable cause, has failed significantly for a period of 6 months prior to the date of the termination hearing:

- To develop and maintain a parental bond with his or her child in a meaningful, supportive manner
- To provide for the care and support of his or her child as required by law or judicial decree
- To comply with a court-ordered plan designed to reunite the parent with his or her child

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Code § 15-11-311(c)

A parent's reliance on prayer or other religious nonmedical means for healing in lieu of medical care, in the exercise of religious beliefs, shall not be the sole basis for determining a parent to be unwilling or unable to provide safety and care adequate to meet his or her child's physical, emotional, and mental health needs or as depriving such child of proper parental care or control.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Ann. Code § 15-11-323

A child who has not been adopted for at least 3 years from the date the court terminated parental rights and for whom the court has determined that adoption is no longer the permanent plan may petition the court to reinstate parental rights. The child may file the petition to reinstate parental rights sooner than 3 years if the Department of Human Services or licensed child-placing agency that has custody of the child stipulates that the child is no longer likely to be adopted. A child age 14 or older shall sign the petition in the absence of a showing of good cause as to why the child could not do so.

The court shall grant the petition if it finds by clear and convincing evidence that a child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interests. In determining whether reinstatement is in the child's best interests the court shall consider, but not be limited to, the following:

- Whether a parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order
- The age and maturity of the child and the ability of the child to express his or her preference
- Whether the reinstatement of parental rights will present a risk to a child's health, welfare, or safety
- Other material changes in circumstances, if any, that may have occurred that warrant the granting of the petition

An order granted under this section reinstates a parent's rights to his or her child. Such reinstatement shall be a recognition that the situation of the parent and his or her child has changed since the time of the termination of parental rights and reunification is now appropriate.

Guam

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code Tit. 19, § 4303

A petition for termination of the parent-child relationship may be granted when the court finds that one or more of the following conditions exists:

- The parent has abandoned the child in that the parent has made no effort to maintain a parental relationship with the child.
- The parent has substantially and continuously or repeatedly neglected the child.
- The presumptive parent is not a natural parent of the child.
- The parent is unable to discharge parental responsibilities because of mental illness or mental deficiency, and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Hawaii

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Rev. Stat. §§ 571-61(b); 587A-4

The family courts may terminate the parental rights to a child of any legal parent:

- Who has deserted the child without affording means of identification for a period of at least 90 days
- Who has voluntarily surrendered the care and custody of the child to another for a period of at least 2 years
- Who, when the child is in the custody of another, has failed to communicate with the child or provide care and support for the child when able to do so for a period of at least 1 year
- Whose child has been removed from the parent's physical custody and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child
- Who is found by the court to be mentally ill or intellectually disabled and incapacitated from giving consent to the adoption of or from providing now and in the foreseeable future the care necessary for the well-being of the child
- Who is found not to be the child's natural or adoptive father
- Who is found to be an unfit or improper parent or to be financially or otherwise unable to give the child a proper home and education
- Who committed sexual assault of the other natural parent, and the child was conceived as a result

The court may also hold a permanency hearing to determine a placement for the child outside the parent's home when the parent has subjected the child to aggravated circumstances. 'Aggravated circumstances' means that:

- The parent has murdered, or has solicited, aided, abetted, attempted, or conspired to commit the murder or voluntary manslaughter of another child of the parent.
- The parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent.
- The parent's rights regarding a sibling of the child have been judicially terminated or divested.
- The parent has tortured the child.
- The child is an abandoned infant.
- The parent has committed sexual abuse against another child of the parent.
- The parent is required to register with a sex offender registry.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Rev. Stat. § 571-61(b)

The provision to terminate the parental rights to a child conceived as a result of a sexual assault shall not apply if subsequent to the date of the sexual assault, the child's natural parent and custodial natural parent cohabit and establish a mutual custodial environment for the child. The custodial natural parent may petition the court to reinstate the child's natural parent's parental rights that were terminated pursuant to this paragraph.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Rev. Stat. § 587A-34

The child, the child's guardian ad litem or attorney, or the department may file a motion to reinstate the terminated parental rights of the child's parents when the child has been in permanent custody for at least 12 months and the child is age 14 or older.

At a preliminary hearing on the motion, the court may order a trial home placement and a temporary reinstatement of parental rights upon finding that:

- There has been a material change in circumstances.
- A parent is willing to provide care for the child.
- A parent is able to provide a safe family home or the home can be made safe with the assistance of services.
- A trial home placement is in the child's best interests.

If the court issues a temporary order of reinstatement of parental rights:

- The child shall be conditionally placed in the physical care of the parent for no longer than 6 months.
- The department shall develop a permanent plan for reunification and ensure that transition services are provided to the family, as appropriate.

At a final hearing on the motion, the court may issue a final order of reinstatement of parental rights if the trial home placement has been successful. In making its final decision, the court shall determine whether:

- Reinstatement of parental rights is in the best interests of the child, taking into consideration:
 - » Whether a parent has remedied the conditions that caused the termination of parental rights
 - » The age and maturity of the child and the child's ability to express a preference
 - » The likelihood of risk to the health, safety, or welfare of the child
- The parent is able to provide the child with a safe family home.
- Both the parent and child consent to the reinstatement of parental rights.
- The permanent plan goals for the child have not been and are not likely to be achieved.

Idaho

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Idaho Code § 16-2005

The court may grant an order terminating parental rights when it finds that termination of parental rights is in the best interests of the child and that one or more of the following conditions exist:

- The parent has abandoned the child.
- The parent has neglected or abused the child.
- The presumptive parent is not the biological parent of the child.

- The parent is unable to discharge parental responsibilities and such inability will continue for a prolonged indeterminate period and will be injurious to the health, morals, or well-being of the child.
- The parent has been incarcerated and is likely to remain incarcerated for a substantial period of time during the child's minority.
- The parent caused the child to be conceived as a result of rape, incest, lewd conduct with a minor child younger than age 16, or sexual abuse of a child younger than age 16.
- The following circumstances are present:
 - » Abandonment, chronic abuse, or chronic neglect of the child
 - » Sexual abuse against a child of the parent
 - » Torture of a child; battery or an injury to a child that results in serious or great bodily injury to a child; voluntary manslaughter of a child, or aiding or abetting such voluntary manslaughter, soliciting such voluntary manslaughter, or attempting or conspiring to commit such voluntary manslaughter
- The parent has committed murder, aided or abetted a murder, solicited a murder, or attempted or conspired to commit murder.
- The court determines the child to be an abandoned infant, except in a parental termination action brought by one parent against another parent.

Chronic neglect or chronic abuse of a child shall consist of abuse or neglect that is so extreme or repetitious as to indicate that continuing the relationship would result in unacceptable risk to the health and welfare of the child.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Idaho Code §§ 16-2005; 16-1624

If the parent has a disability, the parent shall have a right to provide evidence to the court regarding the manner in which adaptive equipment or supportive services will enable the parent to carry out parenting responsibilities.

If the child has been placed in the legal custody of the Department of Health and Welfare or under its protective supervision, the department may petition the court for termination of the parent and child relationship in accordance with title 16, chapter 20. Unless there are compelling reasons it would not be in the best interests of the child, the department shall be required to file a petition to terminate parental rights within 30 days of a judicial determination that an infant has been abandoned or that reasonable efforts are not required because aggravated circumstances were present. The department shall join as a party to a petition filed by another party, as well as to concurrently identify, recruit, process, and approve a qualified family for adoption, unless it is determined that such actions would not be in the best interests of the child or the child is placed with a fit and willing relative.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Illinois

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Comp. Stat. Ch. 705, § 405/1-2; Ch 750, § 50/1

Provided that a ground for unfitness under Ch. 750, § 50/1 can be met, it may be appropriate to expedite termination of parental rights:

- When reasonable efforts are inappropriate or have been provided and were unsuccessful, and there are aggravating circumstances including, but not limited to, those cases in which:
 - » The child or another child of that child's parent was abandoned, tortured, or chronically abused.
 - » The parent is criminally convicted of first- or second-degree murder of any child, attempt or conspiracy to commit first- or second-degree murder of any child, solicitation to commit murder of any child, aggravated assault, or aggravated criminal sexual assault.
- When the parental rights of a parent with respect to another child have been involuntarily terminated
- When the parent's incapacity to care for the child, combined with an extremely poor prognosis for treatment or rehabilitation, justifies expedited termination of parental rights

The grounds of unfitness are any one or more of the following:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Mental illness, mental deficiency, or intellectual disability
 - » A conviction and incarceration for a felony
- The parent has substantially and continuously or repeatedly neglected the child.
- The parent has been found, two or more times, to have physically abused any child or to have caused the death of any child by physical abuse.
- The child was born exposed to controlled substances, and a substance-exposed child was previously born to the same mother.
- The parent has repeatedly and continuously failed to provide the child with adequate food, clothing, and shelter, although financially able to do so.
- The parent has failed to maintain regular visitation, contact, or communication with the child for a period of 12 months.
- A putative father has failed to establish paternity.
- The parent has failed to maintain a reasonable degree of interest, concern, or responsibility for the child's welfare.
- The parent has failed to protect the child from conditions within his or her environment that is injurious to the child's welfare.
- The parent has engaged in open and notorious adultery or fornication.
- The parent has exhibited habitual drunkenness or addiction to drugs, other than those prescribed by a physician, for at least 1 year immediately prior to the commencement of the unfitness proceeding.
- The parent has failed to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent's home.
- The child has been in foster care for 15 of the most recent 22 months.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Comp. Stat. Ch. 705, § 405/2-13

When a child has been in foster care for 15 of the most recent 22 months, the Department of Children and Family Services shall request the State's Attorney to file a petition for termination of the parent's parental rights, unless good cause exists that filing a petition to terminate parental rights is contrary to the child's best interests. For purposes of this section, good cause exists in the following circumstances:

- The child is being cared for by a relative.
- The department has documented in the case plan a compelling reason for determining that filing a petition would not be in the best interests of the child.
- The court has found that within the preceding 12 months the department has failed to make reasonable efforts to reunify the child and family.
- The parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for 15 months out of any 22-month period, the parent maintains a meaningful role in the child's life, and the department has not documented another reason why it would otherwise be appropriate to file a petition to terminate parental rights.

The assessment of whether an incarcerated parent maintains a meaningful role in the child's life may include consideration of the following:

- The child's best interests
- The parent's expressions or acts of manifesting concern for the child, such as letters, telephone calls, visits, and other forms of communication with the child, and the impact of the communication on the child
- The parent's efforts to communicate with and work with the department in complying with the service plan and repairing, maintaining, or building the parent-child relationship
- Any limitations in the parent's access to family support programs, therapeutic services, visiting opportunities, telephone and mail services, and meaningful participation in court proceedings

Circumstances Allowing Reinstatement of Parental Rights

Citation: Comp. Stat. Ch. 705, § 405/2-34

A motion to reinstate parental rights may be filed only by the department or by the minor regarding any child who is presently a ward of the court when all the following conditions are met:

- The child's parent consented to the child's adoption or the parent's rights were terminated pursuant to a finding of unfitness.
- Subsequent to that, the child has remained a ward of the court.
- The child is not currently in a placement likely to achieve permanency.
- It is in the child's best interests that parental rights be reinstated.
- The parent named in the motion wishes parental rights to be reinstated and is currently appropriate to have rights reinstated.
- More than 3 years have lapsed since the parent's parental rights have been terminated.
- The child is age 13 or older, or the younger sibling of a child who is age 13 or older for whom reinstatement of parental rights is being sought, and the younger sibling independently meets the above criteria.
- If the court has previously denied a motion to reinstate parental rights, there has been a substantial change in circumstances following the denial of the earlier motion.

Any party may file a motion to dismiss the motion with prejudice on the basis that, after parental rights were terminated, the parent has intentionally acted to prevent the child from being adopted or intentionally acted to disrupt the child's adoption.

The court shall not grant a motion for reinstatement of parental rights unless the court finds that the motion is supported by clear and convincing evidence. The court shall consider the reasons why the child was initially brought to the attention of the court, the history of the child's case as it relates to the parent seeking reinstatement, and the current circumstances of the parent for whom reinstatement of rights is sought.

Indiana

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code §§ 31-34-21-5.6; 31-35-2-4.5

A court may find that reasonable efforts to reunify a child with his or her parent are not required when:

- The parent has been convicted of any of the following offenses:
 - » A sex offense, as described in § 31-35-3-4(1)(D) through (1)(J), against the child or a parent of the child
 - » Murder or voluntary manslaughter of the child or a parent of the child
 - » Aiding, inducing, causing another person, attempting, or conspiring with another person to commit murder or manslaughter
 - » Felony battery, aggravated battery, criminal recklessness, or neglect of a dependent against a child
 - » Felony promotion of human trafficking, promotion of human trafficking of a minor, sexual trafficking of a minor, or human trafficking
- The parental rights of a parent with respect to a birth or adoptive sibling of the child have been involuntarily terminated.
- The child is an abandoned infant.

A petition for termination of parental rights shall be filed if a court has made a finding under § 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required.

A petition also may be filed when a child in need of services or a delinquent child:

- Has been placed in a foster family home, child-caring institution, licensed group home, or the home of a person related to the child
- Has been removed from a parent and has been under the supervision of the Department of Child Services or county Probation Department for not less than 15 of the most recent 22 months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Code § 31-35-2-4.5

A petition to terminate parental rights may be dismissed if:

- The current case plan has documented a compelling reason that termination of the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a relative.
- The Department of Child Services has not provided family services to the child, parent, or family of the child in accordance with the case plan, and the period for completion of the program of family services has not expired.
- The department has not provided family services to the child, parent, or family of the child in accordance with the case plan, and the services that the department has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Iowa

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. §§ 232.102; 232.111; 232.116

The court may waive the requirement for making reasonable efforts when it determines that aggravated circumstances exist, as indicated by any of the following:

- The parent has abandoned the child.
- Grounds for terminating parental rights apply to the child.
- The parent's rights have been terminated in this or another State with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions that led to the child's removal.
- The parent has been convicted of the murder or voluntary manslaughter of another child of the parent.
- The parent has been convicted of aiding, abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.
- The parent has been convicted of a felony assault that resulted in serious bodily injury of the child or of another child of the parent.

A petition shall be filed under any of the following circumstances:

- The child has been placed in foster care for 15 of the most recent 22 months.
- A court has determined aggravated circumstances exist and has waived the requirement for making reasonable efforts.
- The child is younger than 12 months of age and has been judicially determined to have been abandoned, or the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233.
- The parent has been convicted of murder or voluntary manslaughter of another child of the parent.
- The parent has been convicted of aiding, abetting, attempting, conspiring in, or soliciting the commission of murder or voluntary manslaughter of another child of the parent.
- The parent has been convicted of a felony assault that resulted in serious bodily injury to the child or another child of the parent.

The court may terminate a parent's rights on any of the grounds listed above. The court also may terminate parental rights for any of the following:

- Services offered to the parent have failed to correct conditions that led to the child's abuse or neglect.
- The child has been in out-of-home care for at least 6 months, and the parents have not maintained significant and meaningful contact with the child.
- A child who is age 4 or older has been in out-of-home care for at least 12 of the past 18 months and cannot safely be returned home.
- A child who is age 3 or younger has been in out-of-home care for at least 6 of the past 12 months and cannot safely be returned home.

- The parent is incarcerated for a crime against a child or is unlikely to be released from prison for 5 or more years.
- The parent has a chronic mental illness, has been repeatedly institutionalized for mental illness, and presents a danger to self or others.
- The parent has a severe substance-related disorder and presents a danger to self or others.
- The parent has been convicted of a felony and imprisoned for physically or sexually abusing or neglecting any child in the household.
- The parent has been convicted of child endangerment resulting in death or serious injury of any child in the household.
- The parent has been convicted of a felony sex offense against a minor, the parent is divorced from or was never married to the minor's other parent, and the parent is serving a minimum sentence of confinement of at least 5 years for that offense.
- The court finds there is clear and convincing evidence that the child was conceived as the result of sexual abuse, and the biological parent against whom the sexual abuse was perpetrated requests termination of the parental rights of the biological parent who perpetrated the sexual abuse.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Stat. § 232.111

A petition to terminate parental rights is not required when:

- At the option of the Department of Human Services or by order of the court, the child is being cared for by a relative.
- The department has documented a compelling reason for determining that termination would not be in the best interests of the child. A compelling reason can include evidence that the family may achieve reunification within 6 months.
- The department has not provided services within the timeframes indicated in the case plan.

The court need not terminate parental rights when:

- A relative has legal custody of the child.
- The child is over age 10 and objects to the termination.
- There is clear and convincing evidence that termination would be detrimental to the child due to closeness of the parent-child relationship.
- It is necessary to place the child in a hospital or other facility for care and treatment, and the continuation of the parent-child relationship is not preventing a permanent family placement for the child.
- The absence of the parent is due to the parent's admission or commitment to any institution or health facility or due to active service in the State or Federal armed forces.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Ann. Stat. § 232.117(10)

If a termination of parental rights order is issued on the grounds that the child is a newborn infant whose parent has voluntarily released custody of the child under § 232.116(1)(c), the court shall retain jurisdiction to change a guardian or custodian and to allow a parent whose rights have been terminated to request vacation or appeal of the termination order. Such request must be made within 30 days of issuance of the granting of the termination order. The period for request for vacation or appeal by a parent whose rights have been terminated shall not be waived or extended, and a vacation or appeal shall not be granted for a request made after the expiration of this period. The court shall grant the vacation request only if it is in the best interests of the child.

Kansas

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. §§ 38-2269; 38-2271

The court may terminate parental rights when it finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition that makes the parent unable to care properly for a child, and the conduct or condition is unlikely to change in the foreseeable future. In making a determination of unfitness, the court shall consider, but is not limited to, the following:

- Emotional illness, mental illness, mental deficiency, or physical disability of such duration or nature as to make the parent unable to care for the child
- Conduct toward a child of a physically, emotionally, sexually cruel, or abusive nature
- The use of intoxicating liquors or dangerous drugs that render the parent unable to care for a child
- Physical, mental, or emotional abuse; neglect; or sexual abuse of a child

- Conviction of a felony and imprisonment
- Unexplained injury or death of another child or stepchild of the parent
- Failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family
- Lack of effort on the part of the parent to adjust the parent's circumstances, conduct, or conditions to meet the needs of the child
- Whether the child has been in extended out-of-home placement as a result of actions or inactions attributable to the parent and any of the factors listed below apply

In addition, when a child is not in the physical custody of a parent, the court shall consider, but is not limited to, the following:

- The parent has failed:
 - » To ensure care of the child when able to do so
 - » To maintain regular visitation, contact, or communication with the child
 - » To carry out a reasonable plan approved by the court directed toward the integration of the child into a parental home
 - » To pay a reasonable portion of the cost of substitute physical care and maintenance based on ability to pay
- A parent has previously been found to be an unfit parent.
- A parent has twice before been convicted of a crime against the person or a sex offense, or the attempt to commit such a crime, and the victim was under age 18.
- On two or more prior occasions a child in the physical custody of the parent has been adjudicated a child in need of care.
- The parent has been convicted of causing the death of another child or stepchild of the parent.
- The child has been in out-of-home placement for a cumulative period of 1 year or longer, and the parent has substantially neglected or willfully refused to carry out a reasonable plan for reintegration of the child into the parental home.
- The child has been in out-of-home placement for a cumulative period of 2 years or longer, the parent has failed to carry out a reasonable plan for reintegration of the child into the parental home, and there is a substantial probability that the parent will not carry out such plan in the near future.
- A parent has been convicted of capital murder or voluntary manslaughter, or has been adjudicated a juvenile offender, and the victim of such murder was the other parent of the child.
- A parent abandoned or neglected the child after having knowledge of the child's birth.
- A parent has made no reasonable efforts to support or communicate with the child after having knowledge of the child's birth.
- A father, after having knowledge of the pregnancy, failed without reasonable cause to provide support for the mother during the 6 months prior to the child's birth.
- A father abandoned the mother after having knowledge of the pregnancy.
- A parent has been convicted of rape resulting in the conception of the child.
- A parent has failed to assume the duties of a parent for 2 consecutive years prior to the filing of the petition. In making this determination the court may disregard incidental visitations, contacts, communications, or contributions.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Kentucky

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Rev. Stat. § 625.090

The court may involuntarily terminate all parental rights if it is shown by clear and convincing evidence that:

- The child has been found to be an abused or neglected child, as defined in § 600.020(1).
- The parent has been convicted of physical or sexual abuse or neglect of any child, and physical or sexual abuse, neglect, or emotional injury to the child named in the present termination action is likely to occur if the parental rights are not terminated.
- Termination would be in the best interests of the child.

No termination of parental rights shall be ordered unless the court also finds by clear and convincing evidence the existence of one or more of the following grounds:

- The parent has abandoned the child for a period of no less than 90 days.
- The parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury.
- The parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm.
- The parent has been convicted of a felony that involved the infliction of serious physical injury to any child.
- The parent, for not less than 6 months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child, and there is no reasonable expectation of improvement in parental care and protection.
- The parent has caused or allowed the child to be sexually abused or exploited.
- The parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education for the child's well-being, and there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future.
- The parent's parental rights to another child have been involuntarily terminated, and:
 - » The child named in the present termination action was born subsequent to or during the pendency of the previous termination.
 - » The conditions or factors that were the basis for the previous termination finding have not been corrected.
- The parent has been convicted of causing or contributing to the death of another child as a result of physical or sexual abuse or neglect.
- The child has been in foster care for 15 of the most recent 22 months preceding the filing of the petition to terminate parental rights.

In determining the best interests of the child and the existence of a ground for termination, the court shall consider the following factors:

- Mental illness or mental retardation of the parent, as certified by a qualified mental health professional, that renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time
- Acts of abuse or neglect toward any child in the family
- If the child has been placed with the cabinet, whether the cabinet has, prior to the filing of the petition, made reasonable efforts to reunite the child with the parents, unless one or more circumstances for not requiring reasonable efforts have been substantiated in a written finding by the court
- The efforts and adjustments the parent has made in his or her circumstances, conduct, or conditions to make it in the child's best interests to return home within a reasonable period of time
- The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered
- The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Rev. Stat. § 625.090

If the parent proves by a preponderance of evidence that the child will not continue to be an abused or neglected child if returned to the parent, the court, in its discretion, may determine not to terminate parental rights.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Louisiana

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Children's Code Art. 1015

The grounds for termination of parental rights are:

- Conviction of murder of the child's other parent
- Unjustified intentional killing of the child's other parent
- Misconduct of the parent toward the child, another child of the parent, or any child that constitutes extreme abuse, cruel and inhuman treatment, or grossly negligent behavior below a reasonable standard of human decency, including conviction, commission, aiding or abetting, attempting, conspiring, or soliciting to commit any of the following:
 - » Murder or unjustified intentional killing
 - » Aggravated crime against nature
 - » Rape, sodomy, or sexual abuse
 - » Torture or starvation
 - » A felony that has resulted in serious bodily injury
 - » Abuse or neglect that is chronic, life threatening, or results in gravely disabling physical or psychological injury or disfigurement
- Abuse or neglect after the child is returned to the parent's care when the child had previously been removed for his or her safety
- Previous termination of the parent's parental rights to one or more of the child's siblings due to neglect or abuse coupled with unsuccessful attempts to rehabilitate the parent
- Sexual exploitation or abuse
- Human trafficking when sentenced pursuant to Rev. Stat. § 14:46.2(B)(2) or (3)
- Abandonment of the child by placing him in the physical custody of a nonparent or the department or by otherwise leaving the child under circumstances demonstrating an intention to permanently avoid parental responsibility by any of the following:
 - » For a period of at least 4 months, despite a diligent search, the whereabouts of the child's parent continue to be unknown.
 - » As of the time the petition is filed, the parent has failed to provide significant contributions to the child's care and support for any period of 6 consecutive months.
 - » As of the time the petition is filed, the parent has failed to maintain significant contact with the child by visiting him or her or communicating with him or her for any period of 6 consecutive months.
- Failure of the parent to substantially comply with a case plan for 1 year or more and no reasonable expectation of significant improvement in the parent's condition or conduct in the near future
- Incarceration of the parent for an extended period of time, and despite notice by the department, the parent has refused or failed to provide a reasonable plan for the appropriate care of the child other than foster care
- The relinquishment of an infant pursuant to Chapter 13 of Title XI
- The commission of a sex offense by the natural parent that resulted in the conception of the child

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Children's Code Art. 1004.1

The Department of Children and Family Services shall file and pursue to judgment in the trial court a petition to terminate the parental rights of the parent or parents if the child has been in State custody for 17 of the last 22 months, unless the department has documented in the case plan a compelling reason why filing is not in the best interests of the child.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Children's Code art. 1051; 1052; 1053

If a child is in foster care and older than age 15, the child's counsel or the department may file a motion to restore the parental rights or parental contact with a parent whose rights have been terminated.

The department shall make a diligent effort to locate a parent whose rights may be restored and notify him or her of the effects of the restoration, including the obligation to pay child support. Within 45 days after the date the motion is filed, the department shall submit a confidential report to the court that shall include the following:

- Changes in the parent's circumstances
- Reasons why parental rights were terminated
- The willingness of the parent to resume contact with the child and to have parental rights restored
- The willingness of the child to resume contact with the parent and to have parental rights restored
- The ability and willingness of the parent to be involved in the life of the child and to accept the physical custody of the child
- Other relevant information

At the hearing, the court may, in the best interests of the child, order one of the following:

- Allow contact between the parent and child, and if so, under what conditions
- Restore the parental rights of the parent
- Place the child in the custody of the parent with or without continuing supervision of the department

If the department, counsel for the child, CASA volunteer, and the parent stipulate that restoration of parental rights or parental contact is in the best interests of the child, the court may, after reviewing the report of the department, enter a judgment to that effect without a hearing.

The restoration of parental rights and placement of the child in the custody of the parent without supervision by the department is considered a permanent placement. Any other disposition by the court shall be made part of the case plan.

Maine

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. Tit. 22, § 4055

The court may order termination of parental rights if the court finds, based on clear and convincing evidence, that termination is in the best interests of the child, and:

- The parent is unwilling or unable to protect the child from jeopardy, and these circumstances are unlikely to change within a reasonable time.
- The parent has been unwilling or unable to take responsibility for the child within a time that is reasonably calculated to meet the child's needs.
- The child has been abandoned.
- The parent has failed to make a good faith effort to rehabilitate and reunify with the child.

The court may presume that the parent is unwilling or unable to protect the child if:

- The parent has acted toward a child in a manner that is heinous or abhorrent to society.
- The parent has been convicted of any of the following, and the victim was a child for whom the parent was responsible:
 - » Murder, felony murder, or manslaughter
 - » Aiding or soliciting suicide or aggravated assault
 - » Rape, gross sexual misconduct or gross sexual assault, sexual abuse of minors, or incest
 - » Kidnapping
 - » Promotion of prostitution, sexual exploitation of a minor, sex trafficking, or aggravated sex trafficking
- The child has been placed in the legal custody or care of the department, the parent has a chronic substance abuse problem, and the parent's prognosis indicates that the child will not be able to return to the custody of the parent within a reasonable period of time.
- The child has been placed in the legal custody or care of the department, the court has previously terminated parental rights to another child who is a member of the same family, and the parent has failed to remedy the conditions that led to the termination.
- The child has been placed in the legal custody or care of the department for at least 9 months, and the parent has been offered or received services to correct the situation but has refused or made no significant effort to correct the situation.
- The child was conceived as a result of an act by the parent of sexual assault or a comparable crime in another jurisdiction.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ann. Stat. Tit. 22, § 4055**

In deciding to terminate parental rights, the court shall consider the best interests of the child, the needs of the child, including the child's age, the child's attachments to relevant persons, periods of attachments and separation, the child's ability to integrate into a substitute placement or back into the parent's home, and the child's physical and emotional needs.

The court shall consider the wishes of a child, in a manner appropriate to the age of the child, in making an order under this section.

Circumstances Allowing Reinstatement of Parental Rights**Citation: Ann. Stat. Tit. 22, § 4059**

The department may petition the court to reinstate the parental rights of a parent whose parental rights have been terminated. The petition must state:

- The reasons for the termination
- A substantial change in circumstances of the parent that demonstrate the parent has the capacity and willingness to parent the child
- The parent's consent to the reinstatement
- The willingness of the child for the reinstatement

The petition must be accompanied by a permanency plan that provides for the health and safety of the child and outlines the transition services to the family and the supervision required by the department for placing the child in the home on a trial basis.

Upon the filing of a petition, the court shall hold a case management conference to review the permanency plan filed by the department. The court may order reinstatement of parental rights if it finds, by clear and convincing evidence, that:

- The child has been in the custody of the department for at least 12 months after parental rights have been terminated.
- The child has lived for at least 3 months in the home of the parent after the petition for reinstatement has been filed.
- The parent consents to the reinstatement of parental rights.
- If the child is age 12 or older, the child consents to the reinstatement of parental rights.
- Reinstatement of parental rights is in the best interests of the child.

In determining whether to reinstate parental rights, the court shall consider the age and maturity of the child, the child's ability to express a preference, the child's ability to integrate back into the home of the parent whose rights were terminated, the ability of the parent whose rights were terminated to meet the child's physical and emotional needs, the extent that the parent whose rights were terminated has remedied the circumstances that resulted in the termination of parental rights, and the likelihood of future risk to the child.

Maryland*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Family Law § 5-525.1**

A petition for termination of parental rights shall be filed if:

- The child has been in an out-of-home placement for 15 of the most recent 22 months.
- A court finds that the child is an abandoned infant.
- A court finds that the parent has been convicted, in any State or any court of the United States, of:
 - » A crime of violence against a minor offspring of the parent, the child, or another parent of the child
 - » Aiding, abetting, conspiring, or soliciting to commit a crime described above

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Family Law § 5-525.1**

The Department of Human Services is not required to file a petition for termination of parental rights if:

- The child is being cared for by a relative.
- The department has documented in the case plan a compelling reason why termination of parental rights would not be in the child's best interests.
- The department has not provided services to the family consistent with the time period in the case plan that the department considers necessary for the safe return of the child to the child's home.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Massachusetts

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Laws Ch. 119, §§ 26, 29C; Ch. 210, § 3

The Department of Children and Families shall file a petition to terminate parental rights under the following circumstances:

- The child has been abandoned.
- The parent has been convicted of the murder or voluntary manslaughter of another child of the parent; of aiding, abetting, attempting, conspiring or soliciting to commit such murder or voluntary manslaughter; or of a felony assault that resulted in serious bodily injury to the child or to another child of the parent.
- The child has been in foster care for 15 of the immediately preceding 22 months.

In determining whether such action is in the best interests of the child, the court shall consider the ability, capacity, fitness, and readiness of the child's parent. In considering the fitness of the child's parent, the court shall consider, without limitation, the following factors:

- The child has been abused or neglected as a result of the acts or omissions of one or both parents; the parents were offered services and have been unable to make a substantial change in the circumstances that led to the abuse or neglect.
- The child has been in the custody of the department for at least 6 months, and the parents have not maintained significant and meaningful contact with the child.
- The child is age 4 or older and has been in an out-of-home placement for at least 12 of the immediately preceding 15 months, and the child cannot be returned home.
- The child is younger than age 4 and has been in an out-of-home placement for at least 6 of the immediately preceding 12 months and cannot be returned home.
- The parent, without excuse, fails to provide proper care for the child, and there is a reasonable expectation that the parent will not be able to provide proper care within a reasonable time.
- Because of the lengthy absence of the parent or the parent's inability to meet the needs of the child, the child has formed a strong, positive bond with a substitute caregiver, the removal of the child from the caregiver would likely cause serious psychological harm to the child, and the parent lacks the capacity to meet the special needs of the child upon removal.
- There has been a lack of effort by the parent to remedy conditions that create a risk of harm due to abuse or neglect of the child.
- There has been severe or repetitive conduct of a physically, emotionally, or sexually abusive or neglectful nature toward the child or toward another child in the home.
- The parent has willfully failed to visit the child when the child has not been in his or her custody.
- The parent has willfully failed to support the child when the child has not been in his or her custody. Failure to support shall mean that the parent or other person has failed to make a material contribution to the child's care when the contribution has been requested by the department or ordered by the court.
- The parent suffers from a condition that is reasonably likely to continue for a prolonged, indeterminate period, such as alcohol or drug addiction or mental deficiency or mental illness, and the condition makes the parent unlikely to provide minimally acceptable care for the child.
- The parent has been convicted of a felony that the court finds is of such a nature that the child will be deprived of a stable home for a period of years. Incarceration in and of itself shall not be grounds for termination of parental rights.
- There has been a prior pattern of parental neglect or misconduct or a felony assault that resulted in serious bodily injury to the child, and a likelihood of future harm to the child exists based on such prior pattern or assault.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ann. Laws Ch. 119, § 26**

The department need not file a petition to terminate parental rights if:

- The child is being cared for by a relative.
- The department has documented in the case plan a compelling reason for determining that terminating the parents' rights would not be in the best interests of the child.
- The family of the child has not been provided, consistent with the time period in the case plan, such services as the department deems necessary for the safe return of the child to the child's home if reasonable efforts as set forth in § 29C are required to be made with respect to the child.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Michigan

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights**Citation: Comp. Laws § 712A.19b**

The court may terminate a parent's parental rights if the court finds, by clear and convincing evidence, one or more of the following:

- The child has been deserted.
- The child or child's sibling has suffered physical injury or physical or sexual abuse under one or more of the following circumstances:
 - » The parent's act caused the abuse.
 - » The parent had the opportunity to prevent the abuse and failed to do so.
 - » A nonparent adult caused the abuse, and there is a reasonable likelihood that the child will suffer from injury or abuse by the nonparent adult in the foreseeable future if placed in the parent's home.
- The parent has failed to correct the conditions that led to an adjudication of child abuse or neglect, and there is no reasonable likelihood that the conditions will be corrected within a reasonable time considering the child's age.
- The parent has substantially failed, without good cause, to comply with a limited guardianship placement plan to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.
- The child has a guardian, and both of the following have occurred:
 - » The parent has failed, without good cause, to provide regular and substantial support for the child for 2 years or more.
 - » The parent has failed to regularly visit, contact, or communicate with the child, without good cause, for 2 years or more.
- The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.
- The parent is imprisoned for such a period that the child will be deprived of a normal home for more than 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.
- The parent's parental rights to one or more siblings of the child or another child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parent have been unsuccessful.
- There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.
- The parent abused the child or a sibling of the child and the abuse included one or more of the following:
 - » Abandonment of a young child
 - » Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate
 - » Battering, torture, or other severe physical abuse
 - » Loss or serious impairment of an organ or limb
 - » Life-threatening injury
 - » Murder or voluntary manslaughter
 - » Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Comp. Laws § 712A.19a

If the child has been in foster care under the responsibility of the State for 15 of the most recent 22 months, the court shall order the agency to initiate proceedings to terminate parental rights. The court is not required to order the agency to initiate proceedings to terminate parental rights if one or more of the following apply:

- The child is being cared for by relatives.
- The case service plan documents a compelling reason for determining that filing a petition to terminate parental rights would not be in the best interests of the child. Compelling reasons for not filing a petition to terminate parental rights include, but are not limited to, all of the following:
 - » Adoption is not the appropriate permanency goal for the child.
 - » No grounds to file a petition to terminate parental rights exist.
 - » The child is an unaccompanied refugee minor, as defined in 45 CFR 400.11.
 - » There are international legal obligations or compelling foreign policy reasons that preclude terminating parental rights.
- The State has not provided the child's family, consistent with the time period in the case service plan, with the services the State considers necessary for the child's safe return to his or her home, if reasonable efforts are required.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Comp. Laws §§ 712A.20; 712A.21

The court in all cases involving custody shall state in the order for disposition or any supplemental order of disposition whether the child is placed in the temporary or permanent custody of the court. If the child is placed in the permanent custody of the court, all parental rights are terminated, though such rights may be reinstated by a supplemental order of disposition after rehearing pursuant to § 712A.21.

At any time while the juvenile is under the jurisdiction of the court, an interested person may file a petition for a rehearing upon all matters coming within the provisions of this chapter. Upon the rehearing, the court may affirm, modify, or set aside any order reviewed under this section. If parental rights have been terminated by an order entered in the proceedings and custody of the juvenile has been removed from the parents, guardian, or other person, the petition for rehearing shall be filed no later than 20 days after the date of entry of the order terminating parental rights. The petition shall set forth in detail the place, manner, and all other information requested by the court in reference to the proposed future custody of the juvenile. The rehearing shall be conducted in accordance with the provisions of this chapter relating to the conduct of original hearings. The court may enter an order for supplemental disposition while the juvenile remains under the court's jurisdiction.

The term 'interested person' includes a member of a local foster care review board to which that juvenile's case has been assigned.

Minnesota

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. §§ 260.012; 260C.301

The juvenile court may, upon petition, terminate all rights of a parent to a child if it finds that one or more of the following conditions exist:

- The parent has abandoned the child.
- The parent has substantially, continuously, or repeatedly refused or neglected to provide the child with necessary food, clothing, shelter, education, and other care and control.
- The parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause.
- The parent is found to be unfit because he or she is unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. A parent is presumed to be unfit if his or her parental rights to another child have been terminated involuntarily.
- Following the child's placement out of the home, reasonable efforts have failed to correct the conditions leading to the child's placement.
- The parent has failed two or more times to successfully complete a treatment program for chemical dependency.

- The parent has subjected a child to egregious harm that is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being.
- An unwed birth father has failed to register with the fathers' adoption registry.
- The child is neglected and in foster care.
- The parent has been convicted of a crime listed below:
 - » Murder, manslaughter, assault with a deadly weapon that results in serious bodily injury, or sexual abuse that was committed against the child or another child of the parent
 - » An offense that requires registration as a predatory offender
- The child is an abandoned infant.
- The provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

It is presumed that reasonable efforts have failed upon a showing that:

- The parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis.
- The parent has been required by a case plan to participate in a chemical dependency treatment program.
- The treatment programs offered to the parent were culturally, linguistically, and clinically appropriate.
- The parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program.
- The parent continues to abuse chemicals.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Stat. § 260C.301, Subd. 4

Except for cases in which the child is in placement due solely to the child's developmental disability or emotional disturbance, custody has not been transferred to the responsible social services agency, and the court finds compelling reasons to continue placement, the county attorney shall file a termination of parental rights petition or a petition to transfer permanent legal and physical custody to a relative under § 260C.201, subd. 11 for all children who have been in out-of-home care for 15 of the most recent 22 months. This requirement does not apply if there is a compelling reason approved by the court for determining that filing a termination of parental rights petition or other permanency petition would not be in the best interests of the child or if the responsible social services agency has not provided reasonable efforts necessary for the safe return of the child, if reasonable efforts are required.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Ann. Stat. § 260C.329

The county attorney may file a petition for the reestablishment of the legal parent-child relationship when:

- Both the responsible social services agency and the county attorney agree that reestablishment of the legal parent-child relationship is in the child's best interests.
- The parent has corrected the conditions that led to termination of parental rights and is now willing and able to provide day-to-day care and maintain the health, safety, and welfare of the child.
- The child has been in foster care for at least 36 months after the court issued the order terminating parental rights.
- The child is age 15 or older when the petition is filed.
- The child has not been adopted and is not the subject of a written adoption placement agreement.

A petition for the reestablishment of the legal parent-child relationship may not be filed if the parent has:

- Previously had parental rights terminated due to either sexual abuse or other conduct that resulted in the death of a minor
- Been convicted of any crime enumerated under § 260C.007, subd. 14

The court may grant the petition only if it finds by clear and convincing evidence that:

- Reestablishment of the legal parent-child relationship is in the child's best interests.
- The child is age 15 years or older, has not been adopted, and is not the subject of a written adoption placement agreement.
- At least 36 months have elapsed following a final order terminating parental rights, and the child remains in foster care.
- The child desires to reside with the parent.
- The parent has corrected the conditions that led to an order terminating parental rights and is willing and able to provide day-to-day care and maintain the health, safety, and welfare of the child.

Mississippi

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code § 93-15-121

The following factors, if established by clear and convincing evidence, may be grounds for termination of the parent's parental rights if future contacts between the parent and child are not desirable toward obtaining a satisfactory permanency outcome:

- The parent has been medically diagnosed by a qualified mental health professional with a severe mental illness or deficiency that is unlikely to change in a reasonable period of time and which, based upon expert testimony or an established pattern of behavior, makes the parent unable or unwilling to provide an adequate permanent home for the child.
- The parent has been medically diagnosed by a qualified health professional with an extreme physical incapacitation that is unlikely to change in a reasonable period of time and which, based upon expert testimony or an established pattern of behavior, prevents the parent, despite reasonable accommodations, from providing minimally acceptable care for the child.
- The parent is suffering from habitual alcoholism or other drug addiction and has failed to successfully complete alcohol or drug treatment as reasonably directed by the court.
- The parent is unwilling to provide reasonably necessary food, clothing, shelter, or medical care for the child. Reasonably necessary medical care does not include recommended or optional vaccinations against childhood or any other disease.
- The parent has failed to exercise reasonable visitation or communication with the child.
- The parent's abusive or neglectful conduct has caused, at least in part, an extreme and deep-seated antipathy by the child toward the parent, or some other substantial erosion of the relationship between the parent and the child.
- The parent has committed an abusive act for which reasonable efforts to maintain the children in the home would not be required under § 43-21-603, or a series of physically, mentally, or emotionally abusive incidents, against the child or another child, whether related by consanguinity or affinity or not, making future contacts between the parent and child undesirable.
- The parent has been convicted of any of the following offenses against any child:
 - » Rape or sexual battery of a child
 - » Touching a child for lustful purposes
 - » Exploitation of a child
 - » Felonious abuse or battery of a child
 - » Carnal knowledge of a stepchild, adopted child, or a child of a cohabitating partner
- The parent has been convicted of:
 - » Murder or voluntary manslaughter of another child of the parent
 - » Aiding, abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of the child or another child of the parent
 - » A felony assault that results in the serious bodily injury to the child or another child of the parent

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Code Ann. §§ 43-15-13; 93-15-123

For any child who has been in foster care for 15 of the last 22 months, regardless of whether the foster care was continuous for all of those 22 months, the department shall file a petition to terminate the parental rights of the child's parents. The time period starts to run from the date the court makes a finding of abuse and/or neglect or 60 days from when the child was removed from his or her home, whichever is earlier. The department can choose not to file a termination of parental rights petition if the following apply:

- The child is being cared for by a relative.
- The department has documented compelling and extraordinary reasons why termination of parental rights would not be in the best interests of the child.

Notwithstanding any other provision of this chapter, the court may exercise its discretion not to terminate the parent's parental rights if the child's safety and welfare will not be compromised or endangered and terminating the parent's parental right is not in the child's best interests based on one or more of the following factors:

- The Department of Human Services has documented compelling and extraordinary reasons why terminating the parent's parental rights would not be in the child's best interests.
- There is a likelihood that continuing reasonable efforts for achieving reunification will be successful.

- Terminating the parent's parental rights would inappropriately relieve the parent of the parent's financial or support obligations to the child.
- The child is being cared for by the other parent, or a relative, guardian, or custodian, in a residence not occupied by the abusive or neglectful parent, and terminating the parent's parental rights would not expedite the process for obtaining a satisfactory permanency outcome.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Missouri

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. § 211.447

A petition to terminate parental rights shall be filed when:

- The child has been in foster care for at least 15 of the most recent 22 months.
- A court has determined the child to be an abandoned infant.
- The parent has voluntarily relinquished a child under § 210.950.
- The parent has:
 - » Committed murder or voluntary manslaughter of another child of the parent
 - » Aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter
 - » Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent
- The child has been abandoned.
- The parent has abused or neglected the child, based on any of the following:
 - » A mental condition or chemical dependency that renders the parent unable to care for the child
 - » Chemical dependency that prevents the parent from consistently providing the necessary care, custody, and control of the child and that cannot be treated so as to enable the parent to consistently provide such care, custody, and control
 - » A severe act or recurrent acts of physical, emotional, or sexual abuse toward the child or any child in the family, including an act of incest
 - » Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education
- The child has been in out-of-home care for 1 year, and the parent has failed to comply with the terms of a case plan designed to reunify the parent with the child.
- The parent has been found guilty of a sexual offense or incest, and the victim was the child or any child in the family.
- The child was conceived and born as a result of an act of forcible rape or rape in the first degree by a biological parent.
- The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse including, but not limited to, specific conditions directly relating to the parent and child relationship that are determined by the court to be of a duration or nature that renders the parent unable for the reasonably foreseeable future to care appropriately for the ongoing physical, mental, or emotional needs of the child.

It is presumed that a parent is unfit upon a showing that:

- Within the previous 3 years, the parent's parental rights to one or more other children were involuntarily terminated.
- The birth mother within 8 hours after the child's birth tested positive for blood-alcohol content of over .08 or tested positive for cocaine, heroin, methamphetamine, a controlled substance, or a prescription drug (except for a drug prescribed for medical treatment), and the birth mother has at least one other child who was found to be exposed to substances or has previously failed to complete recommended treatment services.
- Within the previous 3 years, the parent has pled guilty to or has been convicted of a felony involving the possession, distribution, or manufacture of cocaine, heroin, or methamphetamine, and the parent has at least one other child who was found to be abused or neglected or has previously failed to complete recommended treatment services.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ann. Stat. § 211.447**

Even when grounds exist for termination of parental rights, the juvenile officer or the Children's Division is not required to file a petition to terminate the parental rights of the child's parent or parents if:

- The child is being cared for by a relative.
- There exists a compelling reason for determining that filing such a petition would not be in the best interests of the child, as documented in the permanency plan.
- The family of the child has not been provided the services required for making reasonable efforts to preserve the family.

The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parental rights without a specific showing that there is a causal relation between the disability or disease and harm to the child.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Montana

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights**Citation: Ann. Code §§ 41-3-423; 41-3-609**

The court may order a termination of parental rights upon a finding established by clear and convincing evidence that any of the following circumstances exist:

- The child has been abandoned.
- The parent has been convicted of a felony sexual offense that resulted in the birth of the child.
- The parent has:
 - » Subjected a child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, sexual abuse, or chronic and severe neglect
 - » Committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate homicide of a child
 - » Committed aggravated assault against a child
 - » Committed neglect of a child that resulted in serious bodily injury or death
 - » Had parental rights to the child's sibling or other child of the parent involuntarily terminated and the circumstances related to the termination of parental rights are relevant to the parent's ability to adequately care for the child at issue
- A putative father has failed to do any of the following:
 - » Contribute to the support of the child for an aggregate period of 1 year, although able to do so
 - » Establish a substantial relationship with the child, as demonstrated by visiting the child at least monthly or maintaining regular contact when physically and financially able to do so
 - » Register with the putative father registry
- Reasonable efforts to rehabilitate the parent have failed.
- The conduct or condition of the parent makes the parent unfit, unable, or unwilling to give the child adequate parental care. In making the determinations, the court shall consider, but is not limited to, the following:
 - » Emotional illness, mental illness, or mental deficiency of the parent of a duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time
 - » A history of violent behavior by the parent
 - » Excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child
 - » Incarceration of the parent for more than 1 year, and reunification of the child with the parent is not in the best interests of the child because of the child's circumstances, including placement options; age; and developmental, cognitive, and psychological needs

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ann. Code § 41-3-609(5)**

If a proceeding under this chapter involves an Indian child and is subject to the Federal Indian Child Welfare Act, a qualified expert witness is required to testify that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Nebraska

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights**Citation: Rev. Stat. § 43-292**

The court may terminate all parental rights when the court finds such action to be in the best interests of the child and one or more of the following conditions exist:

- The parent has abandoned the child for 6 months or more.
- The parent has substantially and continuously or repeatedly neglected the child or a sibling of the child.
- The parent, being financially able, has willfully neglected to provide the child with the necessary subsistence, education, or other care or has neglected to pay for the child's care when legal custody of the child is with others and such payment is ordered by the court.
- The parent is unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior.
- The parent is unable to discharge parental responsibilities because of mental illness or mental deficiency, and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period.
- Reasonable efforts to preserve and reunify the family have failed to rehabilitate the parent.
- The child has been in an out-of-home placement for 15 or more of the most recent 22 months.
- The parent has inflicted upon the child, by other than accidental means, serious bodily injury.
- The parent has subjected the child or another minor child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse.
- The parent has:
 - » Committed murder or voluntary manslaughter of another child of the parent
 - » Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent
 - » Committed a felony assault that resulted in serious bodily injury to the child or another minor child of the parent
- One parent has been convicted of felony sexual assault of the other parent.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Rev. Stat. § 43-292.02**

A petition shall not be filed to terminate the parental rights of the child's parents if the basis for the petition is that:

- The parent is financially unable to provide health care for the child.
- The parent is incarcerated.

The petition is not required to be filed if:

- The child is being cared for by a relative.
- The Department of Health and Human Services has documented in the case plan or permanency plan a compelling reason for determining that filing such a petition would not be in the best interests of the child.
- The family of the child has not had a reasonable opportunity to avail themselves of the services deemed necessary in the case plan or permanency plan approved by the court if reasonable efforts to preserve and reunify the family are required by law.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Nevada

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Rev. Stat. §§ 128.105; 128.106; 128.109

An order for the termination of parental rights must be based on evidence and include a finding that:

- The best interests of the child would be served by the termination of parental rights.
- The conduct of the parent has demonstrated at least one of the following:
 - » Abandonment of the child
 - » Neglect of the child
 - » Unfitness of the parent
 - » Failure of parental adjustment
 - » Risk of serious physical, mental, or emotional injury to the child if the child were to reside in the home of his or her parent
 - » Only token efforts by the parent to support or communicate with the child; to prevent neglect of the child; to avoid being an unfit parent; or to eliminate the risk of serious physical, mental, or emotional injury to the child

If the child has been out of the care of his or her parent for at least 12 consecutive months, the court shall consider, without limitation:

- The placement options for the child
- The age of the child
- The developmental, cognitive, and psychological needs of the child

In determining neglect by or unfitness of a parent, the court shall consider, without limitation, the following conditions:

- Emotional illness, mental illness, or mental deficiency of the parent that renders the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time
- Conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature
- Excessive use of intoxicating liquors, controlled substances, or dangerous drugs that renders the parent consistently unable to care for the child
- Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education, or other care and control necessary for the child's physical, mental and emotional health and development
- Conviction of the parent of a felony of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental, or emotional health and development
- The fatality or near-fatality of the child, a sibling of the child, or another child in the care of the parent, for which the parent has no reasonable explanation and for which there is evidence that such physical injury or death would not have occurred absent the parent's abuse or neglect of the child
- The inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies

If a child has been placed outside of his or her home, the following provisions must be applied to determine the conduct of the parent:

- If the child has resided outside of his or her home for 14 months of any 20 consecutive months, it must be presumed that the parent has demonstrated only token efforts to care for the child.
- If the parent fails to comply substantially with the terms and conditions of a plan to reunite the family within 6 months after the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

If a child has been placed outside of his or her home and has resided outside of his or her home pursuant to that placement for 14 months of any 20 consecutive months, the best interests of the child must be presumed to be served by the termination of parental rights.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Rev. Stat. § 128.107**

If a child is not in the physical custody of the parent or parents, the court, in determining whether parental rights should be terminated, shall consider, without limitation:

- The services provided or offered to the parents to facilitate a reunion with the child
- The physical, mental, or emotional condition; the needs of the child; and the child's desires regarding the termination, if the court determines the child is of sufficient capacity to express his or her desires
- The effort the parents have made to adjust their circumstances, conduct, or conditions to make it in the child's best interests to return the child to his or her home after a reasonable length of time, including, but not limited to:
 - » The payment of a reasonable portion of substitute physical care and maintenance, if financially able
 - » The maintenance of regular visitation or other contact with the child that was designed and carried out in a plan to reunite the child with the parents
 - » The maintenance of regular contact and communication with the custodian of the child
- Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parents within a predictable period

For purposes of this section, the court shall disregard incidental conduct, contributions, contacts, and communications.

Circumstances Allowing Reinstatement of Parental Rights**Citation: Rev. Stat. §§ 128.170; 128.190**

A child who has not been adopted and whose natural parents have had their parental rights terminated or have relinquished their parental rights, or the legal custodian or guardian of such a child, may petition a court for the restoration of the parental rights of the natural parents of the child. The natural parents for whom restoration of parental rights is sought to be restored must consent in writing to the petition.

If a valid petition is filed, the court shall hold a hearing to determine whether to restore the parental rights of the natural parent or parents. Before granting a petition for the restoration of parental rights, the court must find that:

- If any child who is the subject of the petition is age 14 or older, the child consents to the restoration of parental rights.
- The natural parents for whom restoration of parental rights is sought have been informed of the legal obligations, rights, and consequences of the restoration of parental rights and the natural parents are willing and able to accept such obligations, rights, and consequences.

If the court finds the necessary facts, the court shall order the restoration of parental rights if the court further finds by a preponderance of the evidence that:

- The child is not likely to be adopted.
- Restoration of parental rights of the natural parent or parents is in the best interests of the child.

If the court restores the parental rights of the natural parents of a child who is younger than age 14, the court shall specify in its order the factual basis for its findings that it is in the best interests of the child to restore the parental rights of the natural parents.

New Hampshire

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights**Citation: Rev. Stat. §§ 169-C:24-a; 170-C:5; 170-C:5-a**

A petition for termination of parental rights shall be filed when any one or more of the following circumstances exist:

- The child has been in an out-of-home placement for 12 of the most recent 22 months.
- The child has been abandoned.
- The parent has been convicted of:
 - » Murder of another child of the parent, a sibling or stepsibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant
 - » Manslaughter of another child of the parent
 - » Attempt, solicitation, or conspiracy to commit any of the offenses listed above
 - » Felony assault that resulted in injury to the child, a sibling or stepsibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant

- The parent, although financially able, has substantially and continuously neglected to provide the child with necessary subsistence, education, or other necessary care.
- The parent has failed to correct the conditions leading to the child's out-of-home placement within 12 months, despite reasonable efforts under the direction of the district court to rectify the conditions.
- Because of mental deficiency or mental illness, the parent is and will continue to be incapable of giving the child proper parental care and protection for a longer period of time than would be wise or prudent.
- The parent knowingly or willfully caused or permitted another to cause severe sexual, physical, emotional, or mental abuse of the child.
- The parent's conduct toward the child has resulted in severe harm to the child.
- The parent's conduct toward the child has continued despite the reasonable efforts of authorized agencies in obtaining or providing services for the parent to reduce or alleviate such conduct.
- The parent, as a result of incarceration for a felony offense, is unable to discharge his or her responsibilities for the child and, in addition, has been shown to have abused or neglected the child. The court may review the conviction of the parent to determine whether the felony offense is of such a nature, and the period of incarceration imposed of such duration, that the child would be deprived of proper parental care and protection and left in an unstable or impermanent environment for a longer period of time than would be prudent.

A petition for termination of the parent-child relationship shall be granted when the child's birth is the result of sexual assault of the birth mother and termination of the parent-child relationship is in the best interests of the child. This section shall apply to a person who has been found to be the father of a child and who:

- Has been convicted of or has pled guilty or nolo contendere to an act of sexual assault against the birth mother for his conduct in fathering the child
- At a fact-finding hearing, is found beyond a reasonable doubt to have fathered the child through an act of nonconsensual sexual penetration

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Rev. Stat. § 169-C:24-a

The State may not be required to file a petition for termination of parental rights if one or more of the following conditions exist:

- The child is being appropriately cared for by a relative.
- A State agency has documented in the case file a compelling reason for determining that filing a petition for termination of parental rights would not be in the best interests of the child.
- The State has not provided to the family of the child such services and reasonable efforts as the State deems necessary for the safe return of the child to the child's home.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

New Jersey

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. §§ 30:4C-11.3; 30:4C-15; 30:4C-15.1

A petition to terminate parental rights shall be filed when there is evidence of one or more of the following:

- The parent has abandoned the child.
- The parent has subjected the child to aggravated circumstances of abuse, neglect, cruelty, or abandonment.
- The parent has been convicted of abuse, abandonment, neglect of, or cruelty to his or her child.
- Reasonable efforts to rehabilitate the parent have been provided for 1 year, and the parent has failed to remedy the conditions that led to the child's out-of-home placement.
- The parent has been convicted of:
 - » Murder, aggravated manslaughter, or manslaughter of another child of the parent
 - » Aiding, abetting, attempting, or soliciting to commit the above murder, aggravated manslaughter, or manslaughter of the child or another child of the parent

- » Committing or attempting to commit an assault or similarly serious criminal act that resulted, or could have resulted, in the death or significant bodily injury to the child or another child of the parent
- Parental rights to another child of the parent have been involuntarily terminated.

The Division of Child Protection and Permanency shall initiate a petition to terminate parental rights on the grounds of the 'best interests of the child' if the following standards are met:

- The child's safety, health, or development has been or will continue to be endangered by the parental relationship.
- The parent is unwilling or unable to eliminate the harm facing the child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm.
- The division has made reasonable efforts to provide services to help the parent correct the circumstances that led to the child's placement outside the home, and the court has considered alternatives to termination of parental rights.
- Termination of parental rights will not do more harm than good.

The division shall initiate a petition to terminate parental rights on the ground that the 'parent has abandoned the child' if the following standards are met:

- A court finds that for 6 or more months:
 - » The parent, although able to have contact, has had no contact with the child, the child's resource family parent, or the division.
 - » The parent's whereabouts are unknown, notwithstanding the division's reasonable efforts to locate the parent.
- The identities of the parents are unknown and the division has exhausted all reasonable methods of attempting identification.
- The parent voluntarily delivered the child to and left the child with an adult employee, or voluntarily arranged for another person to deliver the child, at a State, county, or municipal police station; a fire station of a municipal, county, fire district, or volunteer fire department; the premises of a public or private ambulance, first aid, or rescue squad; or an emergency department of a licensed general hospital when the child is or appears to be no more than 30 days old, without expressing an intent to return for the child.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Stat. §§ 30:4C-15; 30:4C-15.3

A petition shall be filed as soon as any one of the circumstances listed above is established, but no later than when the child has been in placement for 15 of the most recent 22 months unless the division establishes an exception to the requirement to seek termination of parental rights.

The division shall not be required to file a petition seeking the termination of parental rights if:

- The child is being cared for by a relative, and a permanent plan for the child can be achieved without termination of parental rights.
- The division has documented in the case plan, which shall be available for court review, a compelling reason for determining that filing the petition would not be in the best interests of the child.
- The division is required to provide reasonable efforts to reunify the family but has not provided to the family of the child, consistent with the time period in the case plan, such services as the division deems necessary for the safe return of the child to his or her home.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

New Mexico

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. §§ 32A-4-28; 32A-4-2

The court shall terminate parental rights when:

- The child has been abandoned.
- The child has been neglected or abused, and the court finds that the conditions and causes of the neglect and abuse are unlikely to change in the foreseeable future despite reasonable efforts to assist the parent in adjusting the conditions that render the parent unable to properly care for the child.
- The parent has subjected the child to aggravated circumstances.

- The child has been placed in the care of others, including care by other relatives, either by a court order or otherwise, and the following conditions exist:
 - » The child has lived in the home of others for an extended period of time.
 - » The parent-child relationship has disintegrated.
 - » A psychological parent-child relationship has developed between the substitute family and the child.
 - » If the court deems the child of sufficient capacity to express a preference, the child no longer prefers to live with the natural parent.
 - » The substitute family desires to adopt the child.

'Aggravated circumstances' include circumstances in which the parent has:

- Attempted, conspired to cause, or caused great bodily harm to the child or great bodily harm or death to the child's sibling
- Attempted, conspired to cause, or caused great bodily harm or death to another parent, guardian, or custodian of the child
- Attempted, conspired to subject, or subjected the child to torture, chronic abuse, or sexual abuse
- Had his or her parental rights over a sibling of the child terminated involuntarily

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Stat. § 32A-4-29

The Children, Youth and Families Department shall file a motion to terminate parental rights when a child has been in the custody of the department for not less than 15 of the previous 22 months unless:

- A parent has made substantial progress toward eliminating the problem that caused the child's placement in foster care, it is likely that the child will be able to safely return to the parent's home within 3 months, and the child's return to the parent's home will be in the child's best interests.
- The child has a close and positive relationship with a parent, and a permanent plan that does not include termination of parental rights will provide the most secure and appropriate placement for the child.
- The child is age 14 or older, is firmly opposed to termination of parental rights, and is likely to disrupt an attempt to place him or her with an adoptive family.
- A parent is terminally ill but in remission and does not want his or her parental rights to be terminated, and the parent has designated a guardian for his or her child.
- The child is not capable of functioning if placed in a family setting. In such a case, the court shall reevaluate the status of the child every 90 days unless there is a final court determination that the child cannot be placed in a family setting.
- Grounds do not exist for termination of parental rights.
- The child is an unaccompanied, refugee minor, and the situation regarding the child involves international legal issues or compelling foreign policy issues.
- Adoption is not an appropriate plan for the child.
- The parent's incarceration or participation in a court-ordered residential substance abuse treatment program constitutes the primary factor in the child's placement in substitute care, and termination of parental rights is not in the child's best interests.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

New York

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Soc. Serv. Law §§ 358-a; 384-b

An order terminating parental rights shall be granted only upon a finding that one or more of the grounds specified below are based upon clear and convincing proof:

- The parent has abandoned the child for 6 months immediately prior to the date on which the petition is filed in the court.
- The parent is presently and for the foreseeable future unable, by reason of mental illness or mental retardation, to provide proper and adequate care for the child.
- The child is a permanently neglected child.
- The parent severely or repeatedly abused such child.

When a court determines that reasonable efforts to reunite the child with his or her parent are not required, a petition to terminate parental rights may be filed immediately. Reasonable efforts shall not be required when:

- The parent has subjected the child to aggravated circumstances, as defined below.
- The parent of such child has been convicted of:
 - » Murder or voluntary manslaughter and the victim was another child of the parent
 - » The attempt to commit any of the above crimes
 - » Assault or aggravated assault upon a person younger than age 11 that resulted in serious physical injury to the child or another child of the parent
- The parent has failed for 6 months to keep the agency apprised of his or her location.
- An incarcerated parent has failed on more than one occasion to cooperate with efforts to assist the parent to plan for the future of the child or to plan and arrange visits with the child.
- The parental rights of the parent to a sibling of the child have been involuntarily terminated.

'Aggravated circumstances' means:

- A child has been either severely or repeatedly abused.
- A child has subsequently been found to be an abused child within 5 years after returning home following placement in foster care as a result of being found to be a neglected child.
- The parent of a child in foster care has refused and has failed completely, over a period of at least 6 months from the date of removal, to engage in services necessary to eliminate the risk of abuse or neglect.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Soc. Serv. Law § 384-b

When the child has been in foster care for 15 of the most recent 22 months, has been determined to be an abandoned child, or the parent has been convicted of one of the crimes listed above, a petition to terminate the parent's rights shall be filed unless:

- The child is being cared for by a relative or relatives.
- The agency has documented in the most recent case plan a compelling reason for determining that the filing of a petition would not be in the best interests of the child.
- The agency has not provided to the parent or parents of the child such services as it deems necessary for the safe return of the child to the parent or parents unless such services are not legally required.
- The parent or parents are incarcerated or participating in a residential substance abuse treatment program, or the prior incarceration or participation of a parent or parents in a residential substance abuse treatment program is a significant factor in why the child has been in foster care for 15 of the last 22 months, provided that the parent maintains a meaningful role in the child's life, and the agency has not documented a reason why it would otherwise be appropriate to file a petition pursuant to this section.

For the purposes of this section, a compelling reason why a petition for termination of parental rights is not required may include, but is not limited to:

- The child was placed into foster care, and a review of the specific facts and circumstances of the child's placement demonstrates that the appropriate permanency goal for the child is either a return to his or her parent or guardian or discharge to independent living.
- The child has a permanency goal other than adoption.
- The child is age 14 or older and will not consent to his or her adoption.
- There are insufficient grounds for filing a petition to terminate parental rights.
- The child is the subject of a pending disposition.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Fam. Court Act §§ 635; 636; 637

A petition to restore parental rights may be filed when the following conditions are met:

- The order terminating parental rights was issued 2 or more years prior to the date of filing of the petition.
- The termination was based upon grounds enumerated § 384-b(4)(b), (c) or (d) of the social services law.
- The petitioners consent to the relief requested in the petition or that they withheld consent without good cause.
- The child is age 14 or older, remains under the jurisdiction of the family court, has not been adopted, does not have a permanency goal of adoption, and consents to the relief requested in the petition.

The petitioner shall have the burden of proof by clear and convincing evidence that restoration of parental rights is in the child's best interests. The court may make the following orders of disposition:

- The court may grant the petition and transfer guardianship and custody of the child to the birth parent or parents.
- The court may dismiss the petition, in which case custody of the child with the authorized agency or individual would continue and a permanency hearing would be required to be held as scheduled.
- The court may grant the petition conditionally for a designated period of up to 6 months, during which time guardianship and custody of the child shall remain with the local social services district or authorized agency while the child may visit with, or be placed on a trial discharge with, the birth parent or parents. The court shall direct the district or agency to supervise the child's birth parent or parents, develop a reunification plan, and provide appropriate transitional services to the child and birth parent or parents.

North Carolina

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Gen. Stat. § 7B-1111

The court may terminate the parental rights upon a finding of one or more of the following:

- The parent has abused or neglected the child.
- The parent has willfully left the child in foster care for more than 12 months without showing reasonable progress in correcting the conditions that led to the removal of the child.
- The child has been in an out-of-home placement for a continuous period of 6 months, and the parent has willfully failed for such period to pay a reasonable portion of the cost of care for the child although financially able to do so.
- A noncustodial parent has for a period of 1 year or more willfully failed without justification to pay for the care, support, and education of the child, as required by a custody agreement.
- The father of a child born out of wedlock has not, prior to the filing of a petition or motion to terminate parental rights, done any of the following:
 - » Filed an affidavit of paternity in a central registry maintained by the Department of Health and Human Services
 - » Legitimated the child pursuant to provisions of § 49-10, § 49-12.1, or filed a petition for this specific purpose
 - » Legitimated the child by marriage to the mother of the child
 - » Provided substantial financial support or consistent care with respect to the child and mother
 - » Established paternity through §§ 49-14, 110-132, 130A-101, 130A-118, or other judicial proceeding
- The parent is incapable of providing for the proper care of the child as a result of substance abuse, mental retardation, mental illness, or organic brain syndrome.
- The parent has willfully abandoned the child for at least 6 consecutive months, or the parent has voluntarily abandoned an infant pursuant to § 7B-500 for at least 60 consecutive days.
- The parent has committed murder or voluntary manslaughter of another child of the parent or other child residing in the home; has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child, another child of the parent, or other child residing in the home; has committed a felony assault that results in serious bodily injury to the child, another child of the parent, or other child residing in the home; or has committed murder or voluntary manslaughter of the other parent of the child.
- The parental rights of the parent to another child have been terminated involuntarily, and the parent lacks the ability or willingness to establish a safe home.
- The parent has been convicted of a sexually related offense that resulted in the conception of the child.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Gen. Stat. § 7B-1111

No parental rights shall be terminated for the sole reason that the parents are unable to care for the child on account of their poverty.

Circumstances Allowing Reinstatement of Parental Rights**Citation: Gen. Stat. § 7B-1114**

A child whose parent's rights have been terminated, the guardian ad litem attorney, or a county Department of Social Services with custody of the child may file a motion to reinstate the parent's rights if all of the following conditions are satisfied:

- The child is at least age 12 or, if the child is younger than 12, the motion alleges extraordinary circumstances requiring consideration of the motion.
- The child does not have a legal parent, is not in an adoptive placement, and is not likely to be adopted within a reasonable period of time.
- The order terminating parental rights was entered at least 3 years before the filing of the motion, unless the child's permanent plan is no longer adoption.

At the hearing on the motion, the court shall consider whether reinstatement is in the child's best interests, based on the following criteria:

- What efforts were made to achieve adoption or a permanent guardianship
- Whether the parent has remedied the conditions that led to the termination of parental rights
- Whether the child would receive proper care and supervision in a safe home if placed with the parent
- The child's age, maturity, and ability to express a preference
- The parent's willingness to resume contact with the child and to have parental rights reinstated
- The child's willingness to resume contact with the parent
- Services that would be needed by the child and the parent if rights were reinstated
- Any other criteria the court deems necessary

At any hearing under this section, the court may do one of the following:

- Enter an order for visitation
- Order that the juvenile be placed in the former parent's home and supervised by the department

The court shall either dismiss or grant a motion for reinstatement of parental rights within 12 months from the date the motion was filed, unless the court makes written findings why a final determination cannot be made within that time.

North Dakota

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights**Citation: Cent. Code §§ 27-20-02; 27-20-44**

The court may terminate the parental rights if:

- The parent has abandoned the child.
- The child is subjected to aggravated circumstances.
- The child is a deprived child, and the court finds:
 - » The causes of the deprivation are likely to continue and for that reason the child is suffering or will likely suffer serious physical, mental, moral, or emotional harm.
 - » The child has been in foster care for at least 450 out of the previous 660 nights.

'Aggravated circumstances' means a parent:

- Abandons, tortures, chronically abuses, or sexually abuses a child
- Fails to make substantial, meaningful efforts to secure treatment for his or her addiction, mental illness, behavior disorder, or other conditions for 1 year or one-half of the child's lifetime, measured in days
- Engages in a sexual offense in which a child is the victim or intended victim
- Commits one of the following crimes:
 - » Murder, manslaughter, or reckless homicide and the victim is another child of the parent
 - » Aiding, abetting, attempting, conspiring, or soliciting to commit one of the above crimes and the victim is a child of the parent
 - » Aggravated assault and the victim is a child of the parent and has suffered serious bodily injury
 - » Assault, aggravated assault, reckless endangerment, or terrorizing and a child is the victim or intended victim

- Has been incarcerated under a sentence for which the latest release date is:
 - » In the case of a child age 9 or older, after the child's majority
 - » In the case of a younger child, after the child is twice the child's current age, measured in days
- Subjects the child to prenatal exposure to chronic or severe use of alcohol or any controlled substance in a manner not lawfully prescribed
- Allows the child to be present in an environment subjecting the child to a controlled substance, chemical substance, or drug paraphernalia

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Cent. Code § 27-20-20.1

A petition for termination of parental rights need not be filed if:

- The child is being cared for by a relative approved by the Department of Human Services.
- The department has documented in the case plan a compelling reason for determining that filing such a petition would not be in the child's best interests.
- The department has determined:
 - » Reasonable efforts to preserve and reunify the family are required under § 27-20-32.2 to be made with respect to the child.
 - » The case plan provides such services as are necessary for the safe return of the child to the child's home.
 - » Such services have not been provided consistent with time periods described in the case plan.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Northern Mariana Islands

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Commonwealth Code Tit. 8, § 1418

The court may terminate a parent's parental rights when:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to physical or mental incapacity, and such incapacity is irremediable or will not be remedied by the parent.
- The parent's conduct, faults, and habits have left the child without proper parental care and control, subsistence, education, or other care necessary for the child's physical, mental, or emotional health or morals.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Ohio

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Rev. Stat. § 2151.414(E)

A court may terminate parental rights if it finds, by clear and convincing evidence, that it is in the best interests of the child and that any of the following apply:

- The child is abandoned.
- The child is orphaned, and there are no relatives of the child who are able to take permanent custody.
- The child has been in out-of-home care for 12 months or more of a consecutive 22-month period, and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents.
- The parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home.

- Chronic mental illness, emotional illness, mental retardation, physical disability, or chemical dependency makes the parent unable to provide an adequate permanent home for the child.
- The parent committed abuse against the child or caused or allowed the child to suffer neglect.
- The parent has demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child when able to do so.
- The parent has been convicted of an offense against the person, including endangering children, sexual assault, prostitution, aggravated menacing, domestic violence, and kidnapping, and the child or a sibling of the child was a victim of the offense, or the parent has been convicted of involuntary manslaughter, a sibling of the child was the victim of the offense, and the parent who committed the offense poses an ongoing danger to the child or a sibling of the child.
- The parent is incarcerated for an offense committed against the child or a sibling of the child.
- The parent has been convicted of one of the following:
 - » Murder or voluntary manslaughter and the victim was a sibling of the child or another child in the parent's household
 - » Assault and the victim is the child, a sibling of the child, or another child in the parent's household
 - » Endangering children and the child, a sibling of the child, or another child in the parent's household is the victim
 - » Rape, sexual battery, or other sexual offense and the victim is the child, a sibling of the child, or another child in the parent's household
 - » A conspiracy or attempt to commit, or complicity in committing, murder, manslaughter, or sexual offense
- The parent has repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food.
- The parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times.
- The parent has abandoned the child.
- The parent has had parental rights involuntarily terminated with respect to a sibling of the child, and the parent has failed to provide clear and convincing evidence to prove that he or she can provide a secure home for the child.
- The parent is incarcerated and will not be available to care for the child for at least 18 months.
- The parent is repeatedly incarcerated, and the repeated incarceration prevents the parent from providing care for the child.
- The parent for any reason is unwilling to provide food, clothing, shelter, and other basic necessities for the child or to prevent the child from suffering abuse or neglect.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Code § 2151.413

An agency shall not file a motion for permanent custody if either of the following apply:

- The agency documents in the case plan or permanency plan a compelling reason that permanent custody is not in the best interests of the child.
- If reasonable efforts to return the child to the child's home are required under § 2151.419, the agency has not provided the services required by the case plan to the parents of the child or the child to ensure the safe return of the child to the child's home.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Oklahoma

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. Tit. 10A, § 1-4-904

The court may terminate the rights of a parent to a child based upon the following legal grounds:

- The parent has abandoned the child.
- The child is an abandoned infant.
- The parent has voluntarily placed the child in out-of-home care, has not complied with the placement agreement, and has not demonstrated a firm intention to resume physical custody of the child or to make permanent legal arrangements for the care of the child.

- The parent has failed to correct the condition that led to the deprived adjudication of the child, and the parent has been given at least 3 months to correct the condition.
- The rights of the parent to another child have been terminated, and the conditions that led to the prior termination have not been corrected.
- A parent who does not have custody of the child has, for at least 6 out of the 12 immediately preceding months, willfully failed or refused to contribute to the support of the child as specified by court order or according to the financial ability of the parent to pay.
- The parent has been convicted of any of the following acts:
 - » Permitting a child to participate in pornography
 - » Rape or lewd molestation of a child under age 16
 - » Child abuse or neglect or enabling child abuse or neglect
 - » Causing the death of a child or a sibling of the child as a result of the physical or sexual abuse or chronic abuse or neglect
 - » Murder or voluntary manslaughter of any child or aiding or abetting, attempting, conspiring, or soliciting to commit murder of any child
 - » Felony assault resulting in serious bodily injury to the child or another child of the parents
 - » Murder or voluntary manslaughter of the child's parent or aiding or abetting, attempting, conspiring, or soliciting to commit murder of the child's parent
- The parent has abused or neglected the child or a sibling of the child or failed to protect the child or a sibling of the child from abuse or neglect that is heinous or shocking.
- The parent has previously abused or neglected the child or a sibling of the child or failed to protect the child or a sibling of the child from abuse or neglect.
- The child was conceived as a result of rape perpetrated by the parent whose rights are sought to be terminated.
- The parent is incarcerated, and the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others:
 - » The duration of incarceration
 - » The parent's history of criminal behavior, including crimes against children
 - » The age of the child and the current relationship between the parent and the child
- The parent has a diagnosed cognitive disorder, extreme physical incapacity, or a medical condition, including behavioral health, that renders the parent incapable of adequately and appropriately exercising parental duties and responsibilities within a reasonable time considering the age of the child.
- The condition that led to the deprived adjudication has been the subject of a previous deprived adjudication of this child or a sibling of this child, and the parent has been given an opportunity to correct the conditions that led to the determination of the initial deprived child.
- There exists a substantial erosion of the relationship between the parent and child caused at least in part by the parent's serious or aggravated neglect of the child, physical or sexual abuse or exploitation of the child, a prolonged and unreasonable absence of the parent from the child, or an unreasonable failure by the parent to visit or communicate in a meaningful way with the child.
- The child age 4 or older has been placed in foster care for 15 of the most recent 22 months, and the child cannot be safely returned to the home of the parent.
- A child younger than age 4 has been placed in foster care for at least 6 of the previous 12 months, and the child cannot be safely returned to the home of the parent.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Stat. Tit. 10A, § 1-4-904

The incarceration of a parent shall not in and of itself be sufficient to deprive a parent of parental rights.

A finding that a parent has a diagnosed cognitive disorder, extreme physical incapacity, or a medical condition, including behavioral health or substance dependency, shall not in and of itself deprive the parent of parental rights.

Circumstances Allowing Reinstatement of Parental Rights**Citation: Ann. Stat. Tit. 10A, § 1-4-909**

A child may request the court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

- The child was previously found to be a deprived child.
- The parent's rights were terminated in a proceeding under Title 10A.
- The child has not achieved his or her permanency plan within 3 years of a final order of termination.
- The child is at least age 15 at the time the application is filed.

If, after a preliminary hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the court shall order that a hearing on the merits of the motion be held.

The court shall conditionally grant the application if it finds by clear and convincing evidence that the child has not and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interests. In determining whether reinstatement is in the child's best interests, the court shall consider, but is not limited to, the following:

- Whether the parent whose rights are to be reinstated is a fit parent and has remedied the conditions as provided in the record of the prior termination proceedings and prior termination order
- The age and maturity of the child, and the ability of the child to express his or her preference
- Whether the reinstatement of parental rights will present a risk to the health, safety, or welfare of the child
- Other material changes in circumstances, if any, that may have occurred that warrant the granting of the application

Oregon*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Rev. Stat. §§ 419B.502; 419B.504; 419B.506; 419B.508; 419B.510**

The rights of the parent or parents may be terminated if the court finds:

- The parent is unfit by reason of a single or recurrent incident of extreme conduct toward any child. In determining extreme conduct, the court shall consider the following:
 - » Rape, sodomy, or sex abuse of any child by the parent
 - » Intentional starvation or torture of any child by the parent
 - » Abuse or neglect by the parent of any child resulting in death or serious physical injury
 - » Conduct by the parent to aid or abet another person who, by abuse or neglect, caused the death of any child
 - » Conduct by the parent to attempt, solicit, or conspire to cause the death of any child
 - » Previous involuntary terminations of the parent's rights to another child if the conditions giving rise to the previous action have not been ameliorated
 - » Conduct by the parent that knowingly exposes any child of the parent to the storage or production of methamphetamines from precursors
- The parent is unfit by reason of conduct or condition seriously detrimental to the child, and integration of the child into the home of the parent is improbable within a reasonable time due to conduct or conditions not likely to change. In determining such conduct and conditions, the court shall consider, but is not limited to, the following:
 - » Emotional illness, mental illness, or mental retardation of the parent of such nature and duration as to render the parent incapable of providing proper care for the child for extended periods of time
 - » Conduct toward any child of an abusive, cruel, or sexual nature
 - » Addictive or habitual use of intoxicating liquors or controlled substances to the extent that parental ability has been substantially impaired
 - » Physical neglect of the child
 - » Lack of effort of the parent to adjust circumstances, conduct, or conditions to make it possible for the child to safely return home within a reasonable time
 - » Failure of the parent to effect a lasting adjustment after reasonable efforts by available social agencies for such extended duration of time that it appears reasonable that no lasting adjustment can be effected
 - » Criminal conduct that impairs the parent's ability to provide adequate care for the child

- The parent has failed or neglected, without reasonable and lawful cause, to provide for the basic physical and psychological needs of the child for 6 months. In determining such failure or neglect, the court shall disregard any incidental or minimal expressions of concern or support and shall consider, but is not limited to, one or more of the following:
 - » Failure to provide care or pay a reasonable portion of substitute physical care and maintenance if custody is lodged with others
 - » Failure to maintain regular visitation or other contact with the child that was designed to reunite the child with the parent
 - » Failure to contact or communicate with the child or with the custodian of the child
- The child has been abandoned or left under such circumstances that the identity of the parent was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child within 3 months following the finding of the child.

The rights of the parent may be terminated if the court finds that the child was conceived as the result of an act that led to the parent's conviction for rape. Termination of parental rights under this section does not relieve the parent of any obligation to pay child support. Termination of parental rights under this section is an independent basis for termination of parental rights, and the court need not make any of the considerations or findings described above.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Rev. Stat. § 419B.498

The Department of Human Services shall file a petition to terminate the parental rights of a parent when the child has been in foster care for 15 of the most recent 22 months or there are grounds to terminate unless:

- The child is being cared for by a relative, and that placement is intended to be permanent.
- There is a compelling reason, which is documented in the case plan, for determining that filing such a petition would not be in the best interests of the child. Such compelling reasons include, but are not limited to:
 - » The parent is successfully participating in services that will make it possible for the child to safely return home within a reasonable time.
 - » Another permanent plan is better suited to meet the health and safety needs of the child, including the need to preserve the child's sibling attachments and relationships.
 - » The court or local citizen review board in a prior hearing or review determined that, while the case plan was to reunify the family, the department did not make reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the child to safely return home.
- The department has not provided to the family of the child, consistent with the time period in the case plan, such services as the department deems necessary for the child to safely return home, if reasonable efforts to make it possible for the child to safely return home are required.

No petition to terminate parental rights may be filed until the court has determined that the permanency plan for the child should be adoption after a permanency hearing pursuant to § 419B.476.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Pennsylvania

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Cons. Stat. Tit. 23, § 2511(a)

The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

- The parent, for at least 6 months, either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.
- The repeated and continued incapacity, abuse, neglect, or refusal of the parent has caused the child to be without essential parental care, control, or subsistence necessary for his or her physical or mental well-being, and the conditions and causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied by the parent.
- The parent is the presumptive but not the natural father of the child.
- The child has been found under such circumstances that the identity or whereabouts of the parent is unknown and cannot be ascertained by diligent search, and the parent does not claim the child within 3 months after the child is found.

- The child has been in an out-of-home placement for at least 6 months, the conditions that led to the placement continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions that led to the removal or placement of the child within a reasonable period of time, and termination of the parental rights would best serve the needs and welfare of the child.
- In the case of a newborn child, the parent knows or has reason to know of the child's birth, does not reside with the child, has not married the child's other parent, and has failed for 4 months to make reasonable efforts to maintain substantial and continuing contact or to support the child.
- The parent is the father of a child conceived as a result of a rape or incest.
- The child has been removed from the care of the parent, 12 months or more have elapsed from the date of removal, the conditions that led to the removal continue to exist, and termination of parental rights would best serve the needs and welfare of the child.
- The parent has been convicted of one of the following in which the victim was a child of the parent:
 - » Criminal homicide
 - » Aggravated assault
 - » An attempt, solicitation, or conspiracy to commit an offense listed above
- The parent has committed sexual abuse against the child or another child of the parent, when the judicial adjudication is based on a finding of 'sexual abuse or exploitation' as defined in § 6303(a).
- The parent is required to register as a sexual offender.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Cons. Stat. Tit. 23, § 2511(b)

The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing, and medical care, if found to be beyond the control of the parent.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Puerto Rico

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Laws Tit. 31, §§ 634a; 634b

The grounds, be it by commission or omission, for which a person may be deprived, restricted, or suspended of the patria potestas of a son or daughter are the following:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Mental or emotional defect or condition
 - » Alcoholism or addiction to controlled substances
- The parent has caused or put the child at substantial risk of suffering predictable harm or injury to his or her physical, mental, emotional, or moral health.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Murder, manslaughter, or involuntary manslaughter and attempt thereof
 - » Child abuse
 - » Crimes against the life and physical integrity
 - » Rape, sodomy, lewd acts, or indecent exposure
 - » Prostitution of a son or daughter, whether biological or adopted
 - » Obscene behavior as prohibited in § 4077 of Title 33
 - » Noncompliance with the obligation to provide child support
 - » Abandonment of a child
 - » Sexual perversion of minors

- » Public begging
- » Abuse, aggravated abuse, abuse by threat, abuse by restriction of liberty, and conjugal sexual assault, part of the law known as the Domestic Violence Prevention and Intervention Act
- The parent has failed to support the child when financially able to do so.
- The parent has failed to maintain regular visitation, contact, or communication with the child.
- The parent has failed to assume the care and guardianship of the child in his or her home.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Laws Tit. 31, § 634a

No person may be deprived of patria potestas for the legitimate practice of religious beliefs.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Rhode Island

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Gen. Laws § 15-7-7

The court shall terminate any and all legal rights of the parent to the child if it finds as a fact by clear and convincing evidence that:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Institutionalization, including imprisonment, of such duration that the parent cannot care for the child for an extended period of time
 - » A chronic substance abuse problem
- The parent has subjected the child to conduct of a cruel or abusive nature.
- The parent has subjected the child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse.
- The child has been in the custody of the department for at least 12 months, and reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Murder or voluntary manslaughter of another child of the parent
 - » Aiding, abetting, attempting, or soliciting to commit murder or voluntary manslaughter of another child of the parent
 - » A felony assault that results in serious bodily injury to the child or another child of the parent
- The parent has willfully neglected to provide proper care and maintenance for the child when financially able to do so.
- The parent has failed to communicate with the child.
- Parental rights to another child of the parent have been involuntarily terminated, and the parent continues to lack the ability to respond to services.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

South Carolina*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Ann. Code §§ 63-7-1710; 63-7-2570**

When a child is in the custody of the Department of Social Services, the department shall file a petition to terminate parental rights if:

- A child has been in foster care for 15 of the most recent 22 months.
- A court has determined that:
 - » The child is an abandoned infant.
 - » The parent has committed murder or voluntary manslaughter of another child of the parent.
 - » The parent has aided, abetted, conspired, or solicited to commit murder or manslaughter of another child of the parent.
 - » The parent has committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent.
 - » The parent has been in willful contempt on two occasions over a 12-month period for failure to comply with the terms of the treatment plan or placement plan.

The family court may order the termination of parental rights upon a finding of one or more of the following grounds and a finding that termination is in the best interests of the child, and:

- The child or another child while residing in the parent's home has been harmed, and because of the severity or repetition of the abuse or neglect, it is not reasonably likely that the home can be made safe within 12 months.
- The child has been removed from the parent, has been out of the home for 6 months following the adoption of a placement plan, and the parent has not remedied the conditions that caused the removal.
- The child has lived outside the home of either parent for 6 months, and during that time the parent has willfully failed to visit the child. The court may attach little or no weight to incidental visitations, but it must be shown that the parent was not prevented from visiting by the party having custody or by court order.
- The child has lived outside the home of either parent for 6 months, and during that time the parent has willfully failed to support the child. Failure to support means that the parent has failed to make a material contribution to the child's care.
- The presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by termination of the parental rights of the presumptive legal father.
- The parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, alcohol or drug addiction, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unable or unlikely to provide minimally acceptable care of the child. It is presumed that the parent's condition is unlikely to change within a reasonable time upon proof that the parent has been required to participate in a treatment program for alcohol or drug addiction and has failed two or more times to complete the program successfully.
- The child has been abandoned.
- The child has been in foster care under the responsibility of the State for 15 of the most recent 22 months.
- The physical abuse of a child resulted in the death or admission to the hospital for in-patient care of that child, and the abuse is the act for which the parent has been convicted of committing, aiding, abetting, conspiring to commit, or soliciting to commit an offense against the person; criminal domestic violence; criminal domestic violence of a high and aggravated nature; or assault and battery of a high and aggravated nature.
- A parent of the child is convicted of the murder of the child's other parent.
- The child was conceived as a result of the criminal sexual conduct of a biological parent unless the sentencing court makes specific findings that the conviction resulted from consensual sexual conduct where neither the victim nor the actor were younger than age 14 nor older than age 18 at the time of the offense.
- The parent has been convicted of murder, voluntary manslaughter, or homicide by child abuse of another child of the parent.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ann. Code § 63-7-1710**

This section does not apply:

- To a child for whom the family court has found that initiation of termination of parental rights is not in the best interests of the child, after applying the criteria of § 63-7-1700(C)-(G) and entering the findings required to select a permanent plan for the child. For this exemption to apply, the court must find that there are compelling reasons for selection of a permanent plan other than termination of parental rights.

- If the family court finds that the department has not afforded services to the parents provided for in the treatment plan in a manner that was consistent with the time periods in the plan or that court hearings have been delayed in such a way as to interfere with the initiation, delivery, or completion of services, but only if:
 - » The parent did not delay the court proceedings without cause or delay or refuse the services.
 - » Successful completion of the services in question may allow the child to be returned within the extension period.
 - » The case is not one for which the court has made a determination that reasonable efforts to preserve or reunify the family are not necessary.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

South Dakota

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Laws §§ 26-8A-26; 26-8A-26.1; 26-8A-27

If it appears at a review hearing that all reasonable efforts have been made to rehabilitate the family, that the conditions that led to the removal of the child still exist, and that there is little likelihood that those conditions will be remedied so the child can be returned to the custody of the child's parents, the court shall affirmatively find that good cause exists for termination of the parental rights of the child's parents, and the court shall enter an order terminating parental rights.

In addition, the court may find that good cause exists for termination of parental rights of a parent who:

- Committed murder, manslaughter, rape, sexual exploitation of a minor, aggravated incest, criminal abuse of a minor, or kidnapping a child under age 14 with intent to conceal the child
- Aided or abetted, attempted, conspired, or solicited to commit a crime listed above
- Committed aggravated assault against the child or another child of such parent
- Has been determined by a court by clear and convincing evidence to have subjected the child or another child to torture; sexual abuse; abandonment for at least 6 months; chronic physical, mental, or emotional injury; or chronic neglect, if the neglect was a serious threat to the safety of the child or another child
- Is incarcerated and is unavailable to care for the child during a significant period of the child's minority, considering the child's age and the child's need for care by an adult
- Has had his or her parental rights to another child involuntarily terminated by a prior legal proceeding
- Has a documented history of abuse and neglect associated with chronic alcohol or drug abuse
- Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, and the child or another child has been removed from the parent's custody because the removed child was adjudicated abused and neglected by a court on at least one previous occasion
- Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, the child has been removed from the parent's custody on two separate occasions, and the Department of Social Services offered or provided family services on each of the two separate occasions the child was removed
- Has exposed the child to or demonstrated an inability to protect the child from substantial harm or risk of harm resulting from a crime, act, or omission as specified above
- Is required to register as a sex offender pursuant to chapter 22-24B
- Has abandoned the child for at least 6 months and during this period the parent has not manifested to the child or to the physical custodian or caregiver of the child a firm intention to resume physical custody of the child and to make suitable arrangements for the care of the child

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Tennessee*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Ann. Code § 36-1-113**

Termination of parental rights must be based upon:

- A finding by the court by clear and convincing evidence that the grounds for termination of parental or guardianship rights have been established.
- The termination of the parent's rights is in the best interests of the child.

Termination of parental rights may be based upon any of the following grounds:

- Abandonment by the parent has occurred.
- There has been substantial noncompliance by the parent with the permanency plan.
- The child has been removed from the home of the parent for 6 months, and:
 - » The conditions that led to the child's removal, which in all reasonable probability would cause the child to be subjected to further abuse or neglect, still persist.
 - » There is little likelihood that these conditions will be remedied so that the child can be safely returned home in the near future.
 - » The continuation of the parent-child relationship greatly diminishes the child's chances of early integration into a safe, stable, and permanent home.
- The parent has been found to have committed severe child abuse against the child, a sibling, half-sibling, or any other child residing temporarily or permanently in the home of the parent.
- The parent has been sentenced to more than 2 years' imprisonment for conduct against the child, a sibling, half-sibling, or any other child residing temporarily or permanently in the home of the parent.
- The parent has been incarcerated for 10 or more years, and the child is under age 8 at the time.
- The parent has been convicted of the intentional and wrongful death of the child's other parent or legal guardian.
- The parent has been found to be mentally incompetent to provide for the further care and supervision of the child.
- A putative father of the child has failed:
 - » To pay a reasonable share of prenatal, natal, and postnatal expenses involving the birth of the child
 - » To make reasonable and consistent payments for the support of the child
 - » To seek reasonable visitation with the child or has failed to visit altogether or has engaged in only token visitation
 - » To manifest an ability and willingness to assume legal and physical custody of the child
 - » To file a petition to establish paternity of the child within 30 days after notice of alleged paternity
- Placing custody of the child in the parent's legal and physical custody would pose a risk of substantial harm to the physical or psychological welfare of the child.
- The parent was convicted of rape from which the child was conceived.
- The parent has:
 - » Committed murder or manslaughter of any sibling or half-sibling of the child
 - » Aided, abetted, attempted, conspired, or solicited to commit such murder or a voluntary manslaughter
 - » Committed a felony assault that has resulted in serious bodily injury or severe child abuse to the child or any sibling or half-sibling
- The parent has been found to have committed severe child sexual abuse. The term 'severe child sexual abuse' includes any of the following offenses towards a child:
 - » Rape of a child, aggravated rape, or aggravated sexual battery
 - » Aggravated sexual exploitation of a minor or especially aggravated sexual exploitation of a minor
 - » Incest
- The parent has been convicted of trafficking for commercial sex act; sex trafficking of children; or a sex trafficking of children offense under the laws of another State.
- A legal parent or guardian has failed to manifest, by act or omission, an ability and willingness to personally assume legal and physical custody or financial responsibility of the child, and placing the child in the person's legal and physical custody would pose a risk of substantial harm to the physical or psychological welfare of the child.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ann. Code § 36-1-113(h)(2)**

At the option of the Department of Children's Services, the department may determine that a petition to terminate the parental rights of the child's parents shall not be filed if one of the following exists:

- The child is being cared for by a relative.
- The department has documented in the permanency plan a compelling reason for determining that filing such a petition would not be in the best interests of the child.
- The department has not made reasonable efforts to provide to the family of the child, consistent with the time period in the department permanency plan, such services as the department deems necessary for the safe return of the child to the child's home.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Texas

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights**Citation: Fam. Code §§ 161.001; 161.002(b); 161.003; 161.007**

The court may order termination of parental rights if the court finds by clear and convincing evidence that the parent has:

- Abandoned the child
- Knowingly allowed the child to remain in conditions or surroundings that endanger the physical or emotional well-being of the child
- Failed to support the child in accordance with the parent's ability for 1 year
- Voluntarily, and with knowledge of the pregnancy, abandoned the mother of the child beginning at a time during her pregnancy and continuing through the birth, failed to provide adequate support or medical care for the mother during her pregnancy, and remained apart from the child or failed to support the child since the birth
- Been the major cause of the failure of the child to be enrolled in school as required by law or to be absent from the child's home without the consent of the parents for a substantial length of time or without the intent to return
- Been convicted of any of the following crimes that caused the death or serious injury of a child:
 - » Murder or manslaughter
 - » Assault, sexual assault, aggravated assault, or aggravated sexual assault
 - » Injury to a child or abandoning or endangering a child
 - » Indecency with a child or prohibited sexual conduct
 - » Sexual performance by a child or possession or promotion of child pornography
 - » Continuous sexual abuse of a young child
 - » Trafficking of persons or compelling prostitution
- Had his or her parental rights terminated with respect to another child
- Failed to comply with the provisions of the case plan established for the parent to obtain the return of the child
- Used a controlled substance in a manner that endangered the health or safety of the child and failed to complete a court-ordered substance abuse treatment program or after completion of a treatment program, continued to abuse a controlled substance
- Been incarcerated and unable to care for the child for 2 years
- Been the cause of the child being born addicted to alcohol or a controlled substance
- Voluntarily delivered the child to a designated emergency infant care provider without expressing an intent to return for the child
- Constructively abandoned the child who has been in the custody of the Department of Family and Protective Services for no less than 6 months, and:
 - » The department has made reasonable efforts to return the child to the parent.
 - » The parent has not regularly visited or maintained significant contact with the child.
 - » The parent has demonstrated an inability to provide the child with a safe environment.

- Been convicted of:
 - » The murder of the other parent of the child
 - » The criminal attempt or solicitation to commit murder of the other parent
- A mental or emotional illness or a mental deficiency that renders the parent unable to provide for the physical, emotional, and mental needs of the child, and the illness or deficiency likely will continue to render the parent unable to provide for the child's needs
- Been convicted of a sexual offense and the victim of the offense became pregnant with the parent's child

The rights of an alleged father may be terminated if:

- After being served with notice, he does not respond by timely filing an admission of paternity or a counterclaim for paternity.
- The child is over age 1 at the time the petition for termination is filed, he has not registered with the paternity registry, and after the exercise of due diligence, his identity and/or location are unknown.
- The child is under age 1 at the time the petition is filed, and he has not registered with the paternity registry.
- He has registered with the paternity registry but the petitioner's attempt to personally serve notice at the address provided to the registry and at any other address for the alleged father known by the petitioner has been unsuccessful, despite the due diligence of the petitioner.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Utah

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code §§ 78A-6-507; 78A-6-508

Subject to the protections and requirements of § 78A-6-503, and if the court finds strictly necessary, the court may terminate parental rights if it finds any one of the following:

- The parent has abandoned the child.
- The parent has neglected or abused the child.
- The parent is unfit or incompetent.
- The child is being cared for in an out-of-home placement, the parent has substantially neglected or has been unable or unwilling to remedy the circumstances that caused the child to be in an out-of-home placement, and there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future.
- The parent has made only token efforts to support or communicate with the child, prevent neglect of the child, eliminate the risk of serious harm to the child, or avoid being an unfit parent.
- After a trial period during which the child was returned home, the parent substantially and continuously refused or failed to give the child proper parental care and protection.
- The parent has complied with the terms and conditions of a safe relinquishment of a newborn child.

In determining whether a parent has abandoned a child, it is prima facie evidence of abandonment when the parent has:

- Surrendered physical custody of the child, and for 6 months following the surrender has not manifested a firm intention to resume physical custody or to make arrangements for the care of the child
- Failed to communicate with the child for 6 months
- Failed to show the normal interest of a natural parent, without just cause
- Abandoned an infant

In determining whether a parent is unfit or has neglected a child, the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

- Emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time
- Conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature

- Habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child
- Repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other necessary care
- Incarceration of the parent for such a time that the child will be deprived of a normal home for more than 1 year
- A history of violent behavior
- Whether the parent has intentionally exposed the child to pornography or material harmful to a minor

The following circumstances constitute prima facie evidence of unfitness:

- Sexual abuse, sexual exploitation, injury, or death of any child, due to known or substantiated abuse or neglect by the parent
- Conviction of a crime of such a nature as to indicate the unfitness of the parent to provide adequate care for the child
- A single incident of life-threatening or gravely disabling injury to or disfigurement of the child
- Conviction of the parent of committing, aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of a child or child abuse homicide
- Intentionally, knowingly, or recklessly causing the death of another parent of the child, without legal justification

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Code §§ 78A-6-507; 78A-6-508

The court may not terminate the parental rights of a parent because the parent has failed to complete a treatment required by a child and family plan. If the court has directed the division to provide reunification services to a parent, the court must find that the division made reasonable efforts to provide those services before the court may terminate the parent's rights.

A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

A parent may not be considered neglectful or unfit because of a health-care decision made for a child by the child's parent unless the State or other party to the proceeding shows, by clear and convincing evidence, that the health-care decision is not reasonable and informed.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Ann. Code Ann. § 78A-6-511(6)

A parent whose rights were terminated or a relative of the child may petition for guardianship of the child if:

- Following an adoptive placement, the child's adoptive parent returns the child to the custody of the Division of Child and Family Services, or the child is in the custody of the division for 1 year following the termination of the parent's rights and no permanent placement has been found or is likely to be found.
- Reunification with the child's parent, or guardianship by the child's relative, is in the best interests of the child.

Vermont

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Stat. Tit. 15A, § 3-504

If any one of the following grounds exists, the court shall order the termination of parental rights:

- In the case of a child under the age of 6 months, the parent did not exercise parental responsibility once he or she knew or should have known of the child's birth or expected birth. In making a determination under this subdivision, the court shall consider all relevant factors, which may include the respondent's failure to:
 - » Pay reasonable prenatal, natal, and postnatal expenses in accordance with his or her financial means
 - » Make reasonable and consistent payments, in accordance with his or her financial means, for the support of the child
 - » Regularly communicate or visit with the minor
 - » Manifest an ability and willingness to assume legal and physical custody of the minor
- In the case of a child over the age of 6 months at the time the petition is filed, the respondent did not exercise parental responsibility for a period of at least 6 months immediately preceding the filing of the petition. In making a determination under this subdivision, the court shall consider all relevant factors, which may include the respondent's failure to:
 - » Make reasonable and consistent payments, in accordance with his or her financial means, for the support of the child, although legally obligated to do so
 - » Regularly communicate or visit with the minor

- » During any time the minor was not in the physical custody of the other parent, to manifest an ability and willingness to assume legal and physical custody of the minor
- The respondent has been convicted of a crime of violence or has been found by a court of competent jurisdiction to have committed an act of violence that violated a restraining or protective order, and the facts of the crime or violation indicate that the respondent is unfit to maintain a relationship of parent and child with the minor.
- An alleged father has failed to establish paternity.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Stat. Tit. 15A, § 3-504

If the respondent has proved by a preponderance of evidence that he or she had good cause for not complying with the support and care provisions above or that, for compelling reasons, termination due to conviction of a crime is not justified, the court may not terminate the respondent's parental rights to a minor except upon a finding by clear and convincing evidence that any one of the grounds [for termination] exists and that termination is in the best interests of the minor.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Virgin Islands

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code Tit. 5, § 2550

The court may terminate the parental rights and responsibilities of one or both parents if the court finds by clear and convincing evidence that the termination of the parent's rights is in the best interests of the child and that any of the following grounds exists:

- The child has been abandoned by the parent.
- There has been unwillingness or substantial noncompliance by the parent with the reasonable efforts of the Department of Human Services to achieve reunification.
- The child has been removed from the home of the parent for more than 6 months, and:
 - » The conditions that led to the child's removal that in all reasonable probability would cause the child to be subjected to further abuse or neglect still persist.
 - » There is little likelihood that the conditions that led to the child's removal will be remedied within the next 18 months so that the child can be returned home safely in the near future.
 - » For the purposes of this subsection, when the child has been in foster care or not in the physical custody of the parent for 15 of the most recent 22 months, a presumption exists that the conditions described above exist, unless the parent can prove by a preponderance of the evidence that it is more likely than not that the child will be returned to the parent's physical custody within 6 months.
- The parent has been convicted of aggravated child abuse or neglect, as defined in title 14, § 506, against the child who is the subject of the petition or against any sibling, half-sibling, or any other child residing temporarily or permanently in the home of the parent.
- The parent has been convicted of the intentional and wrongful death of the child's other parent or legal guardian.
- The parent is unable to discharge parental duties due to:
 - » Emotional illness, mental illness, or mental deficiency
 - » Habitual abuse or addiction to intoxicating liquors, narcotics, or other dangerous drugs
- The parent has failed to manifest an ability and willingness to assume legal and physical custody of the child.
- Placing custody of the child in the parent's legal and physical custody would pose a risk of substantial harm to the physical or psychological welfare of the child.
- The parent has relinquished the parent's rights or consented to the child's adoption.

The department shall file a petition to terminate the parental rights of the child's parent under any of the following circumstances:

- The child has been in an out-of-home-placement for 15 of the most recent 22 months.
- The parent has:
 - » Committed murder or manslaughter of any sibling or half-sibling of the child
 - » Aided, abetted, attempted, conspired, or solicited to commit such murder or a voluntary manslaughter
 - » Committed a felony assault that has resulted in serious bodily injury to the child or any sibling or half-sibling of the child
- The court has made a finding that the parent has on two or more occasions abused or neglected any child.
- Within 18 months after a child's return from an out-of-home placement, the child who is the subject of the petition is removed from the parent's custody and placed in care outside the home a second time.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Code Tit. 5, § 2550

The department may determine not to file a petition to terminate the parental rights of the child's parent if one of the following exists:

- The child is being cared for by a relative approved by the department.
- The department has not made reasonable efforts to provide to the family of the child, consistent with the time period in the department reunification plan for providing services that the department considers necessary for the safe return of the child to the child's home.

The court may not terminate parental rights when the child:

- Is age 15 or older
- Is sufficiently mature, as determined by the court, to have intelligent views and wishes on the subject of the parent's retention of parental rights
- Objects to the termination

Parental rights of a child age 15 or older may be terminated over the objection of the child if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise competent to decide.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.

Virginia

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code § 16.1-283

The parental rights of a parent may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

- The neglect or abuse suffered by the child presented a serious and substantial threat to his or her life, health, or development.
- It is not reasonably likely that the conditions that resulted in such neglect or abuse can be substantially corrected or eliminated to allow the child's safe return to his or her parent within a reasonable period of time, due to any of the following:
 - » The parent has a mental or emotional illness or intellectual disability of such severity that there is no reasonable expectation that the parent will be able to undertake responsibility for the care needed by the child in accordance with his or her age and stage of development.
 - » The parent has habitually abused or is addicted to intoxicating liquors, narcotics, or other dangerous drugs to the extent that proper parental ability has been seriously impaired.
 - » The parent, without good cause, has not responded to or followed through with appropriate, available, and reasonable rehabilitative efforts on the part of social, medical, mental health, or other rehabilitative agencies designed to reduce, eliminate, or prevent the neglect or abuse of the child.
- The parent, without good cause, has failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of 6 months after the child's placement in foster care.
- The parent, without good cause, has been unwilling or unable within a reasonable period of time, not to exceed 12 months from the date the child was placed in foster care, to remedy substantially the conditions that led to the child's foster care placement.

The parental rights of a parent may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

- The child was abandoned under such circumstances that either the identity or the whereabouts of the parent cannot be determined.
- The child's parent, guardian, or relatives have not come forward to identify the child and claim a relationship to the child within 3 months of the child's placement in foster care.
- Diligent efforts have been made to locate the child's parent without avail.

The parental rights of a parent of a child who is in the custody of a local board or licensed child-placing agency may be terminated by the court if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

- The parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated
- The parent has been convicted of murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child.
- The parent has been convicted of felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense.
- The parent has subjected any child to aggravated circumstances, including torture, chronic or severe abuse, or chronic or severe sexual abuse.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Code § 16.1-283

Notwithstanding any other provisions of this section, residual parental rights shall not be terminated if it is established that the child, if he or she is age 14 or older or otherwise of an age of discretion as determined by the court, objects to such termination.

Residual parental rights of a child age 14 or older may be terminated over the objection of the child if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Ann. Code § 16.1-283.2

If a child is in the custody of the local department of social services and a preadoptive parent has not been identified and approved for the child, the child's guardian ad litem or the local board of social services may file a petition to restore the previously terminated parental rights of the child's parent under the following circumstances:

- The child is at least age 14.
- The child was previously adjudicated to be an abused or neglected child, child in need of services, child in need of supervision, or delinquent child.
- The parent's rights were terminated at least 2 years prior to the filing of the petition to restore parental rights.
- The child has not achieved his or her permanency goal or the permanency goal was achieved but not sustained.
- The child, if he or she is age 14 or older, and the parent whose rights are to be reinstated consent to the restoration of the parental rights.

The court may accept a petition that:

- Involves a child younger than age 14 if:
 - » The child is the sibling of a child for whom a petition for restoration of parental rights has been filed, and the child meets all other criteria for restoration of parental rights.
 - » The child's guardian ad litem and the local department jointly file the petition for restoration.
- Is filed before the expiration of the 2-year period if the child will turn 18 before the expiration of the 2-year period, and the court finds that accepting such a petition is in the best interests of the child.

If the court finds, based upon clear and convincing evidence, that the parent is willing and able to (i) receive and care for the child; (ii) have a positive, continuous relationship with the child; (iii) provide a permanent, suitable home for the child; and (iv) protect the child from abuse and neglect, the court may enter an order permitting the local board to place the child with the former parent. The local board shall develop a written placement plan for the child that shall describe the programs, services, and other supports that shall be offered to the child and the former parent.

The local department shall visit the child at least three times within the 6-month period immediately following placement of the child in order to evaluate the suitability of the placement and the progress of the former parent toward remedying the factors and conditions that led to the child's foster care placement. Upon completion of the required visitation, the local department shall submit a written report to the court. If, upon consideration of the report, the court finds by clear and convincing evidence that the restoration of parental rights is in the child's best interests, the court shall enter an order restoring the parental rights of the child's parent. In determining whether restoration is in the best interests of the child, the court shall consider the following:

- Whether the parent whose rights are to be reinstated agrees to the reinstatement and has substantially remedied the conditions that led to the child's foster care placement
- The age and maturity of the child and whether the child consents to the reinstatement of the former parent's rights, if the child is age 14 or older, or the child's preference with regard to the reinstatement of the former parent's rights, if the child is younger than age 14
- Whether the restoration of parental rights will present a risk to the child's life, health, or development
- Whether the restoration of parental rights will affect benefits available to the child
- Other material changes in circumstances, if any, that warrant the granting of the petition

Washington

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Rev. Code §§ 13.34.132; 13.34.180

A court may order termination of parental rights if the following requirements are met:

- The court has removed the child from his or her home.
- Termination is recommended by the department or the supervising agency.
- Termination is in the best interests of the child.
- Because of the existence of aggravated circumstances, reasonable efforts to unify the family are not required.

In determining whether aggravated circumstances exist by clear and convincing evidence, the court shall consider one or more of the following:

- Conviction of the parent of rape of the child
- Conviction of the parent of criminal mistreatment of the child
- Conviction of the parent of first- or second-degree assault, when the child is the victim
- Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child
- Conviction of the parent of attempting, soliciting, or conspiring to commit a crime listed above
- A finding by a court that a parent is a sexually violent predator
- Failure of the parent to complete available treatment, when such failure has resulted in a prior termination of parental rights to another child, and the parent has failed to effect significant change in the interim
- Abandonment of an infant younger than age 3
- Conviction of the parent of a sex offense or incest, when a child has been born of the offense

A petition seeking termination of parental rights may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall allege all of the following:

- The child has been found to be a dependent child under a dispositional order pursuant to § 13.34.130.
- The child has been removed from the custody of the parent for at least 6 months.
- Services capable of correcting the parental deficiencies have been expressly and understandably offered or provided.
- There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. A parent's failure to substantially improve parental deficiencies within 12 months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. In determining whether the conditions will be remedied, the court may consider, but is not limited to, the following factors:
 - » Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time
 - » Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time

- » Failure of the parent to have contact with the child for an extended period of time if the parent was provided an opportunity to have a relationship with the child
- Continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

In lieu of the allegations listed above, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown, and no person has acknowledged paternity or maternity and requested custody of the child within 2 months after the child was found.

In lieu of the allegations listed above, the petition may allege that the parent has been convicted of:

- Murder or manslaughter against another child of the parent
- Attempting, conspiring, or soliciting another to commit murder or manslaughter
- Assault in the first or second degree against the surviving child or another child of the parent

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Rev. Code § 13.34.180

A parent's failure to remedy conditions for 12 months shall give rise to a presumption that there is little likelihood of reunification unless it is shown that all necessary services have not been clearly offered or provided.

The actual inability of a parent to have visitation with the child including, but not limited to, mitigating circumstances such as a parent's current or prior incarceration or service in the military does not in and of itself constitute failure to have contact with the child.

If the parent is incarcerated, the court shall consider whether a parent maintains a meaningful role in his or her child's life based on factors identified in § 13.34.145(4)(b); whether the Department of Social and Health Services or supervising agency made reasonable efforts as defined in this chapter; and whether particular barriers existed as described in § 13.34.145(4)(b) including, but not limited to, delays or barriers experienced in keeping the agency apprised of the parent's location and in accessing visitation or other meaningful contact with the child.

The court may consider the particular constraints of a parent's current or prior incarceration. Such evidence may include, but is not limited to, delays or barriers a parent may experience in keeping the agency apprised of his or her location and in accessing visitation or other meaningful contact with the child. When a parent has been sentenced to a long-term incarceration and has maintained a meaningful role in the child's life considering the factors provided in § 13.34.145(4)(b), and it is in the best interests of the child, the department should consider a permanent placement that allows the parent to maintain a relationship with his or her child, such as, but not limited to, a guardianship pursuant to chapter 13.36.

Circumstances Allowing Reinstatement of Parental Rights

Citation: Rev. Code § 13.34.215

A child may petition the court to reinstate the previously terminated parental rights of his or her parent if:

- The child was previously found to be a dependent child and the child's parent's rights were terminated.
- The child has not achieved his or her permanency plan.
- Three years have passed since the final order of termination was entered.
- The child is at least age 12 at the time the petition is filed.

If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held. The juvenile court shall conditionally grant the petition if it finds that the child has not achieved his or her permanency plan, is not likely to imminently achieve permanency, and that reinstatement of parental rights is in the child's best interests. In determining whether reinstatement is in the child's best interests, the court shall consider, but is not limited to, the following:

- Whether the parent is a fit parent and has remedied the deficiencies that led to the termination
- The child's age, maturity, and ability to express a preference
- Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety
- Other material changes in circumstances, if any, that may have occurred that warrant the granting of the petition

If the court conditionally grants the petition, the child shall be placed in the custody of the parent, and the department shall develop a plan for reunification and provide transition services to the family as appropriate.

If the child has been successfully placed with the parent for 6 months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

West Virginia

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights

Citation: Ann. Code § 49-4-605; 49-4-604

The Department of Health and Human Resources shall file, join in a petition, or otherwise seek a ruling in any pending proceeding to terminate parental rights if a child has been in foster care for 15 of the most recent 22 months.

The court shall terminate the parental rights of an abusing parent when:

- The parent has subjected any child in the household to aggravated circumstances that include, but are not limited to, abandonment, torture, chronic abuse, and sexual abuse.
- The parent has:
 - » Committed murder or voluntary manslaughter of the child's other parent, another child of the parent, or any other child residing in the same household
 - » Attempted or conspired to commit such a murder or voluntary manslaughter
 - » Committed a malicious assault that results in serious bodily injury to the child, the child's other parent, or any other child residing in the same household
 - » Committed sexual assault or sexual abuse of the child, the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household
 - » Has been required by State or Federal law to register with a sex offender registry
- The parental rights of the parent to another child have been terminated involuntarily.
- A parent has been required by State or Federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent that the child's interests would not be promoted by a preservation of the family.
- The abusing parent has habitually abused or is addicted to alcohol, controlled substances, or drugs to the extent that proper parenting skills have been seriously impaired and such person or persons have not responded to or followed through the recommended and appropriate treatment.
- The abusing parent has willfully refused to cooperate in the development of a reasonable family case plan designed to lead to the child's return to their care, custody, and control.
- The abusing parent has not responded to or followed through with a reasonable family case plan designed to reduce or prevent the abuse or neglect of the child.
- The parent has abandoned the child.
- The parent has repeatedly or seriously injured the child physically or emotionally or has sexually abused or sexually exploited the child.
- The abusing parent has not responded to or followed through with a reasonable family case plan or other rehabilitative efforts of social, medical, mental health, or other rehabilitative agencies designed to reduce or prevent the abuse or neglect of the child, as evidenced by the continuation or insubstantial diminution of conditions that threatened the health, welfare, or life of the child.
- A battered parent's parenting skills have been seriously impaired, and he or she has willfully refused or is presently unwilling or unable to cooperate in the development of a reasonable treatment plan or has not adequately responded to or followed through with the recommended and appropriate treatment plan.

Circumstances That Are Exceptions to Termination of Parental Rights

Citation: Ann. Code § 49-4-605

The department may determine not to file a petition to terminate parental rights when:

- At the option of the department, the child has been placed with a relative.
- The department has documented in the case plan a compelling reason, including, but not limited to, the child's age and preference for termination or the child's placement in custody of the department based on another proceeding, that filing the petition would not be in the best interests of the child.
- The department has not provided, when reasonable efforts to return a child to the family are required, the services to the child's family that the department deems necessary for the safe return of the child to the home.

Circumstances Allowing Reinstatement of Parental Rights**Citation: Ann. Code § 49-4-606**

If the child is removed or relinquished from an adoptive home or other permanent placement after the case has been dismissed, any party with notice thereof and the receiving agency shall promptly report the matter to the circuit court of origin, the department, and the child's counsel, and the court shall schedule a permanency hearing within 60 days, with notice given to any appropriate parties and persons entitled to notice and the right to be heard. The department shall convene a multidisciplinary treatment team meeting within 30 days of the receipt of notice of permanent placement disruption.

If a child has not been adopted, the child or department may petition the court to place the child with a parent or custodian whose rights have been terminated and/or restore the parent's or guardian's rights. Under these circumstances, the court may order the placement and/or restoration of a parent's or guardian's rights if it finds by clear and convincing evidence a material change of circumstances and that the placement and/or restoration is in the child's best interests.

Wisconsin

Current Through December 2016

Circumstances That Are Grounds for Termination of Parental Rights**Citation: Ann. Stat. § 48.415**

Grounds for termination of parental rights shall be one of the following:

- The parent has abandoned the child.
- The parent has relinquished custody of the child when the child was 72 hours old or younger.
- The child has been in an out-of-home placement for 6 months or longer, and the parent has failed to meet the conditions established for the safe return of the child to the home, and there is a substantial likelihood that the parent will not meet those conditions within 9 months.
- The child has been placed outside the home on three or more occasions, and the conditions that led to the child's placement were caused by the parent.
- The parent is presently, and for a cumulative period of at least 2 years within the past 5 years was, an inpatient at one or more hospitals on account of mental illness, developmental disability, or other similar incapacities; the condition is likely to continue indefinitely; and the child is not being provided with adequate care by a relative who has legal custody of the child.
- The parent has been denied periods of physical placement or visitation by court order for at least 1 year.
- The parent has exhibited a pattern of physically or sexually abusive behavior that is a substantial threat to the health of the child.
- The parent has failed to assume significant responsibility for the daily supervision, education, protection, and care of the child.
- The parent is also related, either by blood or adoption, to the child's other parent in a degree of kinship closer than second cousin.
- The parent has been convicted of homicide or solicitation to commit homicide, and the victim was the child's other parent.
- The parent was convicted of a sexual assault that resulted in the conception of the child.
- The parent was convicted of a felony against a child.
- The parent was convicted of trafficking of a child involving any child.
- The parent has had a prior involuntary termination of parental rights to another child.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ann. Stat. § 48.415(1)(c)**

Abandonment is not established as grounds for termination if the parent proves all of the following by a preponderance of the evidence:

- The parent had good cause for having failed to visit with the child.
- The parent had good cause for having failed to communicate with the child.
- If the parent proves good cause, including good cause based on evidence that the child's age or condition would have rendered any communication with the child meaningless, that one of the following occurred:
 - » The parent communicated about the child with the person or persons who had physical custody of the child or with the agency responsible for the care of the child.
 - » The parent had good cause for having failed to communicate about the child with the person or persons who had physical custody of the child or the agency responsible for the care of the child.

Circumstances Allowing Reinstatement of Parental Rights**Citation: Ann. Stat. §§ 48.46(1m); 48.028(6)**

The parent, guardian, or legal custodian of the child or the child whose parents' parental rights have been terminated by the court under § 48.43 may, within the time permitted under this subsection, petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's adjudication. Upon a showing that such evidence does exist, the court shall order a new hearing. A petition shall be filed within 1 year after the date on which the parents' rights were terminated, unless within that 1-year period a court in this State or in another jurisdiction enters an order granting adoption of the child. In that case, a petition shall be filed before the date on which the order granting adoption is entered or within 30 days after the date on which the parents' rights were terminated, whichever is later.

Any Indian child who is the subject of a termination of parental rights proceeding, any parent or Indian custodian from whose custody that Indian child was removed, or the Indian child's Tribe may petition the court to invalidate that termination of parental rights on the grounds that the termination of parental rights was ordered in violation of the Federal Indian Child Welfare Act [25 USC 1911, 1912, or 1913]. If the court finds that those grounds exist, the court shall invalidate the termination of parental rights.

Wyoming*Current Through December 2016***Circumstances That Are Grounds for Termination of Parental Rights****Citation: Ann. Stat. § 14-2-309**

The parent-child legal relationship may be terminated if any one or more of the following facts is established by clear and convincing evidence:

- The child has been left in the care of another person without provision for the child's support and without communication from the absent parent for a period of at least 1 year.
- The child has been abandoned with no means of identification for at least 3 months, and efforts to locate the parent have been unsuccessful.
- The child has been abused or neglected by the parent, and reasonable efforts have been unsuccessful in rehabilitating the family or the family has refused rehabilitative treatment, and the child's health and safety would be seriously jeopardized by remaining with or returning to the parent.
- The parent is incarcerated due to the conviction of a felony, and the parent is found unfit to have the custody and control of the child.
- The child has been in foster care for 15 of the most recent 22 months, and the parent is unfit to have custody and control of the child.
- The child was abandoned at less than age 1 and has been abandoned for at least 6 months.
- The child was relinquished to a safe haven provider, and neither parent has affirmatively sought the return of the child within 3 months from the date of relinquishment.
- The parent was convicted of murder or homicide of the other parent of the child.
- The parent has been convicted of any of the following crimes:
 - » Murder or voluntary manslaughter of another child of the parent or aiding and abetting, attempting, conspiring to commit, or soliciting such a crime
 - » A felony assault that results in serious bodily injury to a child of the parent
- The parental rights of the parent to any other child have been terminated involuntarily.
- The parent abandoned, chronically abused, tortured, or sexually abused the child.
- The parent has been convicted of committing one or more of the following crimes against the child or another child of that parent:
 - » Sexual assault or sexual battery
 - » Sexual abuse of a minor
- The parent is required to register as a sex offender if the offense involved the child or another child of that parent.
- Other aggravating circumstances exist indicating that there is little likelihood that services to the family will result in successful reunification.

Circumstances That Are Exceptions to Termination of Parental Rights**Citation: Ann. Stat. § 14-3-431**

When a child has been placed in foster care under the responsibility of the State for 15 of the most recent 22 months, the State shall file a petition to terminate parental rights unless:

- The child is in the care of a relative.
- The State agency has documented in the case plan a compelling reason for determining that filing the petition is not in the best interests of the child.
- The State agency has not provided services to the child's family deemed necessary for the safe return of the child to the home, if reasonable efforts are required to be made.

Circumstances Allowing Reinstatement of Parental Rights

This issue is not addressed in the statutes reviewed.



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

