# Termination of Parental Rights

***The Law***

Juvenile court may terminate all rights of a parent to a child in the following cases:

1. With the written consent of the parent(s). If parent is a minor, consent requires that the guardian ad litem joins in the written consent, or
2. If it finds that one or more of these conditions exist:
3. Parent has abandoned the child:

* No contact with child on regular basis, and
* No demonstrated consistent interest in child for six months, and
* Social service agency has tried to help
* Unless parent can provide good cause that prevented contact (good cause might be extreme poverty, mental disability, chemical dependency).

1. Parent has substantially or repeatedly refused to comply with duties of parenting.
2. Parent has failed to contribute child support as ordered without a good reason.
3. Parents is unfit:

* Child was determined to be in need of protective services and
* The parent’s parental rights to one or more children were involuntarily terminated.

1. Following placement outside of the home, past efforts by the court have failed to correct the situation:

* Child under age 12 has been out of the home under court order for more than a total of twelve months
* Conditions will not be corrected in the reasonably foreseeable future, and
* Reasonable efforts have been made by social services to rehabilitate parent and child
* It is presumed that efforts have failed if
* The parent has been diagnosed as chemically dependent, and
* The parent has been required to participate in a treatment program, and
* That parent failed two or more times to successfully complete program or has refused at two or more meetings with a caseworker to participate in treatment program, and
* The parent continues to abuse.

1. The child has experienced severe harm in the parent’s care.
2. Parent has been convicted of causing the death of another of the parent’s children.
3. The parent has not filed a notice of intent to retain parental rights in an adoption proceeding or that the notice has been successfully challenged.
4. The child is neglected and in foster care.

**WHAT DOES THE COURT LOOK AT?**

The court looks at the best interests of the child; in other words what is best for the child, not what is best for the parent.

**WHAT ARE THE STEPS?**

1. Any person may petition the juvenile court asking for a termination of parental rights.
2. The court will schedule a hearing.
3. The parents and grandparents, if the child has lived with the grandparents within the past two years, will receive notice of the time, place, and purpose of the hearing.
4. The court makes a decision and issues a court order.
5. The court can choose not to terminate parental rights but instead determine that the child is in need of protection or services. The court will issue an order

* placing the child in foster care or
* placing the child under the protection of the local social services agency.

1. If the court terminates parental rights, it shall order the guardianship and legal custody to transfer to:

* The commissioner of human services, or
* A child placing agency, or
* An individual who is willing and able to care for the child.

**Termination of Parental Rights**

***Activity: Case study***

**The case of Baby Donte**

Jane and her baby Donte are over at his dad James' house. They are hanging around talking and listening to music. James and his dad are into the drug scene. Jane uses drugs on occasions but is not involved with the sale of drugs. She feels that whatever James does is his own business.

Throughout the evening, James and his dad conduct business with friends and acquaintances. They are always careful to go to another room so Jane and the baby are not involved in the deals. There is a great deal of traffic in and out of the house. As a result, the police have been watching the house and have determined that they have enough evidence to get a search warrant. They come in with a search warrant, finding drugs, money, and guns. All the people are read their rights and questions are being asked of everyone in the house.

The police determine that Jane is not involved in the actual drug dealing. But they are concerned for the baby. They determine that Jane has placed the baby in danger by having the baby in a house where drug dealing is occurring. They ask Jane where she lives. She says that she is 17 and living on her own. They let Jane go home, but they take the baby and call child protection.

Jane is beside herself. Jane knows that this may be the last straw. She calls her social worker, who sets up a meeting for the next day. Jane is told that the baby is in a shelter and that she will need to do certain things in order to get the baby back. A child protection worker will be assigned and a case plan determined. Jane is also told that she should contact the public defender’s office. She is told that the county will fight for physical custody of her baby. The first court date is set and Jane appears with her lawyer. The court decides to take physical custody of the baby and requires that a case plan be developed.

The case plan requires that Jane attend parenting classes, do random urinalysis (UA's), (if the UA's are positive Jane must attend drug treatment), have supervised visits with her baby, and attend school. Jane and her lawyer agree.

Jane has difficulty following her case plan. She becomes more and more depressed and uses drugs to help her through the day. She knows that her UA's will be dirty, but can't seem to help herself. She does not attend school, and has missed several of her visits with her baby.

The county decides to ask for a termination of Jane’s parental rights. Meanwhile, Jane enters a drug treatment program. She completes treatment, and starts to work on her case plan. She is doing quite well. But when she receives notice of the termination of parental rights hearing, she gives up and uses drugs again.

**Using the law, answer these questions.**

1. Should the court terminate Jane’s parental rights? Why or why not?

2. What else might the court do?

**Termination of Parental Rights**

### ***Activity: Mock Appellate Arguments***

**In the Matter of the Welfare of B.H.**

#### Facts

Until recently, four-year-old Ben was living with his biological parents, Lisa Moore and Frank Hanson. During the past year, police have been called many times because of reports of domestic abuse, assault, and loud parties. After the last police call, Child Protection was called in and Ben was placed in foster care. A Child in Need of Protection or Services (CHIPS) petition was filed.

The Juvenile Court held a hearing on the CHIPS petition. Frank did not attend. A case plan was developed and included the requirements that Lisa take a parenting assessment, complete parenting classes, have regular visits with Ben, and stop the abuse, assault, and loud parties. Because Frank caused most of the problems, the abuse, assault, and loud parties ended when he moved out. Frank did not appear at later Court’s hearings, and his parental rights were terminated.

During the hearings, the Court found that Lisa had been psychologically scarred by Frank’s domestic abuse. Because of this, she was suspicious, oppositional, and defiant. Although the social service agency tried to get her help so that she could be reunited with Ben, she refused to accept it.

Lisa failed to comply with all of the requirements of her case plan. She did not take the parenting assessment, and had trouble visiting her son because she did not have a car and could not have him visit her overnight because her furnace was broken.

It is nine months since Ben was placed in foster care. A petition to terminate Lisa’s parental rights was filed by the county’s Department of Children and Family Services. The Juvenile Court agreed and terminated her parental rights. Lisa is appealing to the Court of Appeals because she thinks the District Court made a mistake.

#### Issue

Has Lisa complied with enough of the case plan to get Ben back? If not, are Lisa’s actions enough to continue the foster care arrangement and wait to see if she is able to comply with the rest of the requirements? Or does her failure to complete some of the requirements mean that she continues to have serious problems and that the problems are not going to go away and that Ben should be placed up for adoption and Lisa’s rights terminated?

#### Arguments

What are the arguments against terminating Lisa’s rights? (Petitioner’s arguments)

What are the arguments for terminating Lisa’s rights? (Respondent’s arguments)

**Termination of Parental Rights**

### ***Activity: Mock Appellate Arguments***

**In the Matter of the Welfare of J.B., N.C, and S.H.**

#### Facts

Kim is the mother of Janelle (J.B.), age nine, Norina, (N.B.), age eight, and Sara (S.H.), age three. Kim is unmarried and there no adjudicated fathers (no fathers have voluntary accepted paternity and no court proceedings have proven paternity.) Two of the children are special needs children; J.B. has Down’s Syndrome, and N.B. has Attention Deficit/Hyperactivity Disorder.

The children were first placed in foster care when Sara was one month old. At that time the Court found the children in need of protection or services (CHIPS) because the mother was abusing cocaine. The Court ordered the mother to comply with a case plan that addressed her drug and alcohol dependency problems.

In the next several months, Kim made some progress in her case plan. Her children were returned to her. But a couple of months later, Kim left her children with a friend but failed to return to pick them up as promised. After three days, the children were again placed in foster care. The children told their foster parents that their mother was using cocaine again, that she was preparing and selling drugs to others, and that she had a physically abusive boyfriend. The County filed a petition to terminate Kim’s parental rights.

Kim appeared at the hearing where she received a conditional stay on the order for the termination of her parental rights. This meant that the order would not take affect if she fulfilled certain requirements: (1) completed chemical dependency aftercare program and regular urinalysis tests, (2) attended weekly Alcoholic Anonymous (AA) and Narcotic Anonymous (NA) meetings, (3) completed a domestic abuse program, (4) completed a parenting program, (5) visited her children regularly, and (6) found stable housing away from her boyfriend.

Kim had difficulty complying with the requirements. The meetings and programs were in another city and required she drive or take the bus. She did not have a car, and bus transportation took too long and cost too much money. She also often had houseguests who engaged in behavior that prompted the police to visit her home several times, and she maintained contact with her boyfriend. She did not find separate housing because she could not afford it and claimed her boyfriend had completed domestic abuse treatment.

Because of Kim’s failure to comply, her parental rights were terminated. She is appealing the court’s decision.

#### Issue

Did Kim fail to comply with most of the requirements because they were unreasonable? Should she be given another chance?

#### Arguments

What are the arguments against terminating Kim’s parental rights? (Petitioner’s arguments)

What are the arguments for terminating Kim’s parental rights? (Respondent’s arguments)

**Termination of Parental Rights**

### ***Activity: Mock Legislative Hearing***

The Legislature is considering a bill to make termination of parental rights a bit easier. The authors of the bill claim that children are neglected too much in our efforts to reunite them with their parents and that the children need to be moved more quickly into stable permanent housing to reduce the level of damage done to the children.

The bill would amend the termination of parental rights by adding

*“The effort to return children to their parents will end when it is reasonable to believe that the children would benefit more from a stable and permanent home than they would from living with their parents.”*

This would make the welfare of minor children the primary purpose of the neglect and dependency laws and would make returning children to their parents less important.

1. How do you feel about this bill?

2. What would the positive results be?

3. What would the negative results be?

**ROLES FOR THE MOCK LEGISLATIVE HEARING**

#### Persons opposing the bill

##### Ms. Trimble, Juvenile Court Judge

The purpose of the child protection laws is to create temporary remedies with the ultimate goals of returning the children to their parents, because the best interests of the children are normally served by growing up with their parents. Children should be taken care of by their parents. Parents should not be denied custody except for grave and weighty reasons. If there is any possibility that the parents can turn their lives around, the children should remain with them. They should be given support as needed, however.

##### Gayle Nelson, Parent

I am the parent of three small children. I live in a very tough neighborhood because that is where I grew up. My family all lives nearby and helps me whenever I need it. My childhood was not all fun and games. My parents were both alcoholics and, because I was the oldest of five kids, I really acted like the parent some of the time. Even so, I loved my parents very much. We had some bad times, but we also had some very good times. I think that I grew up okay. Today I have a job that provides for my kids and me. We live in a small house; the kids are doing okay in school. I think it is a mistake to think that kids don’t grow up okay when they live with parents who are alcoholics.

**Michael Lundeen, Family Advocate**

Children need their parents. Even children who grow up in the worst conditions tend to love their parents. I don’t think it is wise for society to begin eroding the rights of children and parents to be together. Once we start making termination of parental rights easier, how will society determine that one parenting style is good enough while another isn’t? Throughout the history of our country, government has stayed out of family relationships except in dire situations when the health and safety of the child is threatened. That is different from taking away children when they might be better off living with another family who has more money, maybe lives in the “right” neighborhood, have the right kind of jobs.

**Other Roles:Persons supporting the bill**

**Jane Fielding, Community Activist**

I support the bill. I have been very active in my neighborhood organization for years. Although I live in a high crime area, we have made a lot of progress in cleaning it up in the past few years. I don’t want to sound like parents are bad people or anything like that, but I am troubled by how many of the young children in our neighborhood seem like they are raising themselves. Their parents are usually involved in drugs and other criminal stuff and they just are not very good parents. I have been around the area long enough to see the children of the drug addicts grow up and turn to alcohol and drugs. Soon they are just like their parents. You know, the old saying is “the apple doesn’t fall far from the tree.” If you ask me, I think it’s pretty true.

**Dr. Venise Walker, Pediatrician**

I have seen too many children neglected and abused who go on living with their parents. I have a great deal of respect for families, but I also think that we do an enormous amount of harm to young children when we delay the inevitable. I know we need to have criteria, reasons for, terminating parental rights. I think these criteria now put too much emphasis on reuniting parents with their children. If children are removed and placed with strong families, they grow up to be strong and healthy adults. In my job, I see lots of adolescents who have been placed in foster care. I think they are better off.

**Mike Meyer, Psychologist**

I am the director of the Violence Prevention Research Institute. We believe that children who are exposed to violence on a regular basis are more likely to develop into adults who resort to violence. Children who are victims of violence often grow up to be victimizers. As we attempt to keep families together even when the situation is very bad, we are developing tomorrow’s violent adults. If our goal for children is to do what is in their best interest, I urge us to think about their best interest in the long run. What can we do now that will help them in 15 years? We all benefit if these children grow up to be healthy, happy, non-violent adults. Let’s be more proactive in removing them from violent homes.

**Other Roles:**

# Termination of Parental Rights

***Activity: Parents and Children Case Study***

Law to use in answering the questions.

* Domestic Abuse
* Child Abuse
* Child Protection

Janelle is an 8-year-old girl who has started having difficulties in school. She is distracted and has had problems completing her assignments. She has also started missing school. Janelle has always done well in school. Her teacher and counselor are concerned. They talk to Janelle, but she has excuses such as being sick, staying home to help her sick mother, being tired, etc.

1. *What should the teacher and the counselor do at this point?*

The school counselor calls Janelle's mother who says that they are having family problems and that Janelle is not coping well with what is going on. She suggests a meeting, but the mother can't make it because she doesn't have any transportation. When transportation is offered, she states that she isn't feeling well. The counselor offers support and gives the mother some numbers to call for services. Janelle's mother thanks them but says they will figure out the problems themselves.

The situation with Janelle continues to worsen. One day she goes to the nurse because she is not feeling well. As the nurse examines Janelle, she notices some bruises on her arm. Janelle says she fell off the playground equipment and volunteers to show the nurse some other bruises on her back. The nurse thinks the bruises look suspicious and also notices some old bruising.

1. *What should the school nurse do at this point?*

*3. What is the law in this situation?*

The nurse makes a formal report to child protection.

*4. What must the child protection worker do at this point?*

*5. What are the different ways that the child protection worker can conduct his or her investigation?*

The child protection worker comes to the school and talks with Janelle. Janelle is scared so does not offer much information. She says that things are not going well at home. Her mother has a new boyfriend who drinks alot. She says that her mother does not seem very happy. When asked about the bruises, Janelle says she fell on the playground. The worker asks her about the old bruises and Janelle says she can't remember.

*6. If you were the child protection worker, what would you do next?*

The child protection worker goes to see Janelle's mother, Bria, at her home. The house is a mess, and Bria appears to be very depressed. The worker explains why she is there. Bria sits down and starts to cry. She starts telling the worker that her new boyfriend has moved in with her and her daughter. He comes home from work every night and drinks. The more he drinks the more verbally abusive he becomes. Lately he has started hitting both her and her daughter. Bria wants him to move out, but is scared because she doesn't have any money or a job.

*7. If you were the child protection worker in this case what recommendations would you give Bria at this time?*

The child protection worker tells Bria that she needs to find a safe place for her and Janelle. That may mean moving out of the home or having Jerome move out. Bria says that the apartment is in her name and she thinks that he should move out. The child protection worker says that her boyfriend cannot be in the same house as her daughter because this is a case of child abuse. Bria is afraid and doesn't know how to proceed. The worker gives her some domestic abuse numbers and also some numbers for shelters. The worker says that if she is fearful of being hurt again, she should get an order for protection. The child protection worker tells her that a meeting will be held and a case plan developed.

*8. What do you think are some of the problems that could arise out of the investigation and the recommendations of the child protection worker?*

*9. What do you think is the best way for Bria to tell her boyfriend that he has to leave?*

Bria does not want the child protection worker or the police present when she tells her boyfriend that he has to move out. She thinks it will go better if she does it herself. She finds a safe place for Janelle until she can get her boyfriend out of the house. Her boyfriend is extremely upset when she tells him and refuses to leave. He starts throwing things and hits her. She eventually gets away and runs to the neighbors. She calls the police. By the time the police arrive, her boyfriend has left. Bria says that she does not want him arrested, but that she thinks she should get an Order for Protection.

*10. What is the process that Bria will need to follow to get an Order for Protection?*

Bria's boyfriend does not return but he does make some harassing phone calls. He is served with the Order for Protection and as a result of the court process is ordered to stay away from both Bria and Janelle. Although Bria has not physically abused her daughter, she has allowed her daughter to be in a situation where she was abused. Therefore, child protection will remain involved and a case plan will be written.

*11. After you have investigated this case, what are some of the official recommendations that you, as a child protection worker, could give at this time? You have many options available to you. What would be the best option in this case? Would you recommend court involvement at this time? What would you include in your case plan?*