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## Termination of Parental Rights

### What is termination of parental rights?

Termination of parental rights is when a court issues an order that permanently ends all legal, social, and financial responsibility between the child and her parents. The parents have no rights to custody or visitation of the child. The parents also have no duty to support the child anymore (although the parents might have to pay past due child support).

### Who can terminate the parent-child relationship?

In Indiana, only a court with juvenile or probate jurisdiction can order the termination of the parent-child relationship. In a CHINS case, the parents can agree to the termination of their parental rights, or the court can order it even if the parents don't agree.

### When can a termination of parental rights proceeding happen?

The county Office of Family and Children can file a petition to terminate parental rights. This is usually done only after the Office of Family and Children has made efforts to reunite the child and the parents in a CHINS case.

### When will the court order a termination of parental rights?

In order to get a termination of parental rights, the Office of Family and Children must prove one of the following by clear and convincing evidence:

- The child has been removed from the parent for at least six months under a dispositional decree.
- A court has entered a finding under Indiana Code 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required.
- The child has been removed from the parent and has been under the supervision of a county office of family and children for at least fifteen out of the most recent twenty-two months.

The Office of Family and Children must also prove these three things:

1. There is a reasonable probability that the conditions that resulted in the child's removal or

the reasons for placement outside the home of the parents will not be fixed, or the continuation of the parent-child relationship poses a threat to the well being of the child.

2. Termination is in the best interests of the child.
3. There is a satisfactory plan for the care and treatment of the child.

### **What rights does a parent have in a termination proceeding?**

The parent has the right to be represented by an attorney. The court will appoint an attorney for the parent if the parent cannot afford to hire an attorney.

The parent also has the right to argue against termination of parental rights. If the parent disagrees with the termination, the court must appoint a guardian ad litem (GAL) or court appointed special advocate (CASA) to represent and protect the child's best interests. The GAL or CASA will research and investigate the child's case, and often will testify concerning the child's best interests and the child's wishes.

### **What effect can a parent's criminal convictions have on the termination proceedings?**

A specific termination law applies when a parent has been convicted of murder, causing suicide, voluntary or involuntary manslaughter, rape, criminal deviate conduct, child molestation, child exploitation, sexual misconduct with a minor, or incest and the victim is the parent's child or stepchild who was under sixteen years of age at the time of the offense. The Office of Family and Children won't have to prove that the conditions in the home won't be fixed. If the parent has one of these convictions, the court assumes the conditions in the home won't be fixed.

### **What happens if the court denies the petition for termination of parental rights?**

If, after hearing all of the witnesses and evidence, the court denies the termination petition, the child remains under the jurisdiction of the juvenile court and may continue in foster care or another out of home placement. The parents will still have the right to ask for custody or visitation, and will still have the obligation to support the child.

### **What happens if the court grants the petition for termination of parental rights?**

If the court grants the petition, the parent-child relationship is ended and the parent loses all rights and obligations concerning the child. The parent's obligation to pay future child support also ends, but any past-due child support must still be paid. The county Office of Family and Children must have some plan for permanent placement of the child.

### **In what kind of cases have Indiana courts granted petitions for termination of parental rights?**

Some of the situations in which termination has been allowed include:

- A parent has been convicted and incarcerated or has a pattern of criminal activity.
- A parent has a mental illness or disability that makes it difficult to improve parental skills.
- A parent has not fixed alcohol or substance abuse problems.
- A parent has failed to cooperate with court-ordered service providers or visit the child.

- A parent has failed to obtain and keep safe, stable housing.
- A parent has demonstrated an inability to meet a child's special needs.

**My ex-husband says he wants to terminate his parental rights. Can he do this?**

No. A parent cannot file for termination of parental rights. The only exception would be if you are re-married and your husband wants to adopt your child. Then your ex-husband could consent to the adoption, thus terminating his parental rights, so your new husband could adopt the child.

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