

78A-6-316 Mandatory petition for termination of parental rights.

- (1) For purposes of this section, "abandoned infant" means a child who is 12 months of age or younger whose parent or parents:
 - (a) although having legal custody of the child, fail to maintain physical custody of the child without making arrangements for the care of the child;
 - (b) have failed to:
 - (i) maintain physical custody; and
 - (ii) exhibit the normal interest of a natural parent without just cause; or
 - (c) are unwilling to have physical custody of the child.
- (2) Except as provided in Subsection (3), notwithstanding any other provision of this chapter or of Title 62A, Chapter 4a, Child and Family Services, the division shall file a petition for termination of parental rights with regard to:
 - (a) an abandoned infant; or
 - (b) the child of a parent, whenever a court has determined that the parent has:
 - (i) committed murder or child abuse homicide of another child of that parent;
 - (ii) committed manslaughter of another child of that parent;
 - (iii) aided, abetted, attempted, conspired, or solicited to commit murder, child abuse homicide, or manslaughter against another child of that parent; or
 - (iv) committed a felony assault or abuse that results in serious physical injury to:
 - (A) another child of that parent; or
 - (B) the other parent of the child.
- (3) The division is not required to file a petition for termination of parental rights under Subsection (2) if:
 - (a) the child is being cared for by a relative;
 - (b) the division has:
 - (i) documented in the child's child and family plan a compelling reason for determining that filing a petition for termination of parental rights is not in the child's best interest; and
 - (ii) made that child and family plan available to the court for its review; or
 - (c)
 - (i) the court has previously determined, in accordance with the provisions and limitations of Sections 62A-4a-201, 62A-4a-203, 78A-6-306, and 78A-6-312, that reasonable efforts to reunify the child with the child's parent or parents were required; and
 - (ii) the division has not provided, within the time period specified in the child and family plan, services that had been determined to be necessary for the safe return of the child.

Renumbered and Amended by Chapter 3, 2008 General Session