

**78A-6-509 Specific considerations where child is not in physical custody of parent.**

- (1) 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, but is not limited to, the following:
  - (a) the physical, mental, or emotional condition and needs of the child and his desires regarding the termination, if the court determines he is of sufficient capacity to express his desires; and
  - (b) the effort the parent or parents have made to adjust their circumstances, conduct, or conditions to make it in the child's best interest to return him to his home after a reasonable length of time, including but not limited to:
    - (i) payment of a reasonable portion of substitute physical care and maintenance, if financially able;
    - (ii) maintenance of regular parent-time or other contact with the child that was designed and carried out in a plan to reunite the child with the parent or parents; and
    - (iii) maintenance of regular contact and communication with the custodian of the child.
- (2) For purposes of this section, the court shall disregard incidental conduct, contributions, contacts, and communications.

Renumbered and Amended by Chapter 3, 2008 General Session