

Effective 9/1/2021

Part 3
Termination and Post-termination of Parental Rights

80-4-301 Grounds for termination of parental rights -- Findings regarding reasonable efforts by division.

- (1) Subject to the protections and requirements of Section 80-4-104, and if, based on the totality of the circumstances, the juvenile court finds termination of parental rights, from the child's point of view, is strictly necessary to promote the child's best interest, the juvenile court may terminate all parental rights with respect to the parent if the juvenile court finds:
 - (a) the parent has abandoned the child;
 - (b) the parent has neglected or abused the child;
 - (c) the parent is unfit or incompetent;
 - (d)
 - (i) the parent was convicted of a sexual offense, as defined in Section 77-37-2, or a comparable offense under the laws of the state where the offense occurred, against the other parent of the child;
 - (ii) the offense resulted in the conception of the child; and
 - (iii) termination is in the best interest of the child;
 - (e)
 - (i) the child is being cared for in an out-of-home placement under the supervision of the juvenile court or the division;
 - (ii) the parent has substantially neglected, willfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement; and
 - (iii) there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future;
 - (f) failure of parental adjustment, as defined in this chapter;
 - (g) only token efforts have been made by the parent:
 - (i) to support or communicate with the child;
 - (ii) to prevent neglect of the child;
 - (iii) to eliminate the risk of serious harm to the child; or
 - (iv) to avoid being an unfit parent;
 - (h)
 - (i) the parent has voluntarily relinquished the parent's parental rights to the child; and
 - (ii) termination is in the child's best interest;
 - (i) after a period of trial during which the child was returned to live in the child's own home, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection; or
 - (j) the terms and conditions of safe relinquishment of a newborn child have been complied with as described in Part 5, Safe Relinquishment of a Newborn Child.
- (2) When determining whether termination of parental rights is strictly necessary to promote the child's best interest, the court shall:
 - (a) undertake the analysis from the child's point of view;
 - (b) focus on finding the outcome that best secures the child's well-being;
 - (c) include, as applicable, the considerations described in Sections 80-4-303 and 80-4-304; and

- (d) explore whether other feasible options exist that could address the specific problems or issues facing the family, short of imposing the ultimate remedy of terminating the parent's rights.
- (3) The juvenile court may not terminate the parental rights of a parent because the parent has failed to complete the requirements of a child and family plan.
- (4)
 - (a) Except as provided in Subsection (4)(b), in any case in which the juvenile court has directed the division to provide reunification services to a parent, the juvenile court must find that the division made reasonable efforts to provide those services before the juvenile court may terminate the parent's rights under Subsection (1)(b), (c), (e), (f), (g), or (i).
 - (b) Notwithstanding Subsection (4)(a), the juvenile court is not required to make the finding under Subsection (4)(a) before terminating a parent's rights:
 - (i) under Subsection (1)(b), if the juvenile court finds that the abuse or neglect occurred subsequent to adjudication; or
 - (ii) if reasonable efforts to provide the services described in Subsection (4)(a) are not required under federal law, and federal law is not inconsistent with Utah law.

Amended by Chapter 164, 2024 General Session

Amended by Chapter 293, 2024 General Session

80-4-302 Evidence of grounds for termination.

- (1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:
 - (a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;
 - (b) have failed to communicate with the child by mail, telephone, or otherwise for six months;
 - (c) failed to have shown the normal interest of a parent, without just cause; or
 - (d) have abandoned an infant, as described in Section 80-4-203.
- (2) In determining whether a parent or parents are unfit or have neglected a child the juvenile court shall consider:
 - (a) 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;
 - (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;
 - (c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;
 - (d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;
 - (e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;
 - (f) a history of violent behavior;
 - (g) whether the parent has intentionally exposed the child to:
 - (i) pornography; or
 - (ii) material harmful to a minor, as defined in Section 76-5c-101; or

- (h) any other circumstance, conduct, or condition that the court considers relevant in the determination of whether a parent or parents are unfit or have neglected the child.
- (3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against a parent because of or otherwise consider the parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section 26B-4-201 or a medical cannabis device, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.
- (4) 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.
- (5)
 - (a) Notwithstanding Subsection (2), 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.
 - (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.
- (6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.
- (7) The following circumstances are prima facie evidence of unfitness:
 - (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;
 - (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;
 - (c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;
 - (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or
 - (e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Amended by Chapter 426, 2025 General Session

80-4-303 Specific considerations when child is not in physical custody of parent.

- (1) If a child is not in the physical custody of the child's parent or parents, the juvenile court, in determining whether parental rights should be terminated, shall consider:
 - (a) the physical, mental, or emotional condition and needs of the child and the child's desires regarding the termination, if the juvenile court determines the child is of sufficient capacity to express the child's desires;
 - (b) the effort the child's parent or parents have made to adjust the parent's or parents' circumstances, conduct, or conditions to make it in the child's best interest to return the child to the child's home after a reasonable length of time, including:
 - (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; and

- (c) any other factor that the juvenile court considers relevant in the determination of whether to terminate parental rights.
- (2) For purposes of this section, the juvenile court shall disregard incidental conduct, contributions, contacts, and communications.

Renumbered and Amended by Chapter 261, 2021 General Session

80-4-304 Specific considerations when child is placed in foster home.

If a child is in the custody of the division and has been placed and resides in a foster home and the division institutes proceedings under this chapter regarding the child, with an ultimate goal of having the child's foster parent or parents adopt the child, the juvenile court shall consider:

- (1) whether the child has become integrated into the foster family to the extent that the child's familial identity is with the foster family;
- (2) whether the foster family is able and willing permanently to treat the child as a member of the family;
- (3) the love, affection, and other emotional ties existing between the child and the parents, and the child's ties with the foster family;
- (4) the capacity and disposition of the child's parents from whom the child was removed as compared with that of the foster family to give the child love, affection, and guidance and to continue the education of the child;
- (5) the length of time the child has lived in a stable, satisfactory foster home and the desirability of the child continuing to live in that environment;
- (6) the permanence as a family unit of the foster family; and
- (7) any other factor that the juvenile court considers relevant to a particular placement of a child.

Renumbered and Amended by Chapter 261, 2021 General Session

80-4-305 Court disposition of child upon termination of parental rights -- Posttermination reunification.

- (1) Except as provided in Subsection (7), as used in this section, "relative" means:
 - (a) an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling of a child; and
 - (b) in the case of a child who is an Indian child, an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.
- (2) Upon entry of an order under this chapter, the juvenile court may:
 - (a) place the child in the legal custody and guardianship of a child-placing agency or the division for adoption; or
 - (b) make any other disposition of the child authorized under Section 80-3-405 .
- (3) Subject to Subsections (4) and (6), the division shall place all adoptable children placed in the custody of the division for adoption.
- (4) If the parental rights of all parents of an adoptable child placed in the custody of the division are terminated and a suitable adoptive placement is not already available, the juvenile court:
 - (a) shall determine whether there is a relative who desires to adopt the child;
 - (b) may order the division to conduct a reasonable search to determine whether there is a relative who is willing to adopt the child; and
 - (c) shall, if a relative desires to adopt the child:
 - (i) make a specific finding regarding the fitness of the relative to adopt the child; and

- (ii) place the child for adoption with the relative unless the juvenile court finds that adoption by the relative is not in the best interest of the child.
- (5) If an individual who is not a relative of the child desires to adopt the child, the juvenile court shall, before entering an order for adoption of the child, determine whether due weight was given to the relative's preferential consideration under Subsection 80-3-302(7)(a)(i).
- (6) This section does not guarantee that a relative will be permitted to adopt the child.
- (7) A parent whose rights are terminated under this chapter, or a relative of the child, as defined by Section 80-3-102 , may petition for guardianship of the child if:
 - (a)
 - (i) following an adoptive placement, the child's adoptive parent returns the child to the custody of the division; or
 - (ii) the child is in the custody of the division for one year following the day on which the parent's rights were terminated, and no permanent placement has been found or is likely to be found; and
 - (b) reunification with the child's parent, or guardianship by the child's relative, is in the best interest of the child.

Amended by Chapter 287, 2022 General Session

Amended by Chapter 334, 2022 General Session

80-4-306 Review following termination.

- (1) At the conclusion of the hearing in which the juvenile court orders termination of parental rights, the juvenile court shall order that a review hearing be held within 90 days after the day on which parental rights are terminated if the child has not been permanently placed.
- (2) At the review hearing described in Subsection (1):
 - (a) the agency or individual vested with custody of the child shall report to the juvenile court regarding the plan for permanent placement of the child; and
 - (b) the guardian ad litem shall make recommendations to the juvenile court, based on an independent investigation, for disposition meeting the best interests of the child.
- (3) The juvenile court may order the agency or individual vested with custody of the child to report, at appropriate intervals, on the status of the child until the plan for permanent placement of the child is accomplished.

Renumbered and Amended by Chapter 261, 2021 General Session

80-4-307 Voluntary relinquishment -- Irrevocable.

- (1) The individual consenting to termination of parental rights or voluntarily relinquishing parental rights shall sign the consent or relinquishment, or confirm a consent or relinquishment previously signed by the individual, under oath before:
 - (a) a judge of any court that has jurisdiction over proceedings for termination of parental rights in this state or any other state, or a public officer appointed by that court for the purpose of taking consents or relinquishments; or
 - (b) except as provided in Subsection (2), any person authorized to take consents or relinquishments under Subsections 81-13-214(1) and (2).
- (2) Only the juvenile court is authorized to take consents or relinquishments from a parent who has any child who is in the custody of a state agency or who has a child who is otherwise under the jurisdiction of the juvenile court.
- (3)

- (a) The court, appointed officer, or other authorized person shall certify to the best of that person's information and belief that the individual executing the consent or relinquishment, or confirming a consent or relinquishment previously signed by the individual, has read and understands the consent or relinquishment and has signed the consent or relinquishment freely and voluntarily.
- (b) A consent or relinquishment is not effective until the consent or relinquishment is certified pursuant to Subsection (3)(a).
- (4) A consent or relinquishment that has been certified pursuant to Subsection (3)(a) is effective against the consenting or relinquishing individual and may not be revoked.
- (5)
 - (a) The requirements and processes described in Section 80-4-104, Sections 80-4-301 through 80-4-304, and Part 2, Petition for Termination of Parental Rights, do not apply to a voluntary relinquishment or consent for termination of parental rights.
 - (b) When determining voluntary relinquishment or consent for termination of parental rights, the juvenile court need only find that the relinquishment or termination is in the child's best interest.
- (6)
 - (a) There is a presumption that voluntary relinquishment or consent for termination of parental rights is not in the child's best interest where it appears to the juvenile court that the primary purpose for relinquishment or consent for termination is to avoid a financial support obligation.
 - (b) The presumption described in Subsection (6)(a) may be rebutted if the juvenile court finds the relinquishment or consent to termination of parental rights will facilitate the establishment of stability and permanency for the child.
- (7) Upon granting a voluntary relinquishment the juvenile court may make orders relating to the child's care and welfare that the juvenile court considers to be in the child's best interest.

Amended by Chapter 426, 2025 General Session