

(Grounds for) Termination of Parental Rights

There are two fundamental questions that need to be answered before termination of Parental rights should be sought. The first question: Is it clear that the child cannot be safely returned home in the near future? If this is not clear, then termination is not appropriate and reunification efforts should continue. The second question: If the child cannot be returned safely home, is adoption a realistic and appropriate goal for the child?

Children that cannot be returned home safely, but adoption is not in the best interest, depends on the circumstances of the individual case. Upon the alternatives available under state law, the court might for example, order adoption with continuing parental visitation rights. New understanding is that this is "legally available. However, if the child cannot be safely returned home and adoption is sought, the agencies will seek to terminate parental rights. Now may states have incorporated this two step approach to termination of parental rights in their statutes? These statutes generally require the court to find a specific ground to terminate the parent/child relationship then determine if this is the best for the child's interest. So the question becomes, should some legal rights of the biological parents be returned or should they be severed in order to keep the child safe and establish the child within a new family.

Now as a parent your questions should be. Why should the child languish in the system when they can be with his/her biological family (guardianship)? We are aware that even when a child who cannot be returned home, termination of parental rights and adoption are not always the best or the most practical solution. This termination will not be authorized unless there is also evidence that will lead to a good outcome for the child. It is important to know that termination of parental rights statutes vary in detail specifically and substance. While there are several model acts that were written more than 15 years ago and there is considerable variation among them.

Questions to ponder:

1. With these laws being written fifteen years ago and there is so much variation, shouldn't they be amended to represent today's social and economical climate times?
2. In most states, based on the two questions, the focus of termination is the first question. Whether the child can return home in the near future, while the grounds vary in their comprehensiveness, but ever the most detailed do not cover all circumstances where it is, in fact clear that a child cannot go home.
3. Why can't all the ground be encompassed and covered and proven why the child can't return home?

List of Grounds and Key types of proof or circumstances:

1. Despite diligent and appropriate or reasonable efforts by the child protection agency, the parent has failed to make the necessary improvements for the child's safe return.
2. There exists a long standing pattern of abandonment or extreme parental disinterest.
3. There is a projected long-term parental incapacity to care for the specific child based upon mental or emotional illness, mental retardation, or physical incapacity.
4. There is a drug or alcohol related incapacity or unwillingness to care for the child, with past history of repeated, unsuccessful efforts at treatment.
5. There has been prior abuse or neglect of the child, a sibling, or other children in the household with diligent but unsuccessful agency efforts to rehabilitate the parent.
6. The neglect or abuse of the child was so extreme that returning the child home presents an unacceptable risk.
7. As a result of prior abuse, neglect, the child has developed a deep aversion or pathological fear of the parent.
8. The parent is sentenced to prolonged imprisonment and will be unavailable during an extended period of the child's minority.