

Grounds for Termination of Parental Rights

- (1) The parent has evidenced a settled purpose of relinquishing parental claim to the child, or has refused or failed to perform parental duties for a period of six months immediately preceding the filing of the petition.
- (2) The repeated and continued incapacity, abuse, neglect, or refusal of the parent has caused the child to be without essential parental care, control, or subsistence necessary for the child's physical or mental well-being. The conditions or causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied by the parent.
- (3) The parent is the presumptive, but not the natural parent of the child.
- (4) The child in custody of an agency, having been found under the circumstances that the identity or whereabouts of the parents are unknown and cannot be ascertained by diligent search. The parents have not claimed the child within three months after the child was found.
- (5) The child has been removed from the care of its parents by the court or under a voluntary agreement with an agency for a period of at least six months. The conditions which led to the removal or placement of the child continue, and the parents cannot, or will not remedy those conditions within a reasonable period of time, and termination would best serve the needs and welfare of the child.
- (6) In the case of a newborn child, the mother / father knows or has reason to know of the child's birth, does not reside with the child, has not married the child's other parent, has failed for a period of four months immediately preceding the filing of the petition to make reasonable efforts to maintain substantial and continuing contact with the child, and has failed during the same four-month period, to provide substantial financial support for the child.
- (7) The father is the father of a child who was conceived as a result of rape or incest. (Incest was added, April 1996)
- (8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, twelve months or more have lapsed from the date of the removal or placement, the conditions which led to the removal or placement of the child continue to exist, and termination of parental rights would best serve the needs and welfare of the child. (Amendment effective, February 1996)

The following statement directs the judge to consider the needs and welfare of the child before terminating parental rights. It stands apart from the other grounds and explicitly forbids terminating rights solely on the basis of the circumstance of poverty.

The court, in terminating the rights of the parent, shall give primary consideration to the needs and welfare of the child. The rights of the parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing, and medical care if found to be beyond the control of the parent.