

§1658. Termination of parental rights and responsibilities

1. Petitioner. A petition for termination of a parent's parental rights and responsibilities with respect to a specific child may be filed by another parent or the parent or guardian of a child's minor parent on any grounds set forth in subsection 3-A. A parent may not file a petition under this section to terminate the parent's own parental rights and responsibilities.

[PL 2021, c. 676, Pt. A, §30 (AMD).]

1-A. Filing and contents of petition. A petition to terminate parental rights and responsibilities must be filed in the District Court and in the same case as a prior adjudication of parental rights and responsibilities, if any. The petition must be sworn and must include at least the following:

A. The name and date and place of birth of the child; [PL 2021, c. 340, §2 (NEW).]

B. The name and address of the petitioner and the nature of the petitioner's relationship to the child; [PL 2021, c. 340, §2 (NEW).]

C. The name of each of the child's parents; [PL 2021, c. 340, §2 (NEW).]

D. A summary statement of the alleged facts that the petitioner believes constitute grounds for termination under subsection 2; [PL 2021, c. 340, §2 (NEW).]

E. A statement of the effects of a termination order; and [PL 2021, c. 340, §2 (NEW).]

F. A statement that the parent whose rights and responsibilities are the subject of the petition to terminate parental rights and responsibilities is entitled to legal counsel in the termination proceedings and that, if the parent wants an attorney and is unable to afford one, the parent should contact the court as soon as possible to request appointed counsel. [PL 2021, c. 340, §2 (NEW).]

[PL 2021, c. 340, §2 (NEW).]

2. Grounds for petition. The following allegations, if proven, are sufficient grounds to terminate a parent's parental rights and responsibilities under this section:

A. The parent was convicted of a crime involving sexual assault, as defined in Title 17-A, section 253, 254 or 556, or a comparable crime in another jurisdiction, that resulted in the conception of the child; [PL 2021, c. 340, §2 (AMD).]

B. The child was conceived as a result of an act of sexual assault, as defined in Title 17-A, section 253, 254 or 556, or a comparable crime in another jurisdiction; or [PL 2021, c. 340, §2 (AMD).]

C. A final order, other than in a protection from abuse matter under former chapter 101 or chapter 103, that has been in effect for at least 12 months grants the petitioner exclusive parental rights and responsibilities with respect to all aspects of the child's welfare, with the exception of the right and responsibility for support, without reserving for the parent any rights to make decisions, to have access to records or to have contact with the child, and termination of the parent's parental rights and responsibilities is necessary to protect the child from serious harm or the threat of serious harm. [PL 2023, c. 405, Pt. A, §35 (AMD).]

[PL 2023, c. 405, Pt. A, §35 (AMD).]

2-A. Procedure on petition to terminate parental rights and responsibilities. Once a petition to terminate parental rights and responsibilities is filed, the following procedure applies.

A. The court shall appoint an attorney for a parent who is the subject of a petition to terminate parental rights and responsibilities under this section and who is indigent. In a contested action, the court may also appoint counsel for any indigent petitioner who files a petition under this section when the parent who is the subject of the petition is represented by counsel. [PL 2021, c. 340, §2 (NEW).]

B. The court shall appoint a guardian ad litem for the child if the petition to terminate parental rights and responsibilities is brought under subsection 2, paragraph C. The appointment may be made at any time, but the court shall make every effort to make the appointment as soon as possible after the commencement of the proceeding. [PL 2021, c. 340, §2 (NEW).]

C. The court may hold a status conference prior to scheduling a hearing on the petition to terminate parental rights and responsibilities. [PL 2021, c. 340, §2 (NEW).]

D. The court may refer the parties to mediation prior to conducting a hearing on a petition to terminate parental rights and responsibilities. [PL 2021, c. 340, §2 (NEW).]

E. A parent may consent to an order terminating the parent's rights and responsibilities after a judge has fully explained the effects of the termination order and if such consent is written and voluntarily and knowingly executed in court. A parent's consent to the order is not a sufficient basis to enter an order in the absence of the findings required in subsection 3-A and any other applicable provisions of this section. [PL 2021, c. 340, §2 (NEW).]

F. The federal Indian Child Welfare Act of 1978, 25 United States Code, Section 1901 et seq. and the Maine Indian Child Welfare Act govern all proceedings under this section that pertain to an Indian child as defined in those Acts. [PL 2023, c. 359, §3 (AMD).]

G. Proceedings and records under this section are not public unless the court orders otherwise. The Supreme Judicial Court may adopt rules governing requests for access to these proceedings and records. [PL 2021, c. 340, §2 (NEW).]

[PL 2023, c. 359, §3 (AMD).]

3. Termination.

[PL 2021, c. 340, §2 (RP).]

3-A. Termination. The court:

A. Shall order termination of the parent's parental rights and responsibilities if the court finds based on a preponderance of the evidence that the petitioner has proven the allegations in subsection 2, paragraph A unless the court determines that the exception in subsection 4 applies; or [PL 2021, c. 340, §2 (NEW).]

B. May order termination of the parent's parental rights and responsibilities if the court finds based on clear and convincing evidence:

- (1) That the petitioner has proven the allegations in subsection 2, paragraph B; or
- (2) That the petitioner has proven the allegations in subsection 2, paragraph C and, if so, that the termination is also in the best interest of the child. Evidence that termination is necessary to protect the child from harm or threat of serious harm may include, but is not limited to, proof of:
 - (a) The parent's conduct demonstrating an intent to permanently forgo all parental duties or relinquish parental claims regarding the child when that conduct results in harm or threat of harm to the child; or
 - (b) The parent's acts of abuse, as defined in section 4102, subsection 1, upon the petitioner or a minor child in the parent's or petitioner's household. [PL 2023, c. 646, Pt. C, §6 (AMD).]

Except as provided in this section or in Title 18-C, section 9-204, a court may not terminate the parental rights and responsibilities of a parent on a petition filed by another parent or the parent or guardian of a child's minor parent.

[PL 2023, c. 646, Pt. C, §6 (AMD).]

4. Exception. The court is not required to terminate the parental rights and responsibilities of a parent convicted of gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B that resulted in the conception of the child if:

A. The parent or guardian of the other parent filed the petition; [PL 2015, c. 427, §1 (RPR).]

B. The other parent informs the court that the sexual act was consensual; and [PL 2015, c. 427, §1 (RPR).]

C. The other parent opposes the termination of the parental rights and responsibilities of the parent convicted of the gross sexual assault. [PL 2015, c. 427, §1 (RPR).]
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5. Effects of termination order. An order terminating parental rights and responsibilities under this section has the effects set forth in Title 22, section 4056.
[PL 2021, c. 340, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 363, §1 (NEW). PL 2015, c. 427, §1 (RPR). PL 2021, c. 340, §2 (AMD). PL 2021, c. 676, Pt. A, §30 (AMD). PL 2023, c. 359, §3 (AMD). PL 2023, c. 405, Pt. A, §35 (AMD). PL 2023, c. 646, Pt. C, §6 (AMD).

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