

When is it in a child's best interest to terminate parental rights?

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While most of us would like to assume that the best person to provide care for a child is one – if not both – of that child's parents, this simply is not always the case. Take, for example, a parent who means well, but who is challenged with debilitating mental health issues. Or, similarly, take a parent who struggles with a chronic chemical dependency. A child under the care of such a parent could very well be unsafe, and could possibly benefit from the parenting of somebody who is better equipped to act as a parent.

Of course, courts do not take termination of parental rights lightly. They do not engage in the business of terminating parental rights unless there is a genuinely serious issue regarding the safety and well being of a child. And even when the court is asked to intervene on behalf of an unprotected child, the court will generally give the offending parent every opportunity to address and correct his or her "offending" behavior before parental rights are terminated.

The termination process begins when somebody concerned with the child's welfare files a petition to terminate. Anybody who is legitimately interested in the child's wellbeing can petition the court to terminate parental rights, be it a relative, neighbor, private agency, or the state of Arizona.

Petitioning the court is only the first step in the process of terminating parental rights in Arizona. Courts cannot take action unless they have statutory authority to do so. Arizona Revised Statute §8-533(B) provides several grounds for which courts can terminate parental rights, including:

- The parent abandoned the child.
- The parent neglected or abused the child.
- The parent has mental illness or a history of substance abuse that is likely to continue for an indeterminate period of time.
- The parent was convicted of a felony of such a nature that would prove unfitness to parent, or the sentence will deprive the child from a normal home for a period of years.
- The presumed father failed to file a timely claim of paternity.
- The parents relinquished their rights to another individual or an adoption agency.
- The child is being cared for in an out-of-home placement for a period of time, and the parents have not remedied the situation that caused such placement.
- The identity of the parent is unknown, and remains unknown after three months of diligent searching.
- The parent had parental rights to another child terminated within the preceding two years, and is presently unable to discharge parental responsibilities for the same cause.
- The child is repeatedly removed from the home to out-of-home placement.

Ultimately, courts want to make sure that a child's safety is not in jeopardy. When the court finds that a child's parent or parents are failing to provide a safe environment for the child, the court will take action to protect the child. Those who petition the court to terminate parental rights must properly organize the facts to meet Arizona's statutory requirements; this is best accomplished with the help of an Arizona family law attorney.



Timothy Durkin joined JacksonWhite in 2010, and quickly established himself as a highly effective family law attorney with the perfect balance of assertiveness and compassion. Tim is often complimented for his dedication to professional service, as he works closely with his clients to keep them informed, listen to their needs and involve them in the decision making process.

Tim handles all types of family law, including divorces, paternity actions, child custody, child support, relocation and jurisdiction issues, adoptions, termination of parental rights and parental severance actions, title 8 guardianships, spousal maintenance cases, division of marital property and debts, pre-nuptial agreements, post decree modifications and enforcement of custody and divorce orders, mediation services, grandparent visitation cases, and domestic violence issues. He is licensed to practice law in all Arizona State Courts, as well as the United States District Court, District of Arizona, and serves clients throughout the Phoenix metro area. To read more about what former clients are saying about hiring Tim, or to set up a free consultation, please visit www.jacksonwhitelaw.com/arizona-family-law.

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