

**§4055. Grounds for termination**

**1. Grounds.** The court may order termination of parental rights if:

A. One of the following conditions has been met:

(1) Custody has been removed from the parent under:

- (a) Section 4035 or 4038;
- (b) Title 19-A, section 1502 or 1653;
- (c) Section 3792 prior to the effective date of this chapter; or
- (d) Title 15, section 3314, subsection 1, paragraph C-1; or

(2) The petition has been filed as part of an adoption proceeding in Title 18-C, Article 9; and [PL 2017, c. 402, Pt. C, §69 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Either:

(1) The parent consents to the termination. Consent shall be written and voluntarily and knowingly executed in court before a judge. The judge shall explain the effects of a termination order; or

(2) The court finds, based on clear and convincing evidence, that:

- (a) Termination is in the best interest of the child; and
- (b) Either:

- (i) The parent is unwilling or unable to protect the child from jeopardy and these circumstances are unlikely to change within a time which is reasonably calculated to meet the child's needs;

- (ii) The parent has been unwilling or unable to take responsibility for the child within a time which is reasonably calculated to meet the child's needs;

- (iii) The child has been abandoned; or

- (iv) The parent has failed to make a good faith effort to rehabilitate and reunify with the child pursuant to section 4041. [PL 1983, c. 772, §8 (AMD).]

[PL 2017, c. 402, Pt. C, §69 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

**1-A. Rebuttable presumption.** The court may presume that the parent is unwilling or unable to protect the child from jeopardy and these circumstances are unlikely to change within a time which is reasonably calculated to meet the child's needs if:

A. The parent has acted toward a child in a manner that is heinous or abhorrent to society or has failed to protect a child in a manner that is heinous or abhorrent to society, without regard to the intent of the parent; [PL 1995, c. 481, §3 (AMD).]

B. The victim of any of the following crimes was a child for whom the parent was responsible or the victim was a child who was a member of a household lived in or frequented by the parent and the parent has been convicted of:

- (1) Murder;
- (2) Felony murder;
- (3) Manslaughter;
- (4) Aiding or soliciting suicide;
- (5) Aggravated assault;

- (6) Rape;
- (7) Gross sexual misconduct or gross sexual assault;
- (8) Sexual abuse of minors;
- (9) Incest;
- (10) Kidnapping;
- (11) Promotion of prostitution, sexual exploitation of a minor, sex trafficking or aggravated sex trafficking; or
- (12) A comparable crime in another jurisdiction; [PL 2015, c. 360, §4 (AMD).]

C. The child has been placed in the legal custody or care of the department, the parent has a chronic substance use disorder, and the parent's prognosis indicates that the child will not be able to return to the custody of the parent within a reasonable period of time, considering the child's age and the need for a permanent home. The fact that a parent has been unable to provide safe care of a child for a period of 9 months due to substance use constitutes a chronic substance use disorder; [PL 2017, c. 407, Pt. A, §85 (AMD).]

D. The child has been placed in the legal custody or care of the department, the court has previously terminated parental rights to another child who is a member of the same family and the parent continues to lack the ability or willingness to show the court that the parent has sought services that would rehabilitate the parent or the parent can not show evidence that an additional period of services would result in reunification in a time reasonably calculated to meet the needs of the child and the child's need for a permanent home; or [PL 1995, c. 481, §4 (NEW).]

E. The child has been placed in the legal custody or care of the department for at least 9 months, and the parents have been offered or received services to correct the situation but have refused or have made no significant effort to correct the situation. [PL 1997, c. 475, §9 (AMD).]

[PL 2017, c. 407, Pt. A, §85 (AMD).]

**1-B. Conception by sexual assault as grounds for termination.** The court may order termination of parental rights if the court finds, based on clear and convincing evidence, that the child was conceived as a result of an act by the parent of sexual assault or a comparable crime in another jurisdiction. For purposes of this subsection, "sexual assault" has the same meaning as in Title 17-A, section 253, 254 or 556. A guilty plea or conviction for sexual assault is considered clear and convincing evidence for purposes of this subsection.

[PL 2015, c. 427, §2 (NEW).]

**2. Primary considerations.** In deciding to terminate parental rights, the court shall consider the best interest of the child, the needs of the child, including the child's age, the child's attachments to relevant persons, periods of attachments and separation, the child's ability to integrate into a substitute placement or back into the parent's home and the child's physical and emotional needs.

[PL 1997, c. 475, §10 (AMD).]

**3. Wishes of child.** The court shall consider the wishes of a child, in a manner appropriate to the age of the child, in making an order under this section.

[PL 2009, c. 557, §4 (AMD).]

#### SECTION HISTORY

PL 1979, c. 733, §18 (NEW). PL 1981, c. 369, §§15,16 (AMD). PL 1983, c. 249, §2 (AMD). PL 1983, c. 772, §§8,9 (AMD). PL 1985, c. 739, §16 (AMD). PL 1993, c. 198, §2 (AMD). PL 1995, c. 481, §§3-5 (AMD). PL 1995, c. 694, §D48 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 475, §§9,10 (AMD). PL 1997, c. 715, §A12 (AMD). PL 2001, c. 696, §35 (AMD). PL 2009, c. 557, §4 (AMD). PL 2015, c. 360, §4 (AMD). PL 2015, c. 427, §2 (AMD). PL 2017, c.

402, Pt. C, §69 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2017, c. 407, Pt. A, §85 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

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