

REFERENCE TITLE: **termination; parent-child relationship; hearings**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2385

Introduced by
Representatives Diaz: Parker B

AN ACT

**AMENDING SECTIONS 8-533 AND 8-863, ARIZONA REVISED STATUTES; RELATING TO
TERMINATION OF THE PARENT-CHILD RELATIONSHIP.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-533, Arizona Revised Statutes, is amended to
3 read:

4 8-533. Petition; who may file; grounds

5 A. Any person or agency that has a legitimate interest in the
6 welfare of a child, including a relative, a foster parent, a physician,
7 the department or a private licensed child welfare agency, may file a
8 petition for the termination of the parent-child relationship alleging
9 grounds contained in subsection B of this section.

10 B. Evidence sufficient to justify the termination of the
11 parent-child relationship shall include any one of the following, and in
12 considering any of the following grounds, the court shall also consider
13 the best interests of the child:

14 1. That the parent has abandoned the child.

15 2. That the parent has neglected or wilfully abused a child. This
16 abuse includes serious physical or emotional injury or situations in which
17 the parent knew or reasonably should have known that a person was abusing
18 or neglecting a child.

19 3. That the parent is unable to discharge parental responsibilities
20 because of mental illness, mental deficiency or a history of chronic abuse
21 of dangerous drugs, controlled substances or alcohol and there are
22 reasonable grounds to believe that the condition will continue for a
23 prolonged indeterminate period.

24 4. That the parent is deprived of civil liberties due to the
25 conviction of a felony if the felony of which that parent was convicted is
26 of such nature as to prove the unfitness of that parent to have future
27 custody and control of the child, including murder of another child of the
28 parent, manslaughter of another child of the parent or aiding or abetting
29 or attempting, conspiring or soliciting to commit murder or manslaughter
30 of another child of the parent, or if the sentence of that parent is of
31 such length that the child will be deprived of a normal home for a period
32 of years.

33 5. That the potential father failed to file a paternity action
34 within thirty days of completion of service of notice as prescribed in
35 section 8-106, subsection G.

36 6. That the putative father failed to file a notice of claim of
37 paternity as prescribed in section 8-106.01.

38 7. That the parents have relinquished their rights to a child to an
39 agency or have consented to the adoption.

40 8. That the child is being cared for in an out-of-home placement
41 under the supervision of the juvenile court, the division or a licensed
42 child welfare agency, that the agency responsible for the care of the
43 child has made a diligent effort to provide appropriate reunification
44 services and that one of the following circumstances exists:

1 (a) The child has been in an out-of-home placement for a cumulative
2 total period of nine months or longer pursuant to court order or voluntary
3 placement pursuant to section 8-806 and the parent has substantially
4 neglected or wilfully refused to remedy the circumstances that cause the
5 child to be in an out-of-home placement.

6 (b) The child who is under three years of age has been in an
7 out-of-home placement for a cumulative total period of six months or
8 longer pursuant to court order and the parent has substantially neglected
9 or wilfully refused to remedy the circumstances that cause the child to be
10 in an out-of-home placement, including refusal to participate in
11 reunification services offered by the department.

12 (c) The child has been in an out-of-home placement for a cumulative
13 total period of fifteen months or longer pursuant to court order or
14 voluntary placement pursuant to section 8-806, the parent has been unable
15 to remedy the circumstances that cause the child to be in an out-of-home
16 placement and there is a substantial likelihood that the parent will not
17 be capable of exercising proper and effective parental care and control in
18 the near future.

19 9. That the identity of the parent is unknown and continues to be
20 unknown following three months of diligent efforts to identify and locate
21 the parent.

22 10. That the parent has had parental rights to another child
23 terminated within the preceding two years for the same cause and is
24 currently unable to discharge parental responsibilities due to the same
25 cause.

26 11. That all of the following are true:

27 (a) The child was cared for in an out-of-home placement pursuant to
28 court order.

29 (b) The agency responsible for the care of the child made diligent
30 efforts to provide appropriate reunification services.

31 (c) The child, pursuant to court order, was returned to the legal
32 custody of the parent from whom the child had been removed.

33 (d) Within eighteen months after the child was returned, pursuant
34 to court order, the child was removed from that parent's legal custody,
35 the child is being cared for in an out-of-home placement under the
36 supervision of the juvenile court, the division or a licensed child
37 welfare agency and the parent is currently unable to discharge parental
38 responsibilities.

39 12. Clear and convincing evidence that the parent committed a
40 sexual assault against the petitioning parent and the child was conceived
41 as a result of the sexual assault. If the parent who is the subject of
42 the petition pleads guilty to or is convicted of a violation of section
43 13-1406 or a violation of an offense in another jurisdiction that if
44 committed in this state would be a violation of section 13-1406, the court
45 may accept the guilty plea or conviction as evidence that the child was

1 conceived as a result of a sexual assault by that parent. For the
2 purposes of this paragraph:

3 (a) "Oral sexual contact" has the same meaning prescribed in
4 section 13-1401.

5 (b) "Sexual assault" means intentionally or knowingly engaging in
6 sexual intercourse or oral sexual contact with a person without the
7 consent of that person.

8 (c) "Sexual intercourse" has the same meaning prescribed in section
9 13-1401.

10 C. Evidence considered by the court pursuant to subsection B of
11 this section shall include any substantiated allegations of abuse or
12 neglect committed in another jurisdiction.

13 D. In considering the grounds for termination ~~prescribed in~~
14 ~~subsection B, paragraph 8 or 11 of this section~~, the court shall consider
15 the availability of reunification services to the parent, ~~and~~ the
16 participation of the parent in ~~these~~ REUNIFICATION services AND ANY
17 EVIDENCE RELATING TO THE PARENT'S REHABILITATION.

18 E. In considering the grounds for termination prescribed in
19 subsection B, paragraph 8 of this section, the court shall not consider
20 the first sixty days of the initial out-of-home placement pursuant to
21 section 8-806 in the cumulative total period.

22 F. The failure of an alleged parent who is not the child's legal
23 parent to take a test requested by the department or ordered by the court
24 to determine if the person is the child's natural parent is prima facie
25 evidence of abandonment unless good cause is shown by the alleged parent
26 for that failure.

27 Sec. 2. Section 8-863, Arizona Revised Statutes, is amended to
28 read:

29 8-863. Hearing to terminate parental rights; notice; grounds

30 A. At least ten days before the initial hearing on the termination
31 of parental rights pursuant to this article, the party who is responsible
32 for filing a motion pursuant to section 8-862, subsection D shall serve
33 the motion on all parties as prescribed in rule 5(c) of the Arizona rules
34 of civil procedure, including any person who has filed a petition to adopt
35 or who has physical custody pursuant to a court order in a foster-adoptive
36 placement.

37 B. The court may terminate the parental rights of a parent if the
38 court finds by clear and convincing evidence one or more of the grounds
39 prescribed in section 8-533.

40 C. If a parent does not appear at the hearing ON THE TERMINATION OF
41 PARENTAL RIGHTS, the court, after determining that the parent has been
42 served as provided in subsection A of this section, may find that the
43 parent has waived the parent's legal rights and is deemed to have admitted
44 the allegations of the petition by the failure to appear. The court may
45 terminate the parent-child relationship as to a parent who does not appear

1 AT THE HEARING ON THE TERMINATION OF PARENTAL RIGHTS based on the record
2 and evidence presented as provided in rules prescribed by the supreme
3 court.

4 D. A PARENT MAY REQUEST TO ATTEND A HEARING ON THE TERMINATION OF
5 PARENTAL RIGHTS TELEPHONICALLY. IF REQUESTED, THE COURT SHALL GRANT THE
6 REQUEST AND MAY NOT CONSIDER THE PARENT'S TELEPHONIC APPEARANCE TO
7 CONSTITUTE A FAILURE TO APPEAR AT THE HEARING ON THE TERMINATION OF
8 PARENTAL RIGHTS PURSUANT TO SUBSECTION C OF THIS SECTION.

9 ~~D.~~ E. Sections 8-538 and 8-539 apply to orders of termination
10 issued pursuant to this section.