

TERMINATION OF PARENTAL RIGHTS IN TENNESSEE -THE INVOLUNTARY TERMINATION PROCESS

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Most parents consider the love they have for their child to be an emotional bond, not a legal relationship; however, the law takes a different viewpoint. In the State of Tennessee the parent-child relationship is indeed a legal relationship that can be created as well as terminated. Sometimes, a parent voluntarily relinquishes rights to a child. For example, for a step-parent to adopt a child the child's legal parent must first relinquish, or terminate, his or her parental rights to the child. The parent-child relationship can also be terminated involuntarily by the State of Tennessee if good cause exists to do so. If you are at risk for having your parental rights terminated by the State of Tennessee you should consult with an experienced family law attorney immediately. It may also help to have a basic understanding of how a parent's rights are involuntarily terminated.

When Can a Parent's Rights to a Child Be Terminated Involuntarily?

The law acknowledges that the parent-child relationship is a bond, both emotional and legal, that should not be severed without careful contemplation and a showing of good cause. Therefore, for a court to order the involuntary termination of a parent's rights in the State of Tennessee, the court must find that:

1. There is clear and convincing evidence that grounds for termination of parental rights have been established AND
2. That the termination of the parent's rights is in the child's best interest.

For a detailed list of the statutory grounds on which a Petition to Terminate Parental Rights may be based, please see Part I in this series; however, in general a petition may be based on:

- Abandonment
- Wanton disregard
- Lack of concern
- Substantial non-compliance with the permanency plan
- Conditions which led to removal have not been remedied or other conditions prevent return
- Severe child abuse
- Parent has been sentenced to a ten-year prison sentence
- Mental incompetence

How Does the State Decide to File a Petition to Terminate Your Parental Rights?



Asking a court to terminate the rights of a parent against the parent's wishes is a very serious matter. Once your parental rights have been terminated they cannot be restored. With this in mind, the process leading up to the filing of a Petition to Terminate Parental Rights is lengthy as well as being heavily regulated.

Involuntary termination begins with the Department of Children's Services, or DCS, investigating allegations of abuse, neglect, and/or delinquency. DCS's involvement with your family can go on for months, even years, before termination of parental rights becomes a possibility. Ultimately, the State of Tennessee will have to convince a judge that all efforts to avoid termination have

failed before a judge will consider granting the request to terminate a parent's rights.

What Is a "Permanency Plan?"

When the Department of Children's Services, or DCS, becomes involved with a family it is typically because there has been an allegation of abuse or neglect, or because the child has been referred by a school or court due to delinquent behavior. If the allegations are found to be serious enough the child will be



removed from the home. If the cause for removal is not resolved, the State of Tennessee will eventually move to terminate parental rights.

Although it may not always appear to be the case, the law requires the Department of Children's Services to do

everything reasonably possible to return a child to his/her parents after removal from the home and, ultimately, prevent the termination of parental rights. The single biggest "tool" used toward that goal is the creation of a "Permanency Plan." The plan includes all necessary actions to be completed by the parents, the child, and/or DCS to facilitate the return of the child to the parent(s).

Furthermore, DCS is required to make all “reasonable efforts” to assist the parents and child in obtaining any services required as part of the Permanency Plan, such as psychological evaluations, drug or alcohol treatment, or mental health counseling. If the plan is successful, the child is returned to the home. If, after a reasonable time, the plan has not succeeded, the State of Tennessee will move to terminate parental rights.

Filing a Petition to Involuntarily Terminate Parental Rights



Upon the recommendation of DCS after all reasonable efforts to return the child to his/her home have failed, the State of Tennessee will file a “Petition to Terminate Parental Rights.” Along with basic information about the child and

parents, the Petition will also include the allegation on which the involuntary termination is based. A copy of the Petition will be served on all interested parties, including the parent(s).

The Hearing



Once the Petition has been filed and served on all parties the court will set the matter for an adjudicatory hearing. A parent has the right to be represented by an attorney at the hearing. Considering what is at stake, ***it is highly advisable that you retain the services of an experienced Tennessee family law attorney if you are facing the involuntary termination of your parental rights.***

During the hearing the State of Tennessee will present testimony and/or evidence supporting its contention that *legal grounds exist* for the termination of parental rights ***and*** that termination is in the *best interest of the child*. A parent

may also present evidence and testimony in an effort to convince the judge that termination is not warranted. Ultimately, the judge will decide. If the judge grants the Petition to Terminate, the parent-child relationship will legally terminate and the court will award complete custody, control, and guardianship of the child to the Department of Children's Services or a licensed child-placing agency, with the right to place the child for adoption and to consent to the adoption in loco parentis (or "in place of a parent").

If you are the parent of a child who has been referred to the Department of Children's Services, or who has been removed by DCS, it is in your best interest to consult with an

experienced Tennessee family law attorney immediately to avoid involuntary termination of your parental rights.



Tennessee Courts, [Rule 39: Termination of Parental Rights](#)

Tennessee Department of Children's Services, [Client Handbook](#)

Justia, [Tennessee Code Annotated § 36-1-113](#)

Childwelfare.gov, [Grounds for Termination of Parental Rights](#)

Findlaw, [Checklist: Grounds for Terminating Parental Rights](#)

About Bennett and Michael, Attorneys at Law



The law firm of Bennett & Michael is located on the historic public square in Murfreesboro, Tennessee. We offer knowledgeable and effective representation for families in divorce and family law situations, injured victims of negligent accidents, and those charged with misdemeanor or felony offenses.

Our firm takes pride in being a local law firm that delivers superior results at competitive prices right here at home for the people of Murfreesboro, Smyrna, La Vergne, and the greater Rutherford County area. Our staff is professional and helpful, and our attorneys are experienced litigators and trial lawyers.

When you need legal help, you should be confident that the lawyer you choose will provide you with exceptional, trustworthy, and effective services. Our experienced, dedicated, and compassionate lawyers and legal staff are committed to always protecting clients' rights and relentlessly fighting for their best interests. Enlist the unyielding advocacy at Bennett & Michael, and you can trust that you and your family will get the results, service, and respect that you deserve. You won't be disappointed.