

2019 -- H 5482

=====
LC000370
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

—————
A N A C T

RELATING TO DOMESTIC RELATIONS -- ADOPTION OF CHILDREN

Introduced By: Representatives O'Brien, McEntee, Vella-Wilkinson, Slater, and
Corvese

Date Introduced: February 14, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 15-7-7 of the General Laws in Chapter 15-7 entitled "Adoption of
2 Children" is hereby amended to read as follows:

3 **15-7-7. Termination of parental rights.**

4 (a) The court shall, upon a petition duly filed by a governmental child placement agency
5 or licensed child placement agency, or by the birthmother or guardian of a child born under
6 circumstances referenced in subsection (a)(2)(viii) of this section, after notice to the parent and a
7 hearing on the petition, terminate any and all legal rights of the parent to the child, including the
8 right to notice of any subsequent adoption proceedings involving the child, if the court finds as a
9 fact by clear and convincing evidence that:

10 (1) The parent has willfully neglected to provide proper care and maintenance for the
11 child for a period of at least one year where financially able to do so. In determining whether the
12 parent has willfully neglected to provide proper care and maintenance for the child, the court may
13 disregard contributions to support which are of an infrequent and insubstantial nature; or

14 (2) The parent is unfit by reason of conduct or conditions seriously detrimental to the
15 child; such as, but not limited to, the following:

16 (i) Institutionalization of the parent, including imprisonment, for a duration as to render it
17 improbable for the parent to care for the child for an extended period of time;

18 (ii) Conduct toward any child of a cruel or abusive nature;

19 (iii) The child has been placed in the legal custody or care of the department for children,

1 youth, and families and the parent has a chronic substance abuse problem and the parent's
2 prognosis indicates that the child will not be able to return to the custody of the parent within a
3 reasonable period of time, considering the child's age and the need for a permanent home. The
4 fact that a parent has been unable to provide care for a child for a period of twelve (12) months
5 due to substance abuse shall constitute prima facie evidence of a chronic substance abuse
6 problem;

7 (iv) The child has been placed with the department for children, youth, and families and
8 the court has previously involuntarily terminated parental rights to another child of the parent and
9 the parent continues to lack the ability or willingness to respond to services which would
10 rehabilitate the parent and provided further that the court finds it is improbable that an additional
11 period of services would result in reunification within a reasonable period of time considering the
12 child's age and the need for a permanent home;

13 (v) The parent has subjected the child to aggravated circumstances, which circumstances
14 shall be abandonment, torture, chronic abuse and sexual abuse;

15 (vi) The parent has committed murder or voluntary manslaughter on another of his or her
16 children or has committed a felony assault resulting in serious bodily injury on that child or
17 another of his or her children or has aided or abetted, attempted, conspired or solicited to commit
18 such a murder or voluntary manslaughter; ~~or~~

19 (vii) The parent has exhibited behavior or conduct that is seriously detrimental to the
20 child, for a duration as to render it improbable for the parent to care for the child for an extended
21 period of time; or

22 (viii) The parent has been convicted of sexual assault upon the birthmother and
23 parenthood is a result of that sexual assault, which shall be established by proving that the child
24 was conceived as a result of a conviction for any offense set forth in §§ 11-37-2, 11-37-6 or 11-
25 37-8.1. Conception as a result of sexual assault may be proved by DNA tests and upon conviction
26 of the putative father, and after a fact finding hearing establishing paternity, said father's parental
27 rights shall be terminated by order of the court. Termination of the parental rights of the father
28 shall include the loss of all parental rights without limitation, including the adoption of said child.
29 The father shall also have no right to any visitation with the minor child and shall have no right to
30 any inheritance from a child conceived as a result of sexual assault as specified.

31 (3) The child has been placed in the legal custody or care of the department for children,
32 youth, and families for at least twelve (12) months, and the parents were offered or received
33 services to correct the situation which led to the child being placed; provided, that there is not a
34 substantial probability that the child will be able to return safely to the parents' care within a

1 reasonable period of time considering the child's age and the need for a permanent home; or

2 (4) The parent has abandoned or deserted the child. A lack of communication or contact
3 with the child for at least a six (6) month period shall constitute prima facie evidence of
4 abandonment or desertion. In the event that parents of an infant have had no contact or
5 communication with the infant for a period of six (6) months the department shall file a petition
6 pursuant to this section and the family court shall conduct expedited hearings on the petition.

7 (b)(1) In the event that the petition is filed pursuant to subdivisions (a)(1), (a)(2)(i),
8 (a)(2)(iii), or (a)(2)(vii) of this section, the court shall find as a fact that, prior to the granting of
9 the petition, such parental conduct or conditions must have occurred or existed notwithstanding
10 the reasonable efforts which shall be made by the agency prior to the filing of the petition to
11 encourage and strengthen the parental relationship so that the child can safely return to the family.
12 In the event that a petition is filed pursuant to subdivisions (a)(2)(ii), (a)(2)(iv), (a)(2)(v),
13 (a)(2)(vi) or (a)(4) of this section, the department has no obligation to engage in reasonable
14 efforts to preserve and reunify a family.

15 (2) Any duty or obligation on the part of a licensed or governmental child placing agency
16 to make reasonable efforts to strengthen the parental relationship shall cease upon the filing of a
17 petition under this section. This provision shall not be construed and is not intended to limit or
18 affect in any way the parents' right to see or visit with the child during the pendency of a petition
19 under this section.

20 (3) Upon the filing of a termination of parental rights petition, the agency has an
21 affirmative duty to identify, recruit, process and approve a qualified family for adoption or other
22 permanent living arrangement for the child.

23 (c)(1) In considering the termination of rights as pursuant to subsection (a), the court
24 shall give primary consideration to the physical, psychological, mental, and intellectual needs of
25 the child insofar as that consideration is not inconsistent with other provisions of this chapter.

26 (2) The consideration shall include the following: If a child has been placed in foster
27 family care, voluntarily or involuntarily, the court shall determine whether the child has been
28 integrated into the foster family to the extent that the child's familial identity is with the foster
29 family and whether the foster family is able and willing to permanently integrate the child into the
30 foster family; provided, that in considering integrating into a foster family, the court should
31 consider:

32 (i) The length of time child has lived in a stable, satisfactory environment and the
33 desirability of maintaining that environment and continuity for the child; and

34 (ii) The reasonable preference of the child, if the court determines that the child has

1 sufficient capacity to express a reasonable preference.

2 (d) If the court finds that the parental rights of the parent should be terminated as
3 specified in subsection (a), it shall by decree duly entered, appoint some suitable person to give or
4 withhold consent in any subsequent adoption proceedings. In the case of petitions filed by
5 licensed or governmental child placement agencies, the court shall appoint the agency to be the
6 sole party to give or withhold consent to the adoption of the child and further vest the agency with
7 all rights of guardianship over the child.

8 (e) Nothing in this section shall be construed to prohibit the introduction of expert
9 testimony with respect to any illness, medical or psychological condition, trauma, incompetency,
10 addiction to drugs, or alcoholism of any parent who has exhibited behavior or conduct that is
11 seriously detrimental to a child, to assist the court in evaluating the reason for the conduct or its
12 probable duration.

13 (f) The record of the testimony of the parties adduced in any proceeding terminating
14 parental rights to a child shall be entitled to the confidentiality provided for in § 8-10-21 and
15 more specifically shall not be admissible in any civil, criminal, or other proceeding in any court
16 against a person named a defendant or respondent for any purpose, except in subsequent
17 proceedings involving the same child or proceedings involving the same respondent.

18 (g) In the event any child, the parental rights to whom have been finally terminated, has
19 not been placed by the agency in the home of a person or persons with the intention of adopting
20 the child within thirty (30) days from the date of the final termination decree, the family court
21 shall review the status of the child and the agency shall file a report that documents the steps the
22 agency is taking to find an adoptive family or other permanent living arrangement for the child, to
23 place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another
24 planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a
25 minimum, this documentation shall include child specific recruitment efforts, such as the use of
26 state, regional and national adoption exchanges, including electronic exchange system.

27 SECTION 2. This act shall take effect upon passage.

=====
LC000370
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO DOMESTIC RELATIONS -- ADOPTION OF CHILDREN

1 This act would terminate all parental rights of any person convicted of sexual assault
2 which results in the birth of a child from said assault. Termination of parental rights would take
3 effect after a fact finding hearing in the family court which established the conviction of the
4 accused father and after establishing paternity through the use of DNA.

5 This act would take effect upon passage.

=====
LC000370
=====