



Grounds for Involuntary Termination of Parental Rights: Summary of State Laws



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Every State, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands have statutes providing for the termination of parental rights by a court. Termination of parental rights ends the legal parent-child relationship. Once the relationship has been terminated, the child is legally free to be placed for adoption, with the objective of securing a more stable, permanent family environment that can meet the child's long-term parenting needs.

Termination may be voluntary or involuntary. Birth parents who wish to place their children for adoption may voluntarily relinquish their rights.¹

¹ For State-by-State details on voluntary relinquishment, including the right to revoke consent, see Information Gateway's *Consent to Adoption* at www.childwelfare.gov/systemwide/laws_policies/statutes/consent.cfm.

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Grounds for Termination of Parental Rights

When addressing whether parental rights should be terminated involuntarily, most States require that a court:

- Determine, by clear and convincing evidence, that the parent is unfit²
- Determine whether severing the parent-child relationship is in the child's best interest

The grounds for involuntary termination of parental rights are specific circumstances under which the child cannot safely be returned home because of risk of harm by the parent or the inability of the parent to provide for the child's basic needs. Each State is responsible for establishing its own statutory grounds, and these vary by State.

The most common statutory grounds for determining parental unfitness include:

- Severe or chronic abuse or neglect
- Abuse or neglect of other children in the household
- Abandonment
- Long-term mental illness or deficiency of the parent(s)
- Long-term alcohol- or drug-induced incapacity of the parent(s)
- Failure to support or maintain contact with the child
- Involuntary termination of the rights of the parent to another child

Another common ground for termination is a felony conviction of the parent(s) for a crime of violence against the child or another family member, or a conviction for any felony when the term of incarceration is so long as to have a negative impact on the child, and the only available provision of care for the child is foster care.

² The U.S. Supreme Court, in *Santosky v. Kramer* (455 U.S. § 745 (1982)), set the standard of proof in termination of parental rights proceedings at clear and convincing evidence.

The Adoption and Safe Families Act (ASFA) requires State agencies to file a petition to terminate parental rights, with certain exceptions, when:³

- A child has been in foster care for 15 of the most recent 22 months.
- A court has determined:
 - A child to be an abandoned infant
 - That the parent has committed murder or voluntary manslaughter of another child of the parent; aided, abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter; or committed a felony assault that has resulted in serious bodily injury to the child or another child of the parent

In response to ASFA, many States have adopted limits to the maximum amount of time a child can spend in foster care before termination proceedings can be initiated. Typically, States have adopted the ASFA standard of 15 out of the most recent 22 months in care. Some States, however, specify shorter time limits, particularly for very young children. The laws in most States are consistent with the other termination grounds required under ASFA.

The above factors become grounds for terminating parental rights when reasonable efforts by the State to prevent out-of-home placement or to achieve reunification of the family after placement have failed to correct the conditions and/or parental behaviors that led to State intervention.⁴

Exceptions

ASFA requires that proceedings to terminate parental rights be initiated when the child has been in foster care for 15 of the most recent 22 months. An exception may be made under some circumstances, including:

- The child has been placed under the care of a relative.

³ ASFA (P.L. 105-89) amended title IV-E of the Social Security Act, which establishes guidelines that States must comply with as a condition for receiving Federal funds.

⁴ For more detailed information on the reasonable efforts requirement, see Information Gateway's *Reasonable Efforts to Reunify Families* at www.childwelfare.gov/systemwide/laws_policies/statutes/reunify.cfm.

Effects of Termination

- The State agency has documented in the case plan a compelling reason to believe that terminating the parent's rights is not in the best interests of the child.
- The parent has not been provided with the services required by the service plan for reunification of the parent with the child.

Approximately 20 States and the District of Columbia confirm these requirements in their statutes.⁵

A termination action can sever the rights of one parent without affecting the rights of the other parent. If the rights of both parents are terminated, the State assumes legal custody of the child along with the responsibility for finalizing a permanent placement for the child, either through adoption or guardianship, within a reasonable amount of time.

In approximately four States, if a permanent placement has not been achieved within a specific timeframe, a petition may be filed with the court requesting reinstatement of the parent's rights.⁶ If the court determines that the parent is now able to provide a safe home for the child, the request may be granted.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as in agency regulations, case law, and informal practices and procedures.

⁵ The word *approximately* is used to stress the fact that States frequently amend their laws. This information is current only through June 2007. The States that currently provide for these exceptions include Alabama, Alaska, California, Colorado, Connecticut, Illinois, Indiana, Iowa, Maryland, Massachusetts, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Oregon, Tennessee, West Virginia, and Wyoming. In other States, the Federal requirements apply to any child whose foster care maintenance payments are funded through the title IV-E program.

⁶ In California, after 3 years, a child who is age 12 or older may petition (Welf. & Inst. Code § 366.26(i)); in Hawaii, after 1 year, the parent or State Department may petition (Rev. Stat. § 571-63); in Nevada, the child or the legal guardian of a child who has not been adopted and is not likely to be adopted may petition (2007 Nev. Ch. 43); and in Washington, after 3 years, a child who is age 12 or older may petition (2007 Wa. HB 1624, § 1).

Alabama**Circumstances That Are Grounds for Termination of Parental Rights****Ala. Code § 26-18-7**

If the court finds from clear and convincing evidence that the parents of a child are unable or unwilling to discharge their responsibilities to and for the child, or that the conduct or condition of the parents is such as to render them unable to properly care for the child and that such conduct or condition is unlikely to change in the foreseeable future, the court may terminate the parental rights of the parents. In making this determination, the court may consider, but not be limited to, the following:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Emotional illness, mental illness, or mental deficiency
 - » Use of alcohol or controlled substances
 - » A conviction and incarceration for a felony
- The parent has tortured, abused, or severely maltreated the child.
- The parent's conduct or neglect has resulted in serious physical injury to the child.
- The parent has subjected the child to an aggravated circumstance, including, but not limited to, abandonment, torture, chronic abuse, substance abuse, or sexual abuse.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Murder or voluntary manslaughter of another child of the parent
 - » Aiding, abetting, attempting, or soliciting to commit murder or voluntary manslaughter of another child of the parent
 - » A felony assault that results in serious bodily injury to the child or another child of the parent
- Parental rights to another child of the parent have been involuntarily terminated.

If the child is not in the physical custody of the parent, the court, in addition to the above, shall consider, but is not limited to the following:

- The parent has failed to support the child when financially able to do so.
- The parent has failed to maintain regular visitation, contact, or communication with the child.

Circumstances That Are Exceptions to Termination of Parental Rights**Ala. Code § 26-18-5**

A petition will be filed when the child has been in foster care for 15 of the most recent 22 months unless:

- The child is being cared for by a relative.
- The department has documented in the case plan a compelling reason for determining that filing a petition would not be in the best interests of the child.
- The department has not provided to the family of the child, consistent with the time period in the department's case plan, such services as the department deems necessary for the safe return of the child to the child's home, if reasonable efforts are required to be made with respect to the child.

Alaska**Circumstances That Are Grounds for Termination of Parental Rights****Alaska Stat. §§ 47.10.011; 47.10.080; 47.10.086; 47.10.088**

The parent's parental rights may be terminated if the court finds by clear and convincing evidence that:

- The child has been subjected to conduct or conditions described below.
- The parent has not remedied the conduct or conditions in the home that place the child at substantial risk of harm.
- The department has complied with requirements concerning reasonable efforts.

Any of the following may be grounds for termination:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Emotional illness, mental illness, or mental deficiency
 - » Use of alcohol or controlled substances
 - » A conviction and incarceration for a felony
- The parent has subjected the child to circumstances that pose a substantial risk of harm, including, but not limited to, abandonment, torture, chronic mental injury, chronic physical harm, or sexual abuse.
- The parent's conduct or neglect has resulted in serious physical or mental injury to the child.
- The child has been in foster care for 15 of the most recent 22 months, and reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Homicide of a parent of the child or a child
 - » Aiding, abetting, attempting, or soliciting to commit a homicide of a parent of the child or a child
 - » A felony assault that resulted in serious bodily injury to a child
- The child has been sexually abused as a result of the parent's conduct or failure to protect the child.
- The parent has willfully failed to provide the child with needed medical treatment.
- The child has committed an illegal act as a result of pressure, guidance, or approval from the parent.
- Parental rights to another child of the parent have been involuntarily terminated, and conditions that led to the termination have not been corrected.

Circumstances That Are Exceptions to Termination of Parental Rights**Alaska Stat. § 47.10.088**

The department shall file a petition for termination of rights when the child has been in foster care for at least 15 of the most recent 22 months, unless:

- The department has documented compelling reasons why termination of rights would not be in the best interests of the child. This may include the child being cared for by a relative.
- The department is required to make reasonable efforts according to the case plan and has not provided to the parent the family support services that the department has determined are necessary for the safe return of the child to the home.

American Samoa

Circumstances That Are Grounds for Termination of Parental Rights

Ann. Code §§ 45.0401; 45.0115(19)

The court may, upon petition, terminate all rights of a parent or parents to a child when the court has determined that the child is neglected by one or both parents or dependent.

“Neglected or dependent child” means a child:

- Whose parent, guardian, or legal custodian has abandoned him or her or has subjected him or her to mistreatment or abuse or whose parent, guardian, or legal custodian has allowed another to mistreat or abuse the child without taking lawful means to stop such mistreatment or abuse and to prevent it from recurring
- Who lacks proper parental care through the actions or omissions of the parent, guardian, or legal custodian
- Whose environment is injurious to his or her welfare
- Whose parent, guardian, or legal custodian fails or refuses to provide proper or necessary subsistence, education, medical care, or any other care necessary for his health, guidance, or well-being
- Who is homeless, without proper care, or not domiciled with his or her parent, guardian, or legal custodian through no fault of his or her parent, guardian, or legal custodian

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Arizona

Circumstances That Are Grounds for Termination of Parental Rights

Rev. Stat. § 8-533

Grounds to terminate the parent-child relationship shall include any one of the following, with due consideration for the best interests of the child:

- The parent has abandoned the child.
- The parent has neglected or willfully abused a child.
- The parent is unable to discharge parental responsibilities because of mental illness, mental deficiency, or a history of chronic abuse of drugs.
- The parent has been convicted of a felony of such nature as to prove the parent's unfitness, including murder or manslaughter of another child of the parent.
- The potential or putative father has failed to file a claim of paternity.
- The parents have relinquished their rights or consented to the child's adoption.
- The child is in an out-of-home placement, the responsible agency has made a diligent effort to provide appropriate reunification services, and either of the following circumstances exists:
 - » The child has been in out-of-home care for a total of 9 months or longer and the parent has substantially neglected or willfully refused to remedy the circumstances that cause the child to be in out-of-home care.
 - » The child has been in out-of-home care for a total of 15 months or longer, the parent has been unable to remedy the circumstances that cause the child to be in an out-of-home placement, and there is a substantial likelihood that the parent will not be able to provide effective care in the near future.
- The identity of the parent is unknown and continues to be unknown after 3 months of diligent efforts to identify and locate the parent.
- The parent has had parental rights to another child terminated within the preceding 2 years and is currently unable to discharge parental responsibilities due to the same cause.
- Within 18 months of a child's return from an out-of-home placement, the child is removed from the parent's custody and placed in care a second time.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Arkansas

Circumstances That Are Grounds for Termination of Parental Rights

Ann. Code § 9-27-341

An order forever terminating parental rights shall be based upon a finding by clear and convincing evidence that it is in the best interest of the child, including consideration of one or more of the following grounds:

- The child has been found to be dependent-neglected and has been out of the custody of the parent for 12 months and, despite a meaningful effort by the department to rehabilitate the parent and correct the conditions that caused removal, those conditions have not been remedied by the parent.
- The child has lived outside the home of the parent for a period of 12 months, and the parent has willfully failed to provide significant material support in accordance with the parent's means or to maintain meaningful contact with the child.
- The presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by terminating the parental rights of the presumptive legal father.
- A parent has abandoned the child.
- A parent has executed consent to termination of parental rights or adoption of the child.
- The court has found the child or a sibling dependent-neglected as a result of neglect or abuse that could endanger the life of the child, sexual abuse, or sexual exploitation, any of which was perpetrated by the child's parent or stepparent.
- The parent has manifested the incapacity or indifference to remedy the parent's circumstances that prevent return of the child to the custody of the parent. The inability or incapacity to remedy or rehabilitate includes, but is not limited to, mental illness, emotional illness, or mental deficiencies.
- The parent is incarcerated for a period of time that would constitute a substantial period of the child's life.
- The parent is found by a court of competent jurisdiction, including the juvenile division of circuit court, to have:
 - » Committed murder or voluntary manslaughter of any child or to have aided or abetted, attempted, conspired, or solicited to commit such crime
 - » Committed a felony battery or assault that results in serious bodily injury to any child or to have aided or abetted, attempted, conspired, or solicited to commit such crime
 - » Subjected any child to aggravated circumstances
 - » Have had his or her parental rights involuntarily terminated as to a sibling of the child
 - » Abandoned an infant, as defined by § 9-27-303(2)

"Aggravated circumstances" means:

- A child has been abandoned, chronically abused, subjected to extreme or repeated cruelty, sexually abused, or a determination has been made by a judge that there is little likelihood that services to the family will result in successful reunification.
- A child has been removed from the custody of the parent or guardian and placed in foster care or in the custody of another person three or more times in the last 15 months.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

California**Circumstances That Are Grounds for Termination of Parental Rights****Welf. & Inst. Code §§ 361.5; 366.26**

Reunification services need not be provided to a parent, and a petition made for termination of parental rights, when the court finds, by clear and convincing evidence, any of the following:

- The whereabouts of the parent have been unknown for 6 months.
- The parent has failed to visit or contact the child for 6 months.
- The parent is suffering from a mental disability that renders him or her incapable of utilizing reunification services.
- The child or a sibling has previously been removed from the home as a result of physical or sexual abuse, and following the child's return home, has been removed a second time, due to additional physical or sexual abuse.
- The parent of the child has caused the death of another child through abuse or neglect.
- The child has been adjudicated a dependent as a result of severe sexual abuse or severe physical harm to the child, a sibling, or a half-sibling by a parent, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent.
- The child was conceived by means of the commission of a sex offense.
- The parent has willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the child.
- The parent or other person having custody of the child voluntarily surrendered physical custody of the child pursuant to § 1255.7 of the Health and Safety Code [regarding the relinquishment of newborns].
- The parent's parental rights have been terminated with respect to any siblings or half-siblings of the child, and the parent has not subsequently made a reasonable effort to treat the problems that led to the previous termination of rights.
- The parent has been convicted of a violent felony indicating parental unfitness.
- The parent has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a 3-year period immediately prior to the filing of the termination petition, or has failed or refused to comply with a program of drug or alcohol treatment.
- The parent has advised the court that he or she is not interested in receiving family maintenance or family reunification services or having the child returned to or placed in his or her custody.
- The parent has on one or more occasions willfully abducted the child or child's sibling or half-sibling from his or her placement and refused to disclose the child's or child's sibling's or half-sibling's whereabouts, refused to return physical custody of the child or child's sibling or half-sibling to his or her placement, or refused to return physical custody of the child or child's sibling or half-sibling to the social worker.

Circumstances That Are Exceptions to Termination of Parental Rights**Welf. & Inst. Code § 366.26**

A finding that reunification services shall not be offered shall constitute a sufficient basis for termination of parental rights unless the court finds a compelling reason that termination would be detrimental to the child due to one or more of the following circumstances:

- The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.
- A child age 12 or older objects to termination of parental rights.
- The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.
- The child is living with a relative, foster parent, or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances.
- There would be substantial interference with a child's sibling relationship.
- The child is an Indian child and there is a compelling reason for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:
 - » Termination of parental rights would substantially interfere with the child's connection to his or her tribal community or the child's tribal membership rights.
 - » The child's tribe has identified guardianship, long-term foster care with a fit and willing relative, or another planned permanent living arrangement for the child.

The court shall not terminate parental rights if:

- At each hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.
- In the case of an Indian child, at the hearing terminating parental rights, the court has found that active efforts were not made.

Colorado**Circumstances That Are Grounds for Termination of Parental Rights****Rev. Stat. § 19-3-604**

The court may order a termination of the parent-child legal relationship upon the finding by clear and convincing evidence of any one of the following:

- The child has been abandoned by his or her parents.
- The parent has been found to be unfit due to one of the following:
 - » Emotional illness, mental illness, or mental deficiency of the parent of such duration or nature as to render the parent unlikely within a reasonable time to care for the ongoing physical, mental, and emotional needs and conditions of the child
 - » A single incident resulting in serious bodily injury or disfigurement of the child
 - » Long-term incarceration of the parent of such duration that the parent is not eligible for parole for at least 6 years after the date the child was adjudicated dependent or neglected or, if the child is under age 6, the parent is not eligible for parole for at least 36 months
 - » Serious bodily injury or death of a sibling due to proven parental abuse or neglect
 - » An identifiable pattern of habitual abuse
 - » An identifiable pattern of sexual abuse of the child
 - » The torture of or extreme cruelty to the child, a sibling of the child, or another child of either parent
- The parent has not attended visitations with the child as set forth in the treatment plan, unless good cause can be shown for failing to visit.
- The parent exhibits the same problems addressed in the treatment plan without adequate improvement.
- The parent is unfit, and the conduct or condition of the parent is unlikely to change within a reasonable time.
- In determining unfitness, the court shall consider, but not be limited to, the following:
 - Conduct towards the child of a physically or sexually abusive nature
 - History of violent behavior
 - A single incident of life-threatening or serious bodily injury or disfigurement of the child
 - Excessive use of intoxicating liquors or controlled substances that affects the ability to care and provide for the child
 - Neglect of the child
 - Injury or death of a sibling due to proven parental abuse or neglect, murder, voluntary manslaughter, or circumstances in which a parent aided, abetted, or attempted the commission of or conspired or solicited to commit murder of a child's sibling
 - Reasonable efforts by child-caring agencies that have been unable to rehabilitate the parent or parents
 - Prior involvement with the department of human services concerning an incident of abuse or neglect involving the child followed by a subsequent incident of abuse or neglect
 - Felony assault committed by a parent that resulted in serious bodily injury to the child or to another child of the parent
 - That the child has been in foster care under the responsibility of the county department for 15 of the most recent 22 months
 - Whether, on two or more occasions, a child in the physical custody of the parent has been adjudicated dependent or neglected
 - Whether, on one or more prior occasions, a parent has had his or her parent-child legal relationship terminated with respect to another child

Circumstances That Are Exceptions to Termination of Parental Rights**Rev. Stat. § 19-3-604**

A petition to terminate parental rights will be filed when the child has been in foster care for 15 of the most recent 22 months, unless:

- The child is placed with a relative of the child.
- The department has documented in the case plan that such motion is not in the best interests of the child.
- Reasonable efforts to reunify the child with the parent have not been provided.

Connecticut**Circumstances That Are Grounds for Termination of Parental Rights****Gen. Stat. §§ 17a-111a; 17a-111b; 17a-112**

The Commissioner of Children and Families shall file a petition to terminate parental rights if:

- The child has been foster care for at least 15 consecutive months, or at least 15 months during the 22 months immediately preceding the filing of such petition.
- The parent has abandoned the child.
- The parent has inflicted sexual abuse, sexual exploitation, or severe physical abuse on the child, or has engaged in a pattern of abuse of the child.
- The parent is unable or unwilling to benefit from reunification efforts.
- The parent was convicted of a sexual assault that resulted in the conception of a child. The court may terminate the rights of the parent to such child at any time after the conviction.
- A court has found that the parent has:
 - » Killed, through a deliberate, nonaccidental act, a sibling of the child
 - » Requested, attempted, conspired, or solicited to commit the killing of the child or a sibling of the child
 - » Assaulted the child or sibling of the child, and such assault resulted in serious bodily injury to the child
- The parent has failed to maintain a reasonable degree of interest, concern, or responsibility as to the welfare of the child.
- The parental rights of the parent to a sibling have been terminated within 3 years of the filing of a petition, provided the commissioner has made reasonable efforts to reunify the parent with the child for a period of at least 90 days.

Circumstances That Are Exceptions to Termination of Parental Rights**Gen. Stat. § 17a-111a**

A petition to terminate rights shall be filed when the child has been in the custody of the Commissioner of Children and Families for at least 15 of the most recent 22 months, unless:

- The child has been placed in the care of a relative.
- There is a compelling reason to believe that termination of rights is not in the best interests of the child.
- The parent has not been offered the services specified in the permanency plan to reunify the parent with the child.

Delaware**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Code Tit. 13, § 1103**

The procedure for termination of parental rights may be initiated whenever it appears to be in the child's best interest and one or more of the following grounds exist:

- The parent has abandoned the child.
- The parent has abandoned a baby in accordance with Tit. 16, § 907A and failed to manifest an intent to exercise parental rights within 30 days.
- The parent is unable to discharge his or her parental duties due to:
 - » Mental incompetence
 - » Extended or repeated incarceration
- The parent's conduct or neglect has resulted in serious physical injury to the child.
- The parent has subjected the child to torture, chronic abuse, sexual abuse, or life-threatening abuse.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » A felony-level offense against the person, and the victim was the child or any other child
 - » Aiding, abetting, attempting, or soliciting the commission of such offense
 - » The offense of dealing in children
 - » The felony-level offense of endangering children
- The parent has failed to support the child when financially able to do so.
- The parent has failed to maintain regular visitation, contact, or communication with the child.
- Parental rights to another child of the parent have been involuntarily terminated.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Code Tit. 13, § 1103**

The court shall not terminate a parent's rights solely because the parent, in good faith, provides for his or her child, in lieu of medical treatment, treatment by spiritual means alone through prayer.

District of Columbia**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Code §§ 16-2353; 16-2354**

The court may terminate parental rights when it finds that the termination is in the best interests of the child and there is evidence of one of the following grounds:

- The parent has abandoned the child.
- Drug-related activity continues to exist in the child's home environment after intervention and services have been provided.
- The parent has been convicted of:
 - » Murder or voluntary manslaughter of a child sibling or another child
 - » Aiding, abetting, attempting, or soliciting to commit such murder or voluntary manslaughter
 - » A felony assault that has resulted in serious bodily injury to the child, a child sibling, or another child
- The child has been subjected to intentional and severe mental abuse.
- Parental rights to another child of the parent have been involuntarily terminated.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Code § 16-2354**

A petition shall be filed when the child has been in court-ordered custody for 15 of the most recent 22 months, unless:

- The child is being cared for by an approved kinship caregiver, and adoption is not the child's permanency plan.
- There exists a compelling reason for determining that filing such a motion would not be in the best interest of the child.
- The District has not offered or provided to the family of the child, consistent with the time period in the case plan, such services as are necessary for the safe return of the child to the child's home, if reasonable efforts are required to be made with respect to the child.

Florida**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. § 39.806**

Grounds for the termination of parental rights may be established under any of the following circumstances:

- The parent has abandoned the child.
- The parent's conduct toward the child or other children threatens the life, safety, well-being, or physical, mental, or emotional health of the child, irrespective of the provision of services.
- The parent is incarcerated and either:
 - » The time for which the parent is expected to be incarcerated will constitute a substantial portion of time before the child will attain age 18.
 - » The incarcerated parent has been determined by the court to be a violent career criminal, a habitual violent felony offender, or a sexual predator.
 - » The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child.
- A child has been adjudicated dependent, a case plan has been filed with the court, and:
 - » The child continues to be abused, neglected, or abandoned by the parents.
 - » The parent has materially breached the case plan by making it unlikely that he or she will be able to substantially comply with the case plan before the time for compliance expires.
- The parent has engaged in egregious conduct or knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child's sibling.
- The parent has subjected the child to aggravated child abuse, sexual battery, sexual abuse, or chronic abuse.
- The parent or parents have committed murder or voluntary manslaughter of another child, or a felony assault that results in serious bodily injury to the child or another child, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault.
- The parental rights of the parent to a sibling have been terminated involuntarily.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Stat. § 39.806**

A petition may be filed when the parents have substantially failed to comply with a case plan for 12 months, unless the failure to comply was due to:

- A lack of financial resources of the parent
- A failure of the department to make reasonable efforts to reunify the family

Georgia

Circumstances That Are Grounds for Termination of Parental Rights

Ann. Code §§ 15-11-58; 15-11-94

The court may terminate a parent's parental rights when there is clear and convincing evidence of parental misconduct or inability, and the court finds that such termination is in the best interest of the child. The court by order may terminate the parental rights of a parent with respect to the parent's child if:

- The parent has willfully failed to comply with a court order to pay child support for a period of 12 months or longer.
- The parent has abandoned the child.
- The child is a deprived child due to the lack of proper parental care or control, the cause of deprivation is likely to continue or will not likely be remedied, and the continued deprivation will cause or is likely to cause serious physical, mental, emotional, or moral harm to the child.
- The parent is unable to provide adequately for the physical, mental, emotional, or moral condition and needs of the child due to:
 - » A medically verifiable deficiency of the parent's physical, mental, or emotional health
 - » Excessive use of or history of chronic unrehabilitated abuse of intoxicating liquors or narcotic or dangerous drugs or controlled substances
 - » Incarceration of the parent that has a demonstrable negative effect on the quality of the parent-child relationship
 - » Egregious conduct or evidence of past egregious conduct of the parent toward the child or toward another child of a physically, emotionally, or sexually cruel or abusive nature
 - » Physical, mental, or emotional neglect of the child or evidence of past neglect of the child or of another child by the parent
 - » Injury or death of a sibling that resulted from parental neglect or abuse
- The child is not in the custody of the parent, and the parent without justifiable cause has failed significantly for a period of 1 year or longer prior to the filing of the petition for termination of parental rights:
 - » To develop and maintain a parental bond with the child in a meaningful, supportive manner
 - » To provide for the care and support of the child as required by law or judicial decree
 - » To comply with a court-ordered plan designed to reunite the child with the parent
- The parent has been convicted of the murder of the child's other parent.

A petition for termination of parental rights may also be filed when the court determines that reasonable efforts to reunite the child and parent are not required. Reasonable efforts shall not be required when:

- The parent has subjected the child to aggravated circumstances that may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse.
- The parent has:
 - » Committed murder of another child of the parent or the other parent of the child
 - » Committed voluntary manslaughter of another child of the parent
 - » Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of the parent
 - » Committed a felony assault that results in serious bodily injury to the child or another child of the parent
- The parental rights of the parent to a sibling have been terminated involuntarily.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Guam**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Code Tit. 19, § 4303**

Parental rights may be terminated when the court finds that such termination is in the best interest of the child and that one or more of the following conditions exists:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to mental illness or mental deficiency, and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period.
- The parent has substantially and continuously or repeatedly neglected the child.
- The presumptive parent is not the natural parent of the child.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Hawaii**Circumstances That Are Grounds for Termination of Parental Rights****Rev. Stat. §§ 571-61; 587-2**

The family courts may terminate the parental rights to a child of any legal parent:

- Who has deserted the child without affording means of identification for a period of at least 90 days
- Who has voluntarily surrendered the care and custody of the child to another for a period of at least 2 years
- Who, when the child is in the custody of another, has failed to communicate with the child or provide care and support for the child when able to do so for a period of at least 1 year
- Whose child has been removed from the parent's physical custody and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child
- Who is found by the court to be mentally ill or mentally retarded and incapacitated from giving consent to the adoption of or from providing now and in the foreseeable future the care necessary for the well-being of the child
- Who is found not to be the child's natural or adoptive father

The court may also hold a permanency hearing to determine a placement for the child outside the parent's home when the parent has subjected the child to aggravated circumstances. "Aggravated circumstances" means that:

- The parent has committed, or has aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of the parent.
- The parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent.
- The parental rights have been judicially terminated or divested regarding a sibling.
- The parent has tortured the child.
- The child is an abandoned infant.
- A court has made a determination of parental unfitness regarding a sibling under § 587-73(a).

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Idaho**Circumstances That Are Grounds for Termination of Parental Rights****Idaho Code § 16-2005**

The court may grant an order terminating parental rights when it finds that such termination is in the best interests of the child and that one or more of the following conditions exist:

- The parent has abandoned the child.
- The parent has neglected or abused the child.
- The presumptive parent is not the biological parent of the child.
- The parent is unable to discharge parental responsibilities, and such inability will continue for a prolonged indeterminate period and will be injurious to the health, morals, or well-being of the child.
- The parent has been incarcerated and is likely to remain incarcerated for a substantial period of time during the child's minority.
- The parent caused the child to be conceived as a result of rape, incest, lewd conduct with a minor child under age 16, or sexual abuse of a child under age 16.
- The parent has subjected the child to torture, chronic abuse, or sexual abuse.
- The parent has committed murder or intentionally killed the other parent of the child, has committed murder or voluntary manslaughter of another child, or has aided, abetted, conspired or solicited to commit such murder or voluntary manslaughter.
- The parent has committed battery that resulted in serious bodily injury to a child.
- The court determines the child to be an abandoned infant, except in a parental termination action brought by one parent against another parent.

Circumstances That Are Exceptions to Termination of Parental Rights**Idaho Code § 16-2005**

If the parent has a disability, the parent shall have a right to provide evidence to the court regarding the manner in which adaptive equipment or supportive services will enable the parent to carry out parenting responsibilities.

Illinois**Circumstances That Are Grounds for Termination of Parental Rights****Comp. Stat. Ch. 705, § 405/1-2; Ch 750, § 50/1**

Provided that a ground for unfitness under Ch. 750, § 50/1 can be met, it may be appropriate to expedite termination of parental rights:

- When reasonable efforts are inappropriate, or have been provided and were unsuccessful, and there are aggravating circumstances including, but not limited to, those cases in which:
 - » The child or another child of that child's parent was abandoned, tortured, or chronically abused.
 - » The parent is criminally convicted of first or second degree murder of any child, attempt or conspiracy to commit first of second degree murder of any child, solicitation to commit murder of any child, aggravated assault, or aggravated criminal sexual assault.
- When the parental rights of a parent with respect to another child have been involuntarily terminated
- When the parent's incapacity to care for the child, combined with an extremely poor prognosis for treatment or rehabilitation, justifies expedited termination of parental rights
- The grounds of unfitness are any one or more of the following:
- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Mental illness, mental deficiency, or developmental disability
 - » A conviction and incarceration for a felony
- The parent has substantially and continuously or repeatedly neglected the child.
- The parent has been found, two or more times, to have physically abused any child, or to have caused the death of any child by physical child abuse.
- The child was born exposed to controlled substances, and a substance-exposed child was previously born to the same mother.
- The parent has repeatedly and continuously failed to provide the child with adequate food, clothing, and shelter, although financially able to do so.
- The parent has failed to maintain regular visitation, contact, or communication with the child for a period of 12 months.
- A putative father has failed to establish paternity.
- The child has been in foster care for 15 of the most recent 22 months.

Circumstances That Are Exceptions to Termination of Parental Rights**Comp. Stat. Ch. 750, § 50/1**

A petition will be filed when the child has been in foster care for 15 of the most recent 22 months, unless the parent can prove by a preponderance of the evidence that it is more likely than not that the child will be returned to the parent within 6 months.

A petition to terminate parental rights will be filed when there are grounds unless:

- The child is being cared for by a relative.
- The department has documented a compelling reason that filing such petition will not be in the best interests of the child.
- The court has found that the department has failed to make reasonable efforts to reunify the child and family.

Indiana**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Code §§ 31-34-21-5.6; 31-35-2-4.5**

A petition to terminate parental rights may be filed when one or more of the following circumstances are present:

- The parent has abandoned the child.
- The parent has been convicted of:
 - » Causing a suicide, involuntary manslaughter, rape, criminal deviate conduct, child molesting, exploitation, or incest, and the victim is a child of the parent or the parent of the child
 - » Murder or voluntary manslaughter of another child of the parent or a parent of the child
 - » Aiding, abetting, attempting, or soliciting to commit any of the above offenses
 - » Battery, aggravated battery, criminal recklessness, or neglect of a dependent against the child or another child of the parent
- The child has been in foster care for 15 of the most recent 22 months.
- Parental rights to another child of the parent have been involuntarily terminated.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Code § 31-35-2-4.5**

A petition to terminate parental rights may be dismissed if:

- The current case plan has documented a compelling reason that termination is not in the best interests of the child.
- A compelling reason may include the fact that the child is being cared for by a relative who is the guardian of the child.
- The county office of family and children has not provided services to the family as required in the case plan.

Iowa**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. §§ 232.102; 232.111; 232.116**

A petition for the termination of parental rights may be filed when one or more of the following conditions are present:

- The parent has abandoned the child.
- The child is a newborn infant who was relinquished in accordance with chapter 232B.
- The child has been in foster care for 15 of the most recent 22 months.
- The parent is unable to discharge his or her parental duties due to:
 - » Chronic mental illness
 - » Severe, chronic substance abuse problems
 - » A conviction and incarceration for a crime against a child and unlikelihood that the parent will be released for a period of 5 years or longer
 - » A conviction and incarceration for physically or sexually abusing or neglecting the child or any child in the household
- The parent's conduct or omission has resulted in the physical or sexual abuse or neglect of the child.
- The parent has been convicted of:
 - » Child endangerment resulting in the death of the child's sibling
 - » Three or more acts of child endangerment involving the child, a sibling, or another child in the household
 - » Child endangerment resulting in serious injury to the child, a sibling, or another child in the household
 - » Murder or voluntary manslaughter of another child of the parent
 - » Aiding, abetting, attempting, or soliciting to commit murder or voluntary manslaughter of another child of the parent
 - » A felony assault that results in serious bodily injury to the child or another child of the parent
- The parent has subjected the child to aggravated circumstances.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has failed to maintain significant and meaningful contact with the child for a period of 6 consecutive months.
- Parental rights to another child of the parent have been involuntarily terminated, and there is evidence that the parent continues to lack the ability or willingness to respond to services.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Stat. § 232.111**

A petition to terminate parental rights is not required when:

- At the option of the department or by order of the court, the child is being cared for by a relative.
- The department has documented a compelling reason for determining that termination would not be in the best interests of the child. A compelling reason can include evidence that the family may achieve reunification within 6 months.
- The department has not provided services within the timeframes indicated in the case plan.

The court need not terminate parental rights when:

- A relative has legal custody of the child.
- The child is over age 10 and objects to the termination.
- There is clear and convincing evidence that termination would be detrimental to the child due to closeness of the parent-child relationship.
- It is necessary to place the child in a hospital or other facility for care and treatment and the continuation of the parent-child relationship is not preventing a permanent family placement for the child.
- The absence of the parent is due to the parent's admission or commitment to any institution or health facility or due to active service in the State or Federal armed forces.

Kansas**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. §§ 38-2269; 38-2271**

The court may terminate parental rights when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition that renders the parent unable to care properly for a child, and the conduct or condition is unlikely to change in the foreseeable future. In making a determination of unfitness, the court shall consider, but is not limited to, the following, if applicable:

- Emotional illness, mental illness, mental deficiency, or physical disability of such duration or nature as to render the parent unable to care for the child
- Conduct toward a child of a physically, emotionally, sexually cruel, or abusive nature
- The use of intoxicating liquors or dangerous drugs that render the parent unable to care for child
- Physical, mental, or emotional abuse, neglect, or sexual abuse of a child
- Conviction of a felony and imprisonment
- Unexplained injury or death of another child or stepchild of the parent
- Failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family
- Lack of effort on the part of the parent to adjust the parent's circumstances, conduct, or conditions to meet the needs of the child

In addition, when a child is not in the physical custody of a parent, the court shall consider, but is not limited to, the following:

- Failure to assure care of the child in the parental home when able to do so
- Failure to maintain regular visitation, contact, or communication with the child
- Failure to carry out a reasonable plan approved by the court directed toward the integration of the child into a parental home
- Failure to pay a reasonable portion of the cost of substitute physical care and maintenance based on ability to pay

It is presumed that a parent is unfit if the State establishes, by clear and convincing evidence, that:

- A parent has previously been found to be an unfit parent.
- A parent has twice before been convicted of a crime or the attempt to commit a crime specified in article 34, 35, or 36 of chapter 21 of the Kansas Statutes, and the victim was under age 18.
- On two or more prior occasions a child in the physical custody of the parent has been adjudicated a child in need of care.
- The parent has been convicted of causing the death of another child or stepchild of the parent.
- The child has been in out-of-home placement for a cumulative period of 1 year or longer, and the parent has substantially neglected or willfully refused to carry out a reasonable plan for reintegration of the child into the parental home.
- The child has been in out-of-home placement for a cumulative period of 2 years or longer, the parent has failed to carry out a reasonable plan for reintegration of the child into the parental home, and there is a substantial probability that the parent will not carry out such plan in the near future.
- A parent has been convicted of capital murder or voluntary manslaughter, or has been adjudicated a juvenile offender, and the victim of such murder was the other parent of the child.
- A parent abandoned or neglected the child after having knowledge of the child's birth.
- A parent has made no reasonable efforts to support or communicate with the child after having knowledge of the child's birth.
- A father, after having knowledge of the pregnancy, failed without reasonable cause to provide support for the mother during the 6 months prior to the child's birth.
- A father abandoned the mother after having knowledge of the pregnancy.
- A parent has been convicted of rape resulting in the conception of the child.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Kentucky

Circumstances That Are Grounds for Termination of Parental Rights

Rev. Stat. §§ 600.020; 610.127; 625.090

The court may involuntarily terminate all parental rights if it is shown by clear and convincing evidence that:

- The child is an abused or neglected child. "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when the parent:
 - » Inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means
 - » Creates or allows to be created a risk of physical or emotional injury
 - » Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to mental illness or alcohol and other drug abuse
 - » Continuously or repeatedly fails or refuses to provide essential care and protection for the child
 - » Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child
 - » Abandons or exploits the child
 - » Does not provide the child with adequate care, supervision, food, clothing, shelter, education, or medical care necessary for the child's well-being
 - » Fails to make sufficient progress toward the goals set the case plan that results in the child remaining in foster care for 15 of the most recent 22 months
- The parent has abandoned the child for a period of not less than 90 days.
- The parent has been convicted of a felony that involved the infliction of serious physical injury to any child.
- The parent, for a period of not less than 6 months, has failed or refused to provide, or has been substantially incapable of providing, essential parental care and protection for the child, and there is no reasonable expectation of improvement.
- The parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.
- The parent is incarcerated and will be unavailable to care for the child for a period of at least 1 year from the date of the child's entry into foster care, and there is no appropriate relative placement available during this period of time.
- The parent has sexually abused the child and has refused available treatment.
- The parent has been found to have engaged in abuse of the child that required removal from the parent's home two or more times in the past 2 years.
- The parent's parental rights to another child have been involuntarily terminated, and the conditions that were the basis for the previous termination have not been corrected.
- The parent has been convicted of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect.

Circumstances That Are Exceptions to Termination of Parental Rights

Rev. Stat. § 625.090

If the parent proves by a preponderance of the evidence that the child will not continue to be an abused or neglected child if returned to the parent, the court in its discretion may determine not to terminate parental rights.

Louisiana**Circumstances That Are Grounds for Termination of Parental Rights
Children's Code art. 672.1; 1015**

The grounds for termination of parental rights are:

- Conviction of murder of the child's other parent
- Unjustified intentional killing of the child's other parent
- Misconduct of the parent toward any child in the household that constitutes extreme abuse, cruel and inhuman treatment, or grossly negligent behavior below a reasonable standard of human decency
- Conviction, commission, aiding or abetting, attempting, conspiring, or soliciting to commit any of the following:
 - » Murder or unjustified intentional killing
 - » Aggravated incest, rape, sodomy, or sexual abuse
 - » Torture or starvation
 - » A felony that has resulted in serious bodily injury
 - » Abuse or neglect that is chronic, life threatening, or results in gravely disabling physical or psychological injury or disfigurement
- Abuse or neglect after the child is returned to the parent's care when the child had previously been removed for his or her safety
- Previous termination of the parent's parental rights to one or more of the child's siblings due to neglect or abuse coupled with unsuccessful attempts to rehabilitate the parent
- Abandonment of the child by placing him in the physical custody of a nonparent or the department, or by otherwise leaving the child under circumstances demonstrating an intention to permanently avoid parental responsibility by any of the following:
 - » For a period of at least 4 months, despite a diligent search, the whereabouts of the child's parent continue to be unknown.
 - » As of the time the petition is filed, the parent has failed to provide significant contributions to the child's care and support for any period of 6 consecutive months.
 - » As of the time the petition is filed, the parent has failed to maintain significant contact with the child by visiting him or communicating with him for any period of 6 consecutive months.
- Failure of the parent to substantially comply with a case plan for 1 year or more and no reasonable expectation of significant improvement in the parent's condition or conduct in the near future
- Incarceration of the parent for an extended period of time, and despite notice by the department, the parent has refused or failed to provide a reasonable plan for the appropriate care of the child other than foster care
- The relinquishment of an infant pursuant to Chapter 13 of Title XI
- The commission of a felony rape by the natural parent that resulted in the conception of the child

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Maine**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. Tit. 22, § 4055**

The court may order termination of parental rights if the court finds, based on clear and convincing evidence, that termination is in the best interest of the child, and:

- The parent is unwilling or unable to protect the child from jeopardy and these circumstances are unlikely to change within a reasonable time.
- The parent has been unwilling or unable to take responsibility for the child within a time that is reasonably calculated to meet the child's needs.
- The child has been abandoned.
- The parent has failed to make a good faith effort to rehabilitate and reunify with the child.

The court may presume that the parent is unwilling or unable to protect the child if:

- The parent has acted toward a child in a manner that is heinous or abhorrent to society.
- The parent has been convicted of any of the following and the victim was a child for whom the parent was responsible:
 - » Murder, felony murder, or manslaughter
 - » Aiding or soliciting suicide or aggravated assault
 - » Rape, gross sexual misconduct or gross sexual assault, sexual abuse of minors, or incest
 - » Kidnapping
 - » Promotion of prostitution
- The child has been placed in the legal custody or care of the department, the parent has a chronic substance abuse problem, 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.
- 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 has failed to remedy the conditions that led to the termination.
- 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.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Stat. Tit. 22, § 4055**

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.

The court shall consider, but is not bound by, the wishes of a child age 12 or older in making an order under this section.

Maryland**Circumstances That Are Grounds for Termination of Parental Rights****Family Law § 5-525.1**

A petition for termination of parental rights shall be filed if:

- The child has been in an out-of-home placement for 15 of the most recent 22 months.
- A court finds that the child is an abandoned infant.
- A court finds that the parent has been convicted, in any State or any court of the United States, of:
 - » A crime of violence against a minor offspring of the parent, the child, or another parent of the child
 - » Aiding, abetting, conspiring, or soliciting to commit a crime described above

Circumstances That Are Exceptions to Termination of Parental Rights**Family Law § 5-525.1**

The department is not required to file a petition for termination of parental rights if:

- The child is being cared for by a relative.
- The department has documented in the case plan a compelling reason why termination of parental rights would not be in the child's best interests.
- The department has not provided services to the family consistent with the time period in the case plan that the department considers necessary for the safe return of the child to the child's home.

Massachusetts**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Laws Ch. 119, §§ 26, 29C; Ch. 210, § 3**

The department of social services shall file a petition to terminate parental rights under the following circumstances:

- The child has been abandoned.
- The parent has been convicted of the murder or voluntary manslaughter of another child of the parent, of aiding, abetting, attempting, conspiring or soliciting to commit such murder or voluntary manslaughter, or of a felony assault that resulted in serious bodily injury to the child or to another child of the parent.
- The child has been in foster care for 15 of the immediately preceding 22 months.
- The parent's rights were involuntarily terminated in a case involving a sibling of the child.
- The parent has subjected the child to aggravated circumstances consisting of murder of another parent of the child in the presence of the child or by subjecting the child or other children in the home to sexual abuse or exploitation or severe or repetitive conduct of a physically or emotionally abusive nature.
- The child has been abused or neglected as a result of the acts or omissions of one or both parents.
- The child has been in out-of-home placement for at least 6 months and the parents have not maintained significant and meaningful contact with the child nor have they, on a regular and consistent basis, accepted or productively utilized services intended to correct the circumstances.
- The child is 4 or older and has been in out-of-home placement for at least 12 of the immediately preceding 15 months, and the child cannot be returned to the custody of the parents.
- The child is younger than 4 and has been in out-of-home placement for at least 6 of the immediately preceding 12 months, and the child cannot be returned to the custody of the parents.
- The parent, without excuse, fails to provide proper care or custody for the child, and there is a reasonable expectation that the parent will not be able to provide proper care or custody within a reasonable time.
- The parent has willfully failed to visit or support the child when the child is not in the custody of the parent.
- The parent suffers from a condition that is reasonably likely to continue for a prolonged, indeterminate period, such as alcohol or drug addiction, mental deficiency, or mental illness, and the condition makes the parent unable to provide minimally acceptable care of the child.
- The parent is incarcerated and unable to provide the child with a stable home for a period of years.
- There is a prior pattern of parental neglect or misconduct that presents a likelihood of future harm to the child.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Laws Ch. 119, § 26**

The department need not file such a petition to terminate parental rights if:

- The child is being cared for by a relative.
- The department has documented in the case plan a compelling reason for determining that such a petition would not be in the best interests of the child.
- The family of the child has not been provided, consistent with the time period in the case plan, such services as the department deems necessary for the safe return of the child to the child's home if reasonable efforts as set forth in § 29C are required to be made with respect to the child.

Michigan

Circumstances That Are Grounds for Termination of Parental Rights

Comp. Laws § 712A.19b

The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, one or more of the following:

- The parent has failed to comply with a case plan that was designed to remedy conditions that led to the child's out-of-home placement.
- The parent has failed or neglected, without good cause, to provide regular and substantial support for the child for 2 years or more.
- The parent has regularly and substantially failed or neglected, without good cause, to visit, contact, or communicate with the child for 2 years or more.
- The parent has failed to provide proper care or custody for the child, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time.
- The parent is incarcerated for such a period that the child will be deprived of a normal home for more than 2 years, and the parent has not provided for the child's proper care and custody.
- Parental rights to one or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful.
- There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.
- The parent abused the child or a sibling, and the abuse included one or more of the following:
 - » Abandonment of a young child
 - » Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate
 - » Battering, torture, or other severe physical abuse
 - » Loss or serious impairment of an organ or limb
 - » Life threatening injury
 - » Murder or attempted murder
 - » Voluntary manslaughter
 - » Aiding, abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter

Circumstances That Are Exceptions to Termination of Parental Rights

Comp. Laws § 712A.19b

If the court finds that there are grounds for termination of parental rights, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made, unless the court finds that termination of parental rights to the child is clearly not in the child's best interests.

Minnesota**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. §§ 260.012; 260C.301**

The juvenile court may, upon petition, terminate all rights of a parent to a child if it finds that one or more of the following conditions exist:

- The parent has abandoned the child.
- The parent has substantially, continuously, or repeatedly refused or neglected to provide the child with necessary food, clothing, shelter, education, and other care and control.
- The parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause.
- The parent is unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child.
- Following the child's placement out of the home, reasonable efforts have failed to correct the conditions leading to the child's placement.
- The parent has failed two or more times to successfully complete a treatment program for chemical dependency.
- The parent has subjected a child to egregious harm that is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being.
- An unwed birth father has failed to register with the fathers' adoption registry.
- The child is neglected and in foster care.
- The parental rights of the parent to another child have been terminated involuntarily.
- The child is an abandoned infant.
- The provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Stat. § 260C.312**

The court may elect not to terminate parental rights if it finds that the petition is not proven or that termination is not in the child's best interests.

Mississippi

Circumstances That Are Grounds for Termination of Parental Rights

Ann. Code §§ 43-21-603; 93-15-103

A petition to terminate parental rights shall be filed under one or more of the following circumstances:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Severe mental deficiencies, mental illness, or physical incapacitation
 - » Alcohol or drug addiction
- The parent has been responsible for a series of abusive incidents concerning one or more children.
- There is an extreme and deep-seated antipathy by the child toward the parent that was caused at least in part by the parent's serious neglect, abuse, or prolonged and unreasonable absence.
- The parent has subjected the child to an aggravated circumstance, including, but not limited to, abandonment, torture, chronic abuse, substance abuse, or sexual abuse.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of any of the following offenses against any child:
 - » Murder or voluntary manslaughter of another child of the parent
 - » Aiding, abetting, attempting, or soliciting to commit murder or voluntary manslaughter of another child of the parent
 - » A felony assault that results in serious bodily injury to the child or another child of the parent
 - » Rape, sexual battery, exploitation, or touching of a child for lustful purposes
 - » Felonious abuse or battery of a child
 - » Carnal knowledge of a stepchild, an adopted child, or the child of a cohabiting partner
- The parent has failed to exercise reasonable available visitation with the child.
- The parent has made no contact with a child under the age of 3 years for 6 months or a child 3 years of age or older for a period of 1 year.
- Parental rights to another child of the parent have been involuntarily terminated.

Circumstances That Are Exceptions to Termination of Parental Rights

Ann. Code § 93-15-103

Legal custody and guardianship by persons other than the parent, as well as other permanent alternatives that end the supervision by the Department of Human Services, should be considered as alternatives to the termination of parental rights, and these alternatives should be selected when, in the best interest of the child, parental contacts are desirable and it is possible to secure such placement without termination of parental rights.

Missouri**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. § 211.447**

A petition to terminate the parental rights shall be filed when:

- The child has been in foster care for at least 15 of the most recent 22 months.
- A court has determined the child to be an abandoned infant.
- The parent has:
 - » Committed murder or voluntary manslaughter of another child of the parent
 - » Aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter
 - » Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent
- The child has been abandoned.
- The parent has abused or neglected the child, based on any of the following:
 - » A mental condition or chemical dependency that renders the parent unable to care for the child
 - » A severe act or recurrent acts of physical, emotional, or sexual abuse toward the child or any child in the family, including an act of incest
 - » Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education
- The child has been in out-of-home care for 1 year, and the parent has failed to comply with the terms of a case plan designed to reunify the parent with the child.
- The parent has been found guilty of a sexual offense or incest and the victim was the child or any child in the family.
- The child was conceived and born as a result of an act of forcible rape by a biological parent.
- The parent is unfit because of a consistent pattern of committing a specific abuse, including but not limited to, domestic abuse, child abuse, or drug abuse before the child.
- The parent's parental rights to one or more other children were involuntarily terminated within the immediately preceding 3 years.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Stat. § 211.447**

Even when grounds exist for termination of parental rights, the juvenile officer or the division is not required to file a petition to terminate the parental rights of the child's parent or parents if:

- The child is being cared for by a relative.
- There exists a compelling reason for determining that filing such a petition would not be in the best interest of the child, as documented in the permanency plan.
- The family of the child has not been provided the services required for making reasonable efforts to preserve the family.

Montana**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Code §§ 41-3-423; 41-3-609**

The court may order a termination parental rights upon a finding established by clear and convincing evidence that any of the following circumstances exist:

- The child has been abandoned.
- The parent has been convicted of a felony sexual offense that resulted in the birth of the child.
- The parent has:
 - » Subjected a child to aggravated circumstances, including but not limited to abandonment, torture, chronic abuse, sexual abuse, or chronic, severe, neglect of a child
 - » Committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate homicide of a child
 - » Committed aggravated assault against a child
 - » Committed neglect of a child that resulted in serious bodily injury or death
 - » Had parental rights to the child's sibling or other child of the parent involuntarily terminated and the circumstances related to the termination of parental rights are relevant to the parent's ability to adequately care for the child at issue
- A putative father has failed to do any of the following:
 - » Contribute to the support of the child for an aggregate period of 1 year, although able to do so
 - » Establish a substantial relationship with the child, as demonstrated by visiting the child at least monthly or maintaining regular contact when physically and financially able to do so
 - » Register with the putative father registry
- Reasonable efforts to rehabilitate the parent have failed.
- The conduct or condition of the parent makes the parent unfit, unable, or unwilling to give the child adequate parental care. In making the determinations, the court shall consider but is not limited to the following:
 - » Emotional illness, mental illness, or mental deficiency of the parent of a duration or nature as to render the parent unlikely to care for the ongoing physical, mental, and emotional needs of the child within a reasonable time
 - » A history of violent behavior by the parent
 - » Excessive use of intoxicating liquor or of a narcotic or dangerous drug that affects the parent's ability to care and provide for the child
 - » Incarceration of the parent for more than 1 year and reunification of the child with the parent is not in the best interests of the child because of the child's circumstances, including placement options, age, and developmental, cognitive, and psychological needs

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Code § 41-3-609(5)**

If a proceeding under this chapter involves an Indian child and is subject to the Federal Indian Child Welfare Act, a qualified expert witness is required to testify that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

Nebraska**Circumstances That Are Grounds for Termination of Parental Rights****Rev. Stat. § 43-292**

The court may terminate parental rights when the court finds such action to be in the best interests of the child and one or more of the following conditions exist:

- The parent has abandoned the child for 6 months or more.
- The parent is unable to discharge his or her parental duties due to mental illness or mental deficiency, and such condition will likely continue for a prolonged, indeterminate period.
- The parent has substantially and continuously or repeatedly neglected the child.
- The parent is unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior.
- The parent has inflicted, by other than accidental means, serious physical injury upon the child.
- The parent has subjected the child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Murder or voluntary manslaughter of another child of the parent
 - » Aiding, abetting, attempting, or soliciting to commit murder or voluntary manslaughter of another child of the parent
 - » A felony assault that results in serious bodily injury to the child or another minor child of the parent
- The parent has failed to provide necessary care and subsistence for the child when financially able to do so.
- The child has been in out-of-home placement for 15 of the most recent 22 months.
- Parental rights to another child of the parent have been involuntarily terminated.

Circumstances That Are Exceptions to Termination of Parental Rights**Rev. Stat. § 43-292.02**

A petition shall not be filed to terminate the parental rights of the child's parents if the basis for the petition is that:

- The parent is financially unable to provide health care for the child.
- The parent is incarcerated.

The petition is not required to be filed if:

- The child is being cared for by a relative.
- The Department of Health and Human Services has documented in the case plan or permanency plan a compelling reason for determining that filing such a petition would not be in the best interests of the child.
- The family of the child has not had a reasonable opportunity to avail themselves of the services deemed necessary in the case plan or permanency plan approved by the court if reasonable efforts to preserve and reunify the family are required by law.

Nevada**Circumstances That Are Grounds for Termination of Parental Rights****Rev. Stat. §§ 128.105; 128.106; 432B.393**

The primary consideration in any proceeding to terminate parental rights must be whether the best interests of the child will be served by the termination. The grounds for termination of parental rights include:

- A finding that reasonable efforts to reunite the child with the parent are not required because the parent has:
 - » Committed, aided, or abetted in the commission of, or attempted, conspired, or solicited to commit murder or voluntary manslaughter
 - » Caused the abuse or neglect of a child that resulted in substantial bodily harm
 - » Caused abuse or neglect that was so extreme or repetitious that any plan to return the child home would result in an unacceptable risk to the health or welfare of the child
 - » Abandoned the child for 60 or more days
 - » Failed to contact or communicate with the child
 - » Had his or her parental rights to another child terminated by a court order upon any basis other than the execution of a voluntary relinquishment
 - » Had a child previously removed from the home, returned home, and subsequently removed as a result of additional abuse or neglect
 - » Failed to establish his paternity
 - » Had the child delivered to a provider of emergency services pursuant to § 432B.630
- A finding that the parent has demonstrated at least one of the following:
 - » Abandonment or neglect of the child
 - » Unfitness of the parent
 - » Failure of parental adjustment
 - » Risk of serious physical, mental, or emotional injury to the child if he or she were returned to, or remains in, the home of the parent
 - » Only token efforts by the parent to support or communicate with the child, to prevent neglect of the child, or to eliminate the risk of serious physical, mental, or emotional injury to the child

In determining neglect by or unfitness of a parent, the court shall consider, without limitation, the following conditions that may diminish suitability as a parent:

- Emotional illness, mental illness, or mental deficiency of the parent
- Conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature
- Excessive use of intoxicating liquors, controlled substances, or dangerous drugs
- Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education, or other care
- Conviction of the parent for commission of a felony that indicates the unfitness of the parent
- Unexplained injury or death of a sibling of the child
- Inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

New Hampshire**Circumstances That Are Grounds for Termination of Parental Rights****Rev. Stat. §§ 169-C:24-a; 170-C:5**

A petition for termination of parental rights shall be filed when any one or more of the following circumstances exist:

- The child has been in an out-of-home placement for 12 of the most recent 22 months.
- The child has been abandoned.
- The parent has been convicted of:
 - » Murder of another child of the parent, a sibling or step-sibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant
 - » Manslaughter of another child of the parent
 - » Attempt, solicitation, or conspiracy to commit any of the offenses listed above
 - » Felony assault that resulted in injury to the child, a sibling or step-sibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant
- The parent, although financially able, has substantially and continuously neglected to provide the child with necessary subsistence, education, or other necessary care.
- The parent has failed to correct the conditions leading to the child's out-of-home placement within 12 months, despite reasonable efforts under the direction of the district court to rectify the conditions.
- Because of mental deficiency or mental illness, the parent is and will continue to be incapable of giving the child proper parental care and protection for a longer period of time than would be wise or prudent.
- The parent knowingly or willfully caused or permitted another to cause severe sexual, physical, emotional, or mental abuse of the child.
- The parent's conduct toward the child has resulted in severe harm to the child.
- The parent's conduct toward the child has continued despite the reasonable efforts of authorized agencies in obtaining or providing services for the parent to reduce or alleviate such conduct.
- The parent, as a result of incarceration for a felony offense, is unable to discharge his or her responsibilities for the child and, in addition, has been shown to have abused or neglected the child. The court may review the conviction of the parent to determine whether the felony offense is of such a nature, and the period of incarceration imposed of such duration, that the child would be deprived of proper parental care and protection and left in an unstable or impermanent environment for a longer period of time than would be prudent.

Circumstances That Are Exceptions to Termination of Parental Rights**Rev. Stat. § 169-C:24-a**

The State may not be required to file a petition for termination of parental rights if one or more of the following conditions exist:

- The child is being appropriately cared for by a relative.
- A State agency has documented in the case file a compelling reason for determining that filing a petition for termination of parental rights would not be in the best interests of the child.
- The State has not provided to the family of the child such services and reasonable efforts as the State deems necessary for the safe return of the child to the child's home.

New Jersey**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. §§ 30:4C-11.2; 30:4C-15**

A petition to terminate parental rights shall be filed when there is evidence of one or more of the following:

- The parent has abandoned the child.
- The parent has subjected the child to aggravated circumstances of abuse, neglect, cruelty, or abandonment.
- Reasonable efforts to rehabilitate the parent have been provided for 1 year, and the parent has failed to remedy the conditions that led to the child's out-of-home placement.
- The parent has been convicted of:
 - » Murder, aggravated manslaughter, or manslaughter of another child of the parent
 - » Aiding, abetting, attempting, or soliciting to commit the above murder, aggravated manslaughter, or manslaughter of the child or another child of the parent
 - » Committing or attempting to commit an assault or similarly serious criminal act that resulted, or could have resulted, in the death or significant bodily injury to the child or another child of the parent
- Parental rights to another child of the parent have been involuntarily terminated.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Stat. §§ 30:4C-15; 30:4C-15.3**

A petition shall be filed as soon as any one of the circumstances listed above is established, but no later than when the child has been in placement for 15 of the most recent 22 months, unless the division establishes an exception to the requirement to seek termination of parental rights.

The Division of Youth and Family Services shall not be required to file a petition seeking the termination of parental rights if:

- The child is being cared for by a relative, and a permanent plan for the child can be achieved without termination of parental rights.
- The division has documented in the case plan, which shall be available for court review, a compelling reason for determining that filing the petition would not be in the best interests of the child.
- The division is required to provide reasonable efforts to reunify the family but has not provided to the family of the child, consistent with the time period in the case plan, such services as the division deems necessary for the safe return of the child to his home.

New Mexico**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. §§ 32A-4-28; 32A-4-2**

The court shall terminate parental rights when:

- The child has been abandoned.
- The child has been neglected or abused, and the court finds that the conditions and causes of the neglect and abuse are unlikely to change in the foreseeable future despite reasonable efforts to assist the parent in adjusting the conditions that render the parent unable to properly care for the child.
- The parent has subjected the child to aggravated circumstances.
- The child has been placed in the care of others, including care by other relatives, either by a court order or otherwise, and the following conditions exist:
 - » The child has lived in the home of others for an extended period of time.
 - » The parent-child relationship has disintegrated.
 - » A psychological parent-child relationship has developed between the substitute family and the child.
 - » If the court deems the child of sufficient capacity to express a preference, the child no longer prefers to live with the natural parent.
 - » The substitute family desires to adopt the child.

“Aggravated circumstances” include those circumstances in which the parent has:

- Attempted, conspired to cause, or caused great bodily harm to the child or great bodily harm or death to the child’s sibling
- Attempted, conspired to cause, or caused great bodily harm or death to another parent, guardian, or custodian of the child
- Attempted, conspired to subject, or subjected the child to torture, chronic abuse, or sexual abuse
- Had his or her parental rights over a sibling of the child terminated involuntarily

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Stat. § 32A-4-29**

The department shall file a motion to terminate parental rights when a child has been in the custody of the department for not less than 15 of the previous 22 months, unless:

- A parent has made substantial progress toward eliminating the problem that caused the child’s placement in foster care, it is likely that the child will be able to safely return to the parent’s home within 3 months, and the child’s return to the parent’s home will be in the child’s best interests.
- The child has a close and positive relationship with a parent, and a permanent plan that does not include termination of parental rights will provide the most secure and appropriate placement for the child.
- The child is age 14 or older, is firmly opposed to termination of parental rights, and is likely to disrupt an attempt to place him with an adoptive family.
- A parent is terminally ill, but in remission, and does not want his or her parental rights to be terminated, and the parent has designated a guardian for his or her child.
- The child is not capable of functioning if placed in a family setting. In such a case, the court shall reevaluate the status of the child every 90 days unless there is a final court determination that the child cannot be placed in a family setting.
- Grounds do not exist for termination of parental rights.
- The child is an unaccompanied, refugee minor, and the situation regarding the child involves international legal issues or compelling foreign policy issues.
- Adoption is not an appropriate plan for the child.

New York**Circumstances That Are Grounds for Termination of Parental Rights****Soc. Serv. Law §§ 358-a; 384-b**

An order terminating parental rights shall be granted only upon a finding that one or more of the grounds specified below are based upon clear and convincing proof:

- The parent has abandoned the child for 6 months immediately prior to the date on which the petition is filed in the court.
- The parent is presently and for the foreseeable future unable, by reason of mental illness or mental retardation, to provide proper and adequate care for the child.
- The child is a permanently neglected child.
- The parent severely or repeatedly abused such child.

When a court determines that reasonable efforts to reunite the child with his or her parent are not required, a petition to terminate parental rights may be filed immediately. Reasonable efforts shall not be required when:

- The parent has subjected the child to aggravated circumstances, as defined below.
- The parent of such child has been convicted of:
 - » Murder or voluntary manslaughter and the victim was another child of the parent
 - » The attempt to commit any of the above crimes
 - » Assault or aggravated assault upon a person less than age 11 that resulted in serious physical injury to the child or another child of the parent
- The parent has failed for 6 months to keep the agency apprised of his or her location.
- An incarcerated parent has failed on more than one occasion to cooperate with efforts to assist the parent to plan for the future of the child or to plan and arrange visits with the child.
- The parental rights of the parent to a sibling of the child have been involuntarily terminated.

“Aggravated circumstances” means:

- A child has been either severely or repeatedly abused.
- A child has subsequently been found to be an abused child within 5 years after returning home following placement in foster care as a result of being found to be a neglected child.
- The parent of a child in foster care has refused and has failed completely, over a period of at least 6 months from the date of removal, to engage in services necessary to eliminate the risk of abuse or neglect.

Circumstances That Are Exceptions to Termination of Parental Rights**Soc. Serv. Law § 384-b**

When the child has been in foster care for 15 months of the most recent 22 months, has been determined to be an abandoned child, or the parent has been convicted of one of the crimes listed above, a petition to terminate the parent's rights shall be filed unless:

- The child is being cared for by a relative or relatives.
- The agency has documented in the most recent case plan a compelling reason for determining that the filing of a petition would not be in the best interest of the child.
- The agency has not provided to the parent or parents of the child such services as it deems necessary for the safe return of the child to the parent or parents, unless such services are not legally required.

For the purposes of this section, a compelling reason why a petition for termination of parental rights is not required may include, but is not limited to:

- The child was placed into foster care, and a review of the specific facts and circumstances of the child's placement demonstrates that the appropriate permanency goal for the child is either a return to his or her parent or guardian or discharge to independent living.
- The child has a permanency goal other than adoption.
- The child is age 14 or older and will not consent to his or her adoption.
- There are insufficient grounds for filing a petition to terminate parental rights.
- The child is the subject of a pending disposition.

North Carolina**Circumstances That Are Grounds for Termination of Parental Rights****Gen. Stat. § 7B-1111**

The court may terminate the parental rights upon a finding of one or more of the following:

- The parent has abused or neglected the child.
- The parent has willfully left the child in foster care for more than 12 months without showing reasonable progress in correcting the conditions that led to the removal of the child.
- The child has been in an out-of-home placement for a continuous period of 6 months, and the parent has willfully failed for such period to pay a reasonable portion of the cost of care for the child although financially able to do so.
- A noncustodial parent has for a period of 1 year or more willfully failed without justification to pay for the care, support, and education of the child, as required by a custody agreement.
- A putative father of a child born out of wedlock has not established his paternity.
- The parent is incapable of providing for the proper care of the child as a result of substance abuse, mental retardation, mental illness, or organic brain syndrome.
- The parent has willfully abandoned the child for at least 6 consecutive months, or the parent has voluntarily abandoned an infant pursuant to § 7B-500 for at least 60 consecutive days.
- The parent has committed murder or voluntary manslaughter of another child of the parent or other child residing in the home; has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child, another child of the parent, or other child residing in the home; has committed a felony assault that results in serious bodily injury to the child, another child of the parent, or other child residing in the home; or has committed murder or voluntary manslaughter of the other parent of the child.
- The parental rights of the parent to another child have been terminated involuntarily, and the parent lacks the ability or willingness to establish a safe home.

Circumstances That Are Exceptions to Termination of Parental Rights**Gen. Stat. § 7B-1111**

No parental rights shall be terminated for the sole reason that the parents are unable to care for the child on account of their poverty.

North Dakota**Circumstances That Are Grounds for Termination of Parental Rights****Cent. Code §§ 27-20-02; 27-20-44**

The court may terminate the parental rights if:

- The parent has abandoned the child.
- The child is subjected to aggravated circumstances.
- The child is a deprived child, and the court finds:
 - » The causes of the deprivation are likely to continue and for that reason the child is suffering or will likely suffer serious physical, mental, moral, or emotional harm.
 - » The child has been in foster care for at least 450 out of the previous 660 nights.

“Aggravated circumstances” means a parent:

- Abandons, tortures, chronically abuses, or sexually abuses a child
- Fails to make substantial, meaningful efforts to secure treatment for his or her addiction, mental illness, behavior disorder, or other conditions for 1 year or one-half of the child’s lifetime, measured in days
- Engages in a sexual offense in which a child is the victim or intended victim
- Commits one of the following crimes:
 - » Murder, manslaughter, or reckless homicide, and the victim is another child of the parent
 - » Aiding, abetting, attempting, conspiring, or soliciting to commit one of the above crimes, and the victim is a child of the parent
 - » Aggravated assault, and the victim is a child of the parent and has suffered serious bodily injury
 - » Assault, aggravated assault, reckless endangerment, or terrorizing, and a child is the victim or intended victim
- Has been incarcerated under a sentence for which the latest release date is:
 - » In the case of a child age 9 or older, after the child’s majority
 - » In the case of a younger child, after the child is twice the child’s current age, measured in days
- Subjects the child to prenatal exposure to chronic or severe use of alcohol or any controlled substance in a manner not lawfully prescribed
- Allows the child to be present in an environment subjecting the child to a controlled substance, chemical substance, or drug paraphernalia

Circumstances That Are Exceptions to Termination of Parental Rights**Cent. Code § 27-20-20.1**

A petition for termination of parental rights need not be filed if:

- The child is being cared for by a relative approved by the department.
- The department has documented in the case plan a compelling reason for determining that filing such a petition would not be in the child’s best interests.
- The department has determined:
 - » Reasonable efforts to preserve and reunify the family are required under § 27-20-32.2 to be made with respect to the child.
 - » The case plan provides such services as are necessary for the safe return of the child to the child’s home.
 - » Such services have not been provided consistent with time periods described in the case plan.

Northern Mariana Islands

Circumstances That Are Grounds for Termination of Parental Rights Commonwealth Code Tit. 8, § 1418

The court may terminate a parent's parental rights when:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to physical or mental incapacity, and such incapacity is irremediable or will not be remedied by the parent.
- The parent's conduct, faults, and habits have left the child without proper parental care and control, subsistence, education, or other care necessary for the child's physical, mental, or emotional health or morals.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Ohio

Circumstances That Are Grounds for Termination of Parental Rights Rev. Stat. § 2151.414

A court may terminate parental rights if it finds, by clear and convincing evidence, that it is in the best interest of the child and that any of the following apply:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Chronic mental or emotional illness
 - » Mental retardation or physical disability
 - » Chemical dependency
- The parent is incarcerated for an offense committed against the child or a sibling of the child.
- The parent is incarcerated and thereby will not be available to care for the child for at least 18 months, or the parent is repeatedly incarcerated, and the repeated incarceration prevents the parent from providing care for the child.
- The parent has committed any abuse against the child or caused or allowed the child to suffer any neglect.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of or pled guilty to:
 - » Murder, aggravated murder, or voluntary manslaughter of another child of the parent or another child living in the household
 - » Assault, aggravated assault, or felonious assault of the child, a sibling, or another child living in the household
 - » Endangering children, rape, sexual battery, corruption of a minor, sexual imposition, or gross sexual imposition, and the victim was the child, a sibling, or another child in the household
 - » A conspiracy or attempt to commit any of the offenses described above
- The parent has demonstrated a lack of commitment to the child by failing to regularly support, visit, or communicate with the child when able to do so.
- The parent for any reason is unwilling to provide food, clothing, shelter, and other basic necessities for the child or to prevent the child from suffering physical, emotional, or sexual abuse or physical, emotional, or mental neglect.
- The parent has placed the child at substantial risk of harm due to alcohol or drug abuse and has refused treatment.
- Parental rights to another child of the parent have been involuntarily terminated.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Oklahoma**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. Tit. 10, § 7006-1.1**

A court may terminate the rights of a parent to a child in the following situations, provided, however, that the paramount consideration shall be the health, safety, or welfare, and best interests of the child:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Mental illness or mental deficiency
 - » Extensive, abusive, and chronic use of drugs or alcohol
 - » Incarceration of a duration that would be detrimental to the parent-child relationship
- The parent has physically or sexually abused the child or a sibling of the child or has failed to protect the child from physical or sexual abuse.
- The child has been adjudicated a deprived child as a result of a single incident of severe sexual abuse, severe neglect, or the infliction of serious bodily injury.
- The parent has inflicted chronic abuse, chronic neglect, or torture on the child, a sibling, or a child residing in the household.
- The child or a sibling has suffered severe harm or injury as a result of physical or sexual abuse.
- The child was conceived as a result of rape.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Causing the death of a child as a result of physical abuse, sexual abuse, or chronic abuse or neglect of such child
 - » Murder or voluntary manslaughter of any child
 - » Aiding, abetting, attempting, or soliciting to commit murder or voluntary manslaughter of any child
 - » A felony assault that resulted in serious bodily injury to the child or another child of the parent
- The parent has willfully failed, refused, or neglected to contribute to the support of the child when financially able to do so.
- The parent has failed to maintain frequent and regular visitation, contact, or communication with the child.
- The child has been in foster care for 15 of the most recent 22 months.
- Parental rights to another child of the parent have been involuntarily terminated, and the conditions that led to the termination have not been corrected.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Oregon**Circumstances That Are Grounds for Termination of Parental Rights****Rev. Stat. §§ 419B.502; 419B.504; 419B.506; 419B.508**

The rights of the parent or parents may be terminated if the court finds:

- The parent is unfit by reason of a single or recurrent incident of extreme conduct toward any child. In determining extreme conduct, the court shall consider the following:
 - » Rape, sodomy, or sex abuse of any child by the parent
 - » Intentional starvation or torture of any child by the parent
 - » Abuse or neglect by the parent of any child resulting in death or serious physical injury
 - » Conduct by the parent to aid or abet another person who, by abuse or neglect, caused the death of any child
 - » Conduct by the parent to attempt, solicit, or conspire to cause the death of any child
 - » Previous involuntary terminations of the parent's rights to another child if the conditions giving rise to the previous action have not been ameliorated
 - » Conduct by the parent that knowingly exposes any child of the parent to the storage or production of methamphetamines from precursors
- The parent is unfit by reason of conduct or condition seriously detrimental to the child and integration of the child into the home of the parent is improbable within a reasonable time due to conduct or conditions not likely to change. In determining such conduct and conditions, the court shall consider but is not limited to the following:
 - » Emotional illness, mental illness, or mental retardation of the parent of such nature and duration as to render the parent incapable of providing proper care for the child for extended periods of time
 - » Conduct toward any child of an abusive, cruel, or sexual nature
 - » Addictive or habitual use of intoxicating liquors or controlled substances to the extent that parental ability has been substantially impaired
 - » Physical neglect of the child
 - » Lack of effort of the parent to adjust circumstances, conduct, or conditions to make it possible for the child to safely return home within a reasonable time
 - » Failure of the parent to effect a lasting adjustment after reasonable efforts by available social agencies for such extended duration of time that it appears reasonable that no lasting adjustment can be effected
 - » Criminal conduct that impairs the parent's ability to provide adequate care for the child
- The parent has failed or neglected without reasonable and lawful cause to provide for the basic physical and psychological needs of the child for 6 months. In determining such failure or neglect, the court shall disregard any incidental or minimal expressions of concern or support and shall consider but is not limited to one or more of the following:
 - » Failure to provide care or pay a reasonable portion of substitute physical care and maintenance if custody is lodged with others
 - » Failure to maintain regular visitation or other contact with the child that was designed to reunite the child with the parent
 - » Failure to contact or communicate with the child or with the custodian of the child
- The child has been abandoned or left under circumstances such that the identity of the parent was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child within 3 months following the finding of the child.

Circumstances That Are Exceptions to Termination of Parental Rights**Rev. Stat. § 419B.498**

The department shall file a petition to terminate the parental rights of a parent when the child has been in foster care for 15 of the most recent 22 months or there are grounds to terminate unless:

- The child is being cared for by a relative, and that placement is intended to be permanent.
- There is a compelling reason, which is documented in the case plan, for determining that filing such a petition would not be in the best interests of the child. Such compelling reasons include, but are not limited to:
 - » The parent is successfully participating in services that will make it possible for the child to safely return home within a reasonable time.
 - » Another permanent plan is better suited to meet the health and safety needs of the child.
 - » The court or local citizen review board in a prior hearing or review determined that, while the case plan was to reunify the family, the department did not make reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the child to safely return home.
- The department has not provided to the family of the child, consistent with the time period in the case plan, such services as the department deems necessary for the child to safely return home, if reasonable efforts to make it possible for the child to safely return home are required.

No petition to terminate parental rights may be filed until the court has determined that the permanency plan for the child should be adoption after a permanency hearing pursuant to § 419B.476.

Pennsylvania

Circumstances That Are Grounds for Termination of Parental Rights

Cons. Stat. Ch. 23, § 2511

The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

- The parent, for at least 6 months, either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.
- The repeated and continued incapacity, abuse, neglect, or refusal of the parent has caused the child to be without essential parental care, control, or subsistence necessary for his or her physical or mental well-being, and the conditions and causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied by the parent.
- The parent is the presumptive but not the natural father of the child.
- The child has been found under such circumstances that the identity or whereabouts of the parent is unknown and cannot be ascertained by diligent search, and the parent does not claim the child within 3 months after the child is found.
- The child has been in an out-of-home placement for at least 6 months, the conditions that led to the placement continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions that led to the removal or placement of the child within a reasonable period of time, and termination of the parental rights would best serve the needs and welfare of the child.
- In the case of a newborn child, the parent knows or has reason to know of the child's birth, does not reside with the child, has not married the child's other parent, and has failed for 4 months to make reasonable efforts to maintain substantial and continuing contact or to support the child.
- The parent is the father of a child conceived as a result of a rape or incest.
- The child has been removed from the care of the parent, 12 months or more have elapsed from the date of removal, the conditions that led to the removal continue to exist, and termination of parental rights would best serve the needs and welfare of the child.
- The parent has been convicted of one of the following in which the victim was a child of the parent:
 - » Criminal homicide
 - » Aggravated assault
 - » An attempt, solicitation, or conspiracy to commit an offense listed above

Circumstances That Are Exceptions to Termination of Parental Rights

Cons. Stat. Ch. 23, § 2511

The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing, and medical care, if found to be beyond the control of the parent.

Puerto Rico**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Laws Tit. 31, §§ 634a; 634b**

The grounds, be it by commission or omission, for which a person may be deprived, restricted, or suspended of the *patria potestas* of a son or daughter are the following:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Mental or emotional defect or condition
 - » Alcoholism or addiction to controlled substances
- The parent has caused or put the child at substantial risk of suffering predictable harm or injury to his or her physical, mental, emotional, or moral health.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Murder, manslaughter, or involuntary manslaughter and attempt thereof
 - » Child abuse
 - » Crimes against the life and physical integrity
 - » Rape, sodomy, lewd acts, or indecent exposure
 - » Prostitution of a son or daughter, whether biological or adopted
 - » Obscene behavior as prohibited in § 4077 of Title 33
 - » Noncompliance with the obligation to provide child support
 - » Abandonment of a child
 - » Sexual perversion of minors
 - » Public begging
 - » Abuse, aggravated abuse, abuse by threat, abuse by restriction of liberty, and conjugal sexual assault, part of the law known as the "Domestic Violence Prevention and Intervention Act"
- The parent has failed to support the child when financially able to do so.
- The parent has failed to maintain regular visitation, contact, or communication with the child.
- The parent has failed to assume the care and guardianship of the child in his or her home.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Laws Tit. 31, § 634a**

No person may be deprived of *patria potestas* for the legitimate practice of religious beliefs.

Rhode Island**Circumstances That Are Grounds for Termination of Parental Rights****Gen. Laws § 15-7-7**

The court shall terminate any and all legal rights of the parent to the child if it finds as a fact by clear and convincing evidence that:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Institutionalization, including imprisonment, of such duration that the parent cannot care for the child for an extended period of time
 - » A chronic substance abuse problem
- The parent has subjected the child to conduct of a cruel or abusive nature.
- The parent has subjected the child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse.
- The child has been in the custody of the department for at least 12 months, and reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Murder or voluntary manslaughter of another child of the parent
 - » Aiding, abetting, attempting, or soliciting to commit murder or voluntary manslaughter of another child of the parent
 - » A felony assault that results in serious bodily injury to the child or another child of the parent
- The parent has willfully neglected to provide proper care and maintenance for the child when financially able to do so.
- The parent has failed to communicate with the child.
- Parental rights to another child of the parent have been involuntarily terminated, and the parent continues to lack the ability to respond to services.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

South Carolina

Circumstances That Are Grounds for Termination of Parental Rights

Ann. Code § 20-7-1572

The family court may order the termination of parental rights upon a finding of one or more of the following grounds and a finding that termination is in the best interest of the child:

- The child or another child in the home has been harmed and because of the severity or repetition of the abuse or neglect, it is not reasonably likely that the home can be made safe within 12 months. In determining the likelihood that the home can be made safe, the parent's previous abuse or neglect of the child or another child in the home may be considered.
- The child has been removed from the parent, has been out of the home for 6 months following the adoption of a case plan, and the parent has not remedied the conditions that caused the removal.
- The child has lived outside the home of either parent for 6 months, and during that time the parent has willfully failed to visit or to support the child.
- The presumptive legal father is not the biological father of the child.
- The parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, alcohol or drug addiction, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unlikely to provide minimally acceptable care of the child.
- The child has been abandoned.
- The child has been in foster care for 15 of the most recent 22 months.
- The physical abuse of the child resulted in the death or admission to the hospital for inpatient care of that child and the abuse is the act for which the parent has been convicted, or pled guilty or *nolo contendere* to committing, aiding, abetting, conspiring to commit, or soliciting an offense against the person that may include criminal domestic violence, criminal domestic violence of a high and aggravated nature, or assault and battery of a high and aggravated nature.
- A parent of the child pleads guilty or *nolo contendere* to or is convicted of the murder of the child's other parent.

Conception of a child as a result of the criminal sexual conduct of a biological parent is grounds for terminating the rights of that biological parent, unless the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct where neither the victim nor the actor were younger than 14 nor older than 18 at the time of the offense.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

South Dakota**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Laws §§ 26-8A-26.1; 26-8A-27**

If it appears at a review hearing that all reasonable efforts have been made to rehabilitate the family, that the conditions that led to the removal of the child still exist, and that there is little likelihood that those conditions will be remedied so the child can be returned to the custody of the child's parents, the court shall affirmatively find that good cause exists for termination of the parental rights of the child's parents, and the court shall enter an order terminating parental rights.

In addition, the court may find that good cause exists for termination of parental rights of a parent who:

- Committed murder, manslaughter, rape, sexual exploitation of a minor, aggravated incest, criminal abuse of a minor, or kidnapping a child under age 14 with intent to conceal the child
- Committed aggravated assault against the child or another child of such parent
- Has been determined by a court by clear and convincing evidence to have subjected the child or another child to torture, sexual abuse, abandonment for at least 6 months, chronic physical, mental, or emotional injury, or chronic neglect, if the neglect was a serious threat to the safety of the child or another child
- Is incarcerated and is unavailable to care for the child during a significant period of the child's minority, considering the child's age and the child's need for care by an adult
- Has had his or her parental rights to another child involuntarily terminated by a prior legal proceeding
- Has a documented history of abuse and neglect associated with chronic alcohol or drug abuse
- Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, and the child or another child has been removed from the parent's custody because the removed child was adjudicated abused and neglected by a court on at least one previous occasion
- Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, the child has been removed from the parent's custody on two separate occasions, and the Department of Social Services offered or provided family services on each of the two separate occasions the child was removed
- Has exposed the child to or demonstrated an inability to protect the child from substantial harm or risk of harm resulting from a crime, act, or omission as specified above
- Has abandoned the child for at least 6 months and during this period the parent has not manifested to the child or to the physical custodian or caretaker of the child a firm intention to resume physical custody of the child and to make suitable arrangements for the care of the child

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Tennessee**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Code § 36-1-113**

Termination of parental rights must be based upon:

- A finding by the court by clear and convincing evidence that the grounds for termination of parental or guardianship rights have been established.
- The termination of the parent's rights is in the best interests of the child.
- Initiation of termination of parental rights may be based upon any of the following grounds:
- Abandonment by the parent has occurred.
- There has been substantial noncompliance by the parent with the permanency plan or a plan of care.
- The child has been removed from the home of the parent for 6 months and:
 - » The conditions that led to the child's removal that in all reasonable probability would cause the child to be subjected to further abuse or neglect still persist.
 - » There is little likelihood that these conditions will be remedied at an early date so that the child can be safely returned home in the near future.
 - » The continuation of the parent-child relationship greatly diminishes the child's chances of early integration into a safe, stable, and permanent home.
- The parent has been found to have committed severe child abuse against the child who is the subject of the petition or against any sibling, half-sibling, or any other child residing temporarily or permanently in the home of the parent.
- The parent has been sentenced to more than 2 years' imprisonment for conduct against the child who is the subject of the petition, or for conduct against any sibling, half-sibling, or any other child residing temporarily or permanently in the home of the parent.
- The parent has been incarcerated for 10 or more years, and the child is under age 8 at the time.
- The parent has been convicted of the intentional and wrongful death of the child's other parent or legal guardian.
- The parent has been found to be mentally incompetent to provide for the further care and supervision of the child.
- The parent has failed, without good cause or excuse, to pay a reasonable share of prenatal, natal, and postnatal expenses involving the birth of the child.
- The parent has failed, without good cause or excuse, to support the child in accordance with the child support guidelines.
- The parent has failed to seek reasonable visitation with the child, and if visitation has been granted, has failed to visit altogether, or has engaged in only token visitation.
- The parent has failed to manifest an ability and willingness to assume legal and physical custody of the child.
- Placing custody of the child in the parent's legal and physical custody would pose a risk of substantial harm to the physical or psychological welfare of the child.
- A birth father has failed to file a petition to establish paternity of the child within 30 days after notice of alleged paternity by the child's mother.

The department shall file a petition to terminate the parental rights of the child's parents under the following circumstances:

- The child has been in foster care for 15 of the most recent 22 months.
- A court of competent jurisdiction has determined a child to be an abandoned infant.
- The parent has:
 - » Committed murder or manslaughter of any sibling or half-sibling of the child
 - » Aided, abetted, attempted, conspired, or solicited to commit such murder or a voluntary manslaughter
 - » Committed a felony assault that has resulted in serious bodily injury or severe child abuse to the child or any sibling or half-sibling
- A juvenile court has made a finding of severe child abuse.

Circumstances That Are Exceptions to Termination of Parental Rights

Ann. Code § 36-1-113

At the option of the department, the department may determine that a petition to terminate the parental rights of the child's parents shall not be filed if one of the following exists:

- The child is being cared for by a relative.
- The department has documented in the permanency plan a compelling reason for determining that filing such a petition would not be in the best interests of the child.
- The department has not made reasonable efforts to provide to the family of the child, consistent with the time period in the department permanency plan, such services as the department deems necessary for the safe return of the child to the child's home.

Texas**Circumstances That Are Grounds for Termination of Parental Rights****Fam. Code §§ 161.001; 161.002(b); 161.007**

The court may order termination parental rights if the court finds by clear and convincing evidence that the parent has:

- Abandoned the child
- Knowingly allowed the child to remain in conditions or surroundings that endanger the physical or emotional well-being of the child
- Failed to support the child in accordance with the parent's ability for 1 year
- Voluntarily, and with knowledge of the pregnancy, abandoned the mother of the child beginning at a time during her pregnancy and continuing through the birth, failed to provide adequate support or medical care for the mother during her pregnancy, and remained apart from the child or failed to support the child since the birth
- Been the major cause of the failure of the child to be enrolled in school as required by law or to be absent from the child's home without the consent of the parents for a substantial length of time or without the intent to return
- Been convicted of any of the following crimes that caused the death or serious injury of a child:
 - » Murder or manslaughter
 - » Assault, sexual assault, aggravated assault, or aggravated sexual assault
 - » Injury to a child or abandoning or endangering a child
 - » Indecency with a child or prohibited sexual conduct
 - » Sexual performance by a child or possession or promotion of child pornography
 - » Continuous sexual abuse of a young child
- Had his or her parental rights terminated with respect to another child
- Failed to comply with the provisions of case plan established for the parent to obtain the return of the child
- Used a controlled substance in a manner that endangered the health or safety of the child and failed to complete a court-ordered substance abuse treatment program or after completion of a treatment program, continued to abuse a controlled substance
- Been incarcerated and unable to care for the child for 2 years
- Been the cause of the child being born addicted to alcohol or a controlled substance
- Voluntarily delivered the child to a designated emergency infant care provider without expressing an intent to return for the child
- Been convicted of the murder of the other parent of the child
- Been convicted of a sexual offense and the victim of the offense became pregnant with the parent's child

The rights of an alleged father may be terminated if:

- After being served with notice, he does not respond by timely filing an admission of paternity or a counterclaim for paternity.
- The child is over age 1 at the time the petition for termination is filed, he has not registered with the paternity registry, and after the exercise of due diligence by the petitioner, his identity and/or location are unknown.
- The child is under age 1 at the time the petition is filed, and he has not registered with the paternity registry.
- He has registered with the paternity registry but the petitioner's attempt to personally serve notice at the address provided to the registry and at any other address for the alleged father known by the petitioner has been unsuccessful, despite the due diligence of the petitioner.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Utah

Circumstances That Are Grounds for Termination of Parental Rights

Ann. Code §§ 78-3a-407; 78-3a-408

The court may terminate parental rights if it finds any one of the following:

- The parent has abandoned the child.
- The parent has neglected or abused the child.
- The parent is unfit or incompetent.
- The child is being cared for in an out-of-home placement, the parent has substantially neglected or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement, and there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future.
- The parent has made only token efforts to support or communicate with the child; prevent neglect of the child; eliminate the risk of serious physical, mental, or emotional abuse of the child; or avoid being an unfit parent.
- After a trial period during which the child was returned home, the parent substantially and continuously refused or failed to give the child proper parental care and protection.
- The terms and conditions of safe relinquishment of a newborn child have been complied with.

In determining whether a parent has abandoned a child, it is prima facie evidence of abandonment when the parent has:

- Surrendered physical custody of the child, and for 6 months following the surrender has not manifested a firm intention to resume physical custody or to make arrangements for the care of the child
- Failed to communicate with the child for 6 months
- Failed to show the normal interest of a natural parent, without just cause
- Abandoned an infant

In determining whether a parent is unfit or has neglected a child, the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

- Emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time
- Conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature
- Habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child
- Repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other necessary care necessary
- Incarceration of the parent for such a time that the child will be deprived of a normal home for more than 1 year
- A history of violent behavior

The following circumstances constitute prima facie evidence of unfitness:

- Sexual abuse, injury, or death of any child, due to known or substantiated abuse or neglect by the parent
- Conviction of a crime of such a nature as to indicate the unfitness of the parent to provide adequate care for the child
- A single incident of life-threatening or gravely disabling injury to or disfigurement of the child
- Conviction of the parent of committing, aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of a child or child abuse homicide

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Code §§ 78-3a-407; 78-3a-408**

The court may not terminate the parental rights of a parent because the parent has failed to complete a treatment required by a child and family plan.

If the court has directed the division to provide reunification services to a parent, the court must find that the division made reasonable efforts to provide those services before the court may terminate the parent's rights.

A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

A parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the State or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

Vermont**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. Tit. 15A, § 3-504**

If any one of the following grounds exists, the court shall order the termination of parental rights:

- In the case of a child under the age of 6 months, the parent did not exercise parental responsibility once he or she knew or should have known of the child's birth or expected birth. In making a determination under this subdivision, the court shall consider all relevant factors, which may include the respondent's failure to:
 - » Pay reasonable prenatal, natal, and postnatal expenses in accordance with his or her financial means
 - » Make reasonable and consistent payments, in accordance with his or her financial means, for the support of the child
 - » Regularly communicate or visit with the minor
 - » Manifest an ability and willingness to assume legal and physical custody of the minor
- In the case of a child over the age of 6 months at the time the petition is filed, the respondent did not exercise parental responsibility for a period of at least 6 months immediately preceding the filing of the petition. In making a determination under this subdivision, the court shall consider all relevant factors, which may include the respondent's failure to:
 - » Make reasonable and consistent payments, in accordance with his or her financial means, for the support of the child, although legally obligated to do so
 - » Regularly communicate or visit with the minor
 - » During any time the minor was not in the physical custody of the other parent, to manifest an ability and willingness to assume legal and physical custody of the minor
- The respondent has been convicted of a crime of violence or has been found by a court of competent jurisdiction to have committed an act of violence that violated a restraining or protective order, and the facts of the crime or violation indicate that the respondent is unfit to maintain a relationship of parent and child with the minor.
- An alleged father has failed to establish paternity.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Stat. Tit. 15A, § 3-504**

If the respondent has proved by a preponderance of the evidence that he or she had good cause for not complying with the support and care provisions above or that, for compelling reasons, termination due to conviction of a crime is not justified, the court may not terminate the respondent's parental rights to a minor except upon a finding by clear and convincing evidence that any one of the grounds [for termination] exists and that termination is in the best interest of the minor.

Virgin Islands

Circumstances That Are Grounds for Termination of Parental Rights

Ann. Code Tit. 5, § 2550

The court shall terminate parental rights when:

- The parent has abused or neglected the child.
- The child has been in an out-of-home placement for 6 months or more, and during that time the Department of Social Welfare has made continuous diligent but unsuccessful efforts to reasonably ensure that the child will not be subject to further abuse and neglect if returned home and the parent has not made a good-faith and diligent effort at rehabilitation.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Virginia

Circumstances That Are Grounds for Termination of Parental Rights

Ann. Code § 16.1-283

The court may terminate a parent's parental rights under any of the following circumstances:

- The parent has abandoned the child.
- The parent is unable to discharge his or her parental duties due to:
 - » Emotional illness, mental illness, or mental deficiency
 - » Habitual abuse or addiction to intoxicating liquors, narcotics, or other dangerous drugs
- The parent has subjected the child to aggravated circumstances, including, but not limited to, torture, chronic or severe abuse, or chronic or severe sexual abuse. It includes the failure to protect the child from such conduct.
- Reasonable efforts to rehabilitate the parent have failed.
- The parent has been convicted of:
 - » Murder or voluntary manslaughter of a child of the parent, a child with whom the parent resided, or the other parent of the child
 - » Felony attempt, conspiracy, or solicitation to commit any such offense
 - » A felony assault that results in serious bodily injury, felony bodily wounding, or felony sexual assault, and the victim was a child of the parent or a child residing with the parent
- The parent has failed to maintain continuing contact with the child for 6 months after the child has been placed in foster care.
- Parental rights to another child of the parent have been involuntarily terminated.

Circumstances That Are Exceptions to Termination of Parental Rights

Ann. Code § 16.1-283

Notwithstanding any other provisions of this section, residual parental rights shall not be terminated if it is established that the child, if he or she is age 14 or older or otherwise of an age of discretion as determined by the court, objects to such termination.

Residual parental rights of a child age 14 or older may be terminated over the objection of the child if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion.

Washington

Circumstances That Are Grounds for Termination of Parental Rights

Rev. Code §§ 13.34.132; 13.34.180

A court may order termination of parental rights if the following requirements are met:

- The court has removed the child from his or her home.
- Termination is recommended by the supervising agency.
- Termination is in the best interests of the child.
- Because of the existence of aggravated circumstances, reasonable efforts to unify the family are not required. In determining whether aggravated circumstances exist by clear, cogent, and convincing evidence, the court shall consider one or more of the following:
 - » Conviction of the parent of rape of the child
 - » Conviction of the parent of criminal mistreatment of the child
 - » Conviction of the parent of assault when the child is the victim
 - » Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child
 - » Conviction of the parent of attempting, soliciting, or conspiring to commit a crime listed above
 - » A finding by a court that a parent is a sexually violent predator
 - » Failure of the parent to complete available treatment where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim
 - » Abandonment of an infant under age 3
 - » Conviction of the parent of a sex offense or incest, when a child has been born of the offense

A petition seeking termination of parental rights may be filed when:

- The child has been found to be a dependent child, and:
 - » The child has been removed from the custody of the parent for at least 6 months.
 - » Services capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided.
 - » There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future.
 - » Use of intoxicating or controlled substances render the parent incapable of providing proper care for the child for extended periods of time and the parent has refused or failed to complete treatment.
 - » The psychological incapacity or mental deficiency of the parent is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time.
 - » Continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.
- The whereabouts of the child's parent are unknown, and no person has acknowledged paternity or maternity and requested custody of the child within 2 months after the child was found.

Circumstances That Are Exceptions to Termination of Parental Rights

Rev. Code § 13.34.180

A parent's failure to remedy conditions for 12 months shall give rise to a presumption that there is little likelihood of reunification unless it is shown that all necessary services have not been clearly offered or provided.

West Virginia**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Code § 49-6-5**

The court shall terminate the parental rights of an abusing parent when:

- The parent has subjected any child in the household to aggravated circumstances, which include, but are not limited to, abandonment, torture, chronic abuse, and sexual abuse.
- The parent has:
 - » Committed murder or voluntary manslaughter of the child's other parent, another child of the parent, or any other child residing in the same household
 - » Attempted or conspired to commit such a murder or voluntary manslaughter
 - » Committed a felonious assault that results in serious bodily injury to the child, the child's other parent, or any other child residing in the same household
- The parental rights of the parent to another child have been terminated involuntarily.
- The abusing parent has habitually abused or is addicted to alcohol, controlled substances, or drugs, to the extent that proper parenting skills have been seriously impaired and such person or persons have not responded to or followed through the recommended and appropriate treatment.
- The abusing parent has willfully refused to cooperate in the development of a reasonable family case plan designed to lead to the child's return to their care, custody, and control.
- The abusing parent has not responded to or followed through with a reasonable family case plan designed to reduce or prevent the abuse or neglect of the child.
- The parent has abandoned the child.
- The parent has repeatedly or seriously injured the child physically or emotionally or has sexually abused or sexually exploited the child.
- The parent suffers from emotional illness, mental illness, or mental deficiency of such duration or nature as to render the parent incapable of exercising proper parenting skills or sufficiently improving the adequacy of such skills.
- A battered parent's parenting skills have been seriously impaired, and he or she has willfully refused or is presently unwilling or unable to cooperate in the development of a reasonable treatment plan or has not adequately responded to or followed through with the recommended and appropriate treatment plan.

Circumstances That Are Exceptions to Termination of Parental Rights**Ann. Code § 49-6-5b**

A petition shall be filed when the child has been in foster care for 15 of the most recent 22 months. The department may determine not to file a petition to terminate parental rights when:

- At the option of the department, the child has been placed with a relative.
- The department has documented in the case plan a compelling reason, including but not limited to, the child's age and preference for termination or the child's placement in custody of the department based on another proceeding, that filing the petition would not be in the best interests of the child.
- The department has not provided, when reasonable efforts to return a child to the family are required, the services to the child's family as the department deems necessary for the safe return of the child to the home.

Wisconsin**Circumstances That Are Grounds for Termination of Parental Rights****Ann. Stat. § 48.415**

Grounds for termination of parental rights shall be one of the following:

- The parent has abandoned the child.
- The parent has relinquished custody of the child when the child was 72 hours old or younger.
- The child has been in an out-of-home placement for 6 months or longer, and the parent has failed to meet the conditions established for the safe return of the child to the home and there is a substantial likelihood that the parent will not meet these conditions within the 9 months.
- The child has been placed outside the home on 3 or more occasions, and the conditions that led to the child's placement were caused by the parent.
- The parent is presently, and for a cumulative period of at least 2 years within the past 5 years, was an inpatient at one or more hospitals on account of mental illness or developmental disability; the condition is likely to continue indefinitely; and the child is not being provided with adequate care by a relative who has legal custody of the child.
- The parent has been denied periods of physical placement or visitation by court order for at least 1 year.
- The parent has exhibited a pattern of physically or sexually abusive behavior that is a substantial threat to the health of the child.
- The parent has failed to assume significant responsibility for the daily supervision, education, protection, and care of the child.
- The parent is also related, either by blood or adoption, to the child's other parent in a degree of kinship closer than 2nd cousin.
- The parent has been convicted of homicide or solicitation to commit homicide, and the victim was the child's other parent.
- The parent was convicted of a sexual assault that resulted in the conception of the child.
- The parent was convicted of a serious felony against one of his or her children.
- The parent has had a prior involuntary termination of parental rights to another child.

Circumstances That Are Exceptions to Termination of Parental Rights

This issue is not addressed in the statutes reviewed.

Wyoming

Circumstances That Are Grounds for Termination of Parental Rights

Ann. Stat. § 14-2-309

The parent-child legal relationship may be terminated if any one or more of the following facts is established by clear and convincing evidence:

- The child has been left in the care of another person without provision for the child's support and without communication from the absent parent for a period of at least 1 year.
- The child has been abandoned with no means of identification for at least 3 months, and efforts to locate the parent have been unsuccessful.
- The child has been abused or neglected by the parent, and reasonable efforts have been unsuccessful in rehabilitating the family or the family has refused rehabilitative treatment, and the child's health and safety would be seriously jeopardized by remaining with or returning to the parent.
- The parent is incarcerated due to the conviction of a felony, and the parent is found unfit to have the custody and control of the child.
- The child has been in foster care for 15 of the most recent 22 months, and the parent is unfit to have custody and control of the child.
- The child was abandoned at less than age 1 and has been abandoned for at least 6 months.
- The child was relinquished to a safe haven provider, and neither parent has affirmatively sought the return of the child within 3 months from the date of relinquishment.
- The parent has been convicted of any of the following crimes:
 - » Murder or voluntary manslaughter of another child of the parent or aiding and abetting, attempting, conspiring to commit or soliciting such a crime
 - » A felony assault that results in serious bodily injury to a child of the parent
- The parental rights of the parent to any other child have been terminated involuntarily.
- The parent abandoned, chronically abused, tortured, or sexually abused the child.
- Other aggravating circumstances exist indicating that there is little likelihood that services to the family will result in successful reunification.

Circumstances That Are Exceptions to Termination of Parental Rights

Ann. Stat. § 14-3-431

When a child has been placed in foster care under the responsibility of the State for 15 of the most recent 22 months, the State shall file a petition to terminate parental rights unless:

- The child is in the care of a relative.
- The State agency has documented in the case plan a compelling reason for determining that filing the petition is not in the best interest of the child.
- The State agency has not provided services to the child's family deemed necessary for the safe return of the child to the home, if reasonable efforts are required to be made.

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