

IC 31-35-3

Chapter 3. Termination of Parent-Child Relationship With Individual Convicted of Criminal Offense

IC 31-35-3-1

Application of chapter

Sec. 1. This chapter applies to the termination of the parent-child relationship between an individual convicted of an offense listed in section 4(1) of this chapter and a child described in section 4(2) of this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-2

Law governing proceedings

Sec. 2. Proceedings under this chapter are governed by the procedures prescribed by:

- (1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and IC 31-32-12 through IC 31-32-15;
- (2) IC 31-34; and
- (3) IC 31-37;

but are distinct from proceedings under IC 31-34 and IC 31-37.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-3

Jurisdiction

Sec. 3. The probate court has concurrent original jurisdiction with the juvenile court in proceedings on a petition to terminate the parent-child relationship under this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-4

Petition; conviction of certain offenses

Sec. 4. If:

- (1) an individual is convicted of the offense of:
 - (A) murder (IC 35-42-1-1);
 - (B) causing suicide (IC 35-42-1-2);
 - (C) voluntary manslaughter (IC 35-42-1-3);
 - (D) involuntary manslaughter (IC 35-42-1-4);
 - (E) rape (IC 35-42-4-1);
 - (F) criminal deviate conduct (IC 35-42-4-2);
 - (G) child molesting (IC 35-42-4-3);
 - (H) child exploitation (IC 35-42-4-4);
 - (I) sexual misconduct with a minor (IC 35-42-4-9); or
 - (J) incest (IC 35-46-1-3); and
- (2) the victim of the offense:
 - (A) was less than sixteen (16) years of age at the time of the offense; and
 - (B) is:
 - (i) the individual's biological or adoptive child; or
 - (ii) the child of a spouse of the individual who has

committed the offense;
the attorney for the department, the child's guardian ad litem, or the court appointed special advocate may file a petition with the juvenile or probate court to terminate the parent-child relationship of the individual who has committed the offense with the victim of the offense, the victim's siblings, or any biological or adoptive child of that individual.

As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.329; P.L.146-2008, SEC.618.

IC 31-35-3-5

Petition; verification and contents

Sec. 5. The verified petition filed under section 4 of this chapter must:

(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the parent (or parents)"; and

(2) allege:

(A) that the victim of an offense listed in section 4(1) of this chapter is:

(i) the subject of the petition;

(ii) the biological or adoptive sibling of the subject of the petition; or

(iii) the child of a spouse of the individual whose parent-child relationship is sought to be terminated under this article;

(B) that the individual whose parent-child relationship is sought to be terminated under this article was convicted;

(C) that the child has been removed:

(i) from the parent under a dispositional decree; and

(ii) from the parent's custody for at least six (6) months under a court order;

(D) that one (1) of the following is true:

(i) There is a reasonable probability that the conditions that resulted in the child's removal or the reasons for placement outside the parent's home will not be remedied.

(ii) There is a reasonable probability that continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;

(E) that termination is in the best interests of the child; and

(F) that there is a satisfactory plan for the care and treatment of the child.

As added by P.L.1-1997, SEC.18. Amended by P.L.21-2010, SEC.9.

IC 31-35-3-6

Representation of state's interests

Sec. 6. (a) The attorney for the department shall represent the interests of the state in all subsequent proceedings on the petition.

(b) Upon the filing of a petition under section 4 of this chapter, the attorney for the department shall represent the interests of the state in all subsequent proceedings.

As added by P.L.1-1997, SEC.18. Amended by P.L.145-2006, SEC.330; P.L.146-2008, SEC.619.

IC 31-35-3-7

Request for hearing; time

Sec. 7. (a) The person filing the petition may request that the court set the petition for a hearing.

(b) Whenever a hearing on the petition is requested under this chapter, the court shall commence the hearing not more than ninety (90) days after a petition is filed under this chapter.

As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.24.

IC 31-35-3-8

Conviction as prima facie evidence

Sec. 8. A showing that an individual has been convicted of an offense described in section 4(1) of this chapter is prima facie evidence that there is a reasonable probability that:

- (1) the conditions that resulted in the removal of the child from the parent under a court order will not be remedied; or
- (2) continuation of the parent-child relationship poses a threat to the well-being of the child.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-9

Determination

Sec. 9. (a) If the court finds that the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship.

(b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

As added by P.L.1-1997, SEC.18.