

SECOND REGULAR SESSION

# HOUSE BILL NO. 2019

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BAKER (123).

Read 1st time March 15, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5610L.01I

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### AN ACT

To repeal section 211.447, RSMo, and to enact in lieu thereof one new section relating to termination of parental rights.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 211.447, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 211.447, to read as follows:

211.447. 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection 3 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.  
17 For purposes of this subdivision, an "infant" means any child one year of age or under at the time  
18 of filing of the petition. The court may find that an infant has been abandoned if:

19 (a) The parent has left the child under circumstances that the identity of the child was  
20 unknown and could not be ascertained, despite diligent searching, and the parent has not come  
21 forward to claim the child; or

22 (b) The parent has, without good cause, left the child without any provision for parental  
23 support and without making arrangements to visit or communicate with the child, although able  
24 to do so; or

25 (3) A court of competent jurisdiction has determined that the parent has:

26 (a) Committed murder of another child of the parent; or

27 (b) Committed voluntary manslaughter of another child of the parent; or

28 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or  
29 voluntary manslaughter; or

30 (d) Committed a felony assault that resulted in serious bodily injury to the child or to  
31 another child of the parent.

32 3. If grounds exist for termination of parental rights pursuant to subsection 2 of this  
33 section, the juvenile officer or the division may, but is not required to, file a petition to terminate  
34 the parental rights of the child's parent or parents if:

35 (1) The child is being cared for by a relative; or

36 (2) There exists a compelling reason for determining that filing such a petition would  
37 not be in the best interest of the child, as documented in the permanency plan which shall be  
38 made available for court review; or

39 (3) The family of the child has not been provided such services as provided for in section  
40 211.183.

41 4. The juvenile officer or the division may file a petition to terminate the parental rights  
42 of the child's parent when it appears that one or more of the following grounds for termination  
43 exist:

44 (1) The child has been abandoned. For purposes of this subdivision a "child" means any  
45 child over one year of age at the time of filing of the petition. The court shall find that the child  
46 has been abandoned if, for a period of six months or longer:

47 (a) The parent has left the child under such circumstances that the identity of the child  
48 was unknown and could not be ascertained, despite diligent searching, and the parent has not  
49 come forward to claim the child; or

50 (b) The parent has, without good cause, left the child without any provision for parental  
51 support and without making arrangements to visit or communicate with the child, although able  
52 to do so;

53 (2) The child has been abused or neglected. In determining whether to terminate parental  
54 rights pursuant to this subdivision, the court shall consider and make findings on the following  
55 conditions or acts of the parent:

56 (a) A mental condition which is shown by competent evidence either to be permanent  
57 or such that there is no reasonable likelihood that the condition can be reversed and which  
58 renders the parent unable to knowingly provide the child the necessary care, custody and control;

59 (b) Chemical dependency which prevents the parent from consistently providing the  
60 necessary care, custody and control of the child and which cannot be treated so as to enable the  
61 parent to consistently provide such care, custody and control;

62 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child  
63 or any child in the family by the parent, including an act of incest, or by another under  
64 circumstances that indicate that the parent knew or should have known that such acts were being  
65 committed toward the child or any child in the family; or

66 (d) Repeated or continuous failure by the parent, although physically or financially able,  
67 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other  
68 care and control necessary for the child's physical, mental, or emotional health and development;

69 (3) The child has been under the jurisdiction of the juvenile court for a period of one  
70 year, and the court finds that the conditions which led to the assumption of jurisdiction still  
71 persist, or conditions of a potentially harmful nature continue to exist, that there is little  
72 likelihood that those conditions will be remedied at an early date so that the child can be returned  
73 to the parent in the near future, or the continuation of the parent-child relationship greatly  
74 diminishes the child's prospects for early integration into a stable and permanent home. In  
75 determining whether to terminate parental rights under this subdivision, the court shall consider  
76 and make findings on the following:

77 (a) The terms of a social service plan entered into by the parent and the division and the  
78 extent to which the parties have made progress in complying with those terms;

79 (b) The success or failure of the efforts of the juvenile officer, the division or other  
80 agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to  
81 provide a proper home for the child;

82 (c) A mental condition which is shown by competent evidence either to be permanent  
83 or such that there is no reasonable likelihood that the condition can be reversed and which  
84 renders the parent unable to knowingly provide the child the necessary care, custody and control;

85 (d) Chemical dependency which prevents the parent from consistently providing the  
86 necessary care, custody and control over the child and which cannot be treated so as to enable  
87 the parent to consistently provide such care, custody and control; or

88 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566,  
89 RSMo, when the child or any child in the family was a victim, or a violation of section 568.020,  
90 RSMo, when the child or any child in the family was a victim. As used in this subdivision, a  
91 "child" means any person who was under eighteen years of age at the time of the crime and who  
92 resided with such parent or was related within the third degree of consanguinity or affinity to  
93 such parent; or

94 (5) The child was conceived and born as a result of an act of forcible rape **or statutory**  
95 **rape**. When the biological father has pled guilty to, or is convicted of, the forcible rape of the  
96 birth mother, such a plea or conviction shall be conclusive evidence supporting the termination  
97 of the biological father's parental rights. **When a biological parent has pled guilty to or is**  
98 **convicted of the statutory rape of the other biological parent, such a plea or conviction**  
99 **shall be conclusive evidence supporting the termination of parental rights of the victim**  
100 **parent after such parent's eighteenth birthday. When a biological parent presents**  
101 **sufficient evidence that he or she was the victim of statutory rape by the other biological**  
102 **parent, such evidence shall be deemed conclusive evidence supporting the termination of**  
103 **parental rights of the victim parent after such parent's eighteenth birthday; or**

104 (6) The parent is unfit to be a party to the parent and child relationship because of a  
105 consistent pattern of committing a specific abuse, including but not limited to, abuses as defined  
106 in section 455.010, RSMo, child abuse or drug abuse before the child or of specific conditions  
107 directly relating to the parent and child relationship either of which are determined by the court  
108 to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future,  
109 to care appropriately for the ongoing physical, mental or emotional needs of the child. It is  
110 presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that  
111 within a three-year period immediately prior to the termination adjudication, the parent's parental  
112 rights to one or more other children were involuntarily terminated pursuant to subsection 2 or  
113 3 of this section or subdivisions (1), (2), (3) or (4) of subsection 4 of this section or similar laws  
114 of other states.

115 5. The juvenile court may terminate the rights of a parent to a child upon a petition filed  
116 by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court  
117 finds that the termination is in the best interest of the child and when it appears by clear, cogent  
118 and convincing evidence that grounds exist for termination pursuant to subsection 2, 3 or 4 of  
119 this section.

120           6. When considering whether to terminate the parent-child relationship pursuant to  
121 subsection 2 or 3 of this section or subdivision (1), (2), (3) or (4) of subsection 4 of this section,  
122 the court shall evaluate and make findings on the following factors, when appropriate and  
123 applicable to the case:

124           (1) The emotional ties to the birth parent;

125           (2) The extent to which the parent has maintained regular visitation or other contact with  
126 the child;

127           (3) The extent of payment by the parent for the cost of care and maintenance of the child  
128 when financially able to do so including the time that the child is in the custody of the division  
129 or other child-placing agency;

130           (4) Whether additional services would be likely to bring about lasting parental  
131 adjustment enabling a return of the child to the parent within an ascertainable period of time;

132           (5) The parent's disinterest in or lack of commitment to the child;

133           (6) The conviction of the parent of a felony offense that the court finds is of such a  
134 nature that the child will be deprived of a stable home for a period of years; provided, however,  
135 that incarceration in and of itself shall not be grounds for termination of parental rights;

136           (7) Deliberate acts of the parent or acts of another of which the parent knew or should  
137 have known that subjects the child to a substantial risk of physical or mental harm.

138           7. The court may attach little or no weight to infrequent visitations, communications, or  
139 contributions. It is irrelevant in a termination proceeding that the maintenance of the  
140 parent-child relationship may serve as an inducement for the parent's rehabilitation.

141           8. In actions for adoption pursuant to chapter 453, RSMo, the court may hear and  
142 determine the issues raised in a petition for adoption containing a prayer for termination of  
143 parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 3 or  
144 4 of this section.

145           **9. The juvenile court shall terminate the rights of a parent to a child upon a petition**  
146 **filed by a biological parent after such parent's eighteenth birthday if sufficient evidence**  
147 **is presented establishing that the biological parent was the victim of statutory rape, and**  
148 **the child was conceived and born as a result of such statutory rape. For purposes of this**  
149 **subsection, "sufficient evidence" means evidence of a plea of guilty to or a conviction of**  
150 **statutory rape, or evidence establishing paternity of the child and the ages of the biological**  
151 **parents of the child at the time of conception that meets the age requirements for statutory**  
152 **rape under section 566.032 or 566.034, RSMo.**

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