

FIRST REGULAR SESSION

HOUSE BILL NO. 935

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANZ.

Read 1st time February 21, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2080L.01I

AN ACT

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

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Section A. Section 211.447, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 211.447, to read as follows: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] **4** 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. A termination of parental rights petition shall be filed by the juvenile officer or**
33 **the division, or if such a petition has been filed by another party, the juvenile officer or the**
34 **division shall seek to be joined as a party to the petition, within sixty days of the judicial**
35 **determinations required in this subsection, except as provided in subsection 4 of this**
36 **section. Failure to comply with this requirement shall not deprive the court of jurisdiction**
37 **to adjudicate a petition for termination of parental rights which is filed outside of sixty**
38 **days.**

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

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

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

46 (3) The family of the child has not been provided such services as provided for in section
47 211.183.

48 **[4.] 5.** The juvenile officer or the division may file a petition to terminate the parental
49 rights of the child's parent when it appears that one or more of the following grounds for
50 termination exist:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

101 (5) The child was conceived and born as a result of an act of forcible rape. When the
102 biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such
103 a plea or conviction shall be conclusive evidence supporting the termination of the biological
104 father's parental rights; or

105 (6) The parent is unfit to be a party to the parent and child relationship because of a
106 consistent pattern of committing a specific abuse, including but not limited to, abuses as defined
107 in section 455.010, RSMo, child abuse or drug abuse before the child or of specific conditions
108 directly relating to the parent and child relationship either of which are determined by the court
109 to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future,
110 to care appropriately for the ongoing physical, mental or emotional needs of the child. It is
111 presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that
112 within a three-year period immediately prior to the termination adjudication, the parent's parental
113 rights to one or more other children were involuntarily terminated pursuant to subsection 2 or
114 [3] 4 of this section or subdivisions (1), (2), (3) or (4) of subsection [4] 5 of this section or
115 similar laws of other states.

116 [5.] 6. The juvenile court may terminate the rights of a parent to a child upon a petition
117 filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the
118 court finds that the termination is in the best interest of the child and when it appears by clear,
119 cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 3
120 or 4 of this section.

121 [6.] 7. When considering whether to terminate the parent-child relationship pursuant to
122 subsection 2 or [3] 4 of this section or subdivision (1), (2), (3) or (4) of subsection [4] 5 of this
123 section, the court shall evaluate and make findings on the following factors, when appropriate
124 and applicable to the case:

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

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

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

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

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

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

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

139 [7.] 8. The court may attach little or no weight to infrequent visitations, communications,
140 or contributions. It is irrelevant in a termination proceeding that the maintenance of the
141 parent-child relationship may serve as an inducement for the parent's rehabilitation.

142 [8.] 9. In actions for adoption pursuant to chapter 453, RSMo, the court may hear and
143 determine the issues raised in a petition for adoption containing a prayer for termination of
144 parental rights filed with the same effect as a petition permitted pursuant to subsection 2, [3 or]
145 4, or 5 of this section.

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