

2016 -- S 3031 SUBSTITUTE A

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LC005987/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO DOMESTIC RELATIONS -- ADOPTION OF CHILDREN

Introduced By: Senators Goodwin, Crowley, and Nesselbush

Date Introduced: May 19, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

3 **15-7-7. Termination of parental rights.** -- (a) The court shall, upon a petition duly filed
4 by a governmental child placement agency or licensed child placement agency after notice to the
5 parent and a hearing on the petition, terminate any and all legal rights of the parent to the child,
6 including the right to notice of any subsequent adoption proceedings involving the child, if the
7 court finds as a fact by clear and convincing evidence that:

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

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

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

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

17 (iii) The child has been placed in the legal custody or care of the department for children,
18 youth, and families and the parent has a chronic substance abuse problem and the parent's
19 prognosis indicates that the child will not be able to return to the custody of the parent within a

1 reasonable period of time, considering the child's age and the need for a permanent home. The
2 fact that a parent has been unable to provide care for a child for a period of twelve (12) months
3 due to substance abuse shall constitute prima facie evidence of a chronic substance abuse
4 problem;

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

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

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

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

20 (3) The child has been placed in the legal custody or care of the department for children,
21 youth, and families for at least twelve (12) months, and the parents were offered or received
22 services to correct the situation which led to the child being placed; provided, that there is not a
23 substantial probability that the child will be able to return safely to the parents' care within a
24 reasonable period of time considering the child's age and the need for a permanent home; ~~or~~

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

30 (b) (1) In the event that the petition is filed pursuant to subdivisions (a)(1), (a)(2)(i),
31 (a)(2)(iii), or (a)(2)(vii) of this section, the court shall find as a fact that, prior to the granting of
32 the petition, such parental conduct or conditions must have occurred or existed notwithstanding
33 the reasonable efforts which shall be made by the agency prior to the filing of the petition to
34 encourage and strengthen the parental relationship so that the child can safely return to the family.

1 In the event that a petition is filed pursuant to subdivisions (a)(2)(ii), (a)(2)(iv), (a)(2)(v),
2 (a)(2)(vi) or (a)(4) of this section, the department has no obligation to engage in reasonable
3 efforts to preserve and reunify a family.

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

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

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

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

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

23 (ii) The reasonable preference of the child, if the court determines that the child has
24 sufficient capacity to express a reasonable preference.

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

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

1 probable duration.

2 (f) The court may, upon a petition duly filed by the child's mother, after notice to the
3 child's father and a hearing on the petition, terminate any and all legal rights of the father to the
4 child, including the right to notice of any subsequent adoption proceedings involving the child, if
5 the court finds as a fact by clear and convincing evidence that the child was conceived as a result
6 of a sexual assault in violation of the provisions of §§11-37-2, 11-37-6 or 11-37-8.1.

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

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO DOMESTIC RELATIONS -- ADOPTION OF CHILDREN

1 This act would terminate the parental rights of the father when a child is conceived as a
2 result of certain sexual assaults.

3 This act would take effect upon passage.

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