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**2016 Edition**

# Termination of Parental Rights (TPR)

A Guide to Resources in the Law Library

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This guide links to advance release slip opinions on the Connecticut Judicial Branch website and to case law hosted on Google Scholar.  
The online versions are for informational purposes only.

See Also:

- [Adoption in Connecticut](#)
- [Best Interest of the Child Standard in Connecticut](#)
- [Child Abuse And Neglect in Connecticut](#)
- [Child Custody in Connecticut](#)
- [Child Support in Connecticut](#)
- [Guardianship in Connecticut](#)

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<http://www.jud.ct.gov/policies.htm>

# Introduction

A Guide to Resources in the Law Library

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- **Adoption and termination of parental rights:** “[I]t is clear that adoption cannot proceed unless the parents’ rights are terminated in the first instance. The converse is not true. The parents’ rights can be terminated without an ensuing adoption . . . . [T]here are circumstances wherein termination of a parent’s rights is not followed by adoption.” [In re Theresa S.](#), 196 Conn. 18, 30-31, 491 A.2d 355 (1986).
- **Termination of parental rights:** “means the complete severance by court order of the legal relationship, with all its rights and responsibilities, between child and his parent or parents so that the child is free for adoption except it shall not affect the right of inheritance of the child or the religious affiliation of the child.” Conn. Gen. Stat. §§ [45a-707\(8\)](#), [17a-93\(e\)](#) (2015).

# Section 1: Rights of Parents

A Guide to Resources in the Law Library

- “The fundamental liberty interest of natural parents in the care, custody, and management of their children does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family life. If anything, persons faced with forced dissolution of their parental rights have a more critical need for procedural protections than do those resisting state intervention in to ongoing family affairs.” [Santorsky v. Kramer](#), 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed 2d 599 (1982).
- “When the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures.” [Santorsky v. Kramer](#), 455 U.S. 745, 753-754, 102 S.Ct. 1388, 71 L.Ed 2d 599 (1982).
- “[W]e recognize that ‘the right of parents qua parents to the custody of their children is an important principle that has constitutional dimensions,’ a principle echoed and illuminated in recent years by decisions of the United States Supreme Court and of this court.” [In Re Juvenile Appeal \(Docket No. 10155\)](#), 187 Conn. 431, 435, 446 A.2d 808 (1982).
- “Termination of parental rights is a judicial matter of exceptional gravity and sensitivity. *Anonymous v. Norton*, 168 Conn. 421, 430 362 A.2d 532 (1975). Termination of parental rights is the ultimate interference by the state in the parent-child relationship and, although such judicial action may be required under certain circumstances, the natural rights of the parents in their children ‘undeniably warrants deference and, absent a powerful countervailing interest, protection.’ *Stanley v. Illinois*, 405 U.S. 645, 651 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972); *In re Juvenile Appeal (Anonymous)*, 177 Conn. 648, 671 420 A.2d 875 (1979).” [In Re Emmanuel M.](#), 43 Conn. Sup. 108, 112, 648 A.2d 904 (1993).
- “The right of a parent to raise his or her children has been recognized as a basic constitutional right. *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972). Accordingly, a parent has a right to due process under the fourteenth amendment to the United States constitution when a state seeks to terminate the relationship between parent and child. See *Lassiter v. Dept. of Social Services*, 452 U.S. 18, 27, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981).” [In re Yasiel R.](#), 317 Conn. 773, 782, 120 A.3d 1188, 1194 reconsideration denied sub nom. [In re Yasiel R.](#), 319 Conn. 921, 126 A.3d 1086 (2015)

# Section 1a: Rights of Parents in TPR

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic sources relating to the rights in general of parents and foster parents in termination of parental rights cases in Connecticut.

## **DEFINITIONS:**

- **Fourteenth Amendment** to the U.S. Constitution: "...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."
- **Due Process:** "In determining what procedural safeguards are required by the federal due process clause when the state seeks to terminate the parent-child relationship, the United States Supreme Court has utilized the balancing test set forth in *Mathews v. Eldridge*, supra, 424 U.S. at 335, 96 S.Ct. 893. To determine whether due process requires a canvass in this context, Mathews directs us to consider and weigh three factors: '[f]irst, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the [g]overnment's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute requirement would entail.'" [In re Yasiel R.](#), 317 Conn. 773, 782, 120 A.3d 1188, 1194 reconsideration denied sub nom. *In re Yashel R.*, 319 Conn. 921, 126 A.3d 1086 (2015)
- **Equal protection of the laws:** "The guaranty of equal protection of the laws ensures that the laws apply alike to all in the same situation, or that similar treatment is afforded to those in similar circumstances." [In re Nicolina T.](#), 9 Conn. App. 598, 606 (1987).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015). [2016 supplement](#)
  - [Chapter 319a](#). Child welfare
    - [§ 17a-112](#). Termination of parental rights of child committed to commissioner.
  - [Chapter 803](#). Termination of parental rights and adoption
    - [§ 45a-708](#). Guardian ad litem for minor or incompetent parent
    - [§ 45a-715](#). Petition to terminate parental rights. Cooperative postadoption agreements.
    - [§ 45a-716](#). Hearing on petition to terminate parental rights. Notice. Attorney General as a Party
    - [§ 45a-717](#). Termination of parental rights. Conduct of hearing, Investigation and report. Grounds for termination.
    - [§ 45a-719](#). Reopening judgment terminating parental rights. Best interest of child. Final decree of adoption

## **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016)
  - [Chapter 32a](#). Rights of parties neglected, uncared for and dependent children and termination of parental rights
    - § 32a-1. Right to counsel and to remain silent
    - § 32a-2. Hearing procedure; Subpoenas
    - § 32a-3. Standards of proof
    - § 32a-4. Child or youth witness
    - § 32a-5. Child in the court
    - § 32a-6. Interpreter
    - § 32a-7. Records
    - § 32a-8. Use of confidential alcohol and drug abuse treatment records as evidence
    - § 32a-9. Competency of parent

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Daniel N.](#), 163 Conn. App. 322 (2016). "In applying these legal principles, we conclude that our Supreme Court has given no guidance to belie the retroactive application of its new rule regarding the canvassing of a parent prior to the start of a termination of parental rights trial. It applied the rule to the respondent in *In re Yasiel R.*: 'Because the parental rights involved in such a canvass are so important in ensuring the fairness of the process, we do not believe it would be prudent to require that the public wait for the adoption of a new rule of practice. We conclude, therefore, that imposing the canvass rule announced today is an appropriate exercise of our supervisory authority.' *In re Yasiel R.*, supra, 317 Conn. at 796."
- [In re Yasiel R.](#), 317 Conn. 773, 795, 120 A.3d 1188, 1201 reconsideration denied sub nom. [In re Yashel R.](#), 319 Conn. 921, 126 A.3d 1086 (2015). "We conclude, therefore, that it is proper to exercise our supervisory power in the present case and require that, in all termination proceedings, the trial court must canvass the respondent prior to the start of the trial. The canvass need not be lengthy as long as the court is convinced that the respondent fully understands his or her rights. In the canvass, the respondent should be advised of: (1) the nature of the termination of parental rights proceeding and the legal effect thereof if a judgment is entered terminating parental rights; (2) the respondent's right to defend against the accusations; (3) the respondent's right to confront and cross-examine witnesses; (4) the respondent's right to object to the admission of exhibits; (5) the respondent's right to present evidence opposing the allegations; (6) the respondent's right to representation by counsel; (7) the respondent's right to testify on his or her own behalf; and (8) if the respondent does not intend to testify, he or she should also be advised that if requested by the petitioner, or the court is so inclined, the court may take an adverse inference from his or her failure to testify, and explain the significance of that inference. Finally, the respondent should be advised that if he or she does not present any witnesses on his or her behalf, object to exhibits, or cross-examine witnesses, the court will decide the matter based upon the evidence

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- presented during trial. The court should then inquire whether the respondent understands his or her rights and whether there are any questions.”
- [In re Brayden E.-H.](#), 309 Conn. 642, 72 A.3d 1083 (2013). “In our view, this record fully demonstrates that the trial court necessarily found, by clear and convincing evidence, that termination was the least restrictive alternative to protect the children's best interests. Indeed, the court's response to the respondent's supplemental brief on the motion to reargue reflects that the court considered and rejected the measures short of termination suggested by the respondent. The court concluded that any avenue that would permit the respondent to exert any further control or influence over the children would undermine the guardians' relationship with the children and would be contrary to the children's best interests.”
  - [In re Jeisean M.](#), 74 Conn. App. 233, 240-241, 812 A2d 80 (2002). “Accordingly, we hold that in deciding an application for a waiver of fees, costs and expenses pursuant to Practice Book § 63-6 in a termination of parental rights proceeding, the factors to be weighed by the trial court are limited to a consideration of whether the applicant has a statutory right of appeal pursuant to General Statutes § 52-263 and whether the applicant is indigent.”
  - [Roth v. Weston](#), 259 Conn. 202, 231, 789 A.2d 431 (2002). “We recognize that due process requires the clear and convincing test be applied to the termination of parental rights because it is the complete severance by court order of the legal relationship, with all its rights and responsibilities . . . .”
  - [Stanley v. Illinois](#), 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972). “The private interest here, that of a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection.”
  - [Quilloin v. Walcott](#), 434 U.S. 246, 255, 98 S.Ct. 549, 54 L.Ed.2d 511 (1978). “But this is not a case in which the unwed father at any time had, or sought, actual or legal custody of his child. Nor is this a case in which the proposed adoption would place the child with a new set of parents with whom the child had never before lived. Rather, the result of the adoption in this case is to give full recognition to a family unit already in existence, a result desired by all except appellant.”
  - [Prince v. Massachusetts](#), 321 U.S. 158, 166, 64 S. Ct. 438, 88 L. Ed. 645 (1944). “It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.”
  - [In re Luke](#), 40 Conn. Supp. 316, 326-327, 498 A.2d 1054 (1985). “It is the responsibility of all of the adults involved to give the children’s interest top priority over their own

emotional objectives, so that they may understand and benefit from the fact that they have two 'Daddies' who love them, that having two 'Daddies' is not 'too complicated' but is rather an enriching factor in their lives."

**WEST KEY NUMBERS:**

- *Constitutional law* # 274(5). Deprivation of personal rights in general. Privacy, marriage, family, and sexual matters
- *Infants* # 178. Evidence. Termination of parental rights

**DIGESTS:**

- *ALR Digest: Attorneys* § 35. Right to counsel and consultation—Termination of parental rights
- Connecticut Family Law Citations: *Termination of Parental Rights*
- US L Ed Digest: Constitutional Law § 803.5

**ENCYCLOPEDIAS:**

- 16B Am. Jur 2d *Constitutional Law* (2009).  
§ 1009. Hearing. Character and sufficiency; in general—  
Presence of person; counsel
- 59 Am. Jur 2d *Parent and Child* (2012).  
§ 34. Loss or forfeiture of right  
§ 35. —Burden of proof
- *Termination of Parental Rights Based On Abuse or Neglect*, 9 COA 2d 483 (1997).  
§ 24. Presumption and burden of proof

**TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Ralph H. Folsom and Gayle B. Wilhelm, [Incapacity, Powers of Attorney and Adoption in Connection 3d](#) (2016).  
Chapter 5. Adoption and Parental Rights  
§ 5:6. Termination of parental rights and appointment of guardian or statutory parent for adoption petition  
§ 5:7. Notice, guardian ad litem  
§ 5:8. Hearing, investigation and report, grounds for termination of parental rights, consent terminations
- 1 Joan Heifetz Hollinger et al., [Adoption Law and Practice](#) (2006).  
Chapter 2. Consent to adoption  
§ 2.10. Exceptions to the requirement of parental consent  
§ 2.10[2]. State courts and statutory examples
- 4 Sandra Morgan Little, [Child Custody & Visitation Law and Practice](#) (2013).  
Chapter 28. Termination of parental rights  
§ 28.02. Elements of the proceeding  
§ 28.02[2]. Constitutional limitations  
§ 28.03. Procedural protections  
[1]. Service of process  
[2]. Notification of charges  
[4]. Counsel for the parents  
[5]. Disclosure

- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).  
Chapter 13. Termination of Parental Rights  
§ 13:20. Unmarried fathers

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 Connecticut Probate Law Journal 269 (1996).  
II. Background  
E. The federal judiciary and constitutional issues, pp. 294-297

Table 1: In re Yasiel and Canvass of Respondent

<b>Trial Court Canvass of Respondent</b>	
<p><a href="#">In re Yasiel R.</a>, 317 Conn. 773, 782, 120 A.3d 1188, 1194 reconsideration denied sub nom. <a href="#">In re Yashel R.</a>, 319 Conn. 921, 126 A.3d 1086 (2015)</p>	(1) the nature of the termination of parental rights proceeding and the legal effect thereof if a judgment is entered terminating parental rights
	(2) the respondent's right to defend against the accusations
	(3) the respondent's right to confront and cross-examine witnesses
	(4) the respondent's right to object to the admission of exhibits
	(5) the respondent's right to present evidence opposing the allegations
	(6) the respondent's right to representation by counsel
	(7) the respondent's right to testify on his or her own behalf
	(8) if the respondent does not intend to testify, he or she should also be advised that if requested by the petitioner, or the court is so inclined, the court may take an adverse inference from his or her failure to testify, and explain the significance of that inference.
	The respondent should be advised that if he or she does not present any witnesses on his or her behalf, object to exhibits, or cross-examine witnesses, the court will decide the matter based upon the evidence presented during trial.
	The court should then inquire whether the respondent understands his or her rights and whether there are any questions.

Table 2: Rights of the remaining parent in TPR

<b>Rights of the Remaining Parent in TPR</b>	
Conn. Gen. Stats. <a href="#">§ 17a-112(i)</a> (2015) (partial)	“Consent for the termination of the parental rights of one parent does not diminish the parental rights of the other parent of the child, nor does it relieve the other parent of the duty to support the child.”
Conn. Gen. Stats. <a href="#">§ 17a-112(n)</a> (2015) (partial)	“If the parental rights of only one parent are terminated, the remaining parent shall be the sole parent and, unless otherwise provided by law, guardian of the person.”
Conn. Gen. Stats. <a href="#">§ 45a-717(i)</a> (2015)	“If the parental rights of only one parent are terminated, the remaining parent shall be sole parent and, unless otherwise provided by law, guardian of the person.”

Table 3: Foster parents and TPR

<b>Foster Parents and TPR</b>	
<b>STATUTES</b>	“The Commissioner of Children and Families shall not discriminate in preparing a home study or in placing a child with a prospective adoptive parent based on whether the prospective parent is or is not willing to become a foster parent pending an adoption placement.” Conn. Gen. Stats. <a href="#">§ 45a-726(c)</a> (2015).
<b>CASE ANNOTATIONS</b>	John F. Gillespie, Annotation, <i>Status and Rights of Foster Children and Foster Parents under Federal Constitution</i> , 53 L. Ed. 2d 1116 (1978).

Table 4: Best Interest of the Child Standard in TPR

<b>Best Interest of the Child Standard in TPR</b>	
<p>Conn. Gen. Stats. <a href="#">§ 17a-112(q)</a> (2015)</p>	<p>"The provisions of this section shall be liberally construed in the best interests of any child for whom a petition under this section has been filed."</p>
<p>Conn. Gen. Stats. <a href="#">§ 45a-706</a> (2015)</p>	<p>"The provisions of sections 45a-706 to 45a-709, inclusive, 45a-715 to 45a-718, inclusive, 45a-724 to 45a-734, inclusive, 45a-736, 45a-737 and 52-231a shall be liberally construed in the best interests of any child for whom a petition has been filed under said sections."</p>
<p>Conn. Gen. Stats. <a href="#">§ 45a-715(i)</a> (2015)</p>	<p><b>Postadoption agreements</b>                      "If the Court of Probate determines that the child's best interests will be served by postadoption communication or contact with either or both birth parents, the court shall so order, stating the nature and frequency of the communication or contact. A court may grant postadoption communication or contact privileges if: (1) Each intended adoptive parent consents to the granting of communication or contact privileges; (2) the intended adoptive parent and either or both birth parents execute a cooperative agreement and file the agreement with the court; (3) consent to postadoption communication or contact is obtained from the child, if the child is at least twelve years of age; and (4) the cooperative postadoption agreement is approved by the court."</p> <p>"(n) An adoptive parent, guardian ad litem for the child or the court on its own motion may, at any time, petition for review of communication or contact ordered pursuant to subsection (i) of this section, if the adoptive parent believes that the best interests of the child are being compromised. The court may order the communication or contact be terminated, or order such conditions in regard to communication or contact as the court deems to be in the best interest of the adopted child."</p>
<p>Conn. Gen. Stats. <a href="#">§ 45a-719</a> (2015)</p>	<p><b>Reopening judgment terminating parental rights. Best interest of child. Final decree of adoption.</b>                      ". . . . For the purpose of this section, 'best interest of the child' shall include, but not be limited to, a consideration of the age of the child, the nature of the relationship of the child with the caretaker of the child, the length of time the child has been in the custody of the caretaker, the nature of the relationship of the child with the birth parent, the length of time the child has been in the custody of the birth parent, any relationship that may exist between the child and siblings or other children in the caretaker's</p>

	household, and the psychological and medical needs of the child. The determination of the best interest of the child shall not be based on a consideration of the socio-economic status of the birth parent or the caretaker.”
<a href="#">In re Rachel J.</a> , 97 Conn. App. 748, 761, 905 A.2d 1271 (2006)	“It is well settled that we will overturn the trial court's decision that the termination of parental rights is in the best interest of the children only if the court's findings are clearly erroneous.”
<a href="#">In re Tygwane V.</a> , 85 Conn. App. 528, 534, 857 A.2d 963 (2004).	“In addition, ‘the best interest of a child is not the [court's] primary focus when determining whether to grant a petition to terminate parental rights. . . . [C]oncern for the children is an additional, not an alternative, requirement for the termination of parental rights.’(Citation omitted.)”

# Section 1b: Right to Counsel

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic sources relating to the right to counsel in termination of parental rights in Connecticut.

## **DEFINITIONS:**

- "If a party appears without counsel, the court shall inform such party of the party's right to counsel and upon request, if he or she is unable to pay for counsel, shall appoint counsel to represent such party. No party may waive counsel unless the court has first explained the nature and meaning of a petition for the termination of parental rights." Conn. Gen. Stat. [§ 45a-717\(b\)](#) (2015). ([2016 supplement](#))
- "The respondent's due process rights are therefore properly determined by the balancing test of *Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), employed by the United States Supreme Court in considering a parent's right in termination proceedings to representation by counsel . . ." [In Re Juvenile Appeal \(Docket No. 10155\)](#), 187 Conn. 431, 435, 446 A.2d 808 (1982).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement](#)  
[Chapter 319a](#). Child welfare  
[§ 17a-112](#). Termination of parental rights of child committed to commissioner.  
[Chapter 803](#). Termination of parental rights and adoption  
[§ 45a-715](#). Petition to terminate parental rights.  
[§ 45a-716](#). Hearing on petition to terminate parental rights. Notice. Attorney General as party  
[§ 45a-717](#). Termination of parental rights. Conduct of hearing, Investigation and report. Grounds for termination.  
[§ 45a-719](#). Reopening judgment terminating parental rights. Best interest of child. Final decree of adoption

## **COURT RULES:**

- Conn. Practice Book (2016)  
[Chapter 32a](#). Rights of parties neglected, uncared for and dependent children and termination of parental rights  
[§ 32a-1](#). Right to counsel and to remain silent

## **CASES:**

- [In re Daniel A.](#), 150 Conn. App. 78, 89, 89 A.3d 1040, 1049 (2014). "This court previously has set forth what is required to support an effective waiver of the statutory right to counsel in a termination proceeding by way of analogy to the criminal context: '[A]lthough a defendant need not have the skill and expertise of an attorney to competently and intelligently choose [self-representation], a record that affirmatively shows that [he] was literate, competent, and understanding, and that he was voluntarily exercising his informed free will sufficiently supports a waiver [of counsel].' (Internal quotation marks omitted.) *In re Zowie*

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- *N.*, supra, 135 Conn. App. at 483, 41 A.3d1056; accord *State v. Flanagan*, supra, 293 Conn. at 419, 978 A.2d 64.”
- [In re Isaiah J](#), 140 Conn. App. 626, 640, 59 A.3d 892 (2013). “The respondent provides no legal basis to support her argument that a statutory right to counsel in a termination of parental rights proceeding carries with it the same sixth amendment protections accorded to a criminal proceeding. A parent’s right to effective assistance of counsel in a termination of parental rights proceeding is not rooted in the federal or state constitutions. See generally General Statutes § 45a-717 (b); see also *State v. Anonymous*, supra, 179 Conn. at 159, 425 A.2d 939; *In re Dylan C.*, supra, 126 Conn. App. at 91 n. 9, 10 A.3d 100.”
- [In re Alexander V.](#), 223 Conn. 557, 566, 613 A.2d 780 (1992). “Accordingly we conclude that due process does not require a competency hearing in all termination cases but only when (1) the parent’s attorney requests such a hearing, or (2) in the absence of such a request, the conduct of the parent reasonably suggests to the court, in the exercise of its discretion, the desirability of ordering such a hearing sua sponte.”

**WEST KEY NUMBERS:**

- *Constitutional law* # 274(5). Deprivation of personal rights in general. Privacy, marriage, family, and sexual matters
- *Infants* # 178. Evidence. Termination of parental rights

**DIGESTS:**

- *ALR Digest: Attorneys* § 35. Right to counsel and consultation  
Termination of parental rights
- Connecticut Family Law Citations: *Termination of Parental Rights*
- US L ED Digest: Constitutional Law § 803.5

**ENCYCLOPEDIAS:**

- 16B Am. Jur 2d *Constitutional Law* (2009).  
§ 1009. Hearing. Character and sufficiency; in general—  
Presence of person; counsel
- 59 Am. Jur 2d *Parent and Child* (2012).  
§ 34. Loss or forfeiture of right  
§ 35. —Burden of proof
- *Termination Of Parental Rights Based On Abuse Or Neglect*, 9 COA 2d 483 (1997)

**TREATISES:**

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- Ralph H. Folsom and Gayle B. Wilhelm, [Incapacity, Powers of Attorney and Adoption in Connection 3d](#) (2016).  
Chapter 5. Adoption and Parental Rights  
§ 5:6. Termination of parental rights and appointment of guardian or statutory parent for adoption petition  
§ 5:7. Notice, guardian ad litem  
§ 5:8. Hearing, investigation and report, grounds for termination of parental rights, consent termination
- 4 Sandra Morgan Little, [Child Custody & Visitation Law and](#)

[Practice](#) (2013).

Chapter 28. Termination of parental rights

§ 28.03. Procedural protections

[4]. Counsel for the Parents

- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).

Chapter 13. Termination of Parental Rights

§ 13:6. Right to counsel

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 Connecticut Probate Law Journal 269 (1996).
  - II. Background
    - E. The federal judiciary and constitutional issues, pp. 290-291

# Section 1c: Standard of Proof

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic sources relating to the standard of proof in termination of parental rights in Connecticut.

## **DEFINITIONS:**

- "The constitutional guarantee of due process of law requires that the statutory grounds for termination of parental rights be established by 'clear and convincing evidence,' not merely a fair preponderance of the evidence." *In Re Emmanuel*, 43 Conn. Supp. 108, 113, 648 A.2d 904 (1994).
- "The respondent's due process rights are therefore properly determined by the balancing test of *Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), employed by the United States Supreme Court in considering a parent's right in termination proceedings to representation by counsel . . . and to the use of a clear and convincing standard of proof . . . ." *In Re Juvenile Appeal (Docket No. 10155)*, 187 Conn. 431, 435, 446 A.2d 808 (1982).

## **STATUTES:**

- Conn. Gen. Stat. (2015). [2016 supplement § 17a-112](#). Termination of parental rights of child committed to commissioner.

## **COURT RULES:**

- Conn. Practice Book (2016) [Chapter 32a](#). Rights of parties neglected, uncared for and dependent children and termination of parental rights § 32a-3. Standards of proof

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- *In re Jason R.*, 306 Conn. 438, 455, 51 A.3d 334 (2012). "Indeed, the trial court's ultimate conclusion on this issue further demonstrates that it did not improperly shift the burden of proof to the respondent. Specifically, the trial court found that '[the petitioner] has proven by clear and convincing evidence that [the] children have been found to have been neglected in a prior proceeding and [the respondent] has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the children, she could assume a responsible position in [the] children's lives.' We therefore conclude that the trial court properly required the petitioner to bear the burden of proof and only commented on the respondent's failure to demonstrate that she achieved personal rehabilitation after concluding that the petitioner had proven its case by clear and convincing evidence. See *Leonard v. Commissioner of Revenue Services*, 264 Conn. 286, 303 n. 9, 823 A.2d 1184 (2003)"
- *In Re Lee*, 104 Conn. App. 121, 136-137. (2007) "The respondent's argument loses sight of the fact that, for the

purpose of the court's ultimate determination regarding whether her parental rights should be terminated, the relevant testimony elicited from the respondent was that she permitted someone who she knew very clearly had a problem with substance abuse to reside in her home with her children. Because the court found that the respondent generally was aware of her fifth husband's drinking problem, it was appropriate for the court to consider this as a factor when assessing the respondent's progress toward rehabilitation."

- [In The Interests of Jaisean M.](#), 2002 Ct. Sup. 5787, 5789, 2002 WL 1156030 (May 3, 2002) "Roth and Troxel have nothing to do with a termination of parental rights case. In fact, the burden of proof in a termination of parental rights case has long been 'clear and convincing evidence,' and the requirement that a grandparent seeking visitation overcome a similar burden actually parallels and reaffirms, rather than undermines, the statutory scheme applicable to termination cases."
- [In re Eden](#), 250 Conn. 674, 694, 741 A.2d 873 (1999). "The constitutional requirement of proof by clear and convincing evidence applies only to those findings upon which the ultimate decision to terminate parental rights is predicated."

**WEST KEY NUMBERS:**

- *Constitutional law* # 274(5). Deprivation of personal rights in general. Privacy, marriage, family, and sexual matters
- *Infants* # 178. Evidence. Termination of parental rights

**DIGESTS:**

- *ALR Digest: Attorneys* § 35. Right to counsel and consultation  
Termination of parental rights
- Connecticut Family Law Citations: *Termination of Parental Rights*
- US L ED Digest: Constitutional Law § 803.5

**ENCYCLOPEDIAS:**

- 16B Am. Jur 2d *Constitutional Law* (2009).  
§ 1009. Hearing. Character and sufficiency; in general—  
Presence of person; counsel
- 59 Am. Jur 2d *Parent and Child* (2012).  
§ 34. Loss or forfeiture of right  
§ 35. —Burden of proof
- *Termination of Parental Rights Based On Abuse Or Neglect*, 9 COA 2d 483 (1997).  
§ 24. Presumption and burden of proof

**TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).  
Chapter 13. Termination of Parental Rights  
§ 13:3. Standard of proof
- 4 Joan Heifetz Hollinger et al., [Adoption Law and Practice](#) (2006).  
§ 2.10. Exceptions to the requirement of parental  
Termination of Parental Rights - 18

consent

[2]. State courts and statutory examples

- 4 Sandra Morgan Little, [Child Custody & Visitation Law and Practice](#) (2013).  
Chapter 28. Termination of parental rights  
§ 28.04[2]. Burden of proof

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 Connecticut Probate Law Journal 269 (1996).  
II. Background  
E. The federal judiciary and constitutional issues, pp. 293-294

# Section 1d: Equal Protection of the Laws

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic sources relating to the constitutional guarantee of equal protection of the laws in termination of parental rights in Connecticut

## **DEFINITIONS:**

- “The guaranty of equal protection of the laws ensures that the laws apply alike to all in the same situation, or that similar treatment is afforded to those in similar circumstances.” [In re Nicolina T.](#), 9 Conn. App. 598, 606, 520 A.2d 639 (1987).

## **CASES:**

- [In re Nicolina T.](#), 9 Conn. App. 598, 606, 520 A.2d 639 (1987). “The trial court’s court decision to terminate the respondent’s parental rights was made pursuant to the statutory requirements of General Statutes § 17-43a (b) [now § 17a-112], makes no distinction between mentally ill and other persons. As such, the statutory criteria applies with equal force to all parents without regard to their mental condition.”

## **WEST KEY NUMBERS:**

- Constitutional Law #225.1. Equal protection of the laws. Regulations affecting civil rights or personal rights and relations in general.

## **DIGESTS:**

- ALR Digest: *Termination of parental rights*
- Connecticut Family Law Citations: *Termination of Parental Rights*

# Section 1e: Notice and Opportunity to Be Heard

A Guide to Resources in the Law Library

**SCOPE:** Bibliographic sources relating to the constitutional guarantee of notice and the opportunity to be heard including determination of parental competency.

**DEFINITIONS:**

- **Mentally incompetent person:** “one who is unable to understand the nature of the termination proceeding and unable to assist in the presentation of his or her case.” [In re Alexander V.](#), 223 Conn. 557, 563, 613 A.2d 780 (1992).

**STATUTES:**

- Conn. Gen. Stat. (2015). [2016 supplement § 45a-716](#). Hearing on petition to terminate parental rights. Notice, Attorney General as party.
- [§ 45a-717](#). Termination of parental rights. Conduct of hearing, Investigation and report. Grounds for termination.

**CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Zowie N.](#), 135 Conn. App. 470, 498, 41 A.3d 1056 (2012). “Our law requires a competency hearing in a termination case when there are sufficient factual allegations of mental impairment and a respondent, or his attorney if he is represented, requests a hearing or when the conduct of a respondent reasonably suggests to the court that a hearing is necessary. *In re Alexander V.*, supra, 223 Conn. at 566, 613 A.2d 780; see also Practice Book § 32a-9. Here, the court ordered a competency evaluation upon the request of the child's attorney. The evaluation found no mental disease or defect that would affect the respondent's ability to comprehend the proceedings, and it concluded that there was no necessity to appoint a guardian ad litem, which appointment is required pursuant to § 45a-708 (a) if a respondent is a minor or is not competent.”
- [In re Ezequiel C.](#), Superior Court, Judicial District of Middletown, Nos. M08-CP07010334, M08-CP07010335, (Nov. 25, 2009) (2009 WL 4913327). “In *In re Sarah H.*, the court concluded that ‘the multi-factored balancing test set forth in [Mathews] must be considered to ensure the due process rights of the incompetent parent have been addressed; the balancing test is done in an effort to balance the interest of the incompetent [parent] in maintaining his family free of coercive state interference with the interest of [the child] in having a safe and healthy childhood.’ *In re Sarah H.*, Superior Court, Docket No. F01 CP04 001637.”
- [In re Alexander V.](#), 223 Conn. 557, 566, 613 A.2d 780 (1992). “Accordingly we conclude that due process does not require a competency hearing in all termination cases but only when (1) the parent’s attorney requests such a hearing, or (2) in the absence of such a request, the conduct of the

parent reasonably suggests to the court, in the exercise of its discretion, the desirability of ordering such a hearing sua sponte.”

**WEST KEY NUMBERS:**

- Constitutional Law # 274. Deprivation of personal rights in general. Privacy  
    (5). Privacy; marriage, family and sexual matters
- Mental Health # 472. Capacity to sue and be sued

**DIGESTS:**

- Connecticut Family Law Citations: *Termination of Parental Rights*

**TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).  
    Chapter 13. Termination of Parental Rights  
        § 13:4. Standing  
        § 13:5. Service of process
- 1 Joan Heifetz Hollinger et al., [Adoption Law and Practice](#) (2006).  
    § 2.10[2]. State courts and statutory examples
- 4 Sandra Morgan Little, [Child Custody & Visitation Law and Practice](#) (2013).  
    Chapter 28. Termination of parental rights  
        § 28.03. Procedural protections  
            [1]. Service of process  
            [2]. Notification of charges  
        § 28.04[5]. Right to be physically present or appear telephonically

## Section 2: Termination by Consent

A Guide to Resources in the Law Library

### SCOPE:

Bibliographic resources relating to the consensual termination of parental rights in Connecticut

### DEFINITIONS:

- **Termination of parental rights based on consent:** "refers to any judgment terminating parental rights on the ground of the consent of the parent, as opposed to another nonconsensual ground, and not to a judgment of termination entered by agreement of all parties." *In re Alexis A.*, Superior Court, Judicial District of Hartford, No. CP10013611A (April 7, 2011) (2011 WL 1734461).
- "If a parent who is consenting to the termination of such parent's parental rights appears at the hearing on the petition for termination of parental rights, **the court shall explain to the parent the meaning and consequences of termination of parental rights**. Nothing in this subsection shall be construed to require the appearance of a consenting parent at the hearing regarding the termination of such parent's parental rights except as otherwise provided by court order." Conn. Gen. Stat. [§ 45a-717\(a\)](#) (2015). [emphasis added] ([2016 supplement](#))
- "At the adjourned hearing or at the initial hearing where no investigation and report has been requested, the court may approve a **petition for termination of parental rights based on consent** filed pursuant to this section terminating the parental rights and may appoint a guardian of the person of the child, or if the petitioner requests, the court may appoint a statutory parent, if it finds, upon **clear and convincing evidence** that (1) the termination is in the **best interest of the child** and (2) such parent has **voluntarily and knowingly consented** to termination of the parent's parental rights with respect to such child." Conn. Gen. Stat. [§ 45a-717\(f\)](#) (2015). [emphasis added] ([2016 supplement](#))
- "If the court denies a petition for termination of parental rights based on consent, it may refer the matter to an agency to assess the needs of the child, the care the child is receiving and the plan of the parent for the child. Consent for the termination of the parental right of one parent does not diminish the parental rights of the other parent of the child nor does it relieve the other parent of the duty to support the child." Conn. Gen. Stat. [§ 45a-717\(f\)](#) (2015). ([2016 supplement](#))

### STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112](#). Termination of parental rights of child committed to the Commissioner of Children and Families.  
[§ 45a-715](#). Petition to terminate parental rights.  
[§ 45a-717](#). Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for

termination.

**FORMS:**

- Probate Court  
[PC-600](#). Application, termination of parental rights  
[PC-610](#). Affidavit, temporary custody, removal, termination or adoption
- Superior Court  
[JD-JM-60](#). Affidavit, consent of termination of parental rights
- 19 Am Jur Pleading and Practice Forms *Parent and Child* (2007)  
§ 97. Affidavit—Voluntary relinquishment by mother of parental rights

**CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- *In re Miriam A.*, Superior Court, Judicial District of Danbury, No. D03CP11002826A, (Jan. 25, 2013) (55 Conn. L. Rptr. 446) (2013 WL 812350). "Once the court has found by clear and convincing evidence that the parent whose rights are being terminated has voluntarily and knowingly consented to the termination of his or her parental rights, the court must then find, also upon clear and convincing evidence, that such termination would be in the best interests of the child before granting a consensual termination of parental rights petition. *In re Bruce R.*, 234 Conn. 194, 203, 662 A.2d 107 (1995). 'Unlike § 45a-717(h) which enumerates certain factors that must be considered regarding the affected child's best interest in granting a nonconsensual petition, no statute describes the factors that must be considered in the case of a consensual petition ... [T]he trial court's paramount objective, pursuant to § 45a-717(f), is to determine what would be in the child's best interest. This phrase is purposefully broad to enable the trial court to exercise its discretion based upon a host of considerations.'"
- *In re Alexis A.*, Superior Court, Judicial District of Hartford, No. CP10013611A (April 7, 2011) (51 Conn. L. Rptr. 727) (2011 WL 1734461). "Procedurally, if a petition indicates that a parent consents to the termination of parental rights, or if at any time following the filing of a petition and before the entry of a decree a parent consents to the termination of his parent rights, the consenting parent shall acknowledge such consent on a form promulgated by the Office of the Chief Court Administrator evidencing to the satisfaction of the court that the parent has voluntarily and knowingly consented to the termination of his parental rights. General Statutes § 45a-715(d). When a court is advised that a parent wishes to consent to his or her parental rights, the court is obligated to thoroughly canvass the parent to insure that the consent is knowingly and voluntarily made without coercion or duress. The court is not obligated to canvass any other party in order to accept a parent's consent to termination of parental rights."
- *In re Rylyn R.*, Superior Court, Judicial District of Middlesex, No. M08CP07010391A (April 28, 2008) (2008 WL 2582997). "Both *In re Bruce R.* and *In re Jessica M.* stand

for the proposition that a parent cannot seek to terminate his or her own parental rights so as to abandon his or her financial obligation to support his or her child(ren). This has not been changed by the enactment of General Statutes § 45a-716(b)(5). That statute gives the Attorney General automatic standing if a child is receiving or has received aid or care from the state, or if the child is receiving child support enforcement services. However, the framework for analyzing why a parent is seeking to terminate parental rights vis-a-vis financial considerations and the best interest of the child is still the same."

- [In Re Bruce R.](#), 34 Conn. App. 176, 181, 640 A.2d 643 (1994), aff'd 234 Conn. 194 (1995). "We conclude that under the present statutory scheme a parent may petition for the termination of his or her own parental rights and that a petition for the termination of parental rights is not dependent on a pending adoption or state custodial placement."

#### **TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Lewis K. Parker, managing ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. 534-541
- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997).  
Chapter 3, Termination of Parental Rights.  
§ 23. Termination by consent
- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).  
Chapter 13. Termination of Parental Rights  
§ 13:21. Voluntary relinquishment.

Table 5: Child Support and Termination of Parental Rights

<b>Child Support and Termination of Parental Rights</b>	
<p><a href="#">In re Bruce R.</a>, 234 Conn. 194, 213, 662 A.2d 107, 117 (1995)</p>	<p>“Legislative and judicial efforts to hold parents to their financial responsibility to support their children would be eviscerated if we were to allow an unfettered legal avenue through which a parent without regard to the best interest of the child could avoid all responsibility for future support. ‘We must avoid a construction that fails to attain a rational and sensible result that bears directly on the purpose the legislature sought to achieve. <i>Peck v. Jacquemin</i>, 196 Conn. 53, 63–64, 491 A.2d 1043 (1985). [<i>Turner v. Turner</i>, <i>supra</i>, 219 Conn. at 713, 595 A.2d 297]. <i>Scrapchansky v. Plainfield</i>, 226 Conn. 446, 453, 627 A.2d 1329 (1993); see also <i>State v. Johnson</i>, [227 Conn. 534, 542, 630 A.2d 1059 (1993)]; <i>Fairfield Plumbing &amp; Heating Supply Corp. v. Kosa</i>, 220 Conn. 643, 650–51, 600 A.2d 1 (1991).’ (Internal quotation marks omitted.) <i>Concept Associates, Ltd. v. Board of Tax Review</i>, 229 Conn. 618, 624, 642 A.2d 1186 (1994). Surely the legislature did not intend that § 45a–717(f) be used as a means for a parent to avoid the obligation to support his or her children. To interpret the statutory scheme as such would alter radically the parental support obligation which our laws consistently have reinforced.”</p>
<p><a href="#">In re Jessica M.</a>, 47 Conn. Supp. 42, 50-51, 774 A.2d 1097, 1102- 03 (2001)</p>	<p>“It would also appear that the department's action in bringing the present appeal to this court is consistent with the clearly defined federal and state public policy relative to the support by parents of their children, in particular those children who do not reside with their parents and those children supported by the taxpayers. See <i>Mulholland v. Mulholland</i>, 31 Conn. App. 214, 224, 624 A.2d 379 (1993), <i>aff'd</i>, 229 Conn. 643, 643 A.2d 246 (1994). A number of statutes in our state deal with the obligation of a parent to support his or her child including General Statutes § 46b–56, authorizing the Superior Court to issue orders providing for the support, care and custody of minor children in dissolution, legal separation and annulment actions; General Statutes § 46b–61, providing for child support orders for parents who live separately; General Statutes § 46b–84, obligating parents to support their children based on their respective abilities; and General Statutes § 46b–215, providing for the entry, modification and enforcement of child support orders against any person who neglects or refuses to support his or her child and specifically authorizing child support actions against parents by state officials, including the commissioner, in cases in which they or their children have received public assistance payments.”</p>
<p><a href="#">In re Jessica M.</a>, 71 Conn. App.</p>	<p>“The petitioner claims that the court's determination was solely based on her financial situation and that, as such, it contravenes</p>

417, 431-32, 802 A.2d 197, 206 (2002)	the mandate of our Supreme Court. Simply put, that is a clear mischaracterization of the court's findings and the bases for them. In making its findings, the court referred to the petitioner's motivation in seeking termination, the feelings the petitioner's children had about terminating her parental rights, and the financial ability of the petitioner to pay child support, despite her desire to end her relationships, legal or otherwise, with her children. The court noted that it believed she wanted to pull off a ruse on it, her children and the state's taxpayers. The court's multifaceted approach demonstrates that it considered the totality of the circumstances based on all the testimony and exhibits, and not just the petitioner's financial means. In accordance, it is clear that the court did not expand the meaning of our Supreme Court's holding in <i>In re Bruce R.</i> "
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Table 6: Consent to TPR within 48 hours of birth or by minor

<b>Consent to TPR within 48 Hours of Birth or by Parent Who is a Minor</b>	
<p>Conn. Gen. Stats. <a href="#">§ 17a-112(a)</a> (2015)</p>	<p>“No consent to termination by a mother shall be executed within forty-eight hours immediately after the birth of such mother's child. A parent who is a minor shall have the right to consent to termination of parental rights and such consent shall not be voidable by reason of such minority. A guardian ad litem shall be appointed by the court to assure that such minor parent is giving an informed and voluntary consent.”</p>
<p>Conn. Gen. Stats. <a href="#">§ 45a-715(d)</a> (2015)</p>	<p>“No consent to termination by a mother shall be executed within forty-eight hours immediately after the birth of her child. A parent who is a minor shall have the right to consent to termination of parental rights and such consent shall not be voidable by reason of such minority. A guardian ad litem shall be appointed by the court to assure that such minor parent is giving an informed and voluntary consent.”</p>

## Section 3: Grounds (Nonconsensual)

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A Guide to Resources in the Law Library

- “Because the statutory grounds necessary to grant a petition for termination of parental rights are expressed in the disjunctive, the court need find only one ground to grant the petition. Thus, we may affirm the court's decision if we find that it properly concluded that any one of the statutory circumstances existed. *In re Brea B.*, 75 Conn. App. 466, 473, 816 A.2d 707 (2003).” [In re Vanna A.](#), 83 Conn. App. 17, 25, 847 A.2d 1073 (2004).

# Section 3a: Abandonment

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the abandonment of a child as grounds for termination of parental rights in Connecticut

## **DEFINITIONS:**

- **Abandoned:** "means left without provision for reasonable and necessary care or supervision" Conn. Gen. Stat. [§ 46b-115a](#)(1) (2015)
- **Temporary Emergency Jurisdiction:** "(a) A court of this state has temporary emergency jurisdiction if the child is present in this state and (1) the child has been abandoned" Conn. Gen. Stat. [§ 46b-115n](#) (2015)

## **STATUTES:**

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112](#). Termination of parental rights of child committed to the Commissioner of Children and Families.  
[§ 45a-717](#). Termination of parental rights. Grounds for termination.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Paul M., Jr.](#), 148 Conn. App. 654, 666, 85 A.3d 1263, 1270 (2014). "We also reject the respondent's argument that the time period of 142 days that he had fled the jurisdiction is insufficient to find abandonment. As correctly noted by the petitioner, § 17a-111b (b) does not contain a minimum time frame pursuant to which abandonment occurs as a matter of law. The respondent has not provided this court with any statute or case setting forth a temporal requirement that must be met before a finding of abandonment can be made."
- [In re Brian T., Jr.](#), 134 Conn. App. 1, 38 A.3d 114 (2013). "Incarceration alone does not suffice to show abandonment. *In re Juvenile Appeal* (Docket No. 10155), 187 Conn. 431, 443, 446 A.2d 808 (1982). Further, although the length of time of the denial of paternity found is material, there is no evidence that the respondent denied paternity for five years or until the statute of limitations expired for statutory rape, as found by the court. The length of time of incarceration also is material, and the finding that the respondent was incarcerated for the first seven years of the child's life is clearly erroneous."
- [In re Justin F.](#), 137 Conn. App. 296, 301, 48 A.3d 94 (2012). "A parent abandons a child if 'the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child.... Abandonment focuses on the parent's conduct.... Abandonment occurs where a parent fails to visit a child, does not display love or affection for the child, does not personally interact with the child, and demonstrates no concern for the child's welfare.... Section 17a-112[(j)(3)(A)] does not contemplate a sporadic showing of the indicia of interest, concern or responsibility for the welfare of a child. A parent must

maintain a reasonable degree of interest in the welfare of his or her child. Maintain implies a continuing, reasonable degree of concern.' (Citation omitted; internal quotation marks omitted) *In re Ilyssa G.*, 105 Conn. App. 41, 46–47, 936 A.2d 674 (2007), cert. denied, 285 Conn. 918, 943 A.2d 475 (2008)

- [In re Alexander C.](#), 67 Conn. App. 417, 426, 787 A.2d 608 (2001). "In the context of termination of parental rights due to abandonment, this court has stated that among the generally understood obligations of parenthood are the expression of love and affection for the child, and the expression of personal concern over the health, education and general well-being of the child."
- [In re Deana E.](#), 61 Conn. App. 185, 193, 763 A.2d 37 (2000). "'The commonly understood general obligation of parenthood entail these minimum attributes: (1) express love and affection for the child; (2) express personal concern over the health, education and general well-being of the child; (3) duty to supply the necessary food, clothing, and medical care; (4) the duty to provide an adequate domicile; and (5) the duty to furnish social and religious guidance.'" [original quote from [In re Adoption of Webb](#), 14 Wash. App. 651, 657, 544 P.2d 130(1975)].
- [In re Kezia M.](#), 33 Conn. App. 12, 17-18, 632 A.2d 1122, cert. den., 228 Conn. 915 (1993). "Abandonment focuses on the parent's conduct . . . . Abandonment occurs where a parent fails to visit a child, does not display love or affection for the child, does not personally interact with the child, and demonstrates no concern for the child's welfare."
- [In re Rayna M.](#), 13 Conn. App. 23, 37, 534 A.2d 897 (1987). "It is not lack of interest alone which is the criterion in determining abandonment. Abandonment under General Statutes 17-43a(b)(1) requires failure to maintain 'interest, concern or responsibility as to the welfare of the child.' 'Attempts to achieve contact with a child, telephone calls, the sending of cards and gifts, and financial support are indicia of "interest, concern or responsibility" for the welfare of a child.'"
- [In re Luke G.](#), 40 Conn. Sup. 316, 323, 498 A. 2d 1054 (1985). "Where a parent fails to visit a child, fails to display any love or affection for the child, has no personal interaction with the child, and no concern for the child's welfare, statutory abandonment has occurred."

**WEST KEY NUMBERS:**

- *Infants* # 157. Abandonment or absence of parent

**ENCYCLOPEDIAS:**

- *Grounds For Termination Of Parental Rights*, 32 POF3d 83 § 4 (1995)
- *Cause of Action for Adoption Without Consent Of Parent On Grounds Of Abandonment*. 16 COA 219 (1988).

**TREATISES:**

- Lewis K. Parker, managing ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).

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Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. 534-541

- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997).  
Chapter 3, Termination of Parental Rights.  
§ 24. Nonconsensual Termination: Grounds  
A. Abandonment
- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).  
Chapter 13. Termination of Parental Rights  
§ 13:10. Grounds-Abandonment and nonsupport
- Matthew R. Asman, Note, *The Rights Of A Foster Parent Versus The Biological Parent Who Abandoned The Child: Where Do The Best Interest Of The Child Lie?* 8 Connecticut Probate Law Journal 93 (1993).
- Verna Lilburn, Note, *Abandonment as Grounds For The Termination Of Parental Rights*, 5 Connecticut Probate Law Journal 263 (1991).

#### **LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

# Section 3b: Act(s) of Parental Commission or Omission

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic sources relating to termination of parental rights in Connecticut on the grounds of the denial of the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being because of parental omissions or commissions.

## **DEFINITIONS:**

- “[T]he child has been denied, by reason of an act or acts of parental commission or omission, including, but not limited to sexual molestation and exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights;” Conn. Gen. Stats. [§ 45a-717\(g\)\(2\)\(B\)](#) (2015). ([2016 supplement](#))
- **Abused:** “means that a child or youth (A) has been inflicted with physical injury or injuries other than by accidental means, or (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment such as, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment . . . .” Gen. Stat. [§ 46b-120\(4\)](#) (2015).
- **Emotional injury:** “There is nothing in this clear statutory language that limits the acts of commission or omission to the serious physical injury of a child, rather than the serious emotional injury of a child.” [In re Sean H.](#), 24 Conn. App. 135, 144, 586 A.2d 1171 (1991), cert. den. 218 Conn. 904.
- **Prima facie evidence:** “The language regarding prima facie evidence shifts the burden of proof from the petitioner to the parent to show why a child with clear evidence of physical injury that is unexplained should not be permanently removed from that parent’s care.” Ibid.

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112\(j\)\(3\)\(C\)](#). Termination of parental rights of child committed to commissioner. Cooperative postadoption agreements. Placement of child from another state. Interstate Compact on the Placement of Children.  
[§ 45a-717\(g\)\(2\)\(B\)](#). Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Josiah M.](#), Superior Court, Judicial District of Hartford, No. H12CP-12014529S (Dec. 10, 2012) (2012 WL 6846528). “[W]here termination is based on a claim of serious physical injury; two criteria must be met to establish prima facie evidence for termination of parental rights: the physical injury must be serious and it must be nonaccidental or inadequately explained.’ *In re Jessica M.*, supra, 49 Conn. App. at 241. In the absence of a statutory definition of ‘serious physical injury,’ the Appellate Court reasoned that it must entail something more than a showing of abuse or neglect given that the definitions for those terms ‘use only the words physical injury or injuries not serious physical injury.’ *Id.*, at 242. The court must determine whether the requisite injury has befallen the child as a result of actual acts of commission or omission by the parents. *In re Keizer M.*, supra, 33 Conn. App. at 20.”
- [In re Nelmarie O.](#), 97 Conn. App. 624, 905 A.2d 706 (2006). “The respondent next claims that the court improperly found that she had failed to provide for the emotional well-being of N and Y pursuant to § 17a-112(j)(3)(C). In support of her claim, the respondent points out that she did not physically abuse N and Y and that she was not the biological mother or legal guardian of E. Section 17a-112(j), however, provides in relevant part that the court ‘may grant a petition [for termination of parental rights] if it finds by clear and convincing evidence ... (3) that ... (C) the child has been denied, by reason of an act or acts of parental commission or omission including, but not limited to ... the care, guidance or control necessary for the child’s physical, educational, moral or emotional well-being....’ That statute does not require that the children who are the subjects of the termination petition be abused physically. See *In re Sean H.*, 24 Conn. App. 135, 144, 586 A.2d 1171, cert. denied, 218 Conn. 904, 588 A.2d 1078 (1991).”
- [In re Carissa K.](#), 55 Conn. App. 768, 782-3, 740 A.2d 1232 (1999). “The court found that C had been sexually abused by D because the department’s expert testified that C’s description of abuse was articulate and that she was able to make distinctions between what her maternal uncle did to her and what D did to her.”
- [In re Tabitha T.](#), 51 Conn. App. 595, 603, 722 A.2d 1232 (1999). “While the children were in the respondent’s care, the respondent failed to protect them from sexual abuse by their older brother. At one point, the respondent specifically told Tabitha not to disclose to therapist Martha Roberts anything about the sexual abuse or any other goings on of the family.”
- [In Re Felicia D.](#), 35 Conn. App. 490, 502, 646 A.2d 862 (1994), cert. den. 231 Conn. 931 (1994). “The trial court found that Janelle was a victim of sexual abuse, and had sustained serious head injuries. Janelle received the injuries while in the respondent’s care and the respondent offered

no explanation consistent with those injuries. The court also found that although the respondent was not the person who inflicted serious physical injury on Janelle, she continually exposed her to the risk of serious injury by associating with dangerous men. She did not act to protect Janelle from sustaining the injuries she received, and she did not acknowledge the possibility that her husband, Peter Signorino, might have caused the injuries. These circumstances, the court held, cast grave doubt on the respondent's ability to parent. We conclude that the trial court's conclusion that this ground for termination existed as to Janelle is legally correct and factually supported."

- [In re Sean H.](#), 24 Conn. App. 135, 146, 586 A.2d 1171 (1991), cert. den. 218 Conn. 904. "We conclude that the statutory language 'acts of commission and omission' applies to custodial and noncustodial parents alike . . . ."
- [In re Luke G.](#), 40 Conn. Supp. 316, 324, 498 A.2d 1054 (1985). "The legislative history of § 45-61f (f)[now 45a-717(g)(2)] makes it clear that it was added to the law so that seriously abused children could be removed permanently from the care of the parent inflicting such abuse."

**WEST KEY NUMBERS:**

- *Infants* # 179. Evidence. Weight and sufficiency. Deprivation, neglect or abuse

**ENCYCLOPEDIAS:**

- 32 POF3d 83 (1995). *Grounds for Termination of Parental Rights*.
  - § 28. Physical evidence of neglect or abuse
  - § 29. Unexplained injuries
  - § 30. Expert opinion that child has been abused

**TREATISES:**

- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - § 24. Nonconsensual Termination: Grounds
    - C. Acts of commission/omission

**LAW REVIEWS:**

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 Connecticut Probate Law Journal 269 (1996).

# Section 3c: No Ongoing Parent-Child Relationship

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic sources relating to termination of parental rights in Connecticut on the grounds of no on-going parent-child relationship.

## **DEFINITIONS:**

- “[T]here is no ongoing parent-child relationship which is defined as the relationship that ordinarily develops as a result of a parent having met on a continuing, day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of the parent-child relationship would be detrimental to the best interests of the child . . . Conn. Gen. Stats. [§ 45a-717\(g\)\(2\)\(C\)](#) (2015). ([2016 supplement](#))

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015). [2016 supplement § 17a-112\(j\)\(3\)\(D\)](#). Termination of parental rights of child committed to commissioner. Cooperative postadoption agreements. Placement of child from another state. Interstate Compact on the Placement of Children.  
[§ 45a-717\(g\)\(2\)\(C\)](#). Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Lukas K.](#), 120 Conn. App. 465, 485, 992 A.2d 1142 (2010). “We have determined that under this part of the statute the court undertakes a two-pronged analysis. ‘First, there must be a determination that no parent-child relationship exists, and second, the court must look into the future and determine whether it would be detrimental to the child’s best interest to allow time for such a relationship to develop.... In *In re Jessica M.*, 217 Conn. 459, 586 A.2d 597 (1991), our Supreme Court defined an ongoing parent-child relationship as it applies to noncustodial parents. The court stated that termination of a noncustodial parent’s rights requires a finding that the child has no present memories or feelings for the natural parent.’ (Citation omitted; internal quotation marks omitted.) *In re Christian P.*, 98 Conn. App. 264, 269, 907 A.2d 1261 (2006).”
- [In re Christian P.](#), 98 Conn. App. 264, 269, 907 A.2d 1261 (2006). “This part of the statute requires the trial court to undertake a two-pronged analysis. First, there must be a determination that no parent-child relationship exists, and second, the court must look into the future and determine whether it would be detrimental to the child’s best interest to allow time for such a relationship to develop. . . . In considering whether an ongoing parent-child relationship

exists, the feelings of the child are of paramount importance. . . . The ultimate question is whether the child has no present memories or feelings for the natural parent. . . . Feelings for the natural parent connotes feelings of a positive nature only.' (Citations omitted; internal quotation marks omitted.) *In re Jonathon G.*, 63 Conn. App. 516." 525, 777 A.2d 695 (2001).

- [In re Alexander C.](#), 67 Conn. App. 417, 426-427, 787 A.2d 608 (2001). "The respondent's separation from the child, his failure to seek out supervised visitation and his lack of interest in the child's life precluded the development of an ongoing parent-child relationship. We conclude, therefore, that the court's finding of a lack of an ongoing parent-child relationship was legally correct and factually supported."
- [In re Shane P.](#), 58 Conn. App. 234, 240-241, 753 A.2d 409 (2000). "The evidence before the court was sufficient to support the conclusion that the child has no present memories of or feelings for the respondent. Shane does not refer to the respondent as his mother and has no memories of any maternal relationship with her. The respondent admitted at trial that Shane does not know her as he should know his mother. Rather, Shane refers to his foster mother as his mother. Although Shane does warm to the respondent when visiting her in prison, he is not eager to see her initially and seeks comfort from his foster parents after visits."
- [In Re Passionique T.](#), 44 Conn. Supp. 551, 563-4, 695 A.2d 1107 (1996). "The child clearly knows that Linda T. is her mommy - or one of her mommies - and has no aversion or documented negative reaction to her visits. Even if Karen M. is identified as her principal mommy after eighteen months of being her primary caretaker, the fact that this is a natural result when custody is removed from a biological parent by action of the department is a bar to using this fact to establish this ground for termination."
- [In re Valerie D.](#), 223 Conn. 492, 494-495, 613 A.2d 748 (1992). "The dispositive issues in this appeal are whether: (1) General Statutes 45a-717 (f) (2)[fn1] permits the termination of the parental rights of the mother of an infant based upon the mother's prenatal conduct of injecting cocaine;"
- [In re Jessica M.](#), 217 Conn. 459, 469, 586 A.2d 597 (1991). "The Appellate Court, applying the statutory standard of 'no ongoing parent-child relationship' in the light of our decisions, has correctly concluded that the statute requires that a child have some 'present memories or feelings for the natural parent' that are positive in nature."
- [In Re Karrlo K.](#) 44 Conn. Supp. 101, 116, 669 A.2d 1249 (1994). "No ongoing parent-child relationship contemplates a situation in which, regardless of fault, a child either has never known their parents, or that no relationship has ever developed between them, or has definitely lost that relationship, so that despite its former existence it has now been completely displaced. In any case, the ultimate

question is 'whether the child has no present memories or feelings for the natural parent' . . . . The mere recognition of an individual as a parent will not defeat this ground."

- [In Re Kezia M.](#) 33 Conn. App. 12, 20, 632 A.2d 1122 (1993). "This part of the statute requires the trial court to undertake a two-pronged analysis. First, there must be a determination that no parent-child relationship exists, and second, the court must look into the future and determine whether it would be detrimental to the child's best interest to allow time for such a relationship to develop."

**TEXTS:**

- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - D. No ongoing parent-child relationship

**LAW REVIEWS:**

Public access to law review databases is available on-site at each of our law libraries.

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 Connecticut Probate Law Journal 269 (1996).
- Sharon I. Farquharson, Comment, *The "Two Prong" Inquiry—The Best Alternative For Conflicting Rights Involved In Proceedings For Termination Of Parental Rights*, 13 Connecticut .Law Review 709 (1981).

# Section 3d: Neglected & Uncared for

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic references relating to termination of parental rights in Connecticut on the grounds of neglect and uncared for child.

## **DEFINITIONS:**

- **Neglected:** "(9) a child or youth may be found 'neglected' who (A) has been abandoned, or (B) is being denied proper care and attention, physically, educationally, emotionally or morally, or (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth, or (D) has been abused . . ." Conn. Gen. Stat. [§ 46b-120](#)(8) (2015).
- **Uncared for:** "a child or youth may be found 'uncared for' who is homeless or whose home cannot provide the specialized care that the physical, emotional or mental condition of the child requires. For the purposes of this section, the treatment of any child by an accredited Christian Science practitioner in lieu of treatment by a licensed practitioner of the healing arts, shall not of itself constitute neglect or maltreatment; . . ." Conn. Gen. Stat. [§ 46b-120](#)(10) (2015).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015). [2016 supplement § 17a-112](#)(j)(3)(B) and (E). Termination of parental rights of child committed to commissioner. Cooperative postadoption agreements. Placement of child from another state. Interstate Compact on the Placement of Children. [§ 45a-717](#)(g)(2) Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Alba P.-V.](#), 135 Conn. App. 744, 749, 42 A.3d 393 (2012). "General Statutes §17a-112(j)(3)(B)(i) provides that a court may terminate the parental rights to a child that 'has been found by the Superior Court or the Probate Court to have been neglected or uncared for in a prior proceeding....' Thus, the statute requires only a single prior adjudication of neglect as to the child who is the subject of a termination of parental rights petition."
- [In re Michael D.](#), 58 Conn. App. 119, 124, 752 A.2d 1135 (2000), cert. den. 245 Conn. 911 (2000). "Our statutes clearly and explicitly recognize the state's authority to act before harm occurs to protect children whose health and welfare may be adversely affected and not just children whose welfare has been affected. The commissioner need not show, but need simply allege, that there is a potential for harm to occur."
- [In re Kelly S.](#), 29 Conn. App. 600, 613, 616 A.2d 1161 (1992). "Actual incidents of abuse or neglect are not required in determining that a child is uncared for under the

'specialized needs' section of the statute . . . . For purposes of commitment of a child to the custody of the commissioner pursuant to 46b-129, proof of ongoing parenting deficiencies is sufficient to satisfy the statute where those deficiencies mean that the child's home is unable to provide the care required for her special needs."

**WEST KEY NUMBERS:**

- *Infants* #156. Deprivation, neglect, or abuse

**ENCYCLOPEDIAS:**

- 59 Am Jur 2d *Parent and Child* (2012).
  - § 16. Termination of relationship
  - § 34. Loss or forfeiture of right
  - § 35. —Burden of proof
- 43 C.J.S. *Infants* (2014).
  - § 24. Termination of parental rights. Generally
  - § 25. Less drastic alternatives; rehabilitation and reunification
  - § 26. Policy considerations
  - § 27. Determinative factors
  - § 28. —Best interest of the child
- *Grounds for Termination of Parental Rights*, 32 POF3d 83 (1995)
  - § 3. Grounds for termination of parental rights
  - § 6. —Neglect.
  - § 7. —Abuse
- *Child Neglect*, 3 POF2d 265 (1974).
  - §§ 25-43. Proof of physical neglect—malnutrition and lack of adequate clothing
  - §§ 44-71. Proof of emotional neglect—child's emotional well-being endangered by parent's disturbed condition
  - §§ 72-80. Proof of medical neglect—parent's refusal to consent to blood transfusion during surgery for alleviation of facial disfigurement
- *Juvenile Court Proceedings*, 14 Trials 619 (1968).
  - § 8. Neglected children

**LEGISLATIVE:**

- Conn. General Assembly, Office of Legislative Research, *Law Governing Termination of Parental Rights in Cases of Medical Neglect and related issues*, OLR Report [2014-R-0135](#) (May 20, 2014).

**TEXTS:**

- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - B. Failure to rehabilitate
  - E. Predictive failure to rehabilitate
- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).
  - Chapter 13. Termination of Parental Rights
    - § 13:9. Grounds-Neglect and failure to protect.

**LAW REVIEWS:**

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 Connecticut Probate Law Journal 269 (1996).
- John Gesmonde, Comment, *Emotional Neglect In Connecticut*, 5 Connecticut Law Review 100 (1972).

# Section 3e: Failure to Rehabilitate

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to termination of parental rights in Connecticut on the grounds of parent's failure to rehabilitate themselves.

## **DEFINITIONS:**

- **Personal rehabilitation** "as used in the statute refers to the restoration of a parent to his or her former constructive and useful role as a parent." [In re Migdalia M.](#), 6 Conn. App. 194, 203, 504 A.2d 533 (1986).
- "Personal rehabilitation refers to the reasonable foreseeability of the restoration of a parent to his or her former constructive and useful role as a parent, not merely the ability to manage his or her own life.' (Internal quotation marks omitted.) *In re Stanley D.*, 61 Conn. App. 224, 230, 763 A.2d 83 (2000)." [In re Kristy](#), 83 Conn. App. 298, 316, 848 A.2d 1276 (2004).
- **Two Prong Test:** "Both prongs of the test must be met to terminate parental rights for failure to achieve rehabilitation: one, that the parent has failed to achieve rehabilitation and, two, that there is no reason to believe that the parent could assume a responsible position in the life of the child within a reasonable time, *considering the age and needs of the child.*" [In re Roshawn R.](#), 51 Conn. App. 44, 55, 720 A.2d 1112 (1998).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
  - [§ 17a-112\(a\)](#). Termination of parental rights of child committed to Commissioner of Children and Families. Cooperative postadoption agreements. Placement of child from another state. Interstate Compact on the Placement of Children.
  - [§ 45a-717\(g\)\(2\)](#). Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Shane M.](#), 318 Conn. 568, 587, 122 A.3d 1247, 1259 (2015). "We have historically reviewed for clear error both the trial court's subordinate factual findings and its determination that a parent has failed to rehabilitate. See, e.g., *id.*, at 499, 78 A.3d 797. While we remain convinced that clear error review is appropriate for the trial court's subordinate factual findings, we now recognize that the trial court's ultimate conclusion of whether a parent has failed to rehabilitate involves a different exercise by the trial court. A conclusion of failure to rehabilitate is drawn from both the trial court's factual findings and from its weighing of the facts in assessing whether those findings satisfy the failure to rehabilitate ground set forth in § 17a-112(j)(3)(B). Accordingly, we now believe that the appropriate standard of review is one of evidentiary sufficiency, that is, 'whether

the trial court could have reasonably concluded, upon the facts established and the reasonable inferences drawn therefrom, that the cumulative effect of the evidence was sufficient to justify its [ultimate conclusion].... When applying this standard, we construe the evidence in a manner most favorable to sustaining the judgment of the trial court.' (Citation omitted.) *In re Soncheray H.*, 42 Conn. App. 664, 668, 680 A.2d 1363, cert. denied, 239 Conn. 940, 684 A.2d 712 (1996)."

- [In re Alison M.](#), 127 Conn. App. 197, 208, 15 A.3d 194 (2011). "The court found that the respondent demonstrated personal progress, for example, by making her home safer and cleaner and by obtaining employment. Nevertheless, the court observed: 'One cannot, however, confuse ability to care for oneself and the ability to care for one's children. [The respondent] has the desire and motivation to parent. "Lamentably, motivation to parent is not enough; ability is required." *In re G.S.*, 117 Conn. App. 710, 718, [980 A.2d 935, cert. denied, 294 Conn. 919, 984 A.2d 67 (2009)]. [The respondent] has not demonstrated that she has made sufficient progress with respect to her ability to parent the children.'"
- [In re Jazmine B.](#), 121 Conn. App. 376, 996 A.2d 286 (2010). "The respondent finally argues that because he substantially complied with the specific steps set forth by the court, it was improper for the court to determine that he had failed to achieve a sufficient degree of personal rehabilitation. The court considered the respondent's compliance with some of the department's recommendations and stated that '[i]n light of the facts of this case, completion of parenting classes alone does not establish rehabilitation.' See *In re Coby C.*, 107 Conn. App. 395, 406, 945 A.2d 529 (2008) (rejecting claim that substantial compliance with specific steps bars court from terminating parental rights)."
- [In Re Lee](#), 104 Conn. App. 121, 136-137. (2007) "The respondent's argument loses sight of the fact that, for the purpose of the court's ultimate determination regarding whether her parental rights should be terminated, the relevant testimony elicited from the respondent was that she permitted someone who she knew very clearly had a problem with substance abuse to reside in her home with her children. Because the court found that the respondent generally was aware of her fifth husband's drinking problem, it was appropriate for the court to consider this as a factor when assessing the respondent's progress toward rehabilitation."
- [In re Jeisean M.](#), 270 Conn. 382, 399-400, 852 A.2d 643 (2004). We conclude that the record supports the trial court's finding that the commissioner had proved by clear and convincing evidence that the respondent had failed to attain a degree of rehabilitation sufficient to warrant the belief that, at some time in the foreseeable future, she would be capable of assuming a responsible position with

respect to her child's care. There was ample evidence of the respondent's documented struggle with drug abuse, inability to secure and maintain adequate employment and income, inability to live independently and inexplicable absences from scheduled visits to see Jeisean. The respondent, however, points to evidence establishing that she had progressed in achieving stability in her life. For example, at the time of the trial court's February 15, 2002 decision, the respondent was working part-time at Springfield College. In addition, in the fall of 2001, she completed a ten session parenting class for which she received a certificate of completion. In light of all the evidence, however, we cannot say that the trial court was clearly erroneous in concluding that the commissioner had met her burden of showing by clear and convincing evidence that the respondent had failed to reach such a degree of rehabilitation as would encourage the belief that, within a reasonable period of time, she could assume a responsible position in Jeisean's life.

- [In re Samantha](#), 268 Conn. 614, 628-629, 847 A.2d 883 (2004). "The sole ground alleged in this petition was that the respondents had failed to achieve rehabilitation pursuant to § 17a-112 (j)(3)(B) (ii), which allows for termination if a child has been found to be neglected, and the parents have failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child. . . . 'Personal rehabilitation . . . refers to the restoration of a parent to his or her former constructive and useful role as a parent . . . [and] requires the trial court to analyze the [parent's] rehabilitative status as it relates to the needs of the particular child, and further, that such rehabilitation must be foreseeable within a reasonable time. . . . The statute does not require [a parent] to prove precisely when she will be able to assume a responsible position in her child's life. Nor does it require her to prove that she will be able to assume full responsibility for her child, unaided by available support systems. It requires the court to find, by clear and convincing evidence, that the level of rehabilitation she has achieved, if any, falls short of that which would reasonably encourage a belief that at some future date she can assume a responsible position in her child's life.' (Citations omitted; internal quotation marks omitted.)" *In re Eden F.*, supra, 250 Conn. 706."
- [In re Vincent D.](#), 65 Conn. App. 658, 669, 783 A.2d 534 (2001). "Pursuant to § 17a-112 (c) (3) (B), the failure of a parent to achieve sufficient personal rehabilitation is one of six grounds for termination of parental rights. This ground has been established if the parent of a child, after a judicial finding of neglect, fails to achieve a degree of rehabilitation sufficient to encourage the belief that at some future date within a reasonable time, considering the age and needs of

the child, the parent could assume a responsible position in the life of that child.”

- [In re Cesar G.](#), 56 Conn. App. 289, 292-3, 742 A.2d 428 (2000). “The burden is clearly upon the persons applying for the revocation of commitment to allege and prove that cause for commitment no longer exists. Once that has been established, the inquiry becomes whether a continuation of the commitment will nevertheless serve the child's best interests. On this point, when it is the natural parents who have moved to revoke commitment, the state must prove that it would not be in the best interests of the child to be returned to his or her natural parents. *In re Juvenile Appeal (Anonymous)*, 177 Conn. 648, 659, 420 A.2d 875 (1979).’ [In re Thomas L.](#), 4 Conn. App. 56, 57, 492 A.2d 229 (1985).”

**WEST KEY NUMBERS:**

- *Infants*
  - #155. Dependent and neglected children; conflict with parental rights. Termination of parental rights and other permanent actions
  - #156. \_\_\_\_\_. Deprivation, neglect or abuse

**TEXTS:**

- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - B. Failure to rehabilitate
  - E. Predictive failure to rehabilitate

**LAW REVIEWS:**

- Sharon I. Farquharson, Comment, *The "Two Prong" Inquiry—The Best Alternative For Conflicting Rights Involved In Proceedings For Termination Of Parental Rights*, 13 Connecticut Law Review 709 (1981).

# Section 3f: Parent Has Killed or Committed an Assault upon another Child of the Parent

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic sources relating to termination of parental rights in Connecticut on the grounds of the deliberate killing or attempt to kill or committing an assault resulted in serious bodily injury upon another child of the parent.

## **DEFINITIONS:**

- “[T]he parent has killed through deliberate, nonaccidental act another child of the parent or has requested, commanded, importuned, attempted, conspired or solicited such killing or has committed an assault, through deliberate, nonaccidental act that resulted in serious bodily injury of another child of the parent;” Conn. Gen. Stats. [§ 45a-717\(g\)\(2\)\(F\)](#) (2015). ([2016 supplement](#))

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112\(j\)\(3\)\(F\)](#). Termination of parental rights of child committed to Commissioner of Children and Families. Cooperative postadoption agreements. Placement of child from another state.  
[§ 45a-717\(g\)\(2\)\(F\)](#). Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination.

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Rachel J.](#), 97 Conn. App. 748, 905 A.2d 1271 (2006). “As to N, the sole ground alleged in the termination petition was that the respondent ‘committed an assault, through [a] deliberate non-accidental act that resulted in serious bodily injury of another child ... of the parent’ under §17a-112(j)(3)(F). The court found that, at trial, there was no real dispute as to whether the respondent's actions resulted in serious bodily injury to R or that the respondent failed to seek medical attention for R for several days thereafter. It continued: ‘[Section 17a-112 (j)(3)(F)] clearly sets out as a ground for termination of parental rights the assault of another child in the home. Here, although [N], a very young, medically fragile child, was not the subject of the physical abuse, she lived in the home with [R] and [the respondent] and was subjected to an atmosphere which resulted in the severe assault of her sister. The court finds by clear and convincing evidence that this ground has been proven.’”

## **LEGISLATIVE:**

- 1998 Conn. Acts 241 §§ 8 and 9
- Conn. General Assembly, Office of Legislative Research, *Federal Adoption and Safe Families Requirements*, OLR Report 98-R-0627 (April 17, 1998).

## **TREATISES:**

- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers of Attorney and Adoption in Connection 3d](#) (2016).

§ 5:8. Hearing, investigation and report, ground for termination of parental rights, consent terminations.

# Section 3g: Parent Convicted of Sexual Assault Resulting in Conception of the Child

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic sources relating to termination of parental rights in Connecticut upon the grounds of a conviction of sexual assault resulting in the conception of a child.

## **DEFINITIONS:**

- “[T]he parent was convicted as an adult or a delinquent by a court of competent jurisdiction of a sexual assault resulting in the conception of the child, except a conviction for a violation of section 53a-71 or 53a-73a, provided the court may terminate such parent's parental rights to such child at any time after such conviction.” Conn. Gen. Stats. [§ 45a-717](#) (g)(2)(G) (2015). ([2016 supplement](#))

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015). [2016 supplement § 17a-112](#)(j)(3)(G). Termination of parental rights of child committed to commissioner. Cooperative postadoption agreements. Placement of child from another state. Interstate Compact on the Placement of Children.  
[§ 45a-717](#)(g)(2)(G). Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination.

## **LEGISLATIVE:**

- 1998 Conn. Acts 241 §§ 8 and 9.
- 2000 Conn. Acts 137 §§ 1 and 12
- Conn. General Assembly, Office of Legislative Research, *Federal Adoption and Safe Families Requirements*, OLR Report 98-R-0627 (April 17, 1998).

## **TREATISES:**

- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers of Attorney and Adoption in Connection 3d](#) (2016).  
§ 5:8. Hearing, investigation and report, ground for termination of parental rights, consent terminations.

Table 7: Proof of Grounds for Terminating Parental Rights

<b>Proof of Grounds for Terminating Parental Rights</b> 32 POF 3d 83 (1995) Jacqueline D. Stanley	
<b>II. Elements of Proof</b>	
	§ 11. Proof of grounds for termination of parental rights; Checklist
<b>III. Model Discovery</b>	
	§ 12. Petitioner’s interrogatories to defendant
<b>IV. Proof of grounds for terminating parental rights</b>	
A. Testimony of social worker	§ 13. Failure to provide appropriate supervision § 14. Failure to provide a stable home § 15. Failure to provide necessities § 16. Signs of alcohol or drug abuse § 17. Failure to provide contact, love or affection § 18. Failure to support, contact or plan for the future of child in foster care
B. Testimony of Psychologist	§ 20. Mental incapacity § 21. Emotional instability § 22. Overall observations
C. Testimony of Natural Father [Defendant]	§ 23. Failure to resume custody of a child in foster care § 24. Failure to provide financial support § 25. Failure to contact or communicate with child § 26. Incarceration § 27. Failure to use available resources
D. Testimony of Pediatrician	§ 28. Physical evidence of neglect or abuse § 29. Unexplained injuries § 30. Expert opinion that child has been abused

E. Testimony of Child Psychologist	§ 31. Expert opinion that termination is in the child's best interest
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## Section 4: Procedures in Termination of Parental Rights

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A Guide to Resources in the Law Library

- "A petition for termination of parental rights shall be entitled 'In the interest of .... (Name of child), a person under the age of eighteen years', and shall set forth with specificity: (1) The name, sex, date and place of birth, and present address of the child; (2) the name and address of the petitioner, and the nature of the relationship between the petitioner and the child; (3) the names, dates of birth and addresses of the parents of the child, if known, including the name of any putative father named by the mother, and the tribe and reservation of an American Indian parent; (4) if the parent of the child is a minor, the names and addresses of the parents or guardian of the person of such minor; (5) the names and addresses of: (A) The guardian of the person of the child; (B) any guardians ad litem appointed in a prior proceeding; (C) the tribe and reservation of an American Indian child; and (D) the child-placing agency which placed the child in his current placement; (6) the facts upon which termination is sought, the legal grounds authorizing termination, the effects of a termination decree and the basis for the jurisdiction of the court; (7) the name of the persons or agencies which have agreed to accept custody or guardianship of the child's person upon disposition." Conn. Gen. Stats. [§ 45a-715\(b\)](#) (2015). ([2016 supplement](#))
- "If the information required under subdivisions (2) and (6) of subsection (b) of this section is not stated, the petition shall be dismissed. If any other facts required under subdivision (1), (3), (4), (5) or (7) of subsection (b) of this section are not known or cannot be ascertained by the petitioner, he shall so state in the petition. If the whereabouts of either parent or the putative father named under subdivision (3) of subsection (b) of this section are unknown, the petitioner shall diligently search for any such parent or putative father. The petitioner shall file an affidavit with the petition indicating the efforts used to locate the parent or putative father." Conn. Gen. Stats. [§ 45a-715\(c\)](#) (2015). ([2016 supplement](#))

## Section 4a: Jurisdiction

A Guide to Resources in the Law Library

### **SCOPE:**

Bibliographic resources relating to jurisdictions of the Probate and Superior (Juvenile) courts in a termination of parental rights in Connecticut.

### **DEFINITIONS:**

- **Probate Court:** "A petition under this section shall be filed in the court of probate for the district in which the petitioner or the child resides or, in the case of a minor who is under the guardianship of any child care facility or child-placing agency, in the court of probate for the district in which the main office or any local office of the agency is located. If the petition is filed with respect to a child born out of wedlock, the petition shall state whether there is a putative father to whom notice shall be given under subdivision (2) of subsection (b) of section 45a-716." Conn. Gen. Stats. [§ 45a-715\(e\)](#) (2015). ([2016 supplement](#))
- **Superior Court:** "Before a hearing on the merits in any case in which a petition for termination of parental rights is contested in a court of probate, the court of probate shall, on the motion of any legal party except the petitioner, or may on its own motion or that of the petitioner, under rules adopted by the judges of the Supreme Court, transfer the case to the Superior Court." Conn. Gen. Stats. [§ 45a-715\(g\)](#) (2015). ([2016 supplement](#))
- **Transfer to Another Judge of Probate:** "In addition to the provisions of this section, the probate court may, on the court's own motion or that of any interested party, transfer any termination of parental rights case to another judge of probate, which judge shall be appointed by the Probate Court Administrator from a panel of qualified probate judges who specialize in children's matters. Such panel shall be proposed by the Probate Court Administrator and approved by the executive committee of the Connecticut Probate Assembly." Conn. Gen. Stats. [§ 45a-715\(g\)](#) (2015). ([2016 supplement](#))
- **Transfer:** "If the case is transferred, the clerk of the Court of Probate shall transmit to the clerk of the Superior Court, or the probate court to which the case was transferred, the original files and papers in the case. The Superior Court or the probate court to which the case was transferred, upon hearing after notice as provided in sections 45a-716 and 45a-717, may grant the petition as provided in section 45a-717." Conn. Gen. Stats. [§ 45a-715\(g\)](#) (2015). ([2016 supplement](#))

### **STATUTES:**

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112](#). Termination of parental rights of child committed to Commissioner of Children and Families.  
[§ 45a-715](#). Petition to terminate parental rights  
[§ 45a-716](#). Hearing on petition to terminate parental

rights. Notice. Attorney General as party  
[§ 45a-717](#). Termination of parental rights. Conduct of hearing. Investigation and report.

### **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#). Probate Court rules are [available](#) on the CT Probate Court website.

- [Connecticut Probate Court Rules of Procedure](#) (Effective July 1, 2013)  
Rule 40. Children's Matters: General Provisions  
Section 40.16. Transfer of contested removal or termination petition to Superior Court
- Court Conn. Practice Book (2016)  
[Chapter 35a](#). Hearings concerning neglected, uncared for and dependent children and termination of parental rights  
§ 35a-19. Transfer from Probate Court of petitions for removal of parents as guardians or termination of parental rights

### **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Lori Beth D.](#), 21 Conn. App. 226, 229, 572 A.2d 1027 (1990). "We read this rule [7.2 of the Probate Court Rules] to mean that whether a hearing is held on a petitioner's motion to transfer is within the discretion of the Probate Court, but that *if* the court, in fact, decides to hold a hearing, notice of such 'hearing,' in accordance with the procedure set out in Rule 7.6, becomes mandatory."
- [In re Theresa S.](#), 196 Conn. 18, 30, 491 A.2d 355 (1985). "The parents' rights can be terminated without an ensuing adoption."

### **TEXTS:**

- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.  
21. Termination petitions.  
A. Introduction
- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).  
Chapter 13. Termination of Parental Rights  
§ 13:2. Jurisdiction.

# Section 4b: Petition for TPR

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the content, form and amendment of a petition for termination of parental rights in Connecticut.

## **DEFINITIONS:**

- **Petition:** "means a formal pleading, executed under oath alleging that the respondent is within the judicial authority's jurisdiction to adjudicate the matter which is the subject of the petition by reason of cited statutory provisions and seeking a disposition. Except for a petition for erasure of record, such petitions invoke a judicial hearing and shall be executed by any one of the parties authorized to do so by statute, provided a delinquency petition may be executed by either a probation officer or juvenile prosecutor." Conn. Practice Book [§ 26-1\(j\)](#) (2016).
- **Diligently search:** "If the whereabouts of either parent or the putative father named under subdivision (3) of subsection (b) of this section are unknown, the petitioner shall diligently search for any such parent or putative father. The petitioner shall file an affidavit with the petition indicating the efforts used to locate the parent or putative father." Conn. Gen. Stat. [§ 45a-715\(c\)](#) (2015). ([2016 supplement](#))
- **Statutory parent:** "means the Commissioner of Children and Families or the child-placing agency appointed by the court for the purpose of the adoption of a minor child or minor children;" Conn. Gen. Stat. [§ 45a-707\(7\)](#). (2015). See [Table 8](#)

## **STATUTES:**

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112\(a\)](#). Termination of parental rights of child committed to the Commissioner of Children and Families.  
[§ 45a-715\(b\),\(c\),\(f\)](#). Petition to terminate parental rights

## **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).  
Procedures in Juvenile Matters  
[Chapter 33a](#). Petitions for neglect, uncared for, dependency and termination of parental rights: initiation of proceedings, orders of temporary custody and preliminary hearings
  - § 33a-1. Initiation of judicial proceeding:  
Contents of petitions and summary of facts
  - § 33a-2. Service of summons, petitions and ex parte orders
  - § 33a-3. Venue
  - § 33a-4. Identity or location of respondent unknown
  - § 33a-5. Address of person entitled to personal service unknown

- § 33a-6. Order of temporary custody; Ex parte orders and orders to appear
- § 33a-7. Preliminary hearing
- § 33a-8. Emergency, life-threatening medical situations—Procedures

**FORMS:**

- Probate Court  
[PC-600](#). Application, termination of parental rights
- Superior Court, Juvenile Matters  
[JD-JM-40](#) Rev. 9-2000. Notice/Summons and Order for Hearing – Termination of Parental Rights
- *Cause of Action for Adoption Without Consent Of Parent On Ground Of Abandonment*, 16 COA 219 (1988).  
§ 35. Sample petition  
§ 36. Sample answer
- 19 Am Jur Pleading and Practice Forms *Parent and Child* (2007)  
§ 89. Petition or application-To terminate parental rights of incompetent parent-By state agency and foster parent

**CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Xavier D.](#), 113 Conn. App. 478, 480, 966 A.2d 810, 811 (2009). "The respondent moved to strike the neglect petition and to dismiss the termination petition because they were based on a charge of physical abuse of the child that was not supported by the petitioner's specific allegations of parental misconduct. Acknowledging her error, the petitioner moved to correct the neglect petition, alleging that, as a result of a clerical oversight, she had mistakenly checked the box on the pleading form charging the respondent with physical abuse rather than the boxes charging that the child had been denied proper care and had been permitted to live under conditions, circumstances or associations injurious to his well-being....The court's dismissal of the termination petition is the sole basis for the respondent's claim that the termination of her parental rights should be reversed. We disagree with the respondent."
- [In re Angellica W.](#), 49 Conn. App. 541, 548, 714 A.2d 1265 (1998). "The trial court, however, correctly pointed out that 'actually, it's a matter of proof, really, rather than whether they have the right to amend. I think they have the right to amend, to allege whatever they want and the burden is on them to prove whatever they allege.' Furthermore, Practice Book § 1055.1, now Practice Book (1998 Rev.) § 35-1 . . . provides that amendments to the petition may be made at any time prior to a final adjudication. We will not disturb the trial court's decision to allow amendments to the petition unless there has been an abuse of discretion . . . . Since the rules of practice allow amendment, we cannot say that the trial court abused its discretion in this case by allowing amendment of the termination petition."
- [In re Bruce R.](#), 34 Conn. App. 176, 181, 640 A.2d 643 (1994). "We conclude that under the present statutory

scheme a parent may petition for the termination of his or her own parental rights and that a petition for the termination of parental rights is not dependent on a pending adoption or state custodial placement."

**TEXTS:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Ralph H. Folsom & Gayle B. Wilhelm, [Incapacity, Powers of Attorney and Adoption in Connecticut 3d](#) (2016).  
§ 5:6. Termination of parental rights and appointment of guardian or statutory parent for adoption petition
- Lewis K. Parker, managing ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. 534-541
- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.  
§ 21. Termination petitions

Table 8: Statutory Parent

<b>Statutory Parent</b>	
Definition	“the Commissioner of Children and Families or the child-placing agency appointed by the court for the purpose of giving a minor child or minor children in adoption;” Conn. Gen. Stat. <a href="#">§ 45a-707</a> (7). (2015)
Appointment	Conn. Gen. Stat. §§ <a href="#">45a-717</a> , <a href="#">45a-718</a> (a), <a href="#">17a-112</a> (2015)
Duties	Conn. Gen. Stat. § <a href="#">45a-718</a> (b) (2015)
Removal	Conn. Gen. Stat. § <a href="#">45-718</a> (c) (2015)
Resignation	Conn. Gen. Stat. § <a href="#">45-718</a> (c) (2015)

# Section 4c: Parties and Standing in TPR Proceedings

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to what persons or agencies have standing to bring a termination of parental rights in Connecticut.

## **DEFINITIONS:**

- **Child (Probate Court):** “[P] provided in any case hereunder where the child with respect to whom the petition is brought has attained the age of **twelve**, the child shall join in the petition.” Conn. Gen. Stat. [§ 45a-715\(a\)](#) (2015) (emphasis added). ([2016 supplement](#))
- **Child (Superior Court):** “In respect to any child in the custody of the Commissioner of Children and Families in accordance with section 46b-129, either the commissioner, or the attorney who represented such child in a pending or prior proceeding, or an attorney appointed by the Superior Court on its own motion, or an attorney retained by such child after attaining the age of **fourteen**, may petition the court for the termination of parental rights with reference to such child.” Conn. Gen. Stats. [§ 17a-112\(a\)](#) (2015) (emphasis added). ([2016 supplement](#))
- **Relative:** “means any person descended from a common ancestor, whether by blood or adoption, not more than three generations removed from the child;” Conn. Gen. Stat. [§ 45a-707\(6\)](#) (2015).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112](#). Termination of parental rights of child committed to the Commissioner of Children and Families.  
[§ 45a-715](#). Petition to terminate parental rights (a).

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Miriam A.](#), Superior Court, Judicial District of Danbury, No. D03CP11002826A (Sept. 2, 2011) (2011 WL 4582595). “The issue in this case is whether the state has standing to appeal from the decision of the probate court terminating the parental rights of Miriam's father by consent upon learning for the first time upon notice of the probate court decision that petitioner had withheld her application for benefits until after the probate court conducted the hearing on the voluntary termination of parental rights of Miriam A.'s parents. General Statutes § 45-288 provides that any person aggrieved by any order or decree of a probate court may appeal therefrom to the Superior Court. See *Lenge v. Goldfarb*, 169 Conn. 218, 220, 363 A.2d 110 (1975).”
- [In re Bruce R.](#), 34 Conn. App. 176, 181, 640 A.2d 643

(1994). "We conclude that under the present statutory scheme a parent may petition for the termination of his or her own parental rights and that a petition for the termination of parental rights is not dependent on a pending adoption or state custodial placement."

**TEXTS:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Lewis K. Parker, managing ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. 534-541
- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - § 8. Neglect petitions
    - B. Parties and standing
  - § 21. Termination petitions
    - B. Parties and standing
- 4 Sandra Morgan Little, [Child Custody and Visitation Law and Practice](#) (2013).  
Chapter 28. Termination of parental rights
  - § 28.02[3]. Standing to maintain proceedings
    - [a]. In general
    - [b]. Foster parent standing
    - [c]. Grandparent standing
    - [d]. Child standing

Table 9: Who May Petition for TPR

<b>Conn. Gen. Stat. <a href="#">§ 45a-715(a)</a> (2015)</b>	
<p>"Any of the following persons may petition the Court of Probate to terminate parental rights of all persons who may have parental rights regarding any minor child or for the termination of parental rights of only one parent provided the application so states":</p>	
(1)	Either or both parents, including a parent who is a minor;
(2)	the guardian of the child
(3)	the selectmen of any town having charge of any foundling child;
(4)	a duly authorized officer of any child care facility or child-placing agency or organization or any children's home or similar institution approved by the Commissioner of Children and Families;
(5)	a relative of the child if the parent or parents have abandoned or deserted the child;
(6)	the Commissioner of Children and Families, provided the custodial parent of such minor child has consented to the termination of parental rights and the child has not been committed to the commissioner, and no application for commitment has been made;

## Section 4d: Notice

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to notice in a TPR proceeding.
- SEE ALSO:**
- [§ 1e. Notice and opportunity to be heard](#)
- DEFINITIONS:**
- **Persons to receive notice:** "The court shall cause notice of the hearing to be given to the following persons, as applicable: (1) The parent or parents of the minor child, including any parent who has been removed as guardian on or after October 1, 1973, under section 45a-606; (2) the father of any minor child born out of wedlock, provided at the time of the filing of the petition (A) he has been adjudicated the father of such child by a court of competent jurisdiction, (B) he has acknowledged in writing that he is the father of such child, (C) he has contributed regularly to the support of such child, (D) his name appears on the birth certificate, (E) he has filed a claim for paternity as provided under section 46b-172a, or (F) he has been named in the petition as the father of the child by the mother; (3) the guardian or any other person whom the court deems appropriate; (4) the Commissioner of Children and Families; and (5) the Attorney General. The Attorney General may file an appearance and shall be and remain a party to the action if the child is receiving or has received aid or care from the state, or if the child is receiving child support enforcement services, as defined in subdivision (2) of subsection (b) of section 46b-231." Conn. Gen. Stats. [§ 45a-716\(b\)](#) (2015)
  - **Representation by counsel:** "If the recipient of the notice is a person described in subdivision (1) or (2) of this subsection or is any other person whose parental rights are sought to be terminated in the petition, the notice shall contain a statement that the respondent has the right to be represented by counsel and that if the respondent is unable to pay for counsel, counsel will be appointed for the respondent. The reasonable compensation for such counsel shall be established by, and paid from funds appropriated to, the Judicial Department, except that in the case of a Probate Court matter, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.." Conn. Gen. Stats. [§ 45a-716\(b\)](#) (2015)
  - **Service:** "Except as provided in subsection (d) of this section, notice of the hearing and a copy of the petition, certified by the petitioner, the petitioner's agent or attorney, or the clerk of the court, shall be served at least ten days before the date of the hearing by personal service or service at the person's usual place of abode on the

persons enumerated in subsection (b) of this section who are within the state, and by certified mail, return receipt requested, on the Commissioner of Children and Families and the Attorney General. Conn. Gen. Stats. [§ 45a-716\(c\)](#) (2015)

- **Out of state or unknown persons:** "If the address of any person entitled to personal service or service at the person's usual place of abode is unknown, or if personal service or service at the person's usual place of abode cannot be reasonably effected within the state, or if any person enumerated in subsection (b) of this section is out of the state, a judge or the clerk of the court shall order notice to be given by registered or certified mail, return receipt requested, or by publication at least ten days before the date of the hearing. Any such publication shall be in a newspaper of general circulation in the place of the last-known address of the person to be notified, whether within or without this state, or, if no such address is known, in the place where the petition has been filed." Conn. Gen. Stats. [§ 45a-716\(c\)](#) (2015)

#### **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112](#). Termination of parental rights of child committed to the Commissioner of Children and Families.  
[§ 45a-716](#). Hearing on petition to terminate parental rights. Notice. Attorney General as party  
[§ 45a-717](#). Termination of parental rights. Conduct of hearing.

#### **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Christian P.](#), 98 Conn. App. 264, 267-68, 907 A.2d 1261, 1264 (2006). "In accordance with the mandates of due process, it is axiomatic that parties whose rights are to be affected are entitled to notice. See General Statutes § 45a-716; see also *In re Donna M.*, 33 Conn. App. 632, 638, 637 A.2d 795 (in action for termination of parental rights, '[d]ue process requires notice that would be deemed constitutionally adequate in a civil or criminal proceeding'), cert. denied, 229 Conn. 912, 642 A.2d 1207 (1994). In this case, the petition for termination of parental rights regarding J did not assert lack of an ongoing parent-child relationship as a potential ground for termination. Because the respondent did not have notice of this claim, termination on this ground was improper."
- [In re Savanna M.](#), 55 Conn. App. 807, 811, 740 A.2d 484 (1999). "Although the commissioner did fail to check the box on the termination petition representing that the department made reasonable efforts toward reunification, the succeeding paragraphs of the petition alleging abandonment; lack of personal rehabilitation; denial of care, guidance and control by acts of omission or commission; and no ongoing parent-child relationship provided the respondent adequate notice of the proceedings against him."

- In re Samantha B., 45 Conn. Supp. 468, 469, 722 A.2d 300 (1997), aff'd 51 Conn. App. 376 (1998), cert. den. 248 Conn. 902 (1999). "The mother's failure to object this late scheduling of the initial hearing thus constitutes a waiver of any right she might have had to do."
- In re Jason P., 41 Conn. Supp. 23, 27, 549 A.2d 286 (1988). "With respect to a termination petition, service is required for parents, including a parent who has been removed as guardian and certain putative fathers. General Statutes § 45-61d (b)[now 45a-716]. All other persons desiring to participate, including the paternal grandmother in this case, are, by terminology, equitable parties whose intervention is discretionary with the court."

**WEST KEY NUMBERS:**

- *Infants* # 198. Notice

**TEXTS:**

- Lewis K. Parker, managing ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. 534-541
- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - 21. Termination petitions
    - B. Parties and standing

# Section 4e: TPR Hearing

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the hearing on a petition to terminate parental rights.

## **DEFINITIONS:**

- **Two Phases:** "The hearing on a petition to terminate parental rights consists of a two phases, adjudication and disposition . . . . In the adjudicatory phase, the trial court determines whether one of the statutory grounds for termination of parental rights exists by clear and convincing evidence. If the trial court determines that a statutory ground for termination exists, it proceeds to the dispositional phase. In the dispositional phase, the trial court determines whether termination is in the best interest of the child." [In re Tabitha P.](#), 39 Conn. App. 353, 360, 664 A.2d 1168 (1995).
- **Seven Factors:** "In the dispositional phase of a termination of parental rights hearing, the trial court must determine whether it is established by clear and convincing evidence that the continuation of the respondent's parental rights is not in the best interest of the child. In arriving at this decision, the court is mandated to consider and make written findings regarding seven factors delineated in § 17a-112 (d)." *Ibid.*, 361-362.
- **Co-Terminous Petition:** "Any petition brought by the Commissioner of Children and Families to the Superior Court, pursuant to subsection (a) of section 46b-129, may be accompanied by or, upon motion by the petitioner, consolidated with a petition for termination of parental rights filed in accordance with this section with respect to such child. Notice of the hearing on such petitions shall be given in accordance with sections 45a-716 and 45a-717. The Superior Court, after hearing, in accordance with the provisions of subsection (i) or (j) of this section, may, in lieu of granting the petition filed pursuant to section 46b-129, grant the petition for termination of parental rights as provided in section 45a-717." Conn. Gen. Stats. [§ 17a-112\(l\)](#) (2015) ([2016 supplement](#))

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112](#). Termination of parental rights of child committed to the Commissioner of Children and Families.  
[§ 45a-715](#). Petition to terminate parental rights  
[§ 45a-716](#). Hearing on petition to terminate parental rights. Notice. Attorney General as party  
[§ 45a-717](#). Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination.

## **COURT RULES:**

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016)  
Procedures in Juvenile Matters
  - [Chapter 32a](#). Rights of parties neglected, uncared for and dependent children and termination of parental rights
    - § 32a-1. Right to counsel and to remain silent
    - § 32a-2. Hearing procedure; Subpoenas
    - § 32a-3. Standards of proof
    - § 32a-4. Child or youth witness
    - § 32a-5. Child in the court
    - § 32a-6. Interpreter
    - § 32a-7. Records
    - § 32a-8. Use of confidential alcohol and drug abuse treatment records as evidence
    - § 32a-9. Competency of parent
  - [Chapter 34a](#). Pleadings, motions, and discovery neglected, uncared for and dependent children and termination of parental rights
  - [Chapter 35a](#). Hearing concerning neglected, uncared for and dependent children and termination of parental rights
    - § 35a-3. Conterminous petitions
    - § 35a-19. Transfer from probate court of petitions for removal of parents as guardian or termination of parental rights
    - § 35a-21. Appeals

## **TEXTS:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Lewis K. Parker, managing ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. 534-541
- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - 21. Termination petitions
    - B. Parties and standing
- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).  
Chapter 13. Termination of Parental Rights
  - § 13:29. Adjudicatory hearing.

# Section 4f: Reasonable Effort to Locate and Reunify

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the requirement that Department of Children and Families make reasonable efforts to locate the parent and to reunify the child with the parent.

## **DEFINITIONS:**

- **Reasonable Efforts Finding:** "The Superior Court, upon notice and hearing as provided in sections 45a-716 and 45a-717, as amended by this act, may grant a petition filed pursuant to this section if it finds by clear and convincing evidence that (1) the Department of Children and Families has made reasonable efforts to locate the parent and to reunify the child with the parent in accordance with subsection (a) of section 17a-111b, unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts, except that such finding is not required if the court has determined at a hearing pursuant to section 17a-111b, or determines at trial on the petition, that such efforts are not required..." Conn. Gen. Stats. [§ 17a-112\(j\)](#) (2015). ([2016 supplement](#))
- **Americans with Disabilities Act of 1990.** "In AC 25326, the respondent father claims that . . . (4) the department failed to make reasonable accommodations in the provision of reunification services pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq. . . ." [In re Brendan C.](#), 89 Conn. App. 511, 514, 874 A.2d 826 (2005).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112](#). Termination of parental rights of child committed to the Commissioner of Children and Families.  
[§ 45a-717](#). Termination of parental rights. Conduct of hearing. Investigation and report. Grounds for termination. Attorney General as party.

## **CASES:**

- [In re Kyara H.](#), 147 Conn. App. 855, 873, 83 A.3d 1264, 1274-75 (2014). "This court has applied the general meaning of 'reasonable' and stated that '[i]t is axiomatic that the law does not require a useless and futile act.' *In re Antony B.*, 54 Conn. App. 463, 476, 735 A.2d 893 (1999). In *In re Antony B.*, the trial court's findings that the department made reasonable efforts at reunification were upheld in light of the fact that the respondent rejected many of the services offered to her and did not choose to accept services from the department. See *id.* Several other cases involving appeals from termination of parental rights judgments have held that the department is not required to continue to provide reasonable efforts to a parent when the parent refuses to participate or engage in any of those

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- efforts.”
- [In re Christopher L.](#), 135 Conn. App. 232, 243, 41 A.3d 664 (2012). “Moreover, even if the evidence established that additional services for the respondent's trauma issues might have been beneficial, such evidence would not necessarily render the trial court's finding clearly erroneous. See *In re Melody L.*, 290 Conn. 131, 147, 962 A.2d 81 (2009); *In re Alexander T.*, 81 Conn. App. 668, 673, 841 A.2d 274 (‘[i]n light of the entire record, the failure to provide the referral, while a lapse, does not make the overall efforts of the department fall below the level of what is reasonable’), cert. denied, 268 Conn. 924, 848 A.2d 472 (2004). ‘[R]easonable efforts means doing everything reasonable, not everything possible.’ (Internal quotation marks omitted.) *In re Devon W.*, supra, 124 Conn. App. at 642, 6 A.3d 100.”
  - [In re Shaiesha O.](#), 93 Conn. App. 42, 887 A.2d 415 (2006). “‘The standard for reviewing reasonable efforts has been well established by the Appellate Court. Turning to the statutory scheme encompassing the termination of the parental rights of a child committed to the department, [§ 17a-112] imposes on the department the duty, inter alia, to make reasonable efforts to reunite the child or children with the parents. The word reasonable is the linchpin on which the department's efforts in a particular set of circumstances are to be adjudged, using the clear and convincing standard of proof. Neither the word reasonable nor the word efforts is, however, defined by our legislature or by the federal act from which the requirement was drawn. . . . [R]easonable efforts means doing everything reasonable, not everything possible. . . . The trial court's determination of this issue will not be overturned on appeal unless, in light of all of the evidence in the record, it is clearly erroneous.’ (Internal quotation marks omitted.) *In re Samantha C.*, supra, 268 Conn. [628,] 632, [847 A.2d 883 (2004)]. ”
  - [In re Kachainy C.](#), 67 Conn. App. 401, 411, 787 A.2d 592 (2001). “The language of § 17a-112(c) is clear: a finding that it is no longer appropriate for the department to make reasonable efforts to reunite the family must be made only once, either at an extension hearing or at a termination hearing. Common sense also tells us that it would be a waste of judicial resources to require courts to make redundant findings.”
  - [In re Rachel M.](#), 58 Conn. App. 448, 449, 755 A.2d 266 (2000). “As this court has often stated, ‘On appeal, our function is to determine whether the trial court's conclusion was legally correct and factually supported. We do not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached . . . nor do we retry the case or pass upon the credibility of the witnesses. . . . Rather, on review by this court every reasonable presumption is made in favor of the trial court's ruling. . . . [W]e will disturb the findings of the trial court in both the adjudication and disposition phases only if they are clearly erroneous. . . . The trial court's ruling on [the issue

of whether reasonable efforts were made] should not be disturbed on appeal unless, in light of the evidence in the entire record, it is clearly erroneous. *In re Tabitha P.*, 39 Conn. App. 353, 361, 664 A.2d 1168 (1995).’ (Internal quotation marks omitted.) *In re Savanna M.*, 55 Conn. App. 807, 812-13, 740 A.2d 484 (1999).

**WEST KEY  
NUMBERS:**

- *Infants*
  - #231. Modification, vacation, or extension of order or placement. Returning child to parents
  - #252. Review. Questions of law and fact

**TEXTS:**

- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - § 25. Nonconsensual termination: other requirements
    - C. Reasonable efforts finding

# Section 4g: Statutory Factors

A Guide to Resources in the Law Library

**SCOPE:** Bibliographic resources relating to the seven statutory factors the courts consider in TPR proceedings in Connecticut.

**SEE ALSO:** • [Table 9: Statutory Factors Considered in TPR](#)

**DEFINITIONS:** • **Factors:** "Except in the case where termination is based on consent, in determining whether to terminate parental rights under this section, the court shall consider and shall make written findings regarding . . . [six factors see [Table 9](#) for list]" Conn. Gen. Stats. §§ [17a-112](#)(k) and [45a-717](#)(h) (2015). ([2016 supplement](#))

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112](#). Termination of parental rights of child committed to the Commissioner of Children and Families.
- [§ 45a-717](#). Petition to terminate parental rights.

## CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Nevaeh W.](#), 317 Conn. 723, 740, 120 A.3d 1177, 1188 (2015) "Accordingly, we reaffirm our holding in *In re Eden F.* that, although a trial court shall consider and make written findings regarding the factors enumerated in § 17a-112(k), a trial court's determination of the best interests of a child will not be overturned on the basis of one factor if that determination is otherwise factually supported and legally sound."
- [In re Quanitra M.](#), 60 Conn. App. 96, 104, 758 A.2d 863 (2000). "The seven factors set forth in § 17a-112 (e)[now (k)] serve simply as guidelines to the court and are not statutory prerequisites that need to be proven before termination can be ordered . . . . As a result, there is no requirement that each factor be proven by clear and convincing evidence."
- [In re Barbara J.](#), 215 Conn. 31, 47, 574 A.2d 203 (1990). "Whether the six factors listed in 17-43a (d) [now 17a-112(k)] are expressly considered in conjunction with or subsequent to the trial court's determination of whether the petitioner has produced the statutorily required proof of at least one of the alternatives listed in 17-43a (b) is without significance as long as no judgment of termination is rendered until after there has been full compliance with 17-43a. Although 17-43a does not mandate a bifurcated hearing, it does command a termination decision that clearly identifies the concerns of subsections (b), and (d). Bifurcating the termination decision, however enables the trial court to focus clearly on the statutory requirements of each subsection."

**WEST KEY  
NUMBERS:**

- *Infants*
  - #155. Dependent, neglected, and delinquent children.  
Termination of rights or other permanent action
  - #178. Evidence. Termination of parental rights
  - #210. Verdict, finding or determination

**TEXTS:**

- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - § 25. Nonconsensual termination: other requirements
  - B. Seven dispositional factors

Table 10: Statutory Factors Considered in TPR

Conn. Gen. Stats. §§ <a href="#">17a-112(k)</a> and <a href="#">45a-717(h)</a> (2015) Except in the case where termination is based on consent, in determining whether to terminate parental rights under this section, the court shall consider and shall make written findings regarding:	
(1)	The timeliness, nature and extent of services offered, provided and made available to the parent and the child by an agency to facilitate the reunion of the child with the parent;
(2)	whether the Department of Children and Families has made reasonable efforts to reunite the family pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, as amended;
(3)	the terms of any applicable court order entered into and agreed upon by any individual or agency and the parent, and the extent to which all parties have fulfilled their obligations under such order;
(4)	the feelings and emotional ties of the child with respect to the child's parents, any guardian of the child's person and any person who has exercised physical care, custody or control of the child for at least one year and with whom the child has developed significant emotional ties;
(5)	the age of the child
(6)	the efforts the parent has made to adjust such parent's circumstances, conduct or conditions to make it in the best interest of the child to return the child to the parent's home in the foreseeable future, including, but not limited to, <ul style="list-style-type: none"> <li>(A) the extent to which the parent has maintained contact with the child as part of an effort to reunite the child with the parent, provided the court may give weight to incidental visitations, communications or contributions and</li> <li>(B) the maintenance of regular contact or communication with the guardian or other custodian of the child;</li> </ul>
(7)	the extent to which a parent has been prevented from maintaining a meaningful relationship with the child by the unreasonable act or conduct of the other parent of the child, or the unreasonable act of any other person or by the economic circumstances of the parent.

# Section 4h: Motion to Open or Set Aside

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to a motion to open or set aside a judgment terminating parental rights.
- DEFINITIONS:**
- **Motion to open or set aside:** "The court may grant a motion to open or set aside a judgment terminating parental rights pursuant to section 52-212 or 52-212a or pursuant to common law or may grant a petition for a new trial on the issue of the termination of parental rights, provided the court shall consider the best interest of the child, except that no such motion or petition may be granted if a final decree of adoption has been issued prior to the filing of any such motion or petition." Conn. Gen. Stats. [§ 45a-719](#) (2015).
  - **Evidence:** "Any person who has legal custody of the child or who has physical custody of the child pursuant to an agreement, including an agreement with the Department of Children and Families or a licensed child-placing agency, may provide evidence to the court concerning the best interest of the child at any hearing held on the motion to reopen or set aside a judgment terminating parental rights." Ibid.
  - **Best interest of the child:** "For the purpose of this section, "best interest of the child" shall include, but not be limited to, a consideration of the age of the child, the nature of the relationship of the child with the caretaker of the child, the length of time the child has been in the custody of the caretaker, the nature of the relationship of the child with the birth parent, the length of time the child has been in the custody of the birth parent, any relationship that may exist between the child and siblings or other children in the caretaker's household, and the psychological and medical needs of the child. The determination of the best interest of the child shall not be based on a consideration of the socio-economic status of the birth parent or the caretaker." Ibid.
- STATUTES:**
- Conn. Gen. Stat. (2015) [§ 45a-719](#). Reopening judgment terminating parental rights. Best interest of child. Final decree of adoption
- CASES:**
- [In re Zen T.](#), 151 Conn. App. 724, 731, 95 A.3d 1258, 1263 (2014). "The respondent next claims that her fourteenth amendment right to due process was violated because she was not appointed counsel for the motion to open. A parent has a statutory, not constitutional, right to appointed counsel in termination of parental rights proceedings. See *In re Isaiah J.*, 140 Conn.App. 626, 640, 59 A.3d 892, cert. denied, 308 Conn. 926, 64 A.3d 333, cert. denied sub nom

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

*Megan J. v. Katz*, --- U.S. ----, 134 S.Ct. 317, 187 L.Ed.2d 224 (2013); see also *In re Elysa D.*, 116 Conn.App. 254, 265, 974 A.2d 834 (no federal or state constitutional right to appointed counsel in termination of parental rights proceedings), cert. denied, 293 Conn. 936, 981 A.2d 1079 (2009).

- *In re Christopher G.*, Superior Court, Judicial District of Stamford-Norwalk, No. F02CP03002800A (Dec. 17, 2008). "General Statutes § 45a-719 provides that a judgment of termination of parental rights may be opened (1) pursuant to a motion to open filed within four months following the date on which it was rendered under General Statutes § 52-212 or 52-212a; (2) a common-law motion to open; or (3) a petition for a new trial. Since the present motions were clearly filed outside the four-month statutory period, §§ 52-212 and 52-212a are not applicable. Further, the motions on their face are not, nor can they be construed as, petitions for a new trial. A motion to open a stipulated judgment may be granted after the four-month limitation if it was obtained by fraud, duress, accident or mistake. *In Re Travis R.*, 80 Conn. App. 777, 781 n. 5, 838 A.2d 1000, cert. denied, 268 Conn. 904, 845 A.2d 409 (2004). A motion to open a judgment of termination of parental rights is an appropriate mechanism to assert fraud or mistake as the basis to set aside a consent to termination of parental rights. *In re Jonathan M.*, 255 Conn. 208, 238, 764 A.2d 739 (2001)."
- *In re Salvatore P.*, 74 Conn. App. 23, 27, 812 A.2d 70 (2002). "In seeking to open the termination judgments, the respondent had the burden at the hearing to do more than assert an unadorned claim that due to duress, she was unable to attend the termination trial."
- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.
  - § 26. Post-judgment procedures
  - B. Motions to open

### **TEXTS:**

# Section 4i: Appeals in Juvenile Matters

A Guide to Resources in the Law Library

**SCOPE:** Bibliographic resources relating to appeals of TPR judgments.

- DEFINITIONS:**
- **Appeals in Juvenile matters:** "Appeals from final judgments or decisions of the superior court in juvenile matters shall be taken within twenty days from the issuance of notice of the rendition of the judgment or decision from which the appeal is taken in the manner provided by the rules of appellate procedure." Conn. Practice Book [§ 35a-21\(a\)](#) (2016).
  - **Indigent Party.** "If an indigent party wishes to appeal a final decision and if the trial counsel declines to represent the party because in counsel's professional opinion the appeal lacks merit, counsel shall file a timely motion to withdraw and to extend time in which to take an appeal. The judicial authority shall then forthwith appoint another attorney to review this record who, if willing to represent the party on appeal, will be appointed for this purpose. If the second attorney determined that there is no merit to an appeal, that attorney shall make this known to the judicial authority at the earliest possible moment, and the party will be informed by the clerk forthwith that the party has the balance of the extended time to appeal in which to secure counsel who, if qualified, may be appointed to represent the party on the appeal." Conn. Practice Book [§ 35a-21\(b\)](#) (2016).
  - **Extension:** "The time to take an appeal shall not be extended past forty days from the date of the issuance of notice of the rendition of the judgment or decision." Conn. Practice Book [§ 35a-21\(c\)](#) (2016).
  - **Standard of Review:** "On appeal, we will disturb the findings of the trial court in both the adjudication and disposition only if they are clearly erroneous." [In re Tabitha P.](#), 39 Conn. App. 353, 362, 664 A.2d 1168 (1995)

**STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015) [2016 supplement § 17a-112](#). Termination of parental rights of child committed to the Commissioner of Children and Families.  
[§ 45a-715](#). Petition to terminate parental rights  
[§ 46b-142](#). **Venue of petitions. Appeal to Appellate Court. Expedited hearing in termination of parental rights appeals.**  
[§ 46b-143](#). Notice of appeal.

**COURT RULES:**

- Conn. Practice Book (2016).  
[Chapter 35a](#). Hearings concerning neglected, uncared for and dependent children and termination of parental rights  
§ 35a-21. Appeal

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

## Chapter 79a. Appeals in Child Protection Matters

- § 79a-1 Child Protection Appeals Defined
- § 79a-2 Time to Appeal
- § 79a-3 Filing of the Appeal
- § 79a-4 Waiver of Fees, Costs and Security
- § 79a-5 Ordering Transcripts
- § 79a-6 Format and Time for Filing Briefs
- § 79a-6 Format and Time for Filing Briefs and Appendices
- § 79a-7 Motions for Extension of Time
- § 79a-8 Docketing Child Protection Appeals for Assignment
- § 79a-9 Oral Argument
- § 79a-9 Oral Argument
- § 79a-10 Submission without Oral Argument on Request of Parties
- § 79a-11 Official Release Date
- § 79a-12 Inspection of Records
- § 79a-13 Hearings; Confidentiality
- § 79a-14 Motions Filed with the Appellate Clerk
- § 79a-15 Applicability of Rules

### **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [In re Kamal R.](#), 142 Conn. App. 66, 62 A.3d 1177 (2013). “Our standard of review on appeal from a termination of parental rights is limited to whether the challenged findings are clearly erroneous.... A finding is clearly erroneous when either there is no evidence in the record to support it, or the reviewing court is left with the definite and firm conviction that a mistake has been made.... [G]reat weight is given to the judgment of the trial court because of [the trial court's] opportunity to observe the parties and the evidence.... [An appellate court does] not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached.... [Rather] every reasonable presumption is made in favor of the trial court's ruling.’ (Internal quotation marks omitted.) *In re Jah'za G.*, 141 Conn. App. 15, 30, 60 A.3d 392 (2013); see *In re Zowie N.*, 135 Conn. App. 470, 499–500, 41 A.3d 1056, cert. denied, 305 Conn. 916, 46 A.3d 170 (2012).”
- [In Re Halle T.](#), 96 Conn. App. 815, 822, 902 A.2d 670 (2006). “On appeal, our function is to determine whether the trial court's conclusion was legally correct and factually supported. . . . We do not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached . . . nor do we retry the case or pass upon the credibility of the witnesses. . . . Rather, on review by this court every reasonable presumption is made in favor of the trial court's ruling.’ (Citations omitted; internal quotation marks omitted.) *In re Sheena I.*, 63 Conn. App. 713, 719-20, 778 A.2d 997 (2001).”
- [In re Stanley D.](#), 61 Conn. App. 224, 229, 763 A.2d 224 (2000). “Our standard of review is well settled in termination of parental rights cases. We will overturn a finding of fact that a parent has failed to achieve

rehabilitation only if it is clearly erroneous in light of the evidence in the record. *In re Eden F.*, 250 Conn. 674, 705, 741 A.2d 873 (1999). We construe the facts in favor of the court's judgment because of the court's opportunity as the trier of fact to scrutinize the evidence, and to hear and observe the witnesses during trial. *Id.* "We do not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached." (Internal quotation marks omitted.) *Id.*; see *In re Luis C.*, 210 Conn. 157, 166, 554 A.2d 722 (1989). Our function is to determine whether the court's conclusions were legally correct and factually supported. *In re Roshawn R.*, 51 Conn. App. 44, 51, 720 A.2d 1112 (1998)."

- [In re Deana E.](#), 61 Conn. App. 197, 205, 763 A.2d 45 (2000). "Our standard of review of a court's decision to bifurcate a termination of parental rights hearing is well settled. The decision whether to bifurcate a termination of parental rights proceeding lies solely within the discretion of the trial court. See *State v. Anonymous*, 179 Conn. 155, 172-74, 425 A.2d 939 (1979); see also *In re Tabitha P.*, 39 Conn. App. 353, 360 n. 6, 664 A.2d 1168 (1995). "In reviewing claims that the trial court abused its discretion the unquestioned rule is that great weight is due to the action of the trial court and every reasonable presumption should be given in favor of its correctness; the ultimate issue is whether the court could reasonably conclude as it did . . . ." (Internal quotation marks omitted.) *In re Jose C.*, 11 Conn. App. 507, 508, 512 A.2d 1239 (1987)."

**WEST KEY NUMBERS:**

- *Infants* # 252. Review. Questions of law and fact.

**TEXTS:**

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- Lewis K. Parker, managing ed., [Connecticut Lawyers' Deskbook: A Reference Manual](#), (3d ed. 2008).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. 534-541
- Paul Chill, [The Law Of Child Abuse And Neglect In Connecticut](#) (1997). Chapter 3, Termination of Parental Rights.  
§ 17. Appeals  
§ 21. Termination petitions  
B. Parties and standing
- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (2009).  
Chapter 13. Termination of Parental Rights  
§ 13:34. Appeal.