

CHAPTER 67 – TERMINATION OF PARENTAL RIGHTS

Sec. 67.1 Grounds For Termination of Parental Rights

The Children's Court may, upon petition, terminate all rights of parents to a child if it finds by clear and convincing evidence that one or more of the following conditions exist:

1. That the parents have abandoned the child permanently, or
2. That the parents have continuously or repeatedly refused to give the child-care and protection; or
3. That although the parents are financially able, they have substantially and continuously neglected to provide the child with necessary subsistence, education or other care or have neglected to pay for such subsistence, education or other care when the child is in the legal custody of another; or
4. That the parents are unfit by conduct found by the Court to be detrimental to the welfare of the child; or
5. That following upon a determination that a child is a abused or neglected child, reasonable efforts by the Department and parents under the directions of the Court have failed to improve or correct the conditions leading to the determination.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 67.2 Procedures to Terminating Parental Rights

Parental rights may be terminated as follows:

1. Only the Department may petition the Children's Court to terminate a person's parental rights under this Code by filing a petition in accordance with Section 65.15, above.
2. The termination of parental rights shall be made only after a hearing before the Children's Court conducted in accordance with Section 65.13, above.
3. The Children's Court shall have a copy of the petition and a notice of the time, place, and purpose of the hearing served on the parents at least ten (10) days before the hearing, by personal service and certified mail, return receipt requested. A parent, or a guardian-ad-litem appointed by the Children's Court for an incompetent parent, who consents to the termination of parental rights may waive in writing the notice required by this paragraph.
4. No parental rights of an incompetent parent may be terminated on consent of the parent unless the guardian ad litem appointed for the incompetent parent joins, in writing, in the written consent of the parent or termination of his or her parental rights. Minority of parents shall not be a bar to the right of consent, nor shall it invalidate such consent.

5. If, after a hearing at which the parents may be represented by lay counsel or professional attorney, the Children's Court does not terminate parental rights, but determines that the child is an abused or neglected child, the Children's Court may adjudicate the child to be an abused or neglected child, and may enter a disposition order in accordance with the provisions of this Code.

6. If, after a hearing at which the parents may be represented by lay counsel or professional attorney, the Children's Court terminates the parental rights of both parents, or of the mother if the child's mother is unwed and the child's father's paternity has not been acknowledged or established, or of the only living parent, the Children's Court shall order guardianship and legal custody of the child transferred to:

a. A reputable individual of good character in a suitable home within the Pueblo;
or

b. A reputable individual of good character in a suitable home outside the Pueblo, provided prior written consent of the child's parents, or Council are obtained.

7. The guardian appointed by a Children's Court under the provisions of this Section has charge of the person of the child. This guardian has the right to make all parental decisions affecting the person of the child and has legal custody of the child. A Children's Court guardianship does not include the guardianship of any estate of the child unless a legal guardian is appointed for that purpose.

8. The Court shall furnish the individual or individuals to whom guardianship is transferred a copy of the order terminating parental rights.

9. Upon its own motion or upon petition or an interested party, the Children's Court may, after notice to the parties and a hearing, remove the guardian appointed by the Children's Court and appoint a new guardian in accordance with the provisions of this Code. Any child fourteen (14) years of age or older who is not adopted but who is placed in a suitable home, may, with the consent of the foster parents, join with the guardian appointed by the Children's Court in a petition to the Court having jurisdiction of the child to discharge the existing guardian and appoint the foster parents as guardians of the child. The authority of any guardian appointed by the Children's Court terminates when the individual under guardianship attains eighteen (18) years of age.

10. An order terminating parental rights is a final order for purposes of appeal.

CHAPTER 68 - PERMANENT GUARDIANSHIP

Sec. 68.1 Permanent Guardianship

The Children's Court may establish a permanent guardianship between a child and a guardian when the prospective guardianship is in the child's best interest and when:

1. the child has been adjudicated as an abused or neglected child;
2. the Department has made reasonable efforts to reunite the parents and child and further efforts by the Department would be unproductive;
3. reunification of the parent and child is not in the child's best interest because the parent continues to be unwilling or unable to properly care for the child; and
4. the likelihood of the child being adopted is remote or it is established that termination of parental rights is not in the child's best interest.

Enacted by Res. No. 2019-021, May 10, 2019; approved by Sec'y April 21, 2020.

Sec. 68.2 Procedure

1. A motion for permanent guardianship may only be filed by the Department.
2. The motion shall include:
 - a. the information required by Section 65.15;
 - b. the name and address of the prospective guardian;
 - c. a statement that the prospective guardian agrees to accept the duties and responsibilities of guardianship; and
 - d. the relationship of the child to the prospective guardian.
3. The Children's Court shall hold a hearing and provide notice of the hearing in conformity with Section 65.13(7), and upon conclusion of the hearing shall enter a written order on the motion.
4. The grounds for a permanent guardianship shall be proved by clear and convincing evidence.
5. An order of the Children's Court granting permanent guardianship divests the child's parents of legal custody of the child but is not a termination of parental rights.
6. An order of permanent guardianship is a final order for purposes of appeal and shall remain in effect until the child reaches the age of eighteen (18) years, and may include

provisions for visitation with the parents, siblings, or other relatives of the child and any other provisions necessary to provide for the child's safety and well-being.

7. The Children's Court may revoke the order of permanent guardianship upon motion of any party where a significant change of circumstances has been proven by clear and convincing evidence and it is in the child's best interest to revoke the order.

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