

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1147

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 8-533, Arizona Revised Statutes, is amended to
3 read:

4 8-533. Petition: who may file: grounds

5 A. Any person or agency that has a legitimate interest in the welfare
6 of a child, including, but not limited to, a relative, a foster parent, a
7 physician, the department of economic security or a private licensed child
8 welfare agency, may file a petition for the termination of the parent-child
9 relationship alleging grounds contained in subsection B of this section.

10 B. Evidence sufficient to justify the termination of the parent-child
11 relationship shall include any one of the following, and in considering any
12 of the following grounds, the court shall also consider the best interests of
13 the child:

14 1. That the parent has abandoned the child.

15 2. That the parent has neglected or wilfully abused a child. This
16 abuse includes serious physical or emotional injury or situations in which
17 the parent knew or reasonably should have known that a person was abusing or
18 neglecting a child.

19 3. That the parent is unable to discharge parental responsibilities
20 because of ~~mental illness, mental deficiency or~~ a history of chronic abuse of
21 dangerous drugs, controlled substances or alcohol and there are reasonable
22 grounds to believe that the condition will continue for a prolonged
23 indeterminate period.

24 4. That the parent is deprived of civil liberties due to the
25 conviction of a felony if the ~~NATURE OF THE~~ felony ~~of which that parent was~~
26 ~~convicted is of such nature as to prove~~ ~~PROVES~~ the unfitness of that parent
27 to have future custody and control of the child, including murder of another

1 child of the parent, manslaughter of another child of the parent or aiding or
2 abetting or attempting, conspiring or soliciting to commit murder or
3 manslaughter of another child of the parent, or if the LENGTH OF THE sentence
4 ~~of that parent is of such length that the child~~ will ~~be deprived~~ DEPRIVE THE
5 CHILD of a normal home for a period of years.

6 5. That the potential father failed to file a paternity action within
7 thirty days of completion of service of notice as prescribed in section
8 8-106, subsection G.

9 6. That the putative father failed to file a notice of claim of
10 paternity as prescribed in section 8-106.01.

11 7. That the parents have relinquished their rights to a child to an
12 agency or have consented to the adoption.

13 8. That the child is being cared for in an out-of-home placement under
14 the supervision of the juvenile court, the division or a licensed child
15 welfare agency, that the agency responsible for the care of the child has
16 made a diligent effort to provide appropriate reunification services and that
17 one of the following circumstances exists:

18 (a) The child has been in an out-of-home placement for a cumulative
19 total period of nine months or longer pursuant to court order or voluntary
20 placement pursuant to section 8-806 and the parent has substantially
21 neglected or wilfully refused to remedy the circumstances that cause the
22 child to be in an out-of-home placement.

23 (b) The child who is under three years of age has been in an
24 out-of-home placement for a cumulative total period of six months or longer
25 pursuant to court order and the parent has substantially neglected or
26 wilfully refused to remedy the circumstances that cause the child to be in an
27 out-of-home placement, including refusal to participate in reunification
28 services offered by the department.

29 (c) The child has been in an out-of-home placement for a cumulative
30 total period of fifteen months or longer pursuant to court order or voluntary
31 placement pursuant to section 8-806, the parent has been unable to remedy the
32 circumstances that cause the child to be in an out-of-home placement and

1 there is a substantial likelihood that the parent will not be capable of
2 exercising proper and effective parental care and control in the near future.

3 9. That the identity of the parent is unknown and continues to be
4 unknown following three months of diligent efforts to identify and locate the
5 parent.

6 10. That the parent has had parental rights to another child terminated
7 within the preceding two years for the same cause and is currently unable to
8 discharge parental responsibilities due to the same cause.

9 11. That all of the following are true:

10 (a) The child was cared for in an out-of-home placement pursuant to
11 court order.

12 (b) The agency responsible for the care of the child made diligent
13 efforts to provide appropriate reunification services.

14 (c) The child, pursuant to court order, was returned to the legal
15 custody of the parent from whom the child had been removed.

16 (d) Within eighteen months after the child was returned, pursuant to
17 court order, the child was removed from that parent's legal custody, the
18 child is being cared for in an out-of-home placement under the supervision of
19 the juvenile court, the division or a licensed child welfare agency and the
20 parent is currently unable to discharge parental responsibilities.

21 C. Evidence considered by the court pursuant to subsection B of this
22 section shall include any substantiated allegations of abuse or neglect
23 committed in another jurisdiction.

24 D. In considering the grounds for termination prescribed in subsection
25 B, paragraph 8 or 11 of this section, the court shall consider the
26 availability of reunification services to the parent and the participation of
27 the parent in these services.

28 E. In considering the grounds for termination prescribed in subsection
29 B, paragraph 8 of this section, the court shall not consider the first sixty
30 days of the initial out-of-home placement pursuant to section 8-806 in the
31 cumulative total period.

1 Sec. 2. Section 8-846, Arizona Revised Statutes, is amended to read:

2 8-846. Services provided to the child and family

3 A. Except as provided in subsections B, ~~and~~ C and D of this section,
4 if the child has been removed from the home, the court shall order the
5 department to make reasonable efforts to provide services to the child and
6 the child's parent.

7 B. The court shall consider the following factors and reunification
8 services are not required to be provided if the court finds by clear and
9 convincing evidence that:

10 1. One or more of the following aggravating circumstances exist:

11 (a) A party to the action provides a verified affidavit that states
12 that a reasonably diligent search has failed to identify and locate the
13 parent within three months after the filing of the dependency petition or the
14 parent has expressed no interest in reunification with the child for at least
15 three months after the filing of the dependency petition.

16 ~~(b) The parent or guardian is suffering from a mental illness or~~
17 ~~mental deficiency of such magnitude that it renders the parent or guardian~~
18 ~~incapable of benefitting from the reunification services. This finding shall~~
19 ~~be based on competent evidence from a psychologist or physician that~~
20 ~~establishes that, even with the provision of reunification services, the~~
21 ~~parent or guardian is unlikely to be capable of adequately caring for the~~
22 ~~child within twelve months after the date of the child's removal from the~~
23 ~~home.~~

24 ~~(c)~~ (b) The child previously has been removed and adjudicated
25 dependent due to physical or sexual abuse. After the adjudication the child
26 was returned to the custody of the parent or guardian and then subsequently
27 removed within eighteen months due to additional physical or sexual abuse.

28 ~~(d)~~ (c) A child is the victim of serious physical or emotional injury
29 by the parent or guardian or by any person known by the parent or guardian,
30 if the parent or guardian knew or reasonably should have known that the
31 person was abusing the child.

1 ~~(e)~~ (d) The parent's rights to another child have been terminated, the
2 parent has not successfully addressed the issues that led to the termination
3 and the parent is unable to discharge parental responsibilities.

4 ~~(f)~~ (e) After a finding that a child is dependent, all of the
5 following are true:

6 (i) A child has been removed from the parent or guardian on at least
7 two previous occasions.

8 (ii) Reunification services were offered or provided to the parent or
9 guardian after the removal.

10 (iii) The parent or guardian is unable to discharge parental
11 responsibilities.

12 2. The parent or guardian of a child has been convicted of murder or
13 manslaughter of a child, or of sexual abuse of a child, sexual assault of a
14 child, sexual conduct with a minor, molestation of a child, commercial sexual
15 exploitation of a minor, sexual exploitation of a minor, or luring a minor
16 for sexual exploitation.

17 3. The parent or guardian of a child has been convicted of aiding or
18 abetting or attempting, conspiring or soliciting to commit any of the crimes
19 listed in paragraph 2 ~~of this subsection~~.

20 C. The court shall consider any criminal prosecution relating to the
21 offenses ~~which~~ THAT led to the child's removal from the home and any orders
22 of the criminal court. Information may be provided by law enforcement or the
23 county attorney.

24 D. If a dependency petition was filed pursuant to section 8-874,
25 subsection J, the court may direct the division not to provide reunification
26 services to the child's parents unless the court finds by clear and
27 convincing evidence that these services would be in the child's best
28 interests."

29 Amend title to conform

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