

# TERMINATION OF PARENTAL RIGHTS EVIDENCE CHART

## *Requirements to Prove TPR – Listed by Ground*

Elements in Proving TPR Grounds	Proof - Evidence	Possible Source	How GAL will show
<p><b>Voluntary Surrender:</b> When the parent or parents have voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department for subsequent adoption and the department is willing to accept custody of the child. §39.806(1)(a)</p>			
Written	An affidavit and acknowledgment of surrender	Document Filed With Court	
Consent	Affidavit and acknowledgement of surrender	Document Filed With Court	
Department willing to take custody	Department consents to the entry of order giving custody	Service Worker	
No fraud or duress	Judge makes inquiry  <b>Voluntarily</b> and with a full understanding of the nature of the allegations and the possible consequences of the plea and that the parent has been <b>advised of the right to be represented by counsel"</b> Rule 8.520(c)		
<p><b>Abandonment:</b> Abandonment as defined in § 39.01(1), or when the identity or location of the parent or parents is unknown and cannot be ascertained by diligent search within 60 days. § 39.806(1)(b)</p>			

While being able	List of services provided while incarcerated, proof of financial ability, job, etc		
Parent Made No Effort to Support; <b>AND</b>	Child support; Sent “necessaries”; gave authorization for medical treatment; tried to pick up child	Service Worker; GAL Volunteer Or CC Foster Parent Or Custodian	
No Communication; <b>OR</b>	Visitation; letters; phone calls; internet	Service Worker; GAL Volunteer Or CC; Foster Parent or custodian	
Marginal efforts at Parenting <i>“sufficient to evince a willful rejection of parental ...”</i>	GAL Testimony; Lack of compliance or compliance with visits; parenting classes	GAL; Service Worker; Foster Parent or Custodian; Visitation Center Notes	
Location of parent unknown; <b>AND</b>	Proof of diligent search	Certificate of Diligent Search, Testimony of Service Worker	
Diligent search; <b>AND</b>	Proof of diligent search	Certificate of Diligent Search, Testimony of Service Worker	
60 Days			
<b>Abandonment - Incarceration Plus Additional Factors</b>	Multiple Incarcerations Long incarceration foreseeable Heinous nature of crime	Sentencing Orders, Prison Official, Police Report, Pre-Sentence Investigation Report	
<b>Incarceration.</b> When the parent of a child is incarcerated in a state or federal correctional institution and either: (1) The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years; (2) The incarcerated parent has been convicted of certain crimes; or (3) parental relationship would be harmful to the child § 39.806(1)(d)			

Substantial portion of the child's remaining years of minority; OR	DOB of child and sentence <i>25 % - 28.6 % of child minority is not substantial portion</i>	GAL; Service Worker; Sentencing Order	
Incarcerated for certain listed crimes; OR	Violent career criminal, sexual predator, first degree or second degree murder	Sentencing Order	
Continuing the parent-child relationship with incarcerated parent would be harmful to the child	Harm to child if no TPR; examples of child's issues in relation to lack of contact with parent – if applicable	Expert testimony ( <i>establishing harm to the child</i> ); GAL Service Worker	
<b>Threatens life, safety, well-being.</b> When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, safety, well-being, or physical, mental, or emotional health of the child irrespective of the provision of services. Provision of services may be evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency. § 39.806(1)(c)			
Provision of services; AND	Case plan services; services offered; services as part of probation	Parent; Case Worker; Service Provider	
Harm; AND <i>Continued parent-child relationship will threaten child in some way</i>	Developmental Delays; Educational delays; Special Needs; Medical Problems; Absence of Visits; Child's Reaction to Visits;	Expert Testimony; GAL "Before & After" Testimony Service Worker, Teacher, Visitation Reports Foster Parents Or Custodian	

<p>No Reasonable Basis to Believe Parent Would Improve (provision of services futile)</p>	<p>Services offered, behavior continues; observation of visits; parent has drug addiction, mental health issue, pedophilia</p> <p>“obvious improvement”, “benefits from services were visible”, and “benefits from services were substantial”</p>	<p>Expert Testimony</p> <p>Service Worker</p>	
<p><b>Case plan filed &amp; child continues to be abused:</b> The child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever came first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the parent and child; OR The parent has materially breached the case plan by making it unlikely that he or she will be able to substantially comply with the case plan before the time for compliance expires. TIME IS OF THE ESSENCE § 39.806(1)(e)</p>			
<p>Adjudicated Dependent</p>	<p>Order; Nunc Pro Tunc</p>	<p>Court Order- Dependency Adjudication</p>	
<p>Case plan filed and approved; AND</p>	<p>Case plan approved by court, parent received case plan</p>	<p>Parent, Court Order</p>	
<p>12 or more months have passed (<i>not if material breach</i>); AND</p>		<p>Service Worker, GAL, Parent</p>	
<p>Failure to substantially comply; OR</p> <p><i>failure to comply is evidence of continuing abuse, neglect, and abandonment</i></p>	<p>Case plan tasks/ completed (why not); Referrals made</p>	<p>Service Worker, GAL, Parent</p>	
<p>Material breach; AND</p>	<p>Lack of compliance with case plan</p>	<p>Service Worker, GAL, Parent</p>	

Parent had substantial ability to comply; AND	Parent had financial resources, had access to services	Service Worker, GAL, Parent, List Of Services Offered in Jail	
The department made reasonable efforts to reunify	Referrals made; department contact with parents	Documentation of Referrals, Service Worker	
Engaged in <b>egregious conduct</b> or had the <b>opportunity and capability to prevent</b> and knowingly <b>failed to prevent egregious conduct that threatens the life, safety, or physical, mental or emotional health</b> of the child or the child's sibling ( <i>prospective abuse</i> ) § 39.806(1)(f)			
Egregious Conduct <i>Can be one incident if it is so severe as to endanger the life of the child</i>	Conduct		
Harmed child or placed child at imminent risk of harm	Terrible pain no one could miss; Inflicted injury	Expert Testimony; Police Reports; Witness to Egregious Behavior	
There must be a nexus between the <b>conduct</b> and the <b>abuse, neglect</b> , or specific harm to the child			
Knowingly failed to protect	Parent knew of previous abuse- did nothing; failed to provide medical attention; parent was told of abusive behavior	Parent, Service Worker, Fact Specific Witness  Witness Who Told Parent of Abusive Behavior	
<b>Prospective abuse of sibling:</b>			
Prospective <b>risk</b> of harm		Expert Testimony, Police Reports, Abuse Reports, Past Abuse (Close In Time)	

Nexus			
Is the child "sibling"?	Meets definition of sibling	GAL, Service Worker, Parent	
When a parent has subjected the child to <b>aggravated child abuse</b> as defined in § 827.03, <b>sexual battery</b> or <b>sexual abuse</b> as defined in § 39.01, or <b>chronic abuse</b> § 39.806(1)(g)			
Aggravated Sexual Abuse § 827.03		Police Report Sentencing Orders	
Sexual Battery/ Sexual Abuse § 39.01		Police Report Sentencing Orders	
Chronic Abuse <i>No need to show egregious</i>	Unrelenting pattern of abuse, abandonment, and neglect	Expert Testimony, Service Worker, GAL, Prison Official, Fact Witness	
When the parent or parents have <b>committed murder or voluntary manslaughter of another child</b> , or a felony assault that results in serious bodily injury to the child or another child, or aided or abetted, attempted, conspired, or solicited to commit such a murder or voluntary manslaughter or felony assault. § 39.806(1)(h)			
<b>Involuntary TPR of sibling</b> § 39.806(1)(i)			
Prior involuntary sibling TPR; AND	Prior Involuntary TPR of Sibling	TPR Order	
Substantial risk of significant harm	Circumstances from prior involuntary termination + plus evidence that  Nothing has changed in the parent's life to diminish the risk of harm	Service Worker, GAL, Expert Testimony	