

5101:2-42-95

Obtaining permanent custody: termination of parental rights.

(A) Unless the public children services agency (PCSA) or private child placing agency (PCPA) has compelling reasons for not pursuing a request for permanent custody of a child, the agency, pursuant to section 2151.413 of the Revised Code, shall petition the court that issued the current order of disposition to request permanent custody of a child when any of the following conditions are present:

(1) A court of competent jurisdiction has determined that the parent from whom the child was removed has:

(a) Been convicted of or pleaded guilty to one of the following:

(i) An offense under section 2903.01 (aggravated murder), 2903.02 (murder), or 2903.03 (voluntary manslaughter) of the Revised Code or under existing or former law of this state, another state, or the United States that is substantially equivalent to an offense described in those sections and the victim was a sibling of the child or the victim was another child who lived in the parent's household at the time of the offense.

(ii) An offense under section 2903.11 (felonious assault), 2903.12 (aggravated assault), or 2903.13 (assault) of the Revised Code or under existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense.

(iii) An offense under division (B)(2) of section 2919.22 (endangering children) of the Revised Code or under existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense.

(iv) An offense under section 2907.02 (rape), 2907.03 (sexual battery), 2907.04 (sexual corruption of a minor), 2907.05 (gross sexual imposition), or 2907.06 (sexual imposition) of the Revised Code or under existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense.

- (v) A conspiracy or attempt to commit, or complicity to committing, an offense described in paragraph (A)(1)(a)(i) or (A)(1)(a)(iv) of this rule.
 - (b) Repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food. If the parent has withheld medical treatment in order to treat the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body, the court or agency shall comply with the requirements of division (A)(1) of section 2151.419 of the Revised Code.
 - (c) Placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refuses to participate in further treatment two or more time after a case plan was developed pursuant to rule 5101:2-39-08.1 or 5101:2-39-10 of the Administrative Code, or rule 5101:2-38-05 or 5101:2-38-07 of the Administrative Code, if applicable, requiring such treatment of the parent and was journalized as part of the dispositional order issued with respect to the child or an order was issued by any other court requiring such treatment of the parent.
 - (d) Abandoned the child pursuant to rule 5101:2-1-01 of the Administrative Code.
 - (e) Had parental rights involuntarily terminated pursuant to section 2151.353 (disposition of abused, neglected or dependent child), 2151.414 (hearing on motion for permanent custody), or 2151.415 (motion requesting disposition order upon expiration of temporary custody order) of the Revised Code with respect to a sibling of the child.
- (2) A court of competent jurisdiction has determined the child to be a deserted child pursuant to section 2151.3520 of the Revised Code.
- (3) Any PCSA or PCPA has had temporary custody of the child under one or more orders of disposition for twelve or more months (three hundred and sixty- five days or more) of a consecutive twenty-two month period ending on or after March 18, 1999. For the purpose of calculating the twelve or more months of a consecutive twenty-two month period, a child shall be considered to have entered the temporary custody of an agency on the earlier of the following:
- (a) The date the child is adjudicated abused, neglected or dependent pursuant

to section 2151.28 of the Revised Code.

- (b) Sixty days after the child was removed from his or her home and placed into substitute care.

The PCSA or PCPA must not include trial home visits or runaway episodes when calculating the twelve of the most recent twenty-two months. Trial home visits and runaway episodes are included when calculating the twenty-two month period.

- (B) The PCSA or PCPA is not required to file a motion for permanent custody of a child when one of the following is met:

- (1) The PCSA or PCPA has documented in the case plan there is a compelling reason for determining that the filing of a motion to seek permanent custody of the child and terminate parental rights is not in the best interest of the child.

- (2) The PCSA or PCPA has documented in the case plan that the agency has not provided the child's parent, guardian, or custodian with services outlined in the case plan which were deemed necessary for the safe return of the child to the child's home.

- (C) The PCSA or PCPA shall meet with the parent to review the agency's decision to file a motion with the court to terminate parental rights. The PCSA or PCPA shall seek to amend the case plan prior to filing a motion to terminate parental rights.

- (D) ~~At the time a motion is filed with the court to obtain permanent custody of the child,~~ ~~the~~ The PCSA or PCPA shall submit to the court a case plan ~~that to the court which~~ includes a specific plan to seek an adoptive family or planned permanent living arrangement for the child and to prepare the child for adoption or permanency with a specified individual.

Effective: 03/15/2009

R.C. 119.032 review dates: 10/01/2011

CERTIFIED ELECTRONICALLY

Certification

02/06/2009

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5153.16
Rule Amplifies: 2151.27, 2151.413, 2151.35
Prior Effective Dates: 3/18/99 (Emer.), 6/13/00 (Emer.), 9/7/00, 12/01/01,
10/9/06