
Terminating Parental Rights

Termination of parental rights is a court order that permanently ends the legal parent-child relationship. This type of order terminates rights such as inheritance, custody, and visitation, as well as responsibilities such as child support and liability for the child's misconduct.

Parental rights can be terminated voluntarily by the parent(s) to allow an agency, independent, or stepparent adoption to take place. Parental rights may also be terminated involuntarily when the court finds one or both parents to be unfit.

In general, the court will only order the termination of parental rights if someone else is prepared to assume those rights, usually by adopting the child. The court will not order the termination of parental rights if that would leave the child with only one parent responsible for care and support.

Terminating parental rights does not automatically eliminate child support arrearages. Any child support accrued prior to the termination is still owed!

How Parental Rights are Terminated

California courts may terminate parental rights in several ways:

- In juvenile dependency court. The child becomes a ward of the court when someone (usually CPS) reports mistreatment. Termination is involuntary when the court finds that the parent(s) have abused, neglected, or abandoned a child, and/or that the parent(s) suffer from some mental or physical incapacity, including substance abuse, that prevents them from caring for the child. Parental rights are terminated in these situations so that the child may be adopted.
- In family court adoption proceedings. Both birth parents may voluntarily terminate their parental rights when relinquishing the child for an agency or independent adoption.
- In family court stepparent adoption proceedings. Termination is with the consent of the non-custodial parent, or without their consent if the court finds that the parent has willfully abandoned the child.

- In family court parentage actions. A parent's parental rights can be terminated without their consent if the court finds that their continuing relationship is not in the child's best interest, due to severe ongoing abuse or other serious issues.

There are no pre-printed forms for this. The petitioner must draft their own petition explaining the reason termination is appropriate, and a citation to be served on the parent whose rights are being terminated.

Why can't I "sign over" my parental rights?

You can consent to someone else adopting the child, but in other situations, you generally cannot "sign away your rights." The child has a legal right to two parents responsible for their care.

Parental rights can only be terminated by a court order. Many parents have attempted to obtain a court order to terminate parental rights, but the courts have repeatedly refused to do so, except in the types of cases previously discussed.

The courts have ruled that the parent-child relationship is the most fundamental right a child possesses. Parents have no right to stipulate away their duties and obligations to their child, or to sign away a child's rights to inheritance or child support.

The courts have repeatedly found that orders or agreements terminating parental rights are void because they are beyond the court's jurisdiction. The court simply doesn't have the power to make these types of orders.

For more information, see [Kristine M. v. David P., 135 Cal.App.4th 783 \(2006\)](https://scholar.google.com/scholar_case?case=8194114788436566947&q=+135+Cal.App.4th+783&hl=en&as_sdt=4,5) (https://scholar.google.com/scholar_case?case=8194114788436566947&q=+135+Cal.App.4th+783&hl=en&as_sdt=4,5).

Different rules apply to surrogacy agreements.

When the other parent hasn't contacted or supported the child

Custodial parents are often worried that the absent parent, who has had little or no contact with the child for an extended period of time, will suddenly return and attempt to gain custody or visitation with the child.

This is not grounds to terminate parental rights, except in cases of stepparent adoption. In those types of cases, the court may consider the absent parent's abandonment or willful failure to support the child, and terminate parental rights without consent.

Emancipation

A minor at least 14 years old may petition the court to become an adult before the age of 18. This requires written permission from the parent(s) and a court finding that granting emancipation is not contrary to the minor's best interest. The granting of emancipation terminates parental rights, because the child is legally an adult. This does not permanently sever the parent-child relationship. It merely terminates parental responsibilities, as the child is no longer considered a minor.