

10-540. Motion for termination of parental rights.

[For use with Rule 10-347 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT
IN THE CHILDREN'S COURT

STATE OF NEW MEXICO ex rel.
CHILDREN, YOUTH AND FAMILIES DEPARTMENT

No. _____

In the Matter of

_____, (a) Child(ren), and Concerning
_____, Respondent(s).

MOTION FOR TERMINATION OF PARENTAL RIGHTS

COMES NOW the New Mexico Children, Youth and Families Department, Petitioner, and in support of this Motion to Terminate Parental Rights, states as follows:

1. _____ is an unmarried child born on _____, _____, in _____ County, State of _____. *(Repeat for each child)*
2. _____ *(name(s) of child(ren))* is/are placed in _____ *(type of placement)*. No person, other than Respondents named herein, claims to have custody or visitation rights to the child(ren).
3. _____ *(name(s) of child(ren))* is/are residents of New Mexico and have been for more than six (6) months preceding the filing of this Motion for Termination of Parental Rights. _____ *(name(s) of child(ren))* was/were placed by Petitioner from _____ County, New Mexico.
4. This action is governed by the New Mexico Children's Code, Section 32A-1-1 NMSA 1978, et seq., and concerns minor child(ren) who is/are located in the State of New Mexico.
5. _____ *(name(s) of child(ren))*'s mother is _____, and Petitioner seeks to terminate the parental rights of this individual.¹
6. _____ *(name(s) of child(ren))*'s father is _____, and Petitioner seeks to terminate the parental rights of this individual.²
7. The grounds upon which termination of parental rights is sought are: *(Select appropriate option(s) and delete the rest)*
 - a. _____ *(name(s) of child(ren))* has/have been neglected or abused as defined in Section 32A-4-2 NMSA 1978, and the conditions and causes of the neglect or abuse are unlikely to change in the foreseeable future despite reasonable efforts by Petitioner or other appropriate agencies to assist the parents in adjusting the conditions which render the parents unable to care for the children properly, pursuant to Section 32A-4-28 (B)(2) NMSA 1978.

b. _____ (name(s) of child(ren)) has/have been abandoned by the child(ren)'s parents, pursuant to Section 32A-4-28(B)(1) NMSA 1978.

c. _____ (name(s) of child(ren)) has/have been placed in the care of others, and the conditions enumerated in Section 32A-4-28(B)(3) NMSA 1978 apply.

8. The facts and circumstances supporting the grounds for termination set out above are as follows:

a. _____ (name(s) of child(ren)) was/were placed in the custody of Petitioner on _____, _____, pursuant to a law enforcement hold and subsequent Ex Parte Order entered on _____ (date of order) and have been in the legal custody of Petitioner continuously since that date.

b. _____ (name(s) of child(ren)) was/were adjudicated a/an [abused] [and] [neglected] child(ren) in _____ County District Court, Children's Court Division, in Cause No. _____, on _____, _____.

c. Respondents are unable or unwilling to provide proper parental care or control for _____ (name(s) of child(ren)). Petitioner has provided or made available services and support designed to correct this inability or unwillingness, but respondents have either not utilized these services and support, or have been unable or unwilling to benefit sufficiently from them, or both. It is unlikely that this situation will change in the foreseeable future.

d. (Insert further factual recitations in lettered sub-paragraphs as necessary.)

9. _____ (name(s) of child(ren)) is/are [not] subject to the Indian Child Welfare Act.³

10. Petitioner, at _____ (insert CYFD office address), requests that it be granted continued custody of _____ (name(s) of child(ren)), pending adoption.

11. Termination is in the best interests of _____ (name(s) of child(ren)), taking into consideration the physical, mental, and emotional needs of the child(ren), including the likelihood of the child(ren) being adopted if parental rights are terminated. (Add specific facts if appropriate)

12. (Use when appropriate.) This Motion is in contemplation of adoption.

13. Petitioner currently has legal custody of _____ (name(s) of child(ren)).

WHEREFORE, Petitioner prays that this Court enter its Judgment terminating the parental rights of _____ (name(s) of Respondent(s)), with respect to _____ (name(s) of child(ren)), and for such other and further relief as the Court deems appropriate.

Respectfully submitted,

Attorney name
Children's Court Attorney
Children, Youth and Families Department
Attorney address

Telephone: _____
Facsimile: _____

USE NOTES

1. More than one person may need to be named as “father.” See Section 32A-5-17(A)(4), (5) NMSA 1978.
 2. More than one person may need to be named as “mother.” See, e.g., *Chatterjee v. King*, 2012-NMSC-019, 280 P.3d 283.
 3. If the child(ren) is/are subject to the Indian Child Welfare Act, 25 U.S.C. § 1901, et seq., the petition must include the following:
 - (a) the tribal affiliations of the child(ren)’s parents;
 - (b) the specific actions taken by the moving party to notify the parents’ tribes and the results of the contacts, including the names, addresses, titles and telephone numbers of the persons contacted. Copies of any correspondence with the tribes shall be attached as exhibits to the petition; and
 - (c) what specific efforts were made to comply with the placement preferences set forth in the federal Indian Child Welfare Act of 1978 or the placement preferences of the appropriate Indian tribes.
- [Approved, effective, August 1, 2000; as amended, effective May 1, 2003; 10-470 recompiled and amended as 10-540 by Supreme Court Order No. 14-8300-009, effective for all cases filed or pending on or after December 31, 2014.]