

Policy Goal

Laws relating to parental custody and termination of parental rights include sex trafficking or commercial sexual exploitation of children (CSEC) offenses as grounds for sole custody or termination in order to prevent traffickers from exploiting their parental rights as a form of control.

Traffickers use physical and psychological tactics to maintain control over their victims, including utilizing their parental rights to retain legal custody of a victim's child. Intentionally impregnating victims is one way traffickers ensure the victim will not leave, using the baby as a bond and their parental rights as a method of control over the victim. The victim-parent's opportunity for freedom from the control of the trafficker-parent's rights to the child and freedom for the child from the relationship with a trafficker-parent are essential for the protection of both the victim-parent and the child. Additionally, children of trafficker-parents are exposed to daily violence, potentially including sexual exploitation and abuse. State laws regarding termination of parental rights frequently identify a conviction for state or federal crimes of violence or extended incarceration as grounds for a termination petition, but clear legislative intent to include convictions for child sex trafficking or CSEC crimes must also constitute grounds for terminating parental rights and for granting sole custody.

EXAMPLES OF LEGISLATIVE SOLUTIONS

ARIZONA

Ariz. Rev. Stat. Ann. § 8-863 (Hearing to terminate parental rights) states, "The court may terminate the parental rights of a parent if the court finds by clear and convincing evidence one or more of the grounds prescribed in section 8-533." Ariz. Rev. Stat. Ann. § 8-533(B) (Petition; who may file; grounds) states in part, "Evidence sufficient to justify the termination of the parent-child relationship shall include any one of the following, and in considering any of the following grounds, the court shall also consider the best interests of the child: . . . 2. That the parent has neglected or willfully [sic] abused a child. . . ." Ariz. Rev. Stat. Ann. § 8-201(2)(a) (Definitions), defines "abuse" in relevant part as "commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, . . . or child sex trafficking pursuant to section 13-3212."

FLORIDA

Parental rights may be terminated under Fla. Stat. § 39.806(1)(d) (2) (Grounds for termination of parental rights) when the parent is determined to be a sexual predator as defined in Fla. Stat.

§ 775.21(4), which includes convictions for the full range of sex trafficking, CSEC, and sexual offenses. Fla. Stat. § 775.21(4)(a) defines "sexual predators" as persons convicted of "[a]ny felony violation, or any attempt thereof, of . . . s. 787.025(2)(c) [Luring or enticing a child], where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g) [Human trafficking]; former s. 787.06(3)(h) [Human Trafficking]; s. 794.011, excluding s. 794.011(10); s. 794.05 [Unlawful sexual activity with certain minors]; . . . s. 800.04; . . . or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of . . . s. 393.135(2) [Sexual misconduct with developmentally disabled; reporting required; penalties]; s. 394.4593(2) [Sexual misconduct prohibited; reporting required; penalties]; s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g) [Human trafficking]; former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; . . . s. 800.04 ; . . . s. 847.0135 [Computer pornography; traveling to meet minor; penalties], excluding s. 847.0135(6); . . . or a violation of a similar law of another jurisdiction"

IOWA

Iowa Code § 600A.8(10) (Grounds for termination) permits the court to order the termination of parental rights based on "clear and convincing evidence" that any of the following grounds exist: "[t]he parent has been convicted of a felony offense that is a 'sex offense

against a minor’ as defined in section 692A.101[Definitions]” Pursuant to Iowa Code § 692A.101(28) (Definitions), “‘Sex offense against a minor’ means “an offense for which a conviction has been entered for a sex offense classified as a tier I, tier II, or tier III offense under this chapter if such offense was committed against a minor, or otherwise involves a minor.” Iowa Code § 692A.102(1) (Sex offense classifications) classifies sex offenses into different tiers including “b. Tier II offenses . . . (19) Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3 . . . [and] c. Tier III offenses . . . (23) Human trafficking in violation of section 710A.2 if sexual abuse or assault with intent to commit sexual abuse is committed or sexual conduct or sexual contact is an element of the offense (25) Sexual exploitation of a minor in violation of section 728.12, subsection 1 (30) Enticing a minor in violation of section 710.10, if the violation includes an intent to commit sexual abuse, sexual exploitation, sexual contact, or sexual conduct directed towards a minor (32) Sex trafficking of children in violation of 18 U.S.C. § 1591 (38) Sexual exploitation of children in violation of 18 U.S.C. § 2251, [and] (39) Selling or buying of children in violation of 18 U.S.C. § 2251A”

TENNESSEE

Tenn. Code Ann. § 36-1-113(g) (Termination of parental rights) states, “Initiation of termination of parental or guardianship rights may be based upon any of the grounds listed in this subsection (g). The following grounds are cumulative and non-exclusive, so that listing conditions, acts or omissions in one ground does not prevent them from coming within another ground (12) The parent or guardian has been convicted of trafficking for commercial sex act under § 39-13-309. (13) The parent or guardian has been convicted on or after July 1, 2015, of sex trafficking of children or by force, fraud, or coercion under 18 U.S.C. § 1591, or a sex trafficking of children offense under the laws of another state that is substantially similar to § 39-13-309.”

TEXAS

Tex. Fam. Code Ann. § 161.001(b)(1)(L), (2) states, “The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence: (1) that the parent has” . . . (L) been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following . . . (iv) Section 21.11 (indecent with a child); . . . (vi) Section 22.011 (sexual assault); . . . (viii) Section 22.021 (aggravated sexual assault); . . . (xii) Section 43.25 (sexual performance by a child); (xiii) Section 43.26 (possession or promotion of child pornography); (xiv) Section 21.02 (continuous sexual abuse of young child or children); (xv) Section 20A.02(a)(7) or (8) (trafficking of persons); and (xvi) Section 43.05(a)(2) (compelling prostitution); . . . and (2) that termination is in the best interest of the child.”

VERMONT

Vt. Stat. Ann. tit. 15, § 665(f) (Rights and responsibilities order; best interests of the child) states, “(1) The court may enter an order awarding sole parental rights and responsibilities to a parent and denying all parent-child contact with the other parent if the court finds by clear and convincing evidence that the nonmoving parent was convicted of sexually assaulting the moving parent and the child was conceived as a result of the sexual assault, or the nonmoving parent was convicted of human trafficking pursuant to 13 V.S.A. § 2652, and the moving parent was the trafficked victim (2) The court may enter an order awarding sole parental rights and responsibilities to one parent and denying all parent-child contact between the other parent and a child if the court finds by clear and convincing evidence that the child was conceived as a result of the nonmoving parent sexually assaulting or sexually exploiting the moving parent, or that the moving parent was trafficked by the non-moving parent pursuant to 13 V.S.A. § 2652 and the court finds by a preponderance of the evidence that such an order is in the best interests of the child. A conviction is not required under this subdivision, and the court may consider other evidence of sexual assault or sexual exploitation in making its determination (3) Issuance of an order pursuant to this subsection shall not affect the right of the custodial parent to seek child support from the noncustodial parent. (4) Upon issuance of a rights and responsibilities order pursuant to this subsection, the court shall not issue a parent-child contact order concerning the child and the nonmoving parent. An order issued in accordance with this subdivision shall be permanent and shall not be subject to modification.”

WISCONSIN

Pursuant to Wis. Stat. § 48.415(9m), (am) (Grounds for involuntary termination of parental rights), “Grounds for termination of parental rights shall be one of the following . . . Commission of a felony against a child . . . [or] Commission of a violation of s. 948.051 (Trafficking of a child) involving any child or a violation of the law of any other state or federal law, if that violation would be a violation of s. 948.051 involving any child if committed in this state.”