SEVERANCE

X

TO

PERMANENTLY TERMINATE PARENTAL RIGHTS

(**FORMS and INSTRUCTIONS**)

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JS1 – **5498** - 032216

SELF-SERVICE CENTER

SEVERANCE: PERMANENT TERMINATION of the PARENT-CHILD RELATIONSHIP

(Arizona Revised Statutes (A.R.S.) Sections (§§) 8-531-544)

CHECKLIST

You may use the forms and instructions in this packet if . . .

- ✓ You are a person who has a legitimate interest in the welfare of one or more children, who are present in this state (or in another state if placed there by order of this court);
- ✓ You want a court order to permanently terminate the legal rights, privileges, duties and obligations between one or both parents and one or more of their children (*except* the right of the children to receive support and to inherit from the parent(s));
- ✓ The parent or parents whose rights you want to terminate have neglected, abused, or abandoned the child through failure to support and maintain reasonable contact, AND/OR
- ✓ The parent or parents are unable to fulfill the responsibilities of parenting due to mental illness, lack of mental capacity, or chronic drug or alcohol abuse, and there are no reasonable grounds to believe those conditions will change in the foreseeable future, AND/OR
- ✓ The parent(s) are deprived of civil liberties or incarcerated due to conviction of a felony of a type regarded as proving unfitness, such as a violent crime against the other parent or another child, *or* the sentence is so long that the children would be deprived of a normal home for a period of years,
- ✓ The person thought to be or who claims to be the father did not file a claim of paternity or a court case to establish paternity as prescribed in A.R.S. Section 8-106,
- ✓ The parent or parents have signed papers to relinquish their rights to the children to an agency or to consent to adoption.
- ✓ The identity of the parent is unknown and continues to be unknown following three months of diligent efforts to identify and locate the parent.
- ✓ The parent has had parental rights to another child terminated within the past two years for reasons identical to those to be raised in this case and unable to discharge parental duties for those same reasons.
- ✓ You **MAY NOT** use this packet to cut off or give up **your own** parental rights.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Self-Service Center website.

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SEVERANCE

To Permanently Terminate Parental Rights

(Forms <u>and</u> Instructions)

This packet contains court forms and instructions to file court papers to request a court order to permanently terminate, or "sever" parental rights. The documents should appear in order as shown. Items listed in ***BOLD*** are forms you will need to fill out, copy, and submit to the Court. Non-bold items are information or instruction. *<u>Do **not** copy or file the</u>* non-bold items.

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Information and Instructions: HOW TO GET INITIAL HEARING ON PRIVATE TERMINATION OF PARENT-CHILD RELATIONSHIP

(A.R.S. (Arizona Revised Statutes) §§ 8-531, and 8-861, et seq.*)

***** **§** means **"section"; §§** means **"sections"; et seq.** means **"and the sections that follow"**

PLEASE READ THIS CAREFULLY.

There are many important steps required to pursue a private Petition for Termination of Parent-Child Relationship and this list is not comprehensive. Failing to comply with each step may result in delays or the Court dismissing the matter.

PLEASE NOTE THAT A PARENT CANNOT ASK THE COURT TO TERMINATE HIS OR HER OWN PARENTAL RIGHTS.

Where these documents refer to "child", "children" or "child(ren)" it means as many children as are the subject of this process, whether one or more.

I. Documents Required Before the Initial Hearing on a Private Petition for Termination of Parental-Child Relationship.

A. **Petition -** A Petition is a key document required for a private request to terminate parental rights. A Petition must contain a variety of different information as reflected in the "**Petition for Termination of Parent-Child Relationship**" form available from the Court. Among other things, a Petition:

1. Must reflect that the Petitioner (the person filing the Petition) has a legitimate interest in the child as required by Arizona Revised Statutes (A.R.S.) § 8-533(A);

2. Must include available information about the parent(s) whose parental rights the Petition seeks to terminate;

3. Must include available information about the children whose parental rights the Petition seeks to terminate;

4. Must include information about the person or agency who is caring for the children;

5. Must show how the Arizona Superior Court, Maricopa County, has power to properly hear the case ("jurisdiction"), which usually requires that the children have been in Arizona for a period of time;

6. Must include information about grounds for termination as required by A.R.S. § 8-533(B);

7. Must include information about why termination of parental rights is in the best interest of the children, as required by A.R.S. § 8-533(B);

8. Must include any information about whether the parent(s) or children are enrolled members of any native American Tribe or Nation; and

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9. Should include information regarding who is completing the **social study** required by A.R.S. § 8-536(A) or, if the Petitioner is asking that the social study be waived, why waiving that study is in the best interest of the children.

B. **Order Setting Initial Hearing**. The Court will issue an "**Order Setting the Initial Hearing**" after the **Petition** for Termination of Parent-Child Relationship is filed if the Petition is minimally adequate.

C. **Notice of Initial Hearing -** The Clerk of Court will provide a "**Notice of Initial Hearing**" to you after the **Petition** is filed. The Notice provides the date, time, place, (location) where the Initial Hearing will be held and other important information.

II. Steps To Be Taken Before The Initial Hearing On A Private Petition For Termination of Parent-Child Relationship.

There are several steps that must be taken before the Initial Hearing with the Court on a private Petition For Termination of Parent-Child Relationship, including:

A. **Properly Fill Out and Sign** the Petition For Termination of Parent-Child Relationship.

B. **File** the Petition For Termination of Parent-Child Relationship with the Clerk of Court at one of the following locations:

Durango Facility	**Southeast Facility**
3131 W Durango Street	1810 S Lewis Street
Phoenix, AZ 85009	**Mesa, AZ 85210**

C. **Obtain** an Order signed by the Court setting an Initial Hearing on the Petition for Termination of Parent-Child Relationship.

> **PLEASE NOTE:** The Court may review a Petition for Termination of Parent-Child Relationship, find that it does not comply with the requirements for a document and dismiss the Petition. If that happens, Petitioner may attempt to fix the deficiencies and file with the Clerk of Court another Petition for Termination of Parent-Child Relationship that complies with all requirements.

D. **Obtain** a **Notice of Initial Hearing** from the Clerk of Court (which will include the date, time, place, location where the Initial Hearing will be held and other important information).

E. **Make copies and separate your papers.** Copy and assemble your papers so that you have as many packets as needed to serve interested parties (see III(B) below).

F. **Complete Service of Process**, in a timely basis, as discussed below.

III. Service of Process Must Be Completed Before The Initial Hearing.

A. **Service of process** is the formal way copies of documents are provided to all individuals and entities involved in the case. If service of process is not done properly and timely, the court will lack jurisdiction and/or the case may be delayed.

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B. Petitioner must serve a copy of the **Petition For Termination of Parent-Child Relationship**; the **Notice of Initial Hearing** and the **Order** signed by the Court on:

1. all parents, and if applicable, each custodian or Indian custodian,

2. Tribe of any children as defined by the federal Indian Child Welfare Act, 25 U.S.C. § 1901, et seq. (and sections that follow);

3. person(s) having legal custody of the children;

4. person(s) standing in loco parentis* to the children;

5. guardians ad litem of any party and

6. any other individual or entity that the court orders must be served.

a. All parties must be served as directed by Arizona Rules of Civil Procedure 4, 4.1 and/or 4.2 (as applicable).

b. Service of process must be timely, meaning it must be completed at least **ten (10) days before the Initial Hearing (for service within Arizona)** and at least **thirty (30) days before the Initial Hearing (for service outside of Arizona).**

PLEASE NOTE: Service of process for cases governed by the Indian Child Welfare Act, 25 U.S.C. § 1901, et. seq., have special timeliness requirements. See, e.g., Arizona Rule of Procedure for Juvenile Court 64(D).

c. Service by publication

i. Service by publication applies when the residence of the person to be served is unknown to the party seeking to serve that person and the party seeking to serve by publication has made a diligent search to find that person. Service by publication is more complicated than personal service. There are important rules that apply to service by publication. If those rules are not met, the whole process of service by publication may need to be started all over, which can result in delays and added cost.

ii. Service by publication requires literally publishing the **Notice of Initial Hearing** and a statement as to the manner in which a copy of the **Petition For Termination of Parent-Child Relationship** may be obtained at least one (1) time a week for four (4) consecutive weeks in a newspaper published in the county where the action is pending. If the last known residence of the person to be served is in Arizona but not in Maricopa County, service by publication also must be made in the county of that last known residence.

iii. Where the party seeking to serve a person by publication has an address for the person to be served, before the first date of publication, a copy of the **Petition For Termination of Parent-Child Relationship**; **Notice of Initial**

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Hearing and **Order** must be mailed, postage prepaid, to that person at that person's last known place of residence.

iv. Service by publication is deemed complete **thirty days** after the first publication date.

v. A party serving a person by publication must provide to the court the following documents either at or before the Initial Hearing:

1. A written affidavit or declaration that the residence of the person served by publication is unknown contained in the **"Declaration Supporting Publication"** (sometimes referred to as "Affidavit of Unknown Residence");

2. A written affidavit or declaration that the person to be served by publication cannot be located even though diligent efforts have been made to locate that person contained in the **"Declaration Supporting Publication"** (sometimes referred to as an "Affidavit of Due Diligence");

3. A written affidavit showing the manner and dates of the publication (and mailing, if applicable) and the circumstances warranting service by publication as well as printed copy of the publication. If the residence of the person being served is unknown, and therefore no mailing was made, the affidavit shall state that.

d. Notice and appearance may be waived by an individual or entity involved in the case. **A waiver of notice and appearance must contain language explaining the meaning and consequences of the waiver and the termination of parental rights pursuant to A.R.S. § 8-535(C).** Unless done in court, a waiver of notice and appearance must be signed by the individual or entity agreeing to the waiver and notarized or attested by two or more credible witnesses who are at least eighteen (18) years old.

e. A consent to **adoption** must comply with certain specified requirements, including A.R.S. §§ 8-106 and 8-107. ***PLEASE NOTE***: **In Arizona, if a proper consent has been obtained, a person seeking to adopt a child may proceed directly to adoption without filing a Petition for Termination of Parent-Child Relationship.** In that case, the Maricopa County Attorney provides representation in uncontested adoptions pursuant to A.R.S. § 8-127.

f. A copy of any relinquishment or consent shall be attached to the Petition pursuant to A.R.S. § 8-534(C).

3. Unless Waived By The Court, A Social Study Must Be Completed.

a. Unless waived by the court given the best interests of the child, petitioner must obtain a social study pursuant to A.R.S. § 8-536.

b. A social study must:

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i. Be prepared by an appropriate agency or person;

ii. Include the circumstances of the petition, the social history, the present condition of the children and parent, proposed plans for the children and other facts pertinent to the parent-child relationship;

iii. Address whether or not the parent-child relationship should be terminated; and

iv. Contain the information required by A.R.S. § 8-536.

4. The Initial Hearing.

a. The Petitioner must attend the Initial Hearing. If the Petitioner does not personally attend the Initial Hearing, the Court may dismiss the Petition or may set a continued hearing, which will cause delay.

b. Petitioner should bring the following documents to the Initial Hearing:

i. Originals of the applicable service of process documents to show the Court that service is completed;

ii. Documents showing parentage including:

1. a birth certificate for each child listed in the Petition;
2. paternity documents;
3. child support or custody orders or related documents;

iii. Copies of any applicable guardianship documents;

iv. Originals of any consents; waivers; relinquishments; the social study (if not waived and if prepared before the Initial Hearing) that have not yet been filed;

v. A copy of all filings made with the Court that contain a copy of the Clerk of Court's stamp to show to the Court if necessary;

vi. Any other documents Petitioner may want the Court to consider.

FAILURE TO COMPLY WITH THE APPLICABLE STATUTES AND RULES MAY RESULT IN THE INITIAL HEARING BEING RESET OR THE PETITION DISMISSED.

UNREPRESENTED PARTIES ARE ENCOURAGED TO CONSULT LEGAL COUNSEL. COURT EMPLOYEES CANNOT PROVIDE LEGAL ADVICE.

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You may also wish to consult the following additional resources.

Maricopa County Self Service Center

Locations:

Downtown Phoenix
101 West Jefferson, 1st Floor
(East Court Building)
in the Law Library

Hours: 8:00 AM to 5:00 PM
Monday - Friday

Southeast (Mesa)
222 East Javelina Avenue, 1st Floor
(Southeast Court Complex)
in the Law Library

Hours: 8:00 AM to 5:00 PM
Monday - Friday

Northeast (Phoenix)
18380 North 40th Street
(Northeast Regional Center)
40th St. & Union Hills

Hours: 8:00 AM to 5:00 PM
Monday - Friday

Northwest (Surprise)
14264 West Tierra Buena Lane
(Northwest Regional Center)

Hours: 8:00 AM to 5:00 PM
Monday - Friday

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Maricopa County Law Library

Location:

Superior Court Law Library
East Court Building
101 West Jefferson St.
Phoenix, AZ 85003

Hours: 8:00 AM to 5:00 PM
Monday – Friday

Legal Authority

Arizona Revised Statutes Section §§ 8-531 to 8-544

Arizona Rules of Procedure for Juvenile Court § 64-66

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Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY JUVENILE COURT

In the Matter of:

_____

_____

_____

_____

(Full Legal Names of Minor Children)

Case No: JS _____
(To be completed by the Court)

PETITION FOR TERMINATION OF PARENT-CHILD RELATIONSHIP

(SEVERANCE of PARENTAL RIGHTS)

A.R.S. § 8-531-544

1. INFORMATION ABOUT PETITIONER:

Name: _____

Birth Date: _____

Address: _____

_____

Relationship to children: _____

_____

2. INFORMATION ABOUT PARENT(S):

a. Mother's name: _____

Mother's birth date: _____

Mother's address: _____

_____

b. Father's name: _____

Father's birth date: _____

Father's address: _____

(If more than one father involved, please attach same information for all fathers)

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3. INFORMATION ABOUT THE CHILDREN:

a. Child's name: _____ ☐male ☐female

Child's birth date: _____

Child's birth place: _____

Child's address: _____

---

b. Child's name: _____ ☐male ☐female

Child's birth date: _____

Child's birth place: _____

Child's address: _____

---

c. Child's name: _____ ☐male ☐female

Child's birth date: _____

Child's birth place: _____

Child's address: _____

---

d. Child's name: _____ ☐male ☐female

Child's birth date: _____

Child's birth place: _____

Child's address: _____

(If more than four children, please attach information for all children)

---

4. The person or agency currently having legal custody, guardianship, acting *in loco parentis* (acting as parent) or providing care for the children is:

Name: _____

Address: _____

_____

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5. Will you or any person required to receive notice need a court interpreter? ☐ **Yes** ☐ **No**

If "Yes", Person's name: _____ Language(s) needed

_____

Person's name: _____ Language(s) needed

_____

Person's name: _____ Language(s) needed

_____

6. **Jurisdiction** in Arizona is proper because the child or children are present in Arizona ☐ **Yes** ☐ **No**

If the child or children are not present in Arizona, jurisdiction in Arizona is proper because:

_____

_____

7. **Have there been any prior court cases concerning the children?** ☐ **Yes** ☐ **No**

If yes, list the name of the Court and the case number(s) _____

_____

8. **Is any parent or child an enrolled member of any native American tribe or nation?**

☐ **Yes** ☐ **No** ☐ **Uncertain**

If "yes" or "uncertain", please explain: _____

_____

INSTRUCTIONS: Check all the allegations below that you believe apply. If seeking to terminate the rights of more than one parent, attach a separate sheet for the additional parents. If more space is needed for any answer, please attach additional information.

9. **The Court should terminate the parent-child relationship between the children and the**

☐ **Father** ☐ **Mother based on the following grounds:**

☐ **Abandonment:** **The parent has abandoned the children by failing to provide reasonable support and failing to maintain regular contact with the children, including normal supervision.**

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Please state the facts supporting this statement:

_____

_____

_____

☐ **Neglect/Abuse:** **The parent has neglected or willfully abused a child.**

Please state the facts supporting this statement:

_____

_____

_____

☐ **Incapacity:** **The parent is unable to discharge the parental responsibilities because of mental illness, mental deficiency or a history of chronic abuse of dangerous drugs, controlled substances or alcohol and there are reasonable grounds to believe that the condition will continue for a prolonged, indeterminate period.**

Please state the facts supporting this statement:

_____

_____

_____

☐ **Criminal Conviction**

☐ **The parent is deprived of civil liberties due to the conviction of a felony the nature of which proves the unfitness of that parent to have future custody and control of the children.**

Please state the facts supporting this statement:

_____

_____

☐ **The parent is deprived of civil liberties due to the conviction of a felony and the sentence of that parent is of such length that the children will be deprived of a normal home for a period of years.**

Please state the facts supporting this statement:

_____

_____

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☐ **Paternity**

☐ **The *potential* father failed to file a paternity action within thirty (30) days of completion of service of notice as prescribed by A.R.S. § 8-106(G).**

_____

_____

☐ **The *putative* father** (one who registered with the state claiming to be the father) **failed to file a notice of claim of paternity as prescribed in A.R.S. § 8-106.01.**

_____

_____

☐ **Relinquishment or Consent**

The parent has relinquished his or her right to the children to an agency or has consented to the adoption.

I have attached to this Petition a copy of all applicable relinquishment(s) or consent(s).

☐ **Identity Unknown**

The identity of the parent is unknown and continues to be unknown following three months of diligent efforts to identify and locate the parent.

Please state the facts supporting this statement:

_____

_____

_____

☐ **Other**

Parental rights should be terminated for other grounds under A.R.S. § 8-533 as follows:

Please state the facts supporting this statement:

_____

_____

10. Best Interests

It is in the children's best interest to have rights terminated. ☐ **Father's** ☐ **Mother's**

Please state the facts supporting this statement:

_____

_____

_____

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11. Social Study

☐ **The social study discussed in A.R.S. § 8-536(A) will be completed by the following agency:**

_____

_____

☐ **I request the social study discussed in A.R.S. § 8-536(A) be waived in the best interest of the children for the following reasons:**

_____

_____

RELIEF REQUESTED: Based on the information above, after notice and a hearing Petitioner requests the Court issue an order which:

Terminates the parent-child relationship between the children and their: ☐ **Father** ☐ **Mother, and**

Appoints as guardian of the children and vests legal custody of the children in:

_____ _____

☐ **Orders that the parent(s) whose rights are terminated shall remain obligated for child support payments until an adoption order is entered and shall remain obligated for arrearages;**

☐ **Orders that:** (state any other relief requested); _____

_____

_____

and

Any other such orders as the Court deems just and proper.

I DECLARE UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDED IN THIS DOCUMENT IS TRUE AND CORRECT

_____ _____

Date **Signature of Petitioner**

_____

Printed Name of Petitioner

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Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY

IN THE MATTER OF:

CASE # JS _____
(To be completed by the Court)

_____

_____

_____

_____
NAME(S) OF MINOR CHILD(REN)

NOTICE OF INITIAL HEARING ON PETITION FOR TERMINATION OF PARENT-CHILD RELATIONSHIP

NOTICE IS HEREBY GIVEN THAT THE PETITIONER: _____

has filed a Petition for Termination of Parent-Child Relationship with the Juvenile Court in Maricopa County regarding the above named child or children and

_____
Name of parent or parents whose rights are to be terminated, as well as any other known interested parties' names.

AN INITIAL HEARING HAS BEEN SET TO CONSIDER THE PETITION:

DATE: _____

TIME: _____

BEFORE: _____

At the Maricopa County Juvenile Court located at:

☐ Durango Juvenile Court; 3131 W. Durango Street; Phoenix, AZ 85009

☐ Southeast Facility; 1810 S. Lewis Street; Mesa, AZ 85210

NOTICE:

- **You have a right to appear as a party in this proceeding.**
- **Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or commissioner assigned to the case, at least ten (10) days before your scheduled court date.**
- **The failure of a parent to appear at the Initial Hearing, the Pretrial Conference, the Status Conference or the Termination Adjudication Hearing may result in a court order terminating the parent-child relationship of that parent.**
- **Failure to appear at the Initial Hearing, Pretrial Conference, Status Conference or Termination Adjudication Hearing, without good cause, may result in a finding that the parent, guardian or Indian custodian has waived legal rights and is deemed to have admitted the allegations in the Petition.**
- **The hearings may go forward in the absence of the parent, guardian or Indian custodian and may result in the termination of parental rights based upon the record and evidence presented.**

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For Clerk's Use Only

Person Filing:_____
Address (if not protected):_____
City, State, Zip Code:_____
Telephone:_____
Email Address:_____
Lawyer's Bar Number:_____

Representing ☐ **Self, without a Lawyer** **or** ☐ **Attorney for** ☐ **Petitioner** **OR** ☐ **Respondent**

SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY

In the matter of:

Case Number: JS _____

_____
A Minor

WAIVER BY PARENT OF NOTICE OF HEARING AND APPEARANCE ON PETITION FOR TERMINATION OF PARENT-CHILD RELATIONSHIP

UNDER OATH or by AFFIRMATION:

INFORMATION FROM PARENT whose rights are to be terminated

1. I, _____, am the ☐ MOTHER ☐ FATHER of the minor children named below for whom a Petition has been filed requesting permanent termination (severance) of my parental rights:

Full Name of Child	Date of Birth

2. My complete name and address and date of birth is as follows:

Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone: _____ **Date of Birth:** _____

(Continues on next page)

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Case Number: JS_____

WAIVER OF NOTICE

1. I have read the Petition for Termination of Parental Rights between myself and the minor child or children.

2. I waive notice of all further proceedings in this matter. I understand that I can reverse this waiver by filing a written document with the court under this court case number declaring that I no longer waive notice of hearings and other court proceedings.

_____ _____

Date Signature

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal) _____
Deputy Clerk or Notary Public

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