



TERMINATING MOTHER'S PARENTAL RIGHTS

AGAINST HER WILL AFTER A DIVORCE

Can they do this? How do we stop it?

Dear Steve:

My in-laws divorced two years ago. They have a 14-year-old daughter. Because her mother was unable to care for her at the time of the divorce, the daughter remained with the father, who remarried shortly afterward. Since the divorce, my mother-in-law has moved to Colorado, but she has done what she can to stay in contact with her daughter via phone calls, letters, pictures, and offers to visit her or have her come visit.

My father-in-law and his new wife have blocked her efforts at every possible chance, including blocking her phone number. Now they've served her with legal papers to terminate her parental rights so that the new wife can adopt the daughter as her legal child. They still live in Texas; would she have to travel back to Texas to fight this? Can they force her to give up her parental rights? What can my mother-in-law do, and what are her rights?

Mother-in-law's Advocate (F) 25

Virginia Beach, VA

Dear Mother-in-law's Advocate,

It's very difficult for a parent to terminate the parental rights of the other parent without proving that the other has caused extreme harm or detriment to the child. Most states protect one's right to remain the parent of a child unless he or she exhibits destructive behaviors toward the child and other parent.

If your mother-in-law could not care for her daughter at the time of the divorce because of drug use, or psychological reasons such as attempted suicide, the father may have grounds for petitioning for limitation or termination of the mother's rights. But courts usually provide many opportunities for a parent to demonstrate that they've changed and can now take care of the child.

The girl's age weighs heavily in the mother's favor. A 14-year-old may be able to care for herself even with an incapacitated parent. Many states have laws, or tacit understandings

in the legal community, that 14-year-olds are old enough to be left alone or act as babysitters for younger siblings. So your father-in-law may have a difficult time terminating the mother's legal rights if she can appear in court.

Since the child and the mother lived in Texas, the state of Texas will have jurisdiction over the case. So the mother will have to make arrangements to appear in Texas to fight the parental terminations. Given the serious nature of the matter, it may be possible for the mother to testify by telephone if her financial resources are limited. Each state has different rules regarding how a party may appear in court. I recommend that your mother-in-law discuss her options with an attorney in the Texas county where the action is filed. If finances are severely limited, the court may have a low-fee or no-fee program available to help her.

If the mother has the resources to hire an attorney to appear in court on her behalf in Texas, she should ask the court to make specific orders allowing her contact with her daughter and, if possible, regarding having the child travel to Colorado for visits.

The father is clearly trying to cut the mother out of their daughter's life. As she was 12 at the time of the divorce, it's likely that the child has clear memories of her mother. While the father may cause the mother to incur legal costs and aggravate her, he can't completely erase her from the daughter's life. The best thing the mother can do is to get legal advice in the county where the action is filed so as to present her side to the court properly.