IN THE NEBRASKA COURT OF APPEALS

MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)

IN RE INTEREST OF ESPERANZA C.

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION AND MAY NOT BE CITED EXCEPT AS PROVIDED BY NEB. CT. R. APP. P. § 2-102(E).

IN RE INTEREST OF ESPERANZA C., A CHILD UNDER 18 YEARS OF AGE.

STATE OF NEBRASKA, APPELLEE,

V.

HEATHER S., APPELLANT.

Filed November 10, 2026. Nos. A-25-832, A-25-990.

Appeals from the Separate Juvenile Court of Douglas County: VERNON DANIELS, Judge. Affirmed.

Anne E. Troia, of Anne E. Troia, P.C., L.L.O., for appellant.

Allyson Talpash, Deputy Douglas County Attorney, for appellee State of Nebraska.

Patrick Ryan, Special Assistant Attorney General, for appellee Department of Health and Human Services.

Janine F. Ucchino, guardian ad litem, for appellee Esperanza C.

BISHOP, WELCH, and FREEMAN, Judges.

FREEMAN, Judge.

INTRODUCTION

In these consolidated appeals, Heather S. appeals from the decisions of the separate juvenile court of Douglas County, denying her motion for a "negative reasonable efforts finding" and terminating her parental rights to her child, Esperanza C. In case No. A-25-0832, Heather challenges the juvenile court's denial of her motion for a "negative reasonable efforts finding" and the failure to specify the grounds for denial. We find that we lack jurisdiction over the appeal in case No. A-25-0832, and Heather failed to preserve this assignment in case No. A-25-0990. In

case No. A-25-0990, Heather challenges the juvenile court's termination of her parental rights and finding that termination was in Esperanza's best interests. We affirm both orders.

BACKGROUND

Heather is the biological mother of Esperanza, born February 2021. Dion S. was initially recognized as Esperanza's legal father but later relinquished his parental rights. Heather identified Rico C. as Esperanza's biological father, although paternity was never formally established. Esperanza was placed with Rico's biological sister throughout the relevant proceedings. Paternity will be discussed as relevant to Esperanza's out-of-home placement.

PROCEDURAL BACKGROUND

On April 14, 2021, the State filed a petition alleging that Esperanza was a child within the meaning of Neb. Rev. Stat. § 43-247(3)(a) (Reissue 2016). The petition alleged that Heather (1) engaged in domestic violence in the minor child's presence; (2) failed to take sufficient steps to protect the minor child from domestic violence; (3) failed to provide proper care, supervision, and/or support and safety to the minor child; (4) failed to maintain adequate housing for the minor child; and (5) overall, that the minor child was at risk of harm. The juvenile court subsequently placed Esperanza in the temporary custody of the Department of Health and Human Services (DHHS) "for appropriate care, services and placement, to exclude the parental home of the mother."

In July 2021, the juvenile court adjudicated Esperanza under § 43-247(3)(a). The court ordered Heather to maintain safe and stable housing, maintain a legal source of income, complete a monthly budget, meet with her caseworker monthly, complete a psychological evaluation, notify the court of any services necessary to facilitate reunification, participate in agency-supervised visitation, and report any change in employment, address, or telephone number within 48 hours. These requirements remained consistent throughout the case.

Following this order, the juvenile court held multiple review and permanency planning hearings. In 2022, the court held three hearings in March, May, and November. Following the March hearing, the court took the matter of reasonable efforts and permanency under advisement until the parties offered the results of Heather's psychological evaluation to the court for its review. Heather, through her counsel, offered the evaluation at a review hearing in May, after which Heather was ordered to participate in therapy "to address unspecified depression disorder and anxiety" and to "participate in a domestic violence program." At both the May and November hearings, the court found that DHHS had made reasonable efforts to reunify Esperanza with Heather, but those efforts had not succeeded. The court therefore continued Esperanza's custody with DHHS and placement outside the mother's home and maintained reunification as the permanency objective. Barriers to reunification from May to November included lack of housing, incomplete therapy, and the absence of therapy progress reports.

However, in November 2022, the juvenile court granted Heather's motion for increased supervised visitation because Heather had completed her psychological evaluation, was participating in individual therapy, had obtained full-time employment and housing, and was maintaining contact with her caseworker. Heather's case manager agreed with increasing her supervised visitation, so Heather exercised an additional weekly visit without reported safety

concerns. The case manager thereafter supported adding unsupervised visitation, which the court ultimately authorized in March 2023.

Then, at a review hearing in May 2023, the juvenile court adopted a modified permanency objective of reunification with concurrent plans of adoption and guardianship. The court identified several barriers to reunification, including Heather's inability to maintain stable housing, inconsistent visitation caused in part by transportation issues, Heather swearing at the case manager or hanging up on the case manager, Heather's refusal to execute releases allowing DHHS to communicate with service providers, and the length of time Esperanza had remained in care. Based upon those findings, the court determined that visitation should be supervised and ordered continued therapy. The case manager at the time recommended that no further reasonable efforts be provided to Heather, which the court took under advisement.

After a review and permanency planning hearing in November 2023, the juvenile court modified the permanency objective to adoption with a concurrent plan of guardianship. The court determined that barriers to reunification included the length of time the child had remained in care, the lack of clarity as to whether Heather had completed a domestic violence program, and inconsistent visitation due to cancellations or no-shows. DHHS requested that the court relieve it of any further obligation to provide reasonable efforts toward reunification, and the court took the request under advisement until the next review hearing. The court also noted that Heather had been cited for child abuse in September 2023 and was awaiting disposition of that matter. The court ordered Heather to provide proof of completion of a domestic violence program by December 20, 2023, and complete a parenting program by January 20, 2024.

At the May 2024 review hearing, the juvenile court maintained its permanency objective of adoption with a concurrent plan of guardianship. In addition to ongoing barriers to reunification, the juvenile court specifically noted that "[t]he domestic violence program was not completed until April 23, 2024, and parenting program on April 19, 2024." Furthermore, the juvenile court ordered that, aside from visitation, DHHS was no longer required to provide reasonable efforts to facilitate reunification.

Three days following the May 2024 review hearing, the juvenile court issued an ex parte order suspending Heather's visitation, based on DHHS' motion to suspend visitation due to allegations that Heather engaged in threatening and violent conduct toward case professionals in Esperanza's presence and refused to return Esperanza to the parenting time specialist. On July 17, the parties stipulated that Heather would participate in and complete an anger management class and continue individual therapy, and that upon commencement of the listed services, Heather's agency supervised visitation would resume. At the November review hearing, the juvenile court maintained adoption as the permanency objective, finding that Heather had made insufficient progress toward reunification.

In February 2025, the State filed a motion to terminate Heather's parental rights to Esperanza under Neb. Rev. Stat. § 43-292(2), (6), and (7) (Reissue 2016). Heather then filed a request for a "negative reasonable efforts finding" in May, alleging that DHHS failed to provide reasonable efforts to reunify her with the child. Specifically, she asserted that DHHS failed to make reasonable efforts to ensure placement of Esperanza with a sibling or relative pursuant to Neb. Rev. Stat. § 43-1311.01 (Reissue 2016).

The juvenile court heard Heather's motion in June 2025. Heather did not attend the hearing. The State argued that DHHS was no longer obligated to provide reunification services, aside from visitation, as first ordered by the court in May 2024. The State offered the juvenile court's November 2023 order, May 2024 order, and November 2024 order as exhibits.

Heather's counsel adduced evidence regarding reasonable efforts to ensure family placement. Heather's counsel called DHHS supervisor Lisa Ettleman, who took over the case in July 2024. Ettleman testified that Heather told DHHS that Rico was Esperanza's biological father. Ettleman stated that where a child is already placed with family at the request of the parent, then DHHS would not conduct a family finding unless the placement is not permanent, or a particular person gives notice as to placement. Ettleman maintained that, to her knowledge, Esperanza's current placement was permanent. Ettleman also stated she had no knowledge of family finding efforts by DHHS prior to taking over the case.

Megan Ott, another DHHS supervisor assigned to the case between September 2024 and June 2025, testified that a caseworker in her unit overseeing Esperanza's case conducted an informal family finding based upon information of maternal family members submitted by Heather. Ott asserted that DHHS was not officially able to determine who the family members were.

Heather's counsel also offered evidence from the Foster Care Review Office (FCRO) indicating that, in March 2025, Child Support Enforcement found good cause not to pursue paternity testing, but the FCRO believed testing would serve Esperanza's best interests. The FCRO further indicated that the case was reviewed in October 2024 and April 2025, and that Heather had provided information regarding maternal relatives for potential placement. Both the FCRO and Child Support Enforcement recommended that DHHS explore those relatives. However, the FCRO reported that it had no documentation that DHHS explored those family members.

The juvenile court took Heather's motion under advisement and stated that it would "issue its findings and orders in conjunction with the adjudication of the motion for termination of parental rights concerning the mother presently scheduled for August 22, 2025. . . ."

On August 16, 2025, Heather filed a motion for change of placement, alleging that Esperanza had experienced lice, black eyes, and burns from a curling iron while in the care of Breonna B., Rico's sister. She further alleged that Breonna had incurred multiple traffic violations and that she feared for Esperanza's safety. Heather subsequently filed a motion for visitation during the pendency of an appeal.

TERMINATION PROCEEDINGS

The termination hearing began as scheduled on August 22, 2025, along with motions for change of placement and visitation during the pendency of any appeal. The matter was continued to September 8, and then again continued to October 6. The following evidence was adduced from the State.

DHHS placed Esperanza with Breonna as a kinship placement in 2021. Breonna identified Esperanza as her niece and stated she was recommended as a possible placement by Heather. Esperanza remained in Breonna's care throughout the case, where Breonna served as her primary caregiver, met her daily needs, and expressed a willingness to provide a permanent placement for the child.

Patrice Clemons, a DHHS child and family service specialist assigned to the case from January 2022 through July 2024, testified that she conducted monthly family meetings with Heather. According to Clemons, Heather did not consistently attend those meetings and frequently argued with Clemons regarding information contained in reports to the juvenile court. Clemons further testified that Heather struggled to maintain stable employment during most of the case, with the exception of a ten-month period near the end of 2023.

Heather also experienced ongoing difficulties complying with visitation requirements. Heather was discharged from one visitation provider in March 2022, and a second provider returned the case to DHHS because of noncompliance in June 2022. Clemons maintained that visitation became increasingly inconsistent through late 2023 and 2024 and that Heather failed to consistently participate in court-ordered therapy. Based on those circumstances, Clemons concluded that Heather made minimal progress toward achieving the objectives of the court-ordered rehabilitation plan. Following Clemons' testimony, the juvenile court took judicial notice of all review orders regarding Esperanza from July 2021 to November 2024, noting the barriers to reunification contained in each order.

Ott testified regarding a family team meeting in November 2024 that ended after Heather became angry, yelled, and used profanity toward DHHS employees. Ott maintained that Heather had not demonstrated the stability necessary to meet Esperanza's needs and that Esperanza's current placement provided the consistency and emotional stability that the child required. Ott opined that termination of Heather's parental rights was in Esperanza's best interests based on the length of time Esperanza has been in out-of-home care, Heather's lack of behavioral changes, and her failure to engage in individual therapy.

Douglas County probation officer Zachary Dolezal began supervising Heather in November 2024 after she pled no contest to three counts of child neglect. Dolezal testified that he would meet with Heather two times per month to discuss compliance with her court orders. Although Heather completed an anger management program, she repeatedly tested positive for "THC" and failed to complete a required behavioral therapy program. Dolezal further observed that Heather routinely questioned the validity of the juvenile case, leading him to believe that her willingness to work with the State and her internal motivation was lacking. In March 2025, Heather received permission to leave Nebraska temporarily to visit family but failed to return as required, resulting in a probation violation and an active warrant at the time of the termination hearing. Heather was not present at the trial.

Selena Leon, Esperanza's assigned case manager in 2025, testified that she had only one conversation over the phone with Heather during her involvement in the case. Consequently, she characterized Heather's overall progress as poor.

Heather, by and through her counsel, called Calandria Plambeck, a licensed mental health practitioner who provided therapy to Heather from September 2023 to February 2024. Plambeck had weekly sessions with Heather during the six months Plambeck was her therapist. Plambeck identified Heather's mental health diagnoses as PTSD, major depressive disorder, and generalized anxiety disorder, due in large part to Heather's past trauma experiences, including physical and sexual violence by an intimate partner and while a child in foster care. Plambeck developed and worked through treatment goals with Heather, who worked on challenging and improving her "negative core beliefs" and self-talk, as well as regulating her irritability and anger. Plambeck

stopped being Heather's therapist when she changed employment, so she could not confirm whether Heather completed therapy with another therapist. However, Plambeck did recommend that Heather continue individual treatment.

In addition to evidence concerning her individual therapy, Heather presented testimony regarding her completion of court-ordered anger management. Mildred Tucker, a provisional mental health therapist, testified that Heather completed eight anger management sessions and received a certificate of completion in January 2025.

Rachael Parker also testified on Heather's behalf. Parker supervised Heather's family support and visitation services between 2022 and 2023. During that time, Parker observed that Heather loved Esperanza and Esperanza enjoyed spending time with Heather. Parker also described Heather as receptive to assistance during family support and visitation.

Parker acknowledged that Heather occasionally failed to call and confirm visits or canceled scheduled visits, but she described those instances as "out of the norm for her" and attributed some cancellations to Heather's work schedule. Parker explained that transitions in Heather's life sometimes disrupted her consistency with visitation, but Heather would "bounce back."

At the close of the proceedings, the district court advised that it would enter orders regarding the termination of parental rights, the negative reasonable efforts request, and the placement change motion.

JUVENILE COURT'S ORDER

On October 8, 2025, the juvenile court denied Heather's motions for a "negative reasonable efforts finding" and change of placement for failure of proof. In November, Heather separately appealed the denial of her motion for negative reasonable efforts to this court in case No. A-25-0832.

In December 2025, the juvenile court issued an order terminating Heather's parental rights pursuant to § 43-292(2), (6), and (7), and found that termination was in Esperanza's best interests. In its order, the court found the testimony of Breonna, Clemons, Dolezal, Ott, Leon, and Plambeck to be "reliable, credible, probative, and entitled to weight," while also finding Parker not credible for "demonstrated bias toward [Heather]." The court observed that Heather had failed to put herself in a "position of fitness" to parent Esperanza, noting that Heather had an outstanding warrant, and chose to "absent herself" from court proceedings.

With respect to Heather's motion for visitation during the pendency of any appeal, the district court denied the motion, asserting that Heather failed to maintain consistent visits or take the necessary steps for visits to occur.

Heather has timely appealed the order terminating her parental rights to this court in case No. A-25-0990.

ASSIGNMENTS OF ERROR

In her appeal in case No. A-25-0832 from the denial of her motion for a "negative reasonable efforts finding," Heather assigns, restated, that the juvenile court (1) erred by denying her motion for a "negative reasonable efforts finding" and (2) failed to specify evidence supporting the denial of her motion for a "negative reasonable efforts finding."

In her appeal from the adjudication order in case No. A-25-0990, Heather assigns, restated, that the juvenile court erred by (1) terminating her parental rights pursuant to § 43-292(2) and (6) and (2) finding that termination was in Esperanza's best interests.

STANDARD OF REVIEW

An appellate court reviews juvenile cases de novo on the record and reaches its conclusions independently of the juvenile court's findings. *In re Interest of Jeovani H.*, 316 Neb. 723, 6 N.W.3d 539 (2024). When the evidence is in conflict, however, an appellate court may give weight to the fact that the lower court observed the witnesses and accepted one version of facts over the other. *Id*.

ANALYSIS

NEGATIVE REASONABLE EFFORTS FINDING

Case No. A-25-0832 arises from the juvenile court's October 2025 order denying Heather's motion for a "negative reasonable efforts finding" pursuant to Neb. Rev. Stat. § 43-283.01 (Cum. Supp. 2024). Heather assigns that the juvenile court erred in denying her motion for a negative reasonable efforts finding for "failure of proof." Brief for appellant at 8.

In a juvenile case, as in any other appeal, before reaching the legal issues presented for review, it is the duty of an appellate court to determine whether it has jurisdiction over the matter before it. *In re Interest of Mercedes L.*, 26 Neb. App. 737, 923 N.W.2d 751 (2019). For an appellate court to acquire jurisdiction of an appeal, there must be a final order entered by the court from which the appeal is taken. *Id.* Juvenile court proceedings are special proceedings, and an order in a juvenile special proceeding is final and appealable if it affects a parent's substantial right to raise his or her child. *Id.*

A substantial right is an essential right, not a mere technical right. *Id.* Whether a substantial right of a parent has been affected by an order in juvenile court litigation is dependent upon both the object of the order and the length of time over which the parent's relationship with the juvenile may reasonably be expected to be disturbed. *Id.* In juvenile cases, where an order from a juvenile court is already in place and a subsequent order merely extends the time for which the previous order is applicable, the subsequent order by itself does not affect a substantial right and does not extend the time in which the original order may be appealed. *In re Interest of Diana M. et al.*, 20 Neb. App. 472, 825 N.W.2d 811 (2013).

Here, Heather claims that DHHS failed to comply with its statutory obligation to identify and investigate potential familial placements for Esperanza as required by § 43-1311.01. She further argues that the court failed to identify the evidence upon which it relied in denying her motion. When considering whether to remove a child from their parental home, § 43-283.01(2) requires the State to make "reasonable efforts [. . .] to preserve and reunify families prior to the placement of a juvenile in foster care to prevent or eliminate the need for removing the juvenile from the juvenile's home and to make it possible for a juvenile to safely return to the juvenile's home." Consistent with that obligation, § 43-1311.01 requires DHHS to

> . . . identify, locate, and provide written notification of the removal of the child from his or her home, within thirty days after removal, to any noncustodial parent and to all grandparents, all parents who have legal custody of a sibling of the child, and all adult

> siblings, adult aunts, adult uncles, adult cousins, and adult relatives *suggested by the child or the child's parents*, except when that relative's history of family or domestic violence makes notification inappropriate [and]
>
> . . . .
>
> . . . provide to the court, within thirty calendar days after removal of the child, the names and relationship to the child of all relatives contacted, the method of contact, and the responses received from the relatives.

§ 43-1311.01 (emphasis added).

To the extent that Heather challenges Esperanza's initial placement with Breonna, we recognize that the initial placement order is not contained in our record. However, the record before us established that Heather identified Rico as Esperanza's biological father and recommended Breonna, Rico's sister, as a potential placement. Relying on that information, DHHS placed Esperanza with Breonna as a kinship placement in 2021. Breonna identified as Esperanza's aunt and remained Esperanza's primary caregiver throughout the proceedings, expressing a willingness to provide her with a permanent home. Thus, Esperanza's placement was consistent with the familial relationship Heather identified.

Heather did not challenge Esperanza's placement or DHHS' compliance with § 43-1311.01 following the April 2021 placement order, which may have been a final order. See *In re Interest of Dana H.*, 299 Neb. 197, 907 N.W.2d 730 (2018) (out-of-home placement order of indefinite duration affects substantial right, so is a final, appealable order). Heather also did not challenge placement or compliance during the numerous review and permanency planning hearings following the initial placement. Instead, Heather first sought a finding of negative reasonable efforts by DHHS in May 2025, approximately four years after Esperanza's placement with Breonna.

To the extent Heather separately challenges DHHS' reasonable efforts toward reunification, the record establishes that the juvenile court changed the permanency objective from reunification to adoption, with a concurrent guardianship plan, in November 2023. That order may have been final and appealable. See *In re Interest of Octavio B.*, 290 Neb. 589, 861 N.W.2d 415 (2015) (order was final and appealable when it changed primary permanency objective from reunification to adoption and effectively ended services directed toward reunification).

At the May 2024 review hearing, the juvenile court maintained the permanency objective first declared in the November 2023 hearing. The judge also relieved DHHS of its obligation to provide further reasonable efforts toward reunification, aside from visitation. This order also may have been final and appealable. An order that ceases further reasonable efforts is generally appealable for affecting a parent's substantial rights. See *In re Interest of Diana M. et al.*, 20 Neb. App. 472, 825 N.W.2d 811 (2013) (order modifying permanency goal from reunification to guardianship/adoption was appealable when order modifying permanency plan objective was coupled with order ceasing further reasonable efforts to bring about reunification). Notably, at the November 2024 review hearing, the juvenile court maintained adoption as the permanency objective.

A review order does not affect a parent's substantial right if the court adopts a case plan or permanency plan that is almost identical to the plan that the court adopted in a previous disposition

or review order. *In re Interest of Octavio B., supra.* Thus, a dispositional order which merely continues a previous determination is not an appealable order. *Id*. Here, Heather did not seek a finding of negative reasonable efforts until May 2025, approximately one year after the juvenile court relieved DHHS of further reunification efforts.

At the June 2025 hearing, the juvenile court addressed the timing of Heather's challenge. The judge questioned whether Heather had an obligation to assert her claim sooner. Heather's counsel responded, "I will die on that sword, yes. However, the case is still open, and we're asserting it now." One may not waive an error, gamble on a favorable result, and, upon obtaining an unfavorable result, assert the previously waived error. *State v. Collins*, 281 Neb. 927, 799 N.W.2d 693 (2011).

The juvenile court's October 2025 denial of Heather's motion did not change Esperanza's placement, the permanency objective, DHHS' existing obligations, or otherwise materially change the conditions for reunification. Consequently, the October 2025 order did not affect Heather's substantial right to reunification and was not a final, appealable order. Because Heather has appealed from an order that is not final in case No. A-25-832, we lack jurisdiction to consider it.

Next, we turn to the issues presented in case No. A-25-0990 regarding the juvenile court's termination of Heather's parental rights.

PARENTAL RIGHTS TERMINATION

Case No. A-25-0990 arises from the juvenile court's December 2025 order terminating Heather's parental rights pursuant to § 43-292(2), (6), and (7).

We begin by addressing this court's jurisdiction over Heather's second appeal. In November 2025, Heather appealed the juvenile court's denial of her motion for negative reasonable efforts in case No. A-25-0832. While that appeal was pending, the juvenile court entered an order terminating Heather's parental rights. Heather separately appealed the December 2025 termination order in case No. A-25-0990. We must therefore determine whether Heather's first appeal deprived the juvenile court of jurisdiction to proceed with termination. Compare *Holste v. Burlington N. R. Co.*, 256 Neb. 713, 592 N.W.2d 894 (1999) (holding that appeal from nonappealable order does not render subsequent trial court action void for lack of jurisdiction), with *Swain Const., Inc. v. Ready Mixed Concrete Co.*, 4 Neb. App. 316, 542 N.W.2d 706 (1996) (holding that trial court lacked jurisdiction to dismiss case while appeal from nonfinal order remained pending and before issuance of appellate mandate).

As discussed above, the October 2025 order did not affect Heather's substantial right to reunification and was therefore not final and appealable. Accordingly, her first appeal did not divest the juvenile court of jurisdiction to proceed to termination. The December 2025 order terminating Heather's parental rights, however, affected a substantial right and constituted a final order. See *Dunham v. Dunham*, 34 Neb. App. 235, 34 N.W.3d 719 (2026) (termination of parental rights is a final and complete severance of child from parent and removes entire bundle of parental rights). We thus have jurisdiction over Heather's appeal in case No. A-25-0990.

We note that Heather did not raise or preserve the reasonable efforts issue at the termination hearing. When a party raises an issue for the first time on appeal, we will disregard it because a lower court cannot commit error in resolving an issue never presented and submitted to it for disposition. See *Elbert v. Young*, 312 Neb. 58, 977 N.W.2d 892 (2022). Therefore, we decline to

consider Heather's reasonable efforts challenge in her appeal from the termination order. We turn to Heather's assigned errors in case No. A-25-0990.

Heather assigns that the juvenile court erred in terminating her parental rights pursuant to § 43-292(2) and (6). Heather argues that the State failed to prove by clear and convincing evidence that she neglected Esperanza or failed to correct the conditions leading to adjudication.

The State alleged Heather's parental rights should be terminated pursuant to § 43-292(2), (6), and (7). Ultimately, the juvenile court found termination was supported by three separate statutory grounds: § 43-292(2) (parent has substantially and continuously or repeatedly neglected and refused to give juvenile necessary parental care and protection); § 43-292(6) (reasonable efforts to preserve and reunify the family have failed to correct the conditions leading to the determination); and § 43-292(7) (child out of home for 15 or more months of most recent 22 months).

To terminate parental rights, it is the State's burden to show by clear and convincing evidence both that one of the statutory bases enumerated in § 43-292 exists and that termination is in the child's best interests. *In re Interest of Cameron L. & David L.*, 32 Neb. App. 578, 3 N.W.3d 376 (2024).

Under § 43-292(7), a juvenile court may terminate parental rights when "[t]he juvenile has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months." Section 43-292(7) operates mechanically and, unlike the other subsections of the statute, does not require the State to adduce evidence of any specific fault on the part of a parent. *In re Interest of Mateo L. et al.*, 309 Neb. 565, 961 N.W.2d 516 (2021).

Here, the evidence showed that Esperanza was removed from Heather's care in April 2021 and had remained in out-of-home placement since that time. The petition to terminate Heather's parental rights was filed in February 2025. At that time, Esperanza had been in out-of-home placement for approximately 46 months. This was sufficient to meet the requirements of § 43-292(7); therefore, the State proved a statutory basis for termination by clear and convincing evidence. See *In re Interest of Jessalina M.*, 315 Neb. 535, 997 N.W.2d 778 (2023) (existence of statutory basis alleged in § 43-292(7) should be determined as of date petition or motion to terminate filed).

Because grounds existed for termination under § 43-292(7), we need not address Heather's argument pertaining to lack of evidence for termination under § 43-292(2) and (6). See *In re Interest of Mateo L. et al., supra*.

CHILD'S BEST INTERESTS

Heather further argues that the juvenile court erred in finding that termination of her parental rights was in Esperanza's best interests.

In addition to proving a statutory ground, the State must show that termination of parental rights is in the best interests of the child. *In re Interest of Cameron L. & David L., supra*. See also § 43-292. In light of the constitutionally protected nature of the parent-child relationship, there is a rebuttable presumption that it is in the child's best interests to share a relationship with his or her parents. See *In re Interest of Cameron L. & David L., supra*. The presumption that it is in the child's best interests to share a relationship with his or her parent can only be overcome by a showing that the parent either is unfit to perform the duties imposed by the relationship or has

forfeited that right. See *id*. Parental unfitness means a personal deficiency or incapacity that has prevented, or will probably prevent, performance of a reasonable parental obligation in child rearing and that has caused, or probably will result in, detriment to a child's well-being. *Id*.

The best interests and parental unfitness analyses require separate, fact-intensive inquiries, but each examines essentially the same underlying facts. *In re Interest of Denzel D.*, 314 Neb. 631, 992 N.W.2d 471 (2023). In proceedings to terminate parental rights, the law does not require perfection of a parent; instead, courts should look for the parent's continued improvement in parenting skills and a beneficial relationship between parent and child. *In re Interest of Leyton C. & Landyn C.*, 307 Neb. 529, 949 N.W.2d 773 (2020).

The record demonstrates that Heather made meaningful progress toward reunification at certain points during the case. By November 2022, Heather had completed a psychological evaluation, participated in individual therapy, obtained employment and housing, actively participated with her family support worker and caseworker, and participated in supervised visitation. Based on that progress, Heather received increased supervised visitation in November 2022 and progressed to unsupervised visitation in March 2023.

That progress, however, was not sustained. Following the period of progress in 2022 and 2023, Heather became inconsistent with visitation and failed to participate regularly in court-ordered counseling and therapeutic services. Heather also failed to maintain stable employment despite repeated opportunities to do so.

In addition, Heather's interactions with case professionals became increasingly hostile following 2023 and ultimately resulted in the added requirement that Heather complete anger management. Heather was also charged with child abuse involving her other children and was placed on probation. While on probation, she repeatedly tested positive for "THC." Although she was granted permission to temporarily leave Nebraska, Heather failed to return as required and remained subject to an active warrant at the time of the termination proceedings.

While the case plan goals and strategies have remained consistent throughout the case, Heather has made sporadic and inconsistent progress. Heather has failed to obtain and maintain employment, address her mental health needs, or show that she is not using illegal substances.

Heather's visitation history similarly reflects inconsistent progress during the 46 months Esperanza was in out-of-home care. It is true that case professionals supported increased visitation when Heather abided by her rehabilitation plan, and her progress resulted in unsupervised visitation by March 2023. However, later court orders reflected inconsistent visitation due to cancellations and no-shows. In May 2024, the district court issued an ex parte order suspending visitation because Heather engaged in threatening and violent behavior with the case professionals in front of Esperanza and refused to return Esperanza to the parenting time specialist.

Where a parent is unable or unwilling to rehabilitate himself or herself within a reasonable time, the best interests of the child require termination of the parental rights. *In re Interest of Cameron L. & David L.*, 32 Neb. App. 578, 3 N.W.3d 376 (2024). Nebraska courts have recognized that children cannot, and should not, be suspended in foster care or be made to await uncertain parental maturity. See *id*. We find Heather unfit, and that termination of her parental rights is in the best interests of Esperanza.

CONCLUSION

In case No. A-25-0832, we find Heather appealed from a nonfinal order. Therefore, we lack jurisdiction to consider it.

In case No. A-25-0990, we find that grounds existed for termination under § 43-292(7). Further, upon our de novo review, we find that terminating Heather's parental rights was in Esperanza's best interests.

AFFIRMED.