

TERMINATION OF PARENTAL RIGHTS

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CONSTITUTIONAL RIGHT TO PARENT

- Presumption: Parents act in their child's best interest
 - The State will not interfere with the parent's right so long as the parent is acting in the child's best interest.
- The presumption is not absolute and can be overcome by showing the parent is unfit or acting inconsistent with their right.
- The presumption must be overcome for a parent's child to be placed with a third party.

ADJUDICATION HEARING

- Purpose: Determine if the child:
 - Abused
 - Neglected
 - Dependent
- Standard: Clear and convincing evidence
- Timing: Hearing must be held within 60 days of the petition filing date unless the time is extended by the Court.
Order must be entered within 30 days of hearing.
- Relevant Statutes: [G.S. 7B-801](#), [G.S. 7B-803](#), [G.S. 7B-805](#), [G.S. 7B-807](#)

DISPOSITION HEARING

- Purpose: Develop a plan which meets the child's needs including:
 - Dismiss
 - Supervision in home
 - Custody to a parent, relative, private placement agency, some other suitable person
 - Appoint a guardian for the child
 - Custody placed with County Department of Social Services (DSS)
- Timing: Immediately following adjudication hearing and must be completed within 30 days of the adjudication hearing.
Order must be entered within 30 days of hearing completion.
- Relevant Statutes: [G.S. 7B-900](#), [G.S. 7B-901](#), [G.S. 7B-903](#), [G.S. 7B-905](#)

REASONABLE EFFORTS BY DSS FOR REUNIFICATION

- Because of the parent's constitutional right to parent their child, Federal and State law require efforts to reunify the child with his or her family.
- DSS must use diligent reunification services when returning a child home is consistent with a safe, permanent home within a reasonable period of time.
- If Court determines that child is not to be returned home, DSS must use diligent and timely permanency planning services to develop and implement a permanent plan for the child.

G.S. 7B-101(18)

AT THE DISPOSITION HEARING, REUNIFICATION NOT REQUIRED WHEN:

- The child is placed in DSS custody and the Court makes findings:
 - Sexual Abuse
 - Chronic physical or emotional abuse
 - Torture
 - Abandonment
 - Chronic or toxic exposure to alcohol or controlled substances that causes impairment or addiction of the child.
 - Anything else that increased the enormity or added to the injurious consequences of abuse and neglect.
 - Involuntary termination of parental rights to another child.
 - Murder or involuntary manslaughter of another child of the parent.
 - Felony assault resulting in serious bodily injury to the child or another child of the parent.
 - Required to register as a sex-offender on any governmental registry.

G.S. 7B-901(c)

PERMANENCY PLANNING HEARING

- Purpose:
 - How are things progressing?
 - Efforts to reunite.
 - Should reunification efforts continue or cease?
 - Must have primary and secondary plan which could include:
 - Reunification
 - Adoption
 - Guardianship
 - Custody to relative or other suitable person
- Timing: 1st must be held within 90 days of the disposition hearing completion and then at least every 6 months thereafter.
- Relevant Statutes: [G.S. 7B-906.1](#), [G.S. 7B-906.2](#)

DSS MUST FILE FOR TERMINATION OF PARENTAL RIGHTS (TPR) WHEN:

- The child is in custody of or placement with DSS and has been in placement for at least 12 out of last 22 months.
OR
- A court determines the parent:
 - Abandoned the child.
 - Committed murder or voluntary manslaughter of another child of the parent.
 - Aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent.
- UNLESS, the court finds:
 - Custody or guardianship is the permanent plan.
 - Specific findings are made why TPR is not in best interest of child
 - DSS has not provided the child's family with services DSS deems necessary when reasonable efforts are still required to enable the child's safe return home.
 - [G.S. 7B-906.1](#)

TERMINATION GROUNDS

Including:

- Abused, neglected, or dependent.
- Willfully left child in foster care for more than 12 months without showing reasonable progress under the circumstances in correcting conditions.
- Placed in DSS custody and failed to pay reasonable support for at least 6 months prior to filing even though physically and financially able to do so.
- Failure to legitimate or establish paternity.
- Willful abandonment of child for at least 6 consecutive months prior to the filing of the petition or 60 days if done under the Safe Surrender Statute.
- Murder, voluntary manslaughter, felony assault resulting in serious bodily injury.
- Parental rights to another child involuntarily terminated.
- Conviction of sexually related offense under Chapter 14.
- Relevant Statute: [G.S. 7B-1111](#)

TPR PROCEDURES

- Parent has a right to counsel throughout TPR proceedings.
- A motion to terminate the parental rights can be filed in the underlying abuse, neglect, dependency hearing and must be served on the parents by the appropriate method. DSS files the motion when the abuse, neglect, and dependency case is pending.
- If there is an unknown parent, a preliminary hearing will be held to determine the identity.
- If the parent fails to answer within 30 days of being served, the court may enter an order terminating his or her parental rights but must have a hearing on the motion or petition.
- A Guardian *Ad Litem* (GAL) shall be appointed for the child when an answer is filed denying a material allegation-UNLESS the petition or motion was filed by the GAL.
- Relevant Statutes:
 - [G.S. 7B-1101.1](#), [G.S. 7B-1102](#), [G.S. 7B-1103](#), [G.S. 7B-1105](#), [G.S. 7B-1107](#), [G.S. 7B-1108](#)

ADJUDICATION HEARING ON TPR

- Timing: Must be held within 90 days of filing the petition or motion unless the Court orders a continuance. A continuance beyond 90 days must be for extraordinary circumstances.
Order must be entered within 30 days of hearing.
- Purpose: A determination is made as to whether grounds exist to terminate the parent's rights.
- Standard: Clear, cogent, and convincing evidence.
- Relevant Statutes: [G.S. 7B-1109](#)

DISPOSITIONAL HEARING

- Purpose: Is the TPR in the best interest of the child?
 - The Court must consider:
 - The age of the child
 - The likelihood of adoption
 - Whether TPR will aid in the accomplishment of the permanent plan
 - The bond between the parent and the child
 - The quality of the relationship between the child and the proposed adoptive parent, guardian, custodian, or other permanent placement.
 - Any relevant consideration.
- Timing: Can be held on same date as adjudication hearing.
Order must be entered within 30 days.
- Relevant Statutes: [G.S. 7B-1110](#)

EFFECT OF ENTRY OF TPR

- Completely ends all rights between the parent and the child.
- Relevant Statute: [G.S. 7B-1112](#)
- Allows an adoption to proceed.

APPEALS

- A TPR cannot proceed, if an appeal is filed of:
 - An order eliminating reunification as a permanency plan.
 - An initial disposition order.
 - An order ceasing reunification as a permanent plan.
- If an appeal is filed of an Order terminating parental rights, an adoption cannot be finalized.
- Abuse, Neglect, Dependency, and Termination of Parental Rights appeals have an expedited appeal process under Appellate Rule 3.1
- Relevant Statutes: [7B-1001](#), [7B-1003](#)

EXPEDITED APPEALS PROCESS

- Notice of appeal must be filed within 30 days of the entry of the order.
- Within 1 business day of notice of appeal being filed, the clerk must order the transcript.
- AOC must assign the transcript to a court reporter within 5 business days of the clerk's completion of the request form.
- The court reporter must produce the transcription within 40 days of receiving the assignment.
- Absent an agreement on the record on appeal, the appellant must serve each party a proposed record on appeal within 15 days of delivery of the transcript.
- The appellees have 10 days after service of the proposed record to respond.
- The record of appeal must be filed by the appellant within 5 business days after the record is settled.
- The appellant must serve his or her brief within 30 days of the record being settled and the appellees serve their briefs within 30 days of service of appellant's brief.
- [Rule 3.1, NC Rules of Appellate Procedure](#), [Rule 13, NC Rules of Appellate Procedure](#), [G.S. 7B-1001](#)