

# **DEPENDENT/NEGLECT/ABUSE PROCEEDINGS**

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# **TRJPP RULE 301. INITIATION OF CASES**

## **Commenced upon filing of petition**

**T.C.A. § 37-1-119 – Who may file**

**T.C.A. § 37-1-120 – Contents of petition**

**T.C.A. §§ 37-1-121 & 122/TRJPP Rule 103 – Service of process and summons**

# **TRJPP RULE 304. INTERVENTION**

**Intervention as of right**

**Permissive intervention**

**Relief sought by motion**

# **PARENT ATTORNEY AND GUARDIAN AD LITEM**

**T.C.A. § 37-1-126 and S.Ct. Rule 13 - Parents have right to an attorney – court appointed if indigent**

**T.C.A. §§ 37-1-126 & 149 - Child has right to a guardian ad litem (S.Ct. Rule 40 GAL Guidelines)**

# **TRJPP RULE 302. PROCEDURES UPON TAKING CHILD INTO CUSTODY**

## **Child taken into custody without court order –**

- **Protective custody order w/probable cause finding by “magistrate” within 48 hours**
  - **Written affidavit, sworn in person or by audio-visual electronic means**
  - **Preliminary hearing within 72 hours of custody, excluding non-judicial days**
  
- **Protective custody order entered – preliminary hearing held within 72 hours of custody, excluding non-judicial days**

# **Child Placed in DCS Custody**

## **Judicial findings required:**

**Contrary to welfare of child to remain in home**

- **In first order removing child**

**Reasonable efforts to prevent removal of child**

- **Within 60 days of removal**

**T.C.A. § 37-1-166**

## **Reasonable Efforts**

**Tennessee law defines as:**

**“ the exercise of reasonable care and diligence by the Department to provide services related to meeting the needs of the child and the family.”**

**T.C.A. § 37-1-166(g)**

## **Reasonable efforts provided:**

- **To prevent removal of child from home**
- **To reunify family**
- **To achieve another permanency goal**



**Reasonable efforts must:**

**Match the level of significance  
given to the parent's responsibilities**

**Reasonable efforts must be:**

**Timely**

**Reasonable efforts must be:**

**Adaptive to parent's or child's  
needs**

**Reasonable efforts must be:**

**Tailored to the family's unique  
circumstances**

## **Party's responsibilities must be:**

**Reasonably related to the reasons**

- **the child came into custody or**
- **that prevent the child from safely returning home**

## **Exceptions to Reasonable Efforts to Reunify Family**

- **Aggravated circumstances**
- **Crime against child, sibling or other child in home**
- **Parental rights to a sibling have been involuntarily terminated**

**Must be in the best interests of the child**

**T.C.A. § 37-1-166**

# BEST INTERESTS OF THE CHILD

## SAFETY

## HEALTH/ WELLBEING

## PERMANENCY

Physical  
Mental  
Dental  
Development  
Emotional/Social  
Educational  
Visitation  
Spiritual  
Sense of Time  
Independent Living  
Transition from FC  
CHILD'S  
PREFERENCE

Reunification  
Relative Placement  
Adoption  
Permanent Guardianship  
Planned Permanent  
Living Arrangement

# QUESTIONS



## **DEFINITIONS OF D&N**

- **Without parent, guardian, legal custodian**
- **Parent/guardian/other with whom child lives is unfit to care for child**
- **Child under unlawful/improper care supervision, custody, restraint by person or organization**
- **Child unlawfully kept out of school (educational neglect)**
- **Parent/guardian/custodian neglects/refuses to provide medical care**
- **Child found in place in violation of law because of lack of supervision**
- **Child under improper control as to injure or endanger morals or health**
- **Child suffering from abuse or neglect**

## DEFINITIONS OF D&N

- **Child under care of agency or non-relative for 6 continuous months without a power of attorney or court order and agency/person has not initiated proceeding for custody or adoption**
- **Child allowed to engage in prostitution /pornography and whose parent/guardian/custodian neglects to protect**
- **Child willfully left in sole financial and physical care of relative for at least 18 consecutive months and will suffer substantial harm if removed (does not apply to parent in military service)**

## **DEFINITION OF ABUSE**

**Person under 18 suffering from or in immediate danger of suffering from injury, disability, or physical or mental conditions caused by brutality, neglect, other actions, or inactions of parent/relative/guardian/caretaker**

# DEFINITIONS OF SEVERE CHILD ABUSE

- **Knowing exposure of child to, or failure to protect child from abuse or neglect, or knowing use of force likely to cause serious bodily injury or death**
- **Brutality, abuse, or neglect towards child, or failure to protect, in opinion of expert, has caused or expected to cause severe:**
  - psychosis, neurotic behavior, developmental delay/intellectual disability, or severe impairment of child's ability to function adequately in child's environment**
- **Commission of act constituting certain child sexual acts or aggravated child abuse, neglect, or endangerment against the child or the knowing failure to protect the child against such act**
- **Child present in structure where meth is being created**
- **Allowing child under 8 to ingest an illegal substance resulting in the positive drug screen**

# DEFINITIONS OF SEVERE CHILD ABUSE

- **Knowingly allowing a child to be within a structure where any of the following controlled substances are present and accessible to the child:**
  - **(i) Any Schedule I controlled substance listed in [§ 39-17-406](#) (opiates);**
  - **(ii) Cocaine;**
  - **(iii) Methamphetamine; or**
  - **(iv) Fentanyl**

**Effective 7/1/21**

# QUESTIONS

# **PRELIMINARY HEARING**

**Held within 72 hours of removal**

## **Probable cause:**

- **Child was abused/neglected and**
- **Child subject to**
  - **Immediate threat to health & safety and**
  - **Severe or irreparable harm**
  - **Or child may abscond or be removed from court's jurisdiction**

**AND no less drastic alternative to removal**

**T.C.A. § 37-1-114 & 117/TRJPP Rule 302**

# **ADJUDICATORY HEARING**

## **Time Limits**

- **Child placed out of home by court order, hearing held within 30 days**
- **Other cases held within 30 days if reasonable, but no later than 90 days**
- **Upon good cause may be continued to date certain**

**TN Rules of Evidence apply**

**Clear and convincing standard of proof**

**T.C.A. § 37-1-129/TRJPP RULE 307**



# **DISPOSITIONAL HEARING**

## **Time Limits**

- **Placed out of home held within 15 days of adjudication**
- **Other cases held within 90 days of adjudication if reasonable**
- **Held past 90 days for good cause and set for date certain**

**Separate from adjudicatory hearing**

**Judge must advise parties of the right to appeal**

**TN Rules of Evidence apply, except reliable hearsay is admissible**

**TRJPP Rule 308/T.C.A. § 37-1-130**

# **RATIFICATION HEARING**

**Purpose – approve initial and subsequent permanency plans in the best interest of child that outline responsibilities of each party to achieve permanency goal(s)**

**Initial plan – ratify within 60 days of custody**

**Ratified plan = court order**

**Evidentiary hearing: party's do not agree, GAL objects, DCS has not prioritized outcomes & action steps**

**Agreement – judge determines if in child's best**

**Abandonment Criteria**

**Rights of party not served**

**Findings/Order entered within 30 days**

**Subsequent plan – annually & include recommendations of FCRB**

**T.C.A. § 37-2-403/TRJPP RULE 401**

# **PERIODIC PROGRESS REVIEW HEARING**

**Completed by court**

**Review of:**

- **Child is safe**
- **Provisions are being made for child's wellbeing**
- **Permanency plan responsibilities and goal(s) remain in child's best interest**
- **Visitation schedule remains sufficient to maintain bonds**
- **Reasonableness of DCS to identify and locate parents**
- **Reasonableness of DCS's efforts based on prioritization of outcomes & corresponding actions steps**
- **Compliance of parents with responsibilities**
- **FCRB recommendations**

**If new plan ratified, hearing bifurcated**

**Findings**

**T.C.A. § 37-2-404/TRJPP RULE 402**

# **PERMANENCY HEARING**

**Review previous orders/FCRB recommendations**

**Separate and distinct from ratification and periodic progress review hearing or FBCR**

**Purpose – decide final permanency outcome for child based on best interest**

**Evidentiary hearing – child must be present with exceptions**

- **Reasonable efforts findings**
- **Compliance of parent**
- **Child's views on permanency plan provisions**
- **Independent living/transitional living plan appropriate**
- **Barriers/additional services to complete plan**
- **Youth 17 – testimony by DCS regarding extension of FC**

**Reasonable efforts finding as to permanency goal of reunification or other**

**Set permanency hearing for youth 17/older in DCS within 60 days of eligibility of EFC**

**Bifurcated permanency hearing and ratification hearing on new permanency plan**

# QUESTIONS

