

Permanency Planning in Tennessee Juvenile Court

Understanding Processes, Roles and Responsibilities

Carrie Mason
Court Improvement Program Attorney
Carrie.Mason@tncourts.gov

June 28, 2024



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tncourts.gov/programs/court-improvement/distance-learning

TENNESSEE COURTS

COURTS ▾ PROGRAMS ▾ ADMINISTRATION ▾ FORMS & PUBLICATIONS ▾ BOARDS & COMMISSIONS ▾ INFORMATION TECHNOLOGY ▾ E-FLING ▾

Home / Programs / Court Improvement / On-Demand Distance Learning Training for Attorneys

On-Demand Distance Learning Training for Attorneys

IMPORTANT: Due to internal upgrades, there is a disturbance to the CLE confirmation email. If you need to verify that a course submitted correctly, please email elizabeth.whitt@tncourts.gov directly.

The Court Improvement offers On-Demand Distance Learning training. Click the links below to watch the On-Demand Distance Learning training and complete the corresponding quizzes and evaluation to obtain CLE credit.

CLE credits will only be given once for each training, regardless of calendar year.

Please Note: An attorney may take an On-Demand course only one time for CLE credit. An attorney is not eligible to obtain credit for a distance learning course if they received credit for the original live presentation.

TECHNICAL NOTE: With recent updates in vendor software, you may experience difficulty in viewing the video using your preferred browser. If you are experience difficulty in video playback, please visit our [Troubleshooting Assistance Page](#) for information on browser and viewing compatibility.

On-Demand Distance Learning Training Offerings:

- 2023 Juvenile Law Update (1.75 general CLE credit)**
(Training added to website in November 2023)
- Children and Youth Mental Health Considerations (1.25 dual hours CLE credit)**
Session 3 of the 4th Friday Training Series
(Training added to website in April 2024)
- Educational Considerations for Systems-Involved Children and Youth (1.25 general hours CLE credit)**
Session 1 of the 4th Friday Training Series
- Getting to Graduation: Tennessee Graduation Requirements and Transcript Review (1.25 general hours CLE credit)**
Session 2 of the 4th Friday Training Series
(Training added to website in March 2024)
- Guardian ad Litem Basics (1.75 general hours CLE credit)**
Mandatory training for Attorneys seeking to become a Guardian ad Litem in Tennessee
(Multiple added to website in April 2024)

ACCESS TO JUSTICE

COURT IMPROVEMENT

- Assessments & Reports
- Forms & Orders
- Guides & Manuals
- Training
- On-Demand Distance Learning Training**
- Foster Care Review Board Members and Juvenile Court Staff Training
- Youth in Juvenile Court


COURT INTERPRETERS

COURT REPORTERS

GAVELS PROGRAM

SCALES PROJECT

SELF HELP CENTER



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The Legal Series with a Focus on the Needs of the Bar and the Bench

| | |
|--------------------|--|
| May 24, 2024 | Dependency and Neglect in Juvenile Court Basics |
| June 28, 2024 | Planning for Permanency in Juvenile Court Basics |
| July 26, 2024 | Legislative Update with Stacy Lynch, CIP Director |
| August 23, 2024 | Reasonable Efforts in Tennessee with David Grimmett |
| September 27, 2024 | Case Law Update with David Grimmett |
| October 25, 2024 | Indian Child Welfare Act in Tennessee Juvenile Practice with Keller Mizell, DCS Senior Associate Counsel |
| November 22, 2024 | Interstate Compact on Children with Amy McLaughlin, DCS Senior Associate Counsel |
| December 13, 2024 | Qualified Residential Treatment Facilities: Requirements and Considerations for Children and Youth in Foster Care and Placed in Congregate Care under the Family First Prevention and Services Act |



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The screenshot shows the Tennessee Courts website's 'Trainings' page. The page features a navigation menu with categories like COURTS, PROGRAMS, ADMINISTRATION, and E-FILING. The main content area is titled 'Trainings' and includes a sidebar with 'ACCESS TO JUSTICE' and 'COURT IMPROVEMENT' sections. The 'COURT IMPROVEMENT TRAINING' section for June 2024 lists two events: 'Planning for Permanency in Juvenile Court' on June 28 and 'June CLE: Navigating Probation' on June 26. A calendar grid shows the dates of these events.

UPCOMING TRAINING EVENTS

Live Trainings

Planning for Permanency in Juvenile Court
 June 28 2024 @ 12:00 pm - 1:00 pm CT
 Virtual Training
 Approved for 1.0 general CLE hour
 Click [here](#) for more information
 Click [here](#) to register

For information on the 2024 monthly training series click [here](#)

CIP Partner Trainings

Davidson County Juvenile Court
June CLE: Navigating Probation
 June 26 2024 @ 11:15 am - 12:45 pm CT
 Nashville, TN
 Click [here](#) for more information

Foster Care Review Board Volunteer Trainings

COURT IMPROVEMENT TRAINING
 June 2024

« Previous Next »

| SUN | MON | TUE | WED | THU | FRI | SAT |
|-----|-----|-----|-----|-----|-----|-----|
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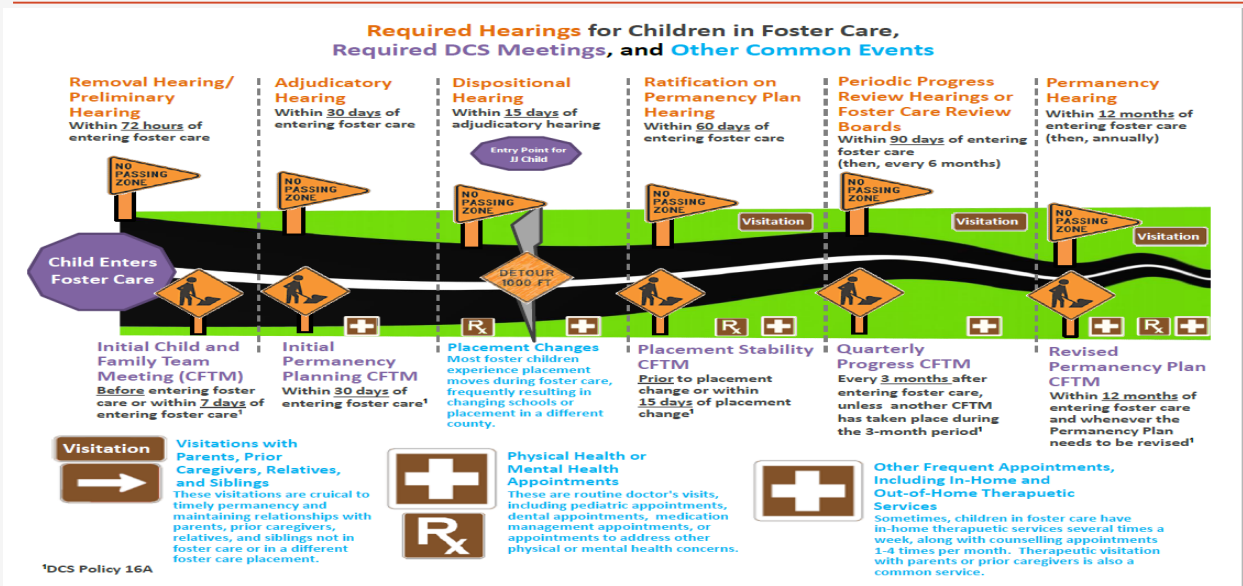
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Zoom Poll



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Review: Dependency and Neglect Hearing Roadmap



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Review: Appeal to Circuit

- Notice of right to appeal must be given at **final order** by Judge.
- Filing of Appeal – filed with clerk **within 10 days** of entry of Final Order.
- Perfecting an appeal:
 - ✓ a filing fee is paid, or bond in lieu of the filing fee is posted;
 - ✓ an affidavit of indigency is filed within the applicable time period and an order allowing filing on a pauper's oath is subsequently entered; or
 - ✓ the court has previously determined the appellant to be indigent.
- All Parties to the Juvenile Ct. proceeding are parties to the Appeal.
- Juvenile Ct. retains jurisdiction to complete Reviews and Permanency Hearings of children in foster care.



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What is a Final Order in D&N?

The right to appeal accrues upon entry of a final order.

- Tennessee case law holds that a judgment is final “when it decides and disposes of the whole merits of the case leaving nothing for the further judgment of the court.” *Richardson v. Board of Dentistry*, 913 S.W.2d 446, 460 (Tenn. 1995) (citing *Saunders v. Metropolitan Gov’t of Nashville & Davidson County*, 383 S.W.2d 28, 31 (Tenn. 1964)). Examples of final orders in juvenile court include, but are not limited to, orders terminating home placement, dispositional orders, etc.
- In the comments to TRJP 118, the Commission notes the case of *In re Valentine*, 79 S.W.3d 539, 547 (Tenn. 2002), which held that ratification of a permanency plan is not a final order. This permanency process contemplates further hearings.

FINAL



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Appeal of Final Order: Conduct of the De Novo Hearing

- The De Novo hearing is a new hearing.
- Although the entire record of the Juvenile Court, including the court's findings and written reports, is sent to the Circuit Court on appeal, the Circuit Court renders its decision upon evidence at trial.
- There is no presumption of correctness of the Juvenile Court Order, and the Circuit Court Judge can consider only those parts of the record that are introduced into evidence pursuant to applicable evidentiary standards.
- Appeals from Circuit Court may be taken to the Tennessee Court of Appeals.



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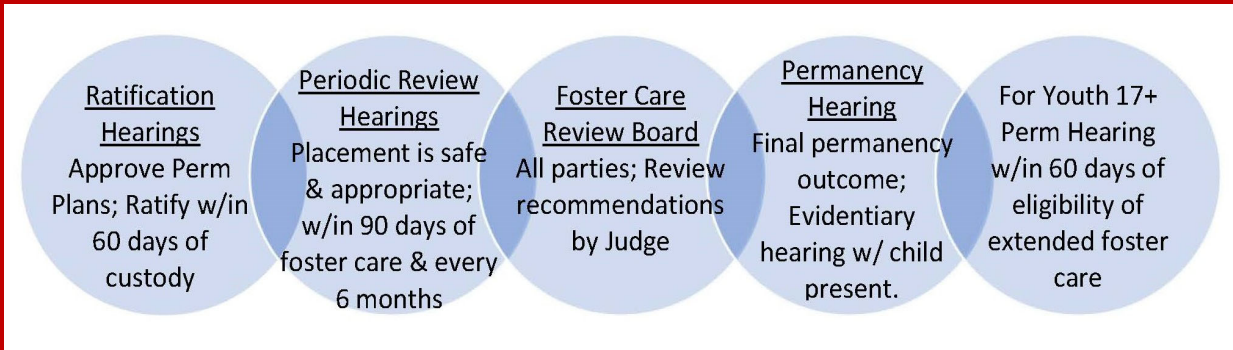
Onto Permanency Planning!

Permanency planning is like developing a road map which directs the child's course to permanency by identifying roadblocks as well as express lanes toward the safest path home or to alternate permanent routes with a system of checkpoints along the way.



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Foster Care Review Proceedings



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Permanency Planning – Why We Do It?

- To safely get children to permanent homes without delay.
- To reunify families.
- To help families understand expectations.
- To assist the agency with tailoring services and reasonable efforts to meet the specific needs of the families.



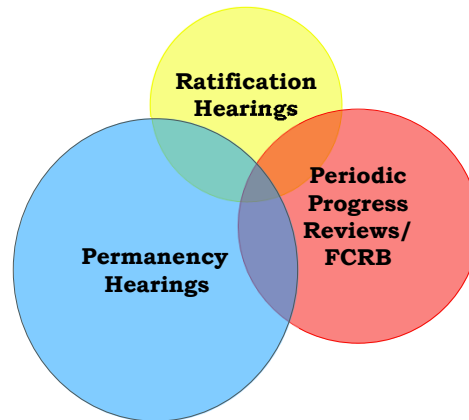
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Planning for Permanency at Court

Ratification Hearings

Periodic Progress Reviews/
Foster Care Review Board

Permanency Hearings



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Ratification Hearing on the Permanency Plan

Purpose:

Court reviews the Permanency Plan drafted by DCS and ratifies it or orders it be modified. Court must find the Plan to be in the child's best interest. Evidentiary hearing held if all parties or GAL do not agree with the plan.

Timing:

Within 60 days of placement in foster care.

T.C.A. § 37-2-403
TN JRPP 401



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Ratification Hearing - Defined

A hearing where the components of the Permanency Plan are reviewed and examined for its appropriateness and approved by the court.

- ✓ Identified problems to be resolved
- ✓ Changes in parental behavior to be achieved
- ✓ Services provided to help achieve the changes
- ✓ Special needs of the child & services to address those needs
- ✓ Terms and conditions of visitation
- ✓ Deadlines and respective responsibilities of each party in providing services and achieving plan goals



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Periodic Progress Review or Foster Care Review Board

Purpose:

To review the progress of all parties toward the goals specified in the Permanency Plan and to assess child's safety, services for the child, reasonable efforts provided by DCS to reunify and/or toward another goal on the Plan, and the parents' compliance.

Timing:

Within 90 days of placement in foster care and every 6 months thereafter.

*T.C.A. §§ 37-2-404 & 406
TN JRPP 402 and 403*



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Permanency Hearings

Purpose:

Court decides final permanency outcome for the child, based upon the reasonable efforts provided by DCS to reunify family, the parents' compliance, and the best interest of the child. Court must address child on the child's views of the provisions of the permanency plan. Court must review the independent living plan for child 14 or older and transitional living plan for child 17 or older. Court ensures child who has reached the age of 17 has notice of and understands opportunity to receive all available post-custody services.

Timing:

Within 12 months of placement in foster care or within 30 days of a judicial determination that reasonable efforts to reunify are not required.

T.C.A. § 37-1-166(g)
TN JRPP 404



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Permanency Hearings

Evidentiary hearing:

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

Determine if the plan sufficiently addresses:

- | | |
|----------------------------|-------------------------|
| ✓ Support person or system | ✓ Available benefits |
| ✓ Education | ✓ Transportation |
| ✓ Employment | ✓ Government issued IDs |
| ✓ Health needs | ✓ Any special factors |

For Youth 17+, testimony by DCS regarding extension of foster care and set permanency hearing within 60 days of eligibility of extended foster care

TN JRPP 401



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Timeline for Permanency Hearings

- Introductory Remarks
- Adequacy of Notice & Service of Process
- Progress Towards Permanency
- Reasonable Efforts Finding
- Permanency Plan Decision
- Troubleshooting and Negotiations
- Issuance of Orders & Scheduling of Next Hearing



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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)



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Reasonable Efforts Must be Made:

1. To prevent the need for removal of the child from the child's family;
2. To make it possible for the child to return home;
3. To place the child in a timely manner in accordance with the Permanency Plan; and
4. To complete whatever steps are necessary to finalize the permanent placement of the child if continuation of reasonable efforts is determined to be inconsistent with the Permanency Plan for the child.



TCA § 37-1-166



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Reasonable Efforts to Reunify Not Required

Reasonable efforts shall not be required if a court has determined that the parent has subjected the child or any child in the household to aggravated circumstances, including any of the following:

- Abandonment of a child or an infant
- Aggravated assault
- Aggravated kidnapping or especially aggravated kidnapping
- Aggravated child abuse and neglect
- Aggravated sexual exploitation of a minor or especially aggravated sexual exploitation of a minor
- Aggravated rape, rape of a child, or incest
- Others as set out in T.C.A § 36-1-102(9)

T.C.A. § 37-1-166



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Reasonable Efforts

Should be reasonably related to the reasons the child came into custody or that prevents the child from safely returning home.



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Termination of Parental Rights

Jurisdiction:

- Juvenile
- Chancery (can be part of adoption proceeding.)
- Circuit (can be part of adoption proceeding.)

Who may file?

- Prospective adoptive parents, licensed child placing agency, the child's GAL, DCS, or parent under limited circumstances identified in 36-1-113(b)(2)(B)&(C).

TCA 36-1-113



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Termination of Parental Rights

- TPR must allege (and the petitioner must prove) at least one ground for termination AND that termination is in the child's best interests.
- TPRs are to be given priority over all other matters except CPS cases; hearing to be within six months of the date petition is filed, unless court finds extension is in the best interest of child.
- Standard of proof is 'clear and convincing' evidence.
- Parents are entitled to counsel if indigent, but they have the obligation to request appointment of counsel.
- GALs are required to be appointed for contested TPRs.

TCA § 36-1-113



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Termination of Parental Rights

If TPR is denied, child does not automatically return to the parent(s).

- If TPR is granted, child will be placed in partial or full guardianship.
- Once TPR order is signed AND entered, parties have 30 days to appeal the court's decision to the Court of Appeals.

TCA § 36-1-113



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TPR Grounds: Abandonment

- Failure to visit or support:
 - Child is 4+; In the **four** consecutive months preceding the filing of the petition.
 - Child under 4; In the **three** consecutive months preceding the filing of the petition.
- Failure to Establish a Suitable Home. In the four months following removal. Note: DCS must prove reasonable efforts; to be considered reasonable, must equal or exceed that of the parent.
- Failure to visit or support mother for four months prior to birth.
- Abandonment by incarcerated parent
- Wanton Disregard
- Voluntary Drop Off
- Post-petition Abandonment

T.C.A. § 36-1-113(g)(1) and T.C.A. § 36-1-102(1)(A)(iii) *36-1-113; TCA 36-1-102*



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Additional TPR Grounds

- Non-compliance with permanency plan. (T.C.A. § 36-1-113(g)(2))
- Child removed from the home for six months by a court order – dependent and neglected alleged and conditions persist. (T.C.A. § 36-1-113(g)(3))
- The parent or guardian has been found to have committed severe child abuse. (T.C.A. § 36-1-113(g)(4), defined in § 37-1-102(b)(27))
- Sentenced to more than two years for conduct against a child; Sentenced to 10 years or more and child under eight years of age at sentencing; Sentenced to six years or more and one other (g) ground satisfied. (T.C.A. § 36-1-113(g)(5) & (6))



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Additional TPR Grounds

- Causing the death of the other parent; civil liability OR convicted of first- or second-degree murder of the other parent. (T.C.A. § 36-1-113(g)(7))
- Parent or legal guardian convicted of attempted first- or second-degree murder of child's other parent or legal guardian. (T.C.A. § 36-1-113(g)(15))
- Rape conviction (child conceived of the rape). (T.C.A. § 36-1-113(g)(10)(A))
- Severe abuse – conviction of severe child sexual abuse offense toward a child. (T.C.A. § 36-1-113(g)(11)(A)(ii))
- Failure to manifest ability to care for child. (T.C.A. § 36-1-113(g)(14))
- Additional grounds for putative father at T.C.A. § 36-1-113(g)(9)(A).



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Termination of Parental Rights: Best Interest Factors

In determining whether termination of parental or guardianship rights is in the best interest of the child, the court shall consider all relevant and child-centered factors applicable to the particular case before the court. Those factors are listed at T.C.A. § 36-1-113(i)(1).



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Termination of Parental Rights: Best Interest Factors

- (A) The effect a termination of parental rights will have on the child's critical need for stability and continuity of placement throughout the child's minority.
- (B) The effect a change of caretakers and physical environment is likely to have on the child's emotional, psychological, and medical condition.
- (C) Whether the parent has demonstrated continuity and stability in meeting the child's basic material, educational, housing, and safety needs.
- (D) Whether the parent and child have a secure and healthy parental attachment, and if not, whether there is a reasonable expectation that the parent can create such attachment.

Others found at T.C.A. § 36-1-113(i)(1)(E) through (T)



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Termination of Parental Rights: Best Interest Factors

- When considering the factors set forth in subdivision (i)(1), the prompt and permanent placement of the child in a safe environment is presumed to be in the child's best interest.
- All factors considered by the court to be applicable to a particular case must be identified and supported by specific findings of fact in the court's written order.

T.C.A. § 36-1-113(i)(2)&(3)



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Termination of Parental Rights: Appeal

- Once TPR order is signed AND entered, parties have 30 days to appeal the court's decision to the Court of Appeals
- *Appeal process is distinct from appeal process in orders originating from other dependency and neglect processes.*



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Alternatives to TPR

- Surrender
- Permanent Guardianship (subsidized)
- Waiver of Interest; Denial of Paternity
- Planned Permanent Living Arrangement



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Questions?

Carrie Mason
Court Improvement Program Attorney
Administrative Office of the Courts
carrie.mason@tncourts.gov

