

BASICS OF CHILD DEPENDENCY AND NEGLECT LAW

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Jurisdiction of D&N Claims

- T.C.A. § 37-1-103: Juvenile Court has **exclusive jurisdiction** over dependent and neglected claims when Petition filed triggering said claims.
- If Petition alleges facts tantamount to claim of dependency and neglect as basis for a modification, as would trigger Juvenile Court's jurisdiction, **Circuit Court retains its domestic relations jurisdiction**, “regardless of nature of the allegations, **unless and until a pleading is filed or relief is otherwise sought in a Juvenile Court invoking its exclusive original jurisdiction**,” where no pleading had been filed or relief otherwise sought in Juvenile Court invoking its exclusive original jurisdiction. [Cox v. Lucas, 2019, 576 S.W.3d 356.](#)



Confidentiality of Proceedings: TRJP Rule 114

- Dependent and Neglect proceedings are not open to public.
- Delinquent and Unruly – General public may be excluded in discretion of the Court on application of a party or on the Court's own initiative.
 - Court balances interest of the party seeking closure to avoid prejudice verses compelling interest of the public in an open hearing.



WHAT IS A DEPENDENT AND NEGLECTED CHILD?

T.C.A. § 37-1-102(b)(12)

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



Dependent and Neglected (CONT.)

- Child *suffering from abuse or neglect*;
- 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 parent/guardian/ custodian neglects to protect; or
- 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).



Abuse Defined: T.C.A. § 37-1-102(b)(1)

- 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 or caretaker.



Severe Abuse Defined: T.C.A. § 37-1-102(b)(27)

- 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;



Severe Abuse (cont.)

- Knowingly allowing a child to be present in structure where meth is being created;
- Allowing a child under 8 to ingest an illegal substance resulting in a positive drug screen; or
- 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 T.C.A. § 39-17-406 (opiates);
 - ii. Cocaine;
 - iii. Methamphetamine; or
 - iv. Fentanyl.



Importance of Severe Abuse Finding

- Ground for termination of parental rights - *T.C.A. §36-1-113(g)*.
- If in DCS custody, must follow statutory requirement to return child to the home - *T.C.A. §37-1-130(d)*.
- Excuses DCS from making reasonable efforts to reunify if so ordered by the court - *T.C.A. §37-1-166(g)(4)*.



D & N Timeline

Initiate Case
File Petition,
Order of Court
or Probable
Cause

Preliminary
Hearing
Probable Cause;
w/in 72 Hours

Adjudicatory
Hearing
Clear & Convincing;
w/in 30 days if in
custody or 90 days
if not

Dispositional
Hearing
Preponderance
of the Evidence;
w/in 15 days if in
custody or 90
days if not

File Order of
Court or
Agreed Order;
Advise of Right
to Appeal



Initiation of Case by Petition: TRJP Rule 301

- A dependent and neglect case is commenced by the *filing of a petition*.
- Anyone with knowledge of the facts alleged or is informed and believes that the facts are true can file the petition. (DCS, private party, court officer, law enforcement, etc.) – T.C.A. § 37-1-119
- ***When the petitioner is not DCS, the Court shall promptly refer the case to DCS for investigation.***



Service of Process and Summons: Rule 103

- Time period for service – Personally served 3 days before hearing; by mail, 5 days before hearing.
- If child removed and service cannot be achieved prior to hearing, parties shall be notified as soon as possible of the date, time and place of hearing, child's custody status and reasons for removal.
- Method of service:
 - Personal
 - Registered/certified mail
 - Publication
- Who may serve – Suitable person over 18; not a party.



Necessary Parties

- Assure all necessary parties have been properly served/noticed:
 - Parents/Guardians and their counsel
 - Alleged Biological Fathers
 - GAL
 - CASA



Bench Order D&N

- When Court must exercise its authority on an emergency basis to protect a child ***already under the jurisdiction of the Court*** on a previously filed petition other than a D&N Petition.
 - Typically by a Bench Order.
 - A Dependent and Neglect Petition ***must be filed within 48 hours***.
 - Intake court officer shall assist in the filing of Petition ***and*** refer the allegations for investigation by DCS.
 - If the child is removed from custody, must have Preliminary Hearing within 72 hours of custody, excluding non-judicial days.



Procedures upon Taking Child into Custody Prior to Preliminary Hearing: T.C.A. § 37-1-113

Pursuant to Court Order:

- Based upon **sworn petition** or **sworn testimony**:
 1. child is dependent, neglected or abused; and
 2. removal is required because **child is subject to immediate threat to child's health or safety** to extent delay for hearing would be **likely to result in severe or irreparable harm** or the child may abscond or be removed for the jurisdiction of the court.
- Written affidavit, sworn in person or by audio-visual electronic means
- Can order child removed from custody of parent/legal guardian and placed with DCS or suitable guardian pending further investigation and hearing.



Procedures upon Taking Child into Custody Prior to Preliminary Hearing: T.C.A. § 37-1-113

- Must have Preliminary Hearing ***within 72 hours of custody***, excluding non-judicial days.
- If no Petition filed, must file a Petition ***within 48 hours of removal*** or in all instances before the Preliminary Hearing.



Removal of Child: T.C.A. § 37-1-166

- Prior to ordering a child committed to or retained within the custody of DCS, the court shall first determine whether ***reasonable efforts*** have been made to:
 - 1) Prevent the need for removal of the child from such child's family; or
 - 2) Make it possible for the child to return home.
- Based on specific facts, Court must find:
 - 1) There is no less drastic alternative to removal;
 - 2) Reasonable efforts have been made to prevent the need for removal of the child from such child's family or to make it possible for the child to return home; and
 - 3) Continuation of the child's custody with the parent or legal guardian is contrary to the best interests of the child.



Reasonable Efforts: T.C.A. § 37-1-166

- Reasonable efforts means the ***exercise of reasonable care and diligence*** by the department to provide services related to meeting the needs of the child and the family.
- In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, ***the child's health and safety shall be the paramount concern.***
- ***Reasonable efforts shall be made to preserve and reunify families.***
- **Reasonable efforts to prevent removal finding must be made within 60 days** of the child entering custody.



Reasonable Efforts

Exceptions to reasonable efforts to reunify family:

1. Aggravated circumstances
2. Crime against child, sibling or other child in home
3. Parental rights to a sibling have been involuntarily terminated

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



Reasonable Efforts

Reasonable efforts must be:

- Timely
- Reasonably related to the reasons the child came into custody or that prevents the child from safely returning home,
- Match the level of significance given to the parent's responsibilities
- Adaptive to parent's or child's needs, and
- Tailored to the family's unique circumstances.



Order of Referral: T.C.A. § 37-1-128

- Prior to adjudication, the Court may order DCS to perform evaluations and make an assessment of the child and report the findings and recommendations to the Court.
- The report to the Court of the department's recommendations shall be made within 15 days of the Order of Referral (may be extended up to 30 days for good cause).



Preliminary Hearing:

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

- Standard of Proof at Preliminary Hearing is ***probable cause***.
- For removal must find there was probable cause that:
 - 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.
- Same probable cause determination for removal of child shall be made for *continued* removal of child.
- Indian Child Welfare Act (ICWA) – Requires that inquiry be made in all cases to see if child is of Native American descent and covered under ICWA.



Adjudicatory Hearing:

Rule 307/T.C.A. § 37-1-129

- Trial on the merits of the Petition
- TN Rules of Evidence Apply
- Standard of Proof at Preliminary Hearing is ***clear and convincing***.
- 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.
- Must determine if severe abuse was committed by parent or other person with custody. (T.C.A. §37-1-129(a)(2))



Adjudicatory Hearing:

- Adjudicatory Hearing Order Includes:
 1. Whether necessary parties are served/notified and present
 2. Whether parties are represented
 3. Relationship of parties
 4. The rights of the parties, purpose of the hearing and consequences of the hearing have been explained.
 5. If allegations have been proved by clear and convincing evidence to adjudicate child dependent and neglected
 6. Findings of fact to support the D&N finding
- Adjudicatory Hearing Order must be filed within 30 days from the closing of the hearing.
- Following the adjudicatory hearing, the Court may transfer the case to the child's home county, within TN, for disposition. (T.C.A. § 37-1-112)



Dispositional Hearing:

Rule 308/T.C.A. § 37-1-130

- Standard of proof at dispositional hearing is by ***preponderance of the evidence***.
- Purpose is to design an appropriate order to meet the needs of the child and to achieve the objectives of the state.
- Time Limits:
 - If placed out of home, then must be held within 15 days of adjudication.
 - For other cases held, then held within 90 days of adjudication if reasonable.
 - Can be held past 90 days if for good cause and set for date certain.
 - ***Shall be separate from adjudicatory hearing – but can be immediately following.***
- TN Rules of Evidence apply, except reliable hearsay is admissible.
- YSO and Probation Officers should be witnesses regarding admissible evidence of which they have knowledge.



Dispositional Hearing:

Rule 308/T.C.A. § 37-1-130

- Dispositional Order Includes:

1. Placement with parents subject to conditions and limitations (unless severe abuse finding made, then only if T.C.A. §37-1-130(c) is satisfied)
2. Temporary custody to any individual qualified to care for child (must have conduct home study)
3. Custody to DCS
4. Visitation plan
5. Address child support if not previously done
6. Court must advise parties of the right to appeal and time limits.
7. Set ratification hearing on permanency plan.



Visitation Plan

- Ensure that visits are in the child's best interest
- Visits to occur in the least restrictive setting, that ensures the child's safety and well being
- Appropriate level of supervision – in cases of child abuse, Court must consider whether allegations of abuse or neglect warrant supervised visitation
- Placement decision supports frequent, meaningful visits
- Visitation plan is individualized and promotes permanency
- The frequency, length, and timing of visits promote attachment
- Maintain sibling relationships
- Visitation activities promote parent-child attachment and support the child's development



Appeal

- 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.



Appeal of Magistrate's Orders:

T.C.A. § 37-1-107

- Upon conclusion of hearing, Magistrate makes written findings of fact and recommendations – transmitted to judge.
- Within 5 days, any party may file request of rehearing before Judge.
- Preliminary matters reviewable by Judge only upon court's own motion.
- Setting of final disposition reviewable by judge upon request of party or court's own motion.
- If no rehearing requested, findings and recommendations become Courts' order when confirmed by Judge.
- If no rehearing requested, right to de novo hearing before Circuit Court is not waived.



Foster Care Review Proceedings

Ratification

Hearings

Approve Perm Plans; Ratify w/in 60 days of custody

Periodic Review

Hearings

Placement is safe & appropriate; w/in 90 days of foster care & every 6 months

Foster Care Review Board

All parties; Review recommendations by Judge

Permanency

Hearing

Final permanency outcome; Evidentiary hearing w/ child present.

For Youth 17+ Perm Hearing w/in 60 days of eligibility of extended foster care



Ratification Hearings:

Rule 401/T.C.A. § 37-2-403

- Purpose: To approve initial and subsequent Permanency Plans, and confirm Plans are in the best interest of child and outline responsibilities of each party to achieve permanency goal(s).
- Initial Plan must be ratified within 60 days of coming into custody.
- All parties shall be properly served with Notice of Hearing and copy of Permanency Plan.
 - Set hearing out 60 days for all parties not properly served.
- If all parties agree, Court shall review Plan and determine if in best interest of child.
- Evidentiary hearing if parties do not agree with Plan; GAL objects to provisions; or Court determines DCS has not prioritized the outcomes and action steps for each party.
 - All relevant evidence, including reports are admissible.
- Court shall explain on record abandonment criteria and make fact specific findings.
- Shall include recommendations of FCRB.
- Enter Order within 30 days of hearing.



Ratification Hearings:

Rule 401/T.C.A. § 37-2-403

Permanency Plan Ratification Hearing Includes:

- Plan shall include a goal for each child.
- Determine what the child's needs are and what services are needed to meet those needs.
- Determine what the parents' requirements are and prioritize those requirements. (*must be reasonably related to reasons for removal or be a legitimate barrier to reunification*)
- Address visitation with parents and siblings.
- Determine responsibilities of DCS and what efforts must DCS make. Address any independent living plan if child is 14 or older or transition plan if 17 or older.
- Court may specifically order mental health treatment.
- Schedule 90 day review or FCRB hearing if not previously scheduled.
- Schedule annual permanency hearing if not previously scheduled.
- Admonish parents regarding failure to substantially comply, which provides grounds for termination.
- Advise parents of consequences of abandonment.
- Advise parents of right to counsel.
- ***Court should make a finding of reasonable efforts.***



Reasonable Efforts

Is the parent or child in substantial compliance with the Statement of Responsibilities in the Permanency plan?

Cannot answer that question without determining whether DCS provided reasonable efforts based on DCS' prioritization of responsibilities for each person.

If DCS did not provide reasonable efforts, then cannot determine substantial compliance.

A finding of a lack of reasonable efforts by the Department will cost DCS a share of federal funding.



Periodic Progress Review Hearings:

Rule 402/T.C.A. § 37-2-404

- Completed by court within 90 days of the date of foster care placement and no less frequently than every 6 months thereafter for so long as child remains in foster care.
- Review:
 - Placement is safe and appropriate;
 - 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 parental and sibling bonds;
 - Reasonableness of DCS to identify and locate parents;
 - Reasonableness of DCS's efforts based on prioritization of outcomes and corresponding actions steps;
 - Compliance of parents with responsibilities; and
 - FCRB recommendations.
- If new Plan is ratified then Review and Ratification hearings are bifurcated.
- Court makes fact-specific findings with timeline for completion.
- Enter Order within 30 days of hearing.



Foster Care Review Board: Rule 403

- Schedule with Board Members 14 days prior to meeting.
- Notice to all parties 10 days prior to meeting.
- Supporting documentation provided.
- Conducting review and make written recommendations.
- Review of recommendations by Judge within 10 days to determine if in best interest of the child.
 - Can make direct referral
- Statements of child are not admissible but can use in delinquent or unruly proceedings.



Permanency Hearings: Rule 404

- Purpose: Decide final permanency outcome for child based on best interest.
- Separate and distinct hearing from Ratification and Periodic Progress Review Hearing or FCRB.
- Determine if parties and other interested persons have been notified of the hearing (child MUST be present with exceptions)
- Review previous orders/FCRB recommendations.
- If DCS is requesting a new permanency plan be ratified, bifurcate the hearing and hold permanency hearing on current plan before ratification hearing on new plan



Permanency Hearings: Rule 404

- 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
 - Education
 - Employment
 - Health needs
 - Available benefits
 - Transportation
 - Government issued IDs
 - Any special factors
- For Youth 17+, testimony by DCS regarding extension of foster care and permanency hearing within 60 days of eligibility of extended foster care



QRTP Hearings

- A *Qualified Residential Treatment Program* (QRTP) is a placement designed to support youth struggling with complex emotional, mental and behavioral health needs that cannot receive appropriate services and support in their home or in another home-like setting.
- QRTP providers must meet certain requirements for DCS to draw down ***Title IV-E funds***.



QRTP Hearings: Judicial Timelines

Initial Judicial Review within 60 Days of Placement

Court review required: Judge, Magistrate or judicially appointed administrative body.

Court reviews:

1. CANS assessment;
2. Child's permanency goals;
3. CFTM determination regarding the least restrictive/most appropriate level of care required; and
4. Assessment Consultant/QI documentation of approval of QRTP.

After court review, the Court must formally find agreement or disagreement with QRTP placement.

IN GENERAL, THE COURT SHOULD PROVIDE WEIGHT TO THE RECOMMENDATION OF THE QI AND THE CHILD AND FAMILY TEAM.

If Court disagrees, child moved within 30 days or IV-E funding ends.

Subsequent Status Reviews and Permanency Hearings include QRTP review

Court review required at regular child welfare intervals: Judge, Magistrate or judicially appointed administrative body.

Court reviews:

1. CANS assessment;
2. Child's permanency goals;
3. QRTP placement provides least restrictive/most appropriate level of care required;
4. QRTP treatment and service needs; and
5. Preparation made for child's step down into family home or less restrictive placement.

Court determines whether QRTP remains the most appropriate level of care.



Review of DCS Residential or Treatment Placement: T.C.A. §37-1-129(c)

- Court may review DCS placement within 90 days of the placement.
- Must notify parties within 30 days of hearing.
- Court must receive evidence and testimony regarding appropriateness of placement.
- Court must issue placement recommendation based on preponderance of the evidence within 10 days of hearing.
- Upon receiving recommendation, DCS must issue determination as to child's placement within 15 days.



More D & N Issues All Judges Face



Appointment of Attorneys and Guardian ad Litem

- Parents have right to attorney at all stages of any proceeding involved abuse, dependency or neglect.
 - Counsel will be appointed if indigent.
 - Parties can waive right to attorney.
 - Waiver must be knowing and voluntary = intelligent & understanding decision.
 - Waiver made orally & in open court & confirmed in writing by party & judge.
- ***GAL appointed in all cases where D&N is alleged.***



Confidentiality of Records: T.C.A. §37-1-153

- All files and records may be inspected by:
 1. Judges and court staff/officers
 2. Parties and their counsel/representatives
 3. Public or private agency having custody or supervising child under court order
 4. Probation officer, court staff, or attorney of adult defendant with prior juvenile proceeding
 5. Any other person, agency, or institution with a legitimate interest in the proceeding
- If allowed to inspect, cannot disseminate to public; if do so, could be held in criminal contempt
- If court file contains any document other than petition and order, such document shall remain confidential.



DCS Case When Child Not in Custody

- Immediate Protection Agreement (IPA)–DCS Policy 14.9
 - An intrusive course of action that parents/caretakers agree to follow to ensure the safety of the child.
 - Used when access to child is limited
 - Required approval of DCS legal counsel
 - Valid for 3 business days
 - Does not have to be approved by the Court
- Non-Custodial Permanency Plan
 - Includes services for parent(s) to be provided by DCS or other community resources
 - Court order may be sought for services pursuant to a petition being filed or Court already having jurisdiction over the child
 - DCS may work with the family up to 120 days with or without court intervention (Discretion to extend beyond 120 days)



DCS Case When Child Not in Custody

- What is procedure?
 - Hold preliminary hearing? YES, if change of custody or altered parenting time- foster care time line applies
 - Then DCS should file D&N petition
 - Appoint GAL and counsel for indigent parents



Relative Caregiver: T.C.A. § 37-1-183

- Court shall order a child found to be D&N to remain in a related caregiver's custody if such an arrangement is in the best interest of the child.
- Any future order for modification or termination of the related caregiver's custody brought by the child's parent shall be based on a finding, by a preponderance of the evidence, that there has been a material change in circumstances.
- When making such a determination, the court may consider whether the child's parent is currently able and willing to care for the child or that the related caregiver is unable to continue to care for the child.



Eli's Law: T.C.A. § 37-1-188

- There is a presumption that any child that is born to a parent, from whose custody a child has previously been removed for being D & N and the removed child is in the custody of DCS, may be D & N and that it is in the best interest of both children that the child's birth be brought to the court's attention.
- DCS shall file notice with the Court of the subsequent child's birth.
- Court immediately schedules a hearing to inquire into the effect of the subsequent child's birth upon the case before the court and to address any further needed steps to protect the safety and well-being of the family.



Injunctive Relief: Rule 108/T.C.A. § 37-1-152

- Injunctive relief obtained by:
 1. Ex parte Restraining Order Injunction during pendency of case;
 2. Injunction as part of Dispositional Order; or
 3. Injunctive relief against non-party.
- Court may issue an ex parte Restraining Order or injunction against a person who is not a party to the D&N, delinquent, or unruly proceeding if that person's conduct is or may be detrimental or harmful to the child. ***Person to be restrained or enjoined shall be a party ONLY to the petition or motion for injunctive relief.***
- Request is made by Motion or a Petition, or on the court's own initiative



Injunctive Relief

- Restraining Order Standard for issuance:
 - a) Is or may be detrimental or harmful to child
 - b) Will tend to defeat the execution of the order of disposition
 - c) Party to be restrained or enjoined must have notice of hearing, grounds thereof, and an opportunity to be heard.
- Ex Parte Order Standard for issuance
 1. (a) and (b) from above plus child may be removed from the jurisdiction OR there is a danger of immediate harm
 2. Due notice and opportunity to be heard within 3 days
 3. Cannot exceed 15 days unless: (1) Court extends the Order after affording the party to be restrained an opportunity to be heard, or (2) Party to be restrained consents to the extension.



Taking Children's Testimony: Rule 306

- In chambers or courtroom cleared of observers & non-party witnesses.
- Court may order accommodations.
- If parties excluded while child testifies, court must follow procedures.
 - Judge may examine child using certain procedures.



Exercising Temporary Jurisdiction of D&N, TPR or OP: T.C.A §37-1-103

- Court has temporary jurisdiction to issue temporary orders for child present or residing in county
- When notified another court has prior jurisdiction, the temporary jurisdiction court shall:
 - Immediately notify & communicate with court having original jurisdiction
 - Both courts shall attempt to:
 - Resolve jurisdictional issues
 - Protect the best interests of the child
 - Determine duration of the temporary order



Transfer to Another Juvenile Court: T.C.A

§37-1-112

- Court has temporary jurisdiction to issue temporary orders for child present or residing in county
- Child resides in one county and proceedings commenced in another county
- Transfer can be made to child's home county if:
 - Adjudication has occurred
 - Other proceedings are pending in child's home county
- Also applies if child's residency changes during proceeding



Transfer from Juvenile Court

To circuit, chancery or general sessions court exercising domestic relations jurisdiction: Transfer of custody issue can be made if :

- Custody proceeding is pending or commenced in other court *and*
- Juvenile court has adjudicated the child D&N, and ordered essential services for child and family *and*
- Juvenile court makes findings of fact that transfer :
 1. is in best interest of child;
 2. promotes judicial economy;
 3. provides for a more reasonable or convenient forum; or
 4. for other good cause.



Order for Services

- The Court may order DCS to get medical exam and may order medical/surgical treatment if condition is serious and requires prompt treatment
- May order a rehabilitative mental health consultation for parents (A&D)-
T.C.A. §37-2-403 (a)(5).



Private Party D&N Petitions

- Hold preliminary hearing? YES, if change of custody or altered parenting time - foster care time line applies
- Make referral to DCS
- Appoint GAL and counsel for indigent parents
- If parent versus parent case, and parenting time not affected, no preliminary hearing required; hold adjudicatory hearing within 30 days and disposition within 90 days.
- If nonparent custodian and parenting time is altered, use foster care time line, i.e. 72 hour preliminary, etc.



A timely warning from the past: “Great powers are lodged in the juvenile court in its particular field, and proceedings there should be conducted according to the mandates of the statute. Unless there is a substantial compliance with the statutory requirements in these cases, the orders of the juvenile court will be reversed[.]”

***Juvenile Court of Shelby County v. State,*
201 S.W. 771, 773 (Tenn. 1918).**



Procedural Pointers



Procedural Pointers

- TRJP apply to D/N matters.
- Rules of Evidence fully apply at adjudication; in other hearings, reliable hearsay is admissible if parties have opportunity to question preparer of report and to rebut.
- Juvenile court has exclusive jurisdiction of D&N matters.
- Juvenile Court proceedings are confidential.
- Venue-where child resides or is present when proceeding is commenced; T.C.A. §37-1-111.
- Make certain all necessary parties have been notified.
- GALs are appointed in all D&N cases.



Procedural Pointers

- Modifications of Orders may be sought for clerical mistakes, newly discovered evidence and changed circumstances only. If new allegation of D&N, then new D&N Petition is required.
- All Agreed orders must be signed by all parties to the original proceeding (including DCS) or counsel and ***should state parties are aware that the agreement is the order of the Court and failure to comply with the order may constitute contempt of Court.***
- Transfers of Juvenile Court matters can only be made after an adjudication of D&N and within the State of Tennessee. Otherwise, Interstate Compact for Juveniles is triggered.



Procedural Pointers

- Burden of proof:
 - Emergency hearing affidavit and preliminary hearing - probable cause
 - Adjudication - clear and convincing
 - Disposition and all other hearings - preponderance of evidence
- Make clear all admonitions and waivers at all hearings:
 - Right to counsel at all hearings-written waiver
 - Abandonment consequences at ratification and subsequent hearings - T.C.A. §37-2-403(a)(1)(B)
 - Consequences of substantial non-compliance with permanency plan
- Make specific findings of fact in all Orders.
- Best interest of the child is of paramount concern.



What did they just say? DCS Acronyms

A

AA - Adoption Assistance
AACWA - Adoption Assistance and Child Welfare Act of 1980
AAL - Attorney ad Litem
ABA - Applied Behavior Analysis
A&D - Alcohol and Drug
ACA - American Correctional Association
ACF - Administration for Children and Families
ACV - Alleged Child Victim
ADA - Americans with Disabilities Act
ADD - Attention Deficit Disorder
ADHD - Attention Deficit Disorder with Hyperactivity
AFCARS - Adoption and Foster Care Analysis and Reporting System
AFDC - Aid to Families with Dependent Children
AG - Attorney General
AIDS - Acquired Immunodeficiency Syndrome
A&M - Administration & Management
AO - Administrative Offices of the Courts
AP - Alleged Perpetrator
APS - Adult Protective Services
APSR - Annual Progress Summary Report
APD - Advanced Planning Document
APDU - Advanced Planning Document Update
ART - Anger Replacement Training
ASE - Administrative and Service Environment
ASFA - Adoption and Safe Families Act
ASQ - Assessment of Service Quality
AWOL - Absent Without Leave

B

BIP - Behavior Intervention Plan
BHO - Behavioral Health Organization
BPR - Board of Professional Responsibility
BSM - Behavior Support and Management
BTA - Baseline Target Actual

C

CAB - Community Advisory Board
CAC - Child Advocacy Center
CAH - Child Abuse Hotline
CANS - Child and Adolescent Needs and Strengths

CAP - Corrective Action Plan
CAPTA - Child Abuse Prevention and Treatment Act
CARA - Comprehensive Addiction and Recovery Act
CASA - Court Appointed Special Advocate
CB - Children's Bureau
CBCAP - Community-Based Child Abuse Prevention
CBC - Capacity Building Center for States
CBT - Computer Based Training
CCWIS - Comprehensive Child Welfare Information System
CFS - Child and Family Services
CFSP - Child and Family Service Plan
CFSR - Child and Family Service Review
CFSR PIP - Child and Family Service Review Program Improvement Plan
CFTM - Child and Family Team Meeting
CIP - Court Improvement Program
CIRT - Center for Intensive Residential Treatment
CIT - Crisis Intervention Team
CLE - Continuing Legal Education
CLSA - Casey Life Skills Assessment
CM - Case Manager
CMV - Cytomegalovirus
CO - Central Office
COA - Council on Accreditation
COE - Center of Excellence
COOP - Continuation of Operations Plan
CPIT - Child Protective Investigative Team
CPR - Case Process Review
CPS - Child Protective Services
CQI - Continuous Quality Improvement
CR - Client Rights
CRI - Children's Rights, Inc.
CRP - Community Residential Program
CSA - Community Services Agency
CSLA - Children in Special Living Arrangements
CSO - Children's Services Officer
CSR - Case Service Request
CWB - Child Welfare Benefits
CWLA - Child Welfare League of America
CY - Calendar Year

D

D&I - Diagnostic and Intervention
DA - Delegated Authority
DA - District Attorney
D&N - Dependent and Neglected
DCS - Department of Children's Services
DEA - Drug Enforcement Agency
DEC - Drug Exposed Child(Ren)
DEI - Drug Exposed Infant
DHS - Department of Human Services
DIDD - Department of Intellectual and Developmental Disabilities
DMHSAS - Department of Mental Health and Substance Abuse Services
DNA - Deoxyribonucleic Acid
DNR - Do Not Resuscitate
DOB - Date of Birth
DOC - Department of Correction
DOC - Date of Custody
DOE - Department of Education
DOHR - Department of Human Resources
DOJ - Department of Justice
DMS-5 - Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition
ID - Intellectual Disability
DD - Developmental Disability

E

EAP - Employee Assistance Program
EBP - Evidenced Based Practice
ECF - Employment and Community First Choices Program
ED - Emotionally Disturbed
EFC - Extension of Foster Care
EPSDT - Early Periodic Screening, Diagnosis and Treatment
ERP - Emergency Response Plan
ESL - English as a Second Language
ETH - Ethics
ETV - Education and Training Vouchers

F

F&A - Department of Finance and Administration
FAFSA - Free Application Federal Student Aid
FAPE - Free Appropriate Public Education

FAR - Final Accreditation Report
FASD - Fetal Alcohol Spectrum Disorder
FAST - Family Advocacy and Support Tool
FAQ - Frequently Asked Questions
FBA - Functional Behavior Assessment
FC - Foster Care
FCIP - Family Crisis Intervention Program
FCRB - Foster Care Review Board
FFA - Family Functional Assessment
FHACP - Foster Home and Child Placement
FHQT - Foster Home Quality Team
FIN - Finance
FLSA - Fair Labor Standards Act
FPNC - Family Permanency Plan for Child Protective Services Non-Custodial Cases
FPS - Foster Parent Support
FS - Field System Administrator
FSS - Family Support Services
FSTM - Family Service Team Meeting
FSW - Family Service Worker
FTT - Failure To Thrive
FY - Fiscal Year
FYI - For Your Information
F2F - Face To Face

G

GAF - Global Assessment of Functioning
GAL - Guardian ad Litem
GED - General Education Diploma

H

HIPAA - Health Insurance Portability and Accountability Act of 1996
Hi-Set - High School Equivalency Test
HITS - How I Think Survey
HR - Human Resources

I

IA - Internal Affairs
IAP - Individualized Accommodation Plan
IC - Investigator Coordinator
ICE - Immigration and Customs Enforcement
ICJ - Interstate Compact on Juveniles
ICPC - Interstate Compact on the Placement of Children
ICWA - Indian Child Welfare Act

What did they just say? DCS Acronyms

IDEA - Individuals with Disabilities Education Act
IE - Immediate Eligibility
IEP - Individualized Education Plan/Program
IEPA - Inter-Ethnic Place Act
IL - Independent Living
IM - Information Memorandum
IPA - Immediate Protection Agreement
IPP - Individual Program Plan
IQC - Internal Quality Control
IR - Information Resources
IR - Incident Report
IRB - Institutional Review Board
IS - Information Systems
ISM - Information Systems Management
IV-B - Section of Federal Social Security Act
IV-E - Section of Federal Social Security Act

J

JCCO - Juvenile Court Commitment Order
JDC - Juvenile Detention Center
JJ - Juvenile Justice
JJCM - Juvenile Justice Case Management
JJDPA - Juvenile Justice and Delinquency Prevention Act
JJR - Juvenile Justice Residential

K

KER - Kinship Exception Request

L

LDI - Legally Defensible Interviewing
LEA - Local Education Agency
LEP - Limited English Proficiency
LI - Lead Investigator
LRE - Least Restrictive Environment
LTPA - Long-Term Placement Agreement

M

MASC - Measurement and Statistical Committee
MCO - Managed Care Organization
MD - Manifestation Determination
MEPA - Multi-Ethnic Placement Act of 1994
MOA - Maintenance of Accreditation

N

NACC - National Association of Counsel for Children
NAS - Neonatal Abstinence Disorder
NCANDS - National Child Abuse and Neglect Data System
NCPP - Non-Custodial Permanency Plan
NCAC - National Child Advocacy Centers
NOA - Notice of Action
NYTD - National Youth in Transition Database

O

OBIEE - Oracle Business Intelligence Enterprise Edition
OCS - Office of Child Safety
OIA - Other Involved Adult
OIC - Other Involved Child
O&A - Observation and Assessment
OIG - Office of the Inspector General
OIR - Office of Information Resources
OJJDP - Office of Juvenile Justice and Delinquency Prevention
OJT - On-the-Job Training
OSHA - Occupational Safety and Health Administration
OT - Occupational Therapy

P

PA - Public Agency
PATH - Parents as Tender Healers
PCP - Primary Care Provider
PCR - Pre-Commission Report
PD - Public Defender
PE - Program Evaluation
PER - Placement Exception Request
PI - Program Instructions
PIP - Performance Improvement Plan
PME - Provider Monitoring and Evaluation
PO - Probation Officer
POA - Power of Attorney
POC - Perception of Care Survey
PP - Private Provider
PPLA - Planned Permanency Living Arrangement
PQI - Performance Quality Improvement

PQT - Provider Quality Team
PREA - Prison Rape Elimination Act
PT - Physical Therapy
PTSD - Post-Traumatic Stress Disorder

Q

QSR - Quality Service Review

R

R&D - Research and Development
RA - Regional Administrator
RAC - Residential Appeals Committee
REACT - Resource Exchange for Adoptable Children in Tennessee
RFP - Request for Proposals
RFQ - Request for Qualifications
RGC - Regional General Counsel
RID - Regional Investigations Director
R/O - Rule Out
RPM - Risk Prevention and Management (COA Standard)
RRC - Research Review Committee
RSV - Respiratory Syncytial Virus

S

SAT - Services and Appeals Tracking
SBC - Safe Baby Courts
SDM - Structured Decision Making
SEA - State Education Agency
SED - Seriously Emotionally Disturbed
SIU - Special Investigations Unit
SME - Subject Matter Expert
SPG - Subsidized Permanent Guardianship
SPMI - Seriously and Persistently Mentally Ill
SSA - Social Security Administration
SSI - Supplemental Security Income
SSMS - Social Services Management System
STM - Support Team Meeting
STS - Strategic Technology Solutions

T

TAC - Technical Assistance Committee
TANF - Temporary Assistance for Needy Families
TBI - Tennessee Bureau of Investigation

TC - Team Coordinator
TCA - Tennessee Code Annotated
TCCY - Tennessee Commission on Children and Youth
TCSES - Tennessee Child Support Enforcement System
TDM - Team Decision Making
TEIS - Tennessee Early Intervention Services
TFACTS - Tennessee Family and Child Tracking System
TFCBT - Trauma Focus-Cognitive Behavior Therapy
THP - Trial Home Placement
THV - Trial Home Visit
TIES - TN Info Exchange System
TIPS - Tennessee Infant Parent Services
TL - Team Leader
TOPS - Team Outreach Program in the YDC
TPR - Termination of Parental Rights
TRCP - Tennessee Rules of Civil Procedure
TRJP - Tennessee Rules of Juvenile Procedure
TSR - Telecommunications Service Request

U

UAPA - Uniform Administrative Procedures Act
UAT - User Acceptance Testing
UCA - Unique Care Agreement
UCCJEA - Uniform Child Custody Jurisdiction and Enforcement Act
UR - Utilization Review

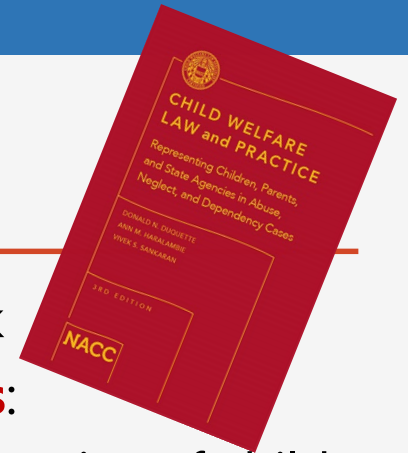
V

VAP - Voluntary Acknowledgement of Paternity
VVCO - Violation of a Valid Court Order
VPA - Voluntary Placement Agreement
VPN - Virtual Private Network. Also *JVPN* for Junos Pulse VPN

Y

YDC - Youth Development Center
YSO - Youth Services Officer
YSS - Youth Service Supervisor
YSW - Youth Service Work

Opportunity for Red Book Training



- The National Association of Counsel for Children's (NACC's) signature seven-week virtual Red Book Training Course reviewing **core dependency competency areas**: investigative interviewing of children, counseling legal clients who are children, practice of child welfare casework, child safety, representing parents, federal due process, educational goals for children in foster care, and transition of youth from foster care.
- Live webinar on Thursdays, **September 8 - October 27, 2022 at 4 PM CST/5 PM EST**. Most weeks, the webinar will be 1 hour long. However, sessions 2 and 7 will be 1.5 hours long in order to cover the material sufficiently. (There will not be a session on September 22.)
- If you would like to participate in the please visit www.tncourts.gov/redbooktraining for additional information and a link to our Candidate Questionnaire. Please contact courtimprovement@tncourts.gov with any questions.
- **NO COST TO PARTICIPATE!!** Participation sponsored by the Court Improvement Program, Tennessee Administrative Office of the Courts.



Any Questions – Please Contact:

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