

BASIC GUIDELINES
Juvenile Appeals to the Appellate Court

The Notice of Appeal should be stamped date and time it was filed and the name of the trial court in which it was filed. Make sure the markings are legible, if not hand-write the information on the documents. The Notice of Appeal should state on its face if the appeal involves a termination of parental rights.

The Notice of Appeal AND either the appeal bond or an Uniform Civil Affidavit of Indigency or an order signed by the trial court declaring the person indigent or a notice none of the above have been filed should be sent to the appellate court clerk. If the Notice of Appeal involves a parental termination, the Documents should be faxed to appellate court clerk's office in your grand division. If the Notice of Appeal fails to list all parties or counsel of record, attached a letter or note indicating all needed notice recipients.

You will receive a Notice of the Appellate Courts regarding the Appellate Number and the style or name which they have designated for use on the appeal.

TECHINCAL RECORD

Each volume of the Appellate Record should ideally contain no more than 150 pages. Each volume should have a complete index in the front. All papers should be copied to comply with the Letter- size (8 ½ x 11 inches) rule of the Tennessee Supreme Court [Tenn. Sup. Ct. R.36 (a)] and in chronological order. Each page should be numbered at the bottom of the paper and the numbers should be consecutive through all volumes to the last page.

The cover of the technical record should list the judge which decided the case, the trial court docket number and the appellate court number along with the counsel of record or pro se parties. Use the name which the appellate court has filed as the case style. Each volume of technical record should have the exact same cover.

TRANSCRIPT OF EVIDENCE

EXHIBITS:

Exhibits should be bound with an index in front of each volume (if there is more than one volume). Each volume should contain 150 pages. I do not number the pages of the exhibits but make sure each exhibit is clearly marked with the exhibit number that corresponds with the index. NO THREE RING BINDERS. All exhibits should be the original even if on 8 ½ x 14 (Legal Size) paper. Photographs either need to be enclosed in plastic paper protectors or fastened to a sheet of paper so the exhibit markings can be read.

SEALED EXHIBITS:

Documents must be clearly marked SEALED and have a copy of the Order of the Court sealing them attached to the front of the envelope. They should not be bound in the technical record but submitted separately.

QUICK LIST for Parental Termination Appeals

Include in the record:

The Petition to Terminate
Indigency Orders
Appointment of Counsel Orders
Appointment of Guardian Ad Litem Orders
Answers to the Petition, if any.
Motions, responses and the order of the trial court as to the motions.
Final order.
Motion to alter or amend with any responses and determining order.
Notice of Appeal.
Certificate of record and Clerk's Seal (very last page)

Do not put in the record:

Claim forms for payment of appointed attorneys
Minutes of the Court
Letters to the court or the court clerk.
Permanency Plans and orders relating to them.
What is contained in the dependency and neglect proceeding.

**IMPORTANT DEADLINES UNDER NEW PARENTAL TERMINATION RULE
T.R.A.P. 8A (EFFECTIVE JULY 1, 2004) AS RELATED TO THE DUTIES
OF THE TRIAL COURT CLERKS**

On January 15, 2004, the Tennessee Supreme Court adopted a new rule of appellate procedure - T.R.A.P. 8A - providing for expedited appeals in termination of parental rights cases. The new rule will become effective July 1, 2004. T.R.A.P. 8A shortens the time to prepare and file the record with the Court of Appeals as follows:

Event	New Deadlines In Days From Prior Event	Total Number Of Days
Trial Court Judgment		0
Notice of Appeal	30	30
Transcript Filed	45	75
Objections Period	10	85
Record Approved by Trial Judge	20	105
Trial Clerk Transmits Record	5	110

Under the new rule if a transcript or statement of the evidence is not filed within 45 days, the clerk of the trial court must notify the clerk of the appellate court of that fact **in writing** within 10 days. In addition to establishing time frames, T.R.A.P. 8A also explains which documents go into the technical record and which do not. In particular, T.R.A.P. 8A states that in addition to the documents excluded by T.R.A.P. 24(a), **“any portion of a juvenile court file of a child dependency, delinquency or status case that has not been properly admitted into evidence at the termination of parental rights shall be excluded from the record.”** Therefore, the documents from the dependency and neglect case (such as the custody petition, order of adjudication, etc.) are not part of the technical record. This is a brief overview of the new rule, if you have any questions, call Mike Catalano, the Appellate Court Clerk, at his Nashville Office (615-741-1314).

Tennessee Rules of Appellate Procedure

Rule 8A. Appeal as of Right in Termination of Parental Rights Cases. - This rule shall govern any appeal as of right in a termination of parental rights proceeding. The other rules of appellate procedure also apply to such an appeal; however, when a provision of this rule conflicts with another rule of appellate procedure, the provision of this rule shall control.

(a) Appeal as of Right; Time for Filing Notice of Appeal. (1) It shall not be necessary for a party to file a motion to alter or amend the judgment or a motion for new trial in order to obtain appellate review of the judgment of the trial court.

(2) In addition to meeting the requirements of Rule 3(f) (“ Content of the Notice of Appeal”), a notice of appeal in a termination of parental rights proceeding shall indicate that the appeal involves a termination of parental rights case.

(b) Stay or Injunction Pending Appeal. Any party may obtain review of an order entered pursuant to Rule 62 of the Tennessee Rules of Civil Procedure or Rule 39(g)(4) of the Rules of Juvenile Procedure granting, denying, or altering the conditions of a stay of execution pending appeal, or granting, denying, or altering the conditions of additional or modified relief pending appeal; such appellate review shall be conducted pursuant to Rule 7 of the Rules of Appellate Procedure.

(c) Content and Preparation of the Record. In addition to the papers excluded from the record pursuant to Rule 24(a), any portion of a juvenile court file of a child dependency, delinquency or status case that has not been properly admitted into evidence at the termination of parental rights trial shall be excluded from the record.

(1) Any transcript of the evidence or proceedings filed pursuant to Rule 24(b) shall be filed within 45 days after filing the notice of appeal. If the appellee has objections to the transcript as filed, the appellee shall file objections thereto with the clerk of the trial court within 10 days after service of notice of the filing of the transcript. Unless the time has been extended by order, if the appellant fails to file within 45 days from the filing of the notice of appeal either the transcript or statement of evidence or notice that no transcript or statement is to be filed, the clerk of the trial court shall provide written notice within 10 days to the clerk of the appellate court of the appellant' s failure to comply with this subdivision, with a copy provided to counsel and pro se parties.

(2) Any statement of the evidence or proceedings filed pursuant to Rule 24(c) shall be filed within 45 days after filing the notice of appeal. If the appellee has objections to the statement as filed, the appellee shall file objections thereto with the clerk of the trial court within 10 days after service of the declaration and notice of the filing of the statement.

(3) If no transcript or statement of the evidence or proceedings is to be filed, the appellant shall, within 15 days after filing the notice of appeal, file with the clerk of the trial court and serve upon the appellee a notice that no transcript or statement is to be filed. If the appellee deems a transcript or statement of the evidence or proceedings to be necessary, the appellee shall, within

15 days after service of the appellant's notice, file with the clerk of the trial court and serve upon the appellant a notice that a transcript or statement is to be filed. The appellee shall prepare the transcript or statement at the appellee's own expense or apply to the trial court for an order requiring the appellant to assume the expense. Subdivisions (c)(1) and (c)(2) of this rule are applicable to the transcript or statement filed by the appellee under this subdivision, except that the appellee under this subdivision shall perform the duties assigned to the appellant in subdivisions (c)(1) and (c)(2) of this rule and the appellant under this subdivision shall perform the duties assigned to the appellee in such subdivisions.

(d) Approval of the Record by the Trial Judge or Chancellor. After the expiration of the 10-day period for objections by the appellee, the trial judge shall approve the transcript or statement of the evidence and shall authenticate the exhibits. If not approved within 20 days after the expiration of the period for filing objections by the appellee, the transcript or statement of the evidence and the exhibits shall be deemed to have been approved and shall be so considered by the appellate court, except in cases where such approval did not occur by reason of the death or inability to act of the trial judge, which cases shall be governed by Rule 24(f).

(e) Completion and Transmission of the Record. The record on appeal shall be assembled, numbered and completed by the clerk of the trial court and transmitted to the clerk of the appellate court within 5 days of the approval of the record by the trial judge or by operation of the automatic-approval provision of subdivision (d), whichever occurs first.

(f) Extension of Time for Completion of the Record. If the record cannot be completed within the time permitted by subdivision (e) of this rule, the clerk of the trial court shall request an extension of time from the appellate court to which the appeal has been taken. The request shall set forth the reasons for the requested extension and must be made within the time originally prescribed for completing the record or within an extension previously granted. Extensions of time for completion of the record in termination of parental rights cases are disfavored and will be granted by the appellate court only upon a particularized showing of good cause. Trial court clerks shall give priority to completion of the record in termination of parental rights cases over other types of cases. The time for completing the record shall not be extended to a day more than 60 days after the date of the filing of the transcript or statement of evidence or the appellant's notice that no transcript or statement is to be filed. In the event of the failure of the clerk of the trial court to complete the record within the time allowed, the clerk of the appellate court shall notify the trial court and take such other steps as may be directed by the appellate court.

(g) Filing and Service of Briefs. The appellant shall serve and file a brief within 30 days after the date on which the record is filed with the clerk. The appellee shall serve and file a brief within 20 days after the appellant's brief is filed with the clerk. Reply briefs shall be served and filed within 14 days after filing of the preceding brief. All other matters regarding briefs of the appellant and appellee shall be governed by Rules 27, 28, 29, 30 and 32.

(h) Appeal by Permission from Court of Appeals to Supreme Court. The provisions of Rule 11 control review by the Supreme Court in a termination of parental rights proceeding.

(i) Extension of Time. Extensions of time in an appeal of a termination of parental rights proceeding are disfavored and will be granted by the appellate court only upon a particularized showing of good cause

