

TPR CHECKLIST

Summons/Notice and Petition/Motion

1. Summons issued? [7B-1106]
2. GS 7B-1106 (summons) or 7B-1106.1 (notice) complied with?
3. Summons list all kids' names in caption?
4. Summons served?
5. Summons properly served on appropriate person?
6. Petition attached to summons?
7. Petition properly verified? [7B-1104]
8. Petition signed by counsel? [G.S. 1A-1, Rule 7(b)(2)]
9. Petition has custody order attached? [7B-1104(5)]
10. Petition has Affidavit of Status of Child attached? [7B-1104(3)]
11. Petition clearly set out requirements of 7B-1104? [7B-1104]
12. Petition clearly identify (without just stating) grounds alleged? [7B-1104(6)]
13. Did underlying case have subject matter jurisdiction (see Adjudication/Disposition Checklist)?
14. Does party filing TPR has standing to file petition? [7B-1103]
15. Is there another court having jurisdiction? [7B-1101, 50A-201, 50A-203]

If not, file a Motion to Dismiss.

NEED TO FILE AN ANSWER! [7B-1107]

Termination Hearing

1. Was an answer filed that requires a hearing pursuant to 7B-1108?
2. Was a notice of hearing sent to all parties?
3. Was hearing held within 90 days? [7B-1109(a)] If not, may need to seek assistance with filing a Writ of Mandamus (contact Annick Lenoir-Peek at Annick.Lenoir-Peek@nccourts.org).
4. Was hearing continued for good cause?
5. Was client present?
6. Was counsel present?
7. Was testimony presented by petitioner?
8. Were objections made/ruled upon?
9. Was counsel allowed to present their evidence?
10. Was evidence segregated as to adjudication/disposition?
11. Was evidence of best interest allowed to "seep" into adjudication?
12. Was evidence clear and cogent as to every ground?
13. Did judge make oral ruling?

Termination Order

1. Was order filed within 30 days? [7B-1109(e)] If not, may need to seek assistance with filing a Writ of Mandamus (contact Annick Lenoir-Peek at Annick.Lenoir-Peek@nccourts.org).

2. Was order served (with certificate of service)? [Rule 58]
3. Does order reflect judge's oral ruling?
4. Does order add additional findings of fact not presented into evidence?
5. Does order find grounds not alleged in petition?
6. Is order signed by judge who heard case?
7. Does order state appropriate standard of evidence?
8. Does order back up required findings as to grounds? [7B-1111]
 - A. Neglect: Past, current, probability of repetition (through date of hearing)
 - B. Abuse: Past and probability of repetition (through date of hearing)
 - C. Dependency: Past, current, probability of repetition (through date of hearing)
 - D. Leaving in foster care: more than 12 months (prior to filing of petition), without making reasonable efforts to remove conditions which led to child's placement in foster care (look at previous orders, relate efforts to conditions, through date of hearing). Must be willful.
 - E. Failure to pay child support: during 6 months (prior to filing of petition). Petitioner has burden to show ability to pay some sum and failure to pay sum.
 - F. Abandonment: during 6 months (prior to filing of petition). Must be willful.
 - G. Failure to establish paternity: any time prior to filing of petition.
 - H. Incapacity: current and will continue for foreseeable future. Need lack of alternative child care arrangement.
 - I. Murder of another child: past.
 - J. Prior termination: past and parent has not shown they would be able to provide a safe home (through date of hearing).