
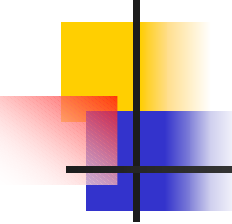


Termination of Parental Rights



**Introduction and
Background
August 22, 2003**



What are some of the ways in which
you might complete this statement?

Your Honor, It is (not) necessary for you to
terminate parental rights in this case because:

1. _____
2. _____
3. _____
4. _____
5. _____

Effect of Terminating Parents' Rights



- Severs all rights/obligations of parent to child and child to parent, except:
 - child support arrears
 - child's right to inherit until adopted
- Parent loses
 - right to notice of adoption proceeding
 - right to object to or participate in adoption
 - standing to seek custody
 - Constitutionally protected interest in child



After Termination

- Custody of child goes to
 - agency that had custody when petition was filed or
 - person or agency the court designates
- If agency has custody (and petitioner not a parent, gal, or adoption petitioner): Court must conduct review hearings every 6 months until child is placed for adoption and adoption petition is filed.



The Landscape

	Abuse/Neg Dependent	TPR	Adoption
G.S.	Ch. 7B	Ch 7B, Art 11	Ch. 48
Court	District	District	Clerk, then District
Initiated by	DSS	GS 7B-1103 list	Any Adult
Effect	Interferes in parent-child relationship	Destroys parent-child relationship	Creates new parent-child relationship



North Carolina's first termination statute was enacted in:

- A. **1919** (first N.C. Juvenile Code enacted)
- B. **1936** (in response to enactment of federal Social Security Act)
- C. **1969** (when Juvenile Code rewritten and district courts being created)
- D. **1979** (when Juvenile Code rewritten)



First N.C. termination statute 1969

- Effective 1970
- Added one section to Juvenile Code
- Set out 4 grounds for termination
- But only in cases where court had adjudicated a child to be neglected or dependent



Before 1970 – Parent's consent to adoption not required if:

1. Child had been declared abandoned
2. Putative father had not legitimated the child before mother signed consent
3. Divorce court found child was conceived during parties' separation (husband's consent)
4. Court had determined health and welfare of child born out of wedlock was endangered (mother's consent)



Changes in Termination Since 1970

- Separate independent action
- Associated more closely with abuse/neglect than adoption proceedings
- More possible petitioners
- More grounds
- Guardians ad litem
- Parents' right to counsel
- Large body of case law
- “Best Interest” given real attention



Federal Influence

Historically rescue-focused child welfare system has changed in response to federal funding criteria – for example:

- 1980: Adoption Assistance & Child Welfare Act
- 1993: Family Preservation and Support Act
- 1997: Adoption and Safe Families Act (ASFA)



These influences are reflected in

- N.C. statutory requirements re.
 - Reasonable efforts
 - Periodic case reviews
 - Permanency planning hearings
- Major increase in judicial oversight
- Addition of grounds for termination



Most Direct Effect from ASFA

If Child is in DSS Custody, DSS Must
Initiate TPR Proceeding if

1. Child has been in placement 12 of most recent 22 months or
2. A court has determined that the parent has abandoned the child or
3. Parent has committed any of several specified criminal offenses . . .



UNLESS:

1. Permanent plan is guardianship or custody with relative or other suitable person; or
2. Court makes specific findings why filing tpr petition is not in child's best interest; or
3. DSS has not provided child's family with services DSS deems necessary, when reasonable efforts are still required to enable the juvenile's return to a safe home.



Purpose of the requirement?

- Force everyone to ask questions about permanent plan for the child.
- Ensure that the child does not drift without a plan.
- Ensure that if accomplishing the plan requires tpr, that happens and is timely.



Remember:

Termination is NOT a plan.



Legislative Policy –

To recognize, at the same time,

1. The NECESSITY for any juvenile to have a permanent plan of care at the earliest possible age, and
2. The need to protect all juveniles from the UNNECESSARY severance of a relationship with biological or legal parents.