

## INVOLUNTARY TPR FOR JUDGES - CHECKLIST

### Termination Petition

- Petition includes required allegations. T.C.A. § 36-113(d)(2) and T.C.A. § 36-6-224(a) (UCCJEA).
- Petitioners have physical custody of the child. T.C.A. § 36-1-115(b).
- Petition includes notices to incarcerated persons if respondent is incarcerated. T.C.A. § 36-1-113(f).
- Petition includes notice about expedited appeal. T.R.C.P. 9A Notice regarding T.R.A.P. 8A rights.
- All necessary parties have been identified and included. T.C.A. § 36-1-117(a).
- All parties have been properly served. Publication requires a sworn statement of petitioner's search and a court order authorizing notice by publication. T.C.A. § 21-1-203 & 36-1-117(m).

### Jurisdiction

Filing of the Adoption Petition, with or without a termination, impacts jurisdiction of other courts over the child. A termination action filed alone does not. The adoption court has exclusive jurisdiction of all matters pertaining to the child including legitimation. But not delinquency, unruliness and truancy. T.C.A. § 36-1-116(f). Most pending matters in Juvenile Court are suspended. If there is an open matter in Juvenile Court, a copy of the Adoption Petition must be filed in the Juvenile Court. T.C.A. § 36-1-113(d)(4).

### Preliminary Matters

- Petitioners must make an inquiry to the Tennessee Putative Father Registry within 10 working days prior to filing the Petition or within 10 working days thereafter. The response is stated in Petition or immediately filed with the court. T.C.A. § 36-1-116(b)(13)(A)(i).
- If petitioner knows that the child was born or conceived in another state, or that the mother lived in another state at the time of conception, the petitioner is to determine whether the sister state has a putative father registry and if so, check the registry, within 10 working days prior to filing of the petition, or within 10 working days thereafter. T.C.A. § 36-1-116(b)(13)(A)(ii) & (iii). Petitioner then reports the check and results to the court. The Court is empowered to waive an out of state PFR inquiry or response for specific reasons pursuant to T.C.A. § 36-1-116(d).
- If child is less than 30 days old, notice of a petition goes to the putative father registry. T.C.A. § 36-1-116(d).

- Unrepresented respondents who contest termination must be advised of their right to counsel, free if indigent. Supreme Court Rule 13 § (d)(2).
- If respondent's ability to understand English is questionable, an inquiry should be made into the need for an interpreter and an interpreter provided if needed. Supreme Court Rule 43 § 3.
- If the case is contested, the child must have a guardian ad litem. Supreme Court Rule 13 § 1(d)(2)(D).
- Termination actions receive priority docket setting. T.C.A. § 36-1-124(a).

### **Defaults and Agreements**

- Do not terminate parental rights by agreement.
- Judicial orders of TPR, even by default, should include findings and conclusions on all grounds pled and best interest. T.C.A. § 36-1-113(k)
- If a parent wants to settle a case by voluntarily terminating their parental rights, they can execute a surrender, consent (only in a relative case) or waiver, as appropriate.

### **Trial**

- A hearing on a termination of parental rights petition shall take place within six months of the date that the petition is filed unless the court determines an extension is in the best interest of the child. T.C.A. § 36-1-113(k).
- There must be a transcript of termination trials. Indigent respondents can apply to the AOC to receive a trial transcript free of charge.
- Standard of proof is clear and convincing evidence of grounds and best interest of the child. T.C.A. § 36-1-113(c)(1)&(2).
- Within 30 days of trial, the Court must enter an order including specific findings of fact and conclusions of law. T.C.A. § 36-1-113(k).
- Appeals in terminations of parental rights are common.