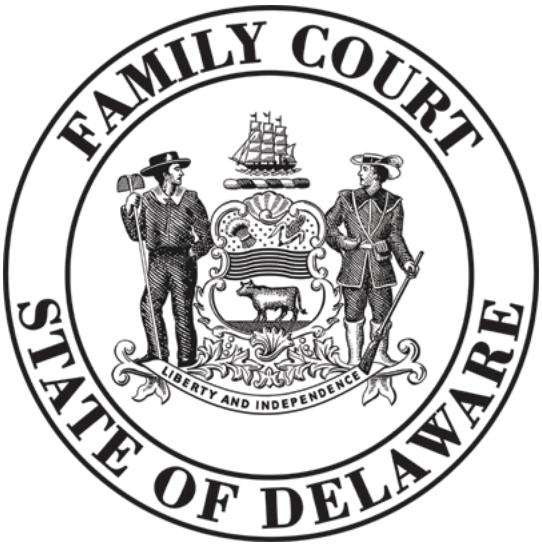
TERMINATION OF PARENTAL RIGHTS (TPR) INSTRUCTION PACKET



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TERMINATION OF PARENTAL RIGHTS INSTRUCTION PACKET

Use the Termination of Parental Rights Packet **ONLY** when:

- You are at least 18 years old (you must be 21 years old to adopt); **AND**
- You are seeking to terminate someone's parental rights to a child for the purposes of adoption; **AND**
- You are the mother, father or a blood relative of the child; **AND**
- The child is **younger than 18 years of age**. (Family Court can only terminate the parental rights of a minor); **AND**
- The child has been living in Delaware for **AT LEAST 6 CONSECUTIVE MONTHS BEFORE** filing your Petition to Terminate Parental Rights. (There are exceptions to this 6 month requirement. If the child has not lived in Delaware for at least 6 months, talk to an attorney to see if an exception applies to your situation).

You may file to Terminate Parental Rights singly or jointly with another person. If you file jointly with another person, the other person must also be at least 18 years old.

This Instruction Packet will explain termination of parental rights as if you wanted to file to terminate parental rights for one child. If you would like to terminate parental rights of more than one child and all of the children have the same mother **AND** the same father, you may file to terminate parental rights of all of the children on the same petition. Please note that if any of the children for which you are seeking to terminate parental rights have different fathers or

mothers, you must file to terminate parental rights on separate petitions. For example, if two of the children have one father and one of the children has a different father, you would be required to file two petitions, one for each father.

HOW TO USE THE PACKET

This packet contains general information about the process of filing a Petition for Termination of Parental Rights, basic instructions on how to complete the Court forms you must file, and samples of the completed Court forms.

You should read the instructions and sample forms carefully **before** filling out any forms. All of the forms must be neatly filled out by hand in ink or typed. **ONLY FILE THE FORMS INCLUDED IN THE BLANK FORMS PACKET.** The sample forms included in this Instruction Packet are simply to help you understand how to fill out the real forms in the Forms Packet. Do not file the sample forms.

YOU DO NOT HAVE TO COMPLETE ALL THE SECTIONS AT ONCE. For example, you do not have to file the forms in Section 2 at the same time as the forms in Section 1. Read the information carefully to be sure that you know what you are supposed to do and when.

Please look for the shaded written instructions and the following symbols throughout the packet. They will help guide you.

READ THIS SECTION CAREFULLY

THIS DOCUMENT MUST BE FILED

FILL IN THE BLANKS OR WRITE INFORMATION HERE

YOU DO NOT HAVE TO TAKE THESE STEPS NOW

TIPS AND REMINDERS …

- ✓ Make sure to read any **Answers to Frequently Asked Questions** on Termination of Parental Rights. These are located in the Resource Centers in each courthouse. They will help you to better understand the termination of parental rights process.

- ✓ Remember who is the Petitioner and who is the Respondent.
  - ➢ The **PETITIONER** is the person who filed the Petition for Termination of Parental Rights, in other words, you.
  - ➢ The **RESPONDENT** is the person(s) answering (responding) to the Petition.

- ✓ Remember that just because you fill out the forms correctly does not necessarily mean that the Court will give you (grant) what you want. It is up to *you* at the court hearing to prove why the Court should give you what you want.

- ✓ Representing yourself may take a lot of time, may be difficult and may be confusing. The Court will expect you to follow the same rules that attorneys must follow. **If at any point throughout the Court process you are not sure about representing yourself, you should talk to an attorney.**

- ✓ Please remember that **COURT STAFF CANNOT GIVE YOU LEGAL ADVICE.** Should you have a question about what options you have or what you should do, you should talk to an attorney. Just because you talk to an attorney does not necessarily mean that you must hire that attorney to represent you. Ask the attorney if he/she is willing to meet with you and answer your questions without having to hire that attorney

for full representation. Before you meet with the attorney, ask what fees may be involved for such limited services.

- ✓ If you would like assistance finding an attorney, you can call the **Lawyer Referral Service** in New Castle County, 302-478-8850, and in Kent and Sussex Counties, 1-888-225-0582. (You may call the same telephone numbers and ask for the **Legal Help Link** to find out if you qualify for free legal assistance.) You also can refer to the **Attorney Roster** that is located at the Family Court Resource Centers. The Attorney Roster is a listing of some of the attorneys who practice family law in Delaware and includes information about how to contact the attorneys and what fees the attorneys charge.

- ✓ Always bring your photo identification with you (such as your driver's license, or a state-issued photo identification card) whenever you get a Court form notarized. **The identification must be current, have a photo, the signer's physical description and the signer's signature.**

- ✓ **THERE IS A LOT OF PAPER IN A COURT CASE AND HAVING THE COURT MAKE YOU COPIES CAN BE VERY EXPENSIVE**.

PLEASE READ AND REMEMBER THESE IMPORTANT TIPS

REMEMBER

- **Keep a copy of every document and court paper.**
- **Keep all notes, documents and court papers together and organized in a folder with the most recent papers on top.**
- **Bring the folder with your papers with you every time you go to Court.**
- **When you file a document with the Court, bring the required number of copies of each paper and an extra copy for you to have "clocked-in." Keep the clocked-in copy in your folder so you have proof of the time and date you filed each document. You may make copies at the Resource and Self-Help Centers but there is a small fee.**
- **When you complete a document or form for filing with the Court, always include the full case name and file and petition numbers (if there are any).**
- **When you must mail something, we suggest that you use regular mail AND "certified mail, return receipt requested" so that you have proof that the other party received the envelope. If you cannot afford to pay for "certified mail" we suggest you get a "certificate of mailing" at the post office to prove that you mailed the envelope to the other party. You may purchase stamped envelopes at the Resource and Self-Help Centers and the Court will mail your Court papers for you by regular mail. You are responsible for certified mailing.**

TERMINATION OF PARENTAL RIGHTS & ADOPTION

The Definition of Termination of Parental Rights

The intent of Termination of Parental Rights ("TPR") is to legally and permanently terminate the relationship between a child and his/her parent. The law about TPR is found within Chapter 11 of Title 13 of the Delaware Code.

Transfer of Parental Rights and Definition of Adoption

After the Court issues a TPR Order, parental rights are usually then transferred to another person through an Adoption Order. The prospective adoptive parent must file a Petition for Adoption. Once an Adoption Order is issued, the adoptive parent then becomes the permanent legal parent of the child and will have all of the rights, duties, privileges and obligations recognized by the law between parents and their children. The law about adoption is found within Chapter 9 of Title 13 of the Delaware Code.

Effect of Losing One's Parental Rights

Both the individual whose parental rights were terminated and that individual's relatives lose all rights of inheritance from the child. Accordingly, the child will no longer have rights of inheritance from the individual whose rights were terminated and from that individual's relatives.

If the individual whose parental rights were terminated still wants the child to inherit from him/her, then he/she must include the child in his/her will. For more information on wills and inheritance rights, you should talk to an attorney. Wills and inheritance rights are not handled in Family Court.

Who Can Ask the Family Court for a TPR (i.e. who can Petition for TPR)?

A Petition for TPR may be filed in the State of Delaware by any of the following:

- The mother of a child;
- The father or presumed father of a child;
- Both parents of a child;
- A blood relative of a child;
- The Department of Services for Children, Youth and Their Families (the "Department");
- Any agency granted a license by the Department to place children for adoption (a "licensed agency").

Who Can Seek to Adopt (i.e. who can Petition for Adoption)?

A Petition for Adoption may be filed in the State of Delaware IF you are: either:

- An unmarried person; OR
- A husband and wife jointly seeking to adopt and who are NOT legally separated, living apart from each other, and/or divorced;

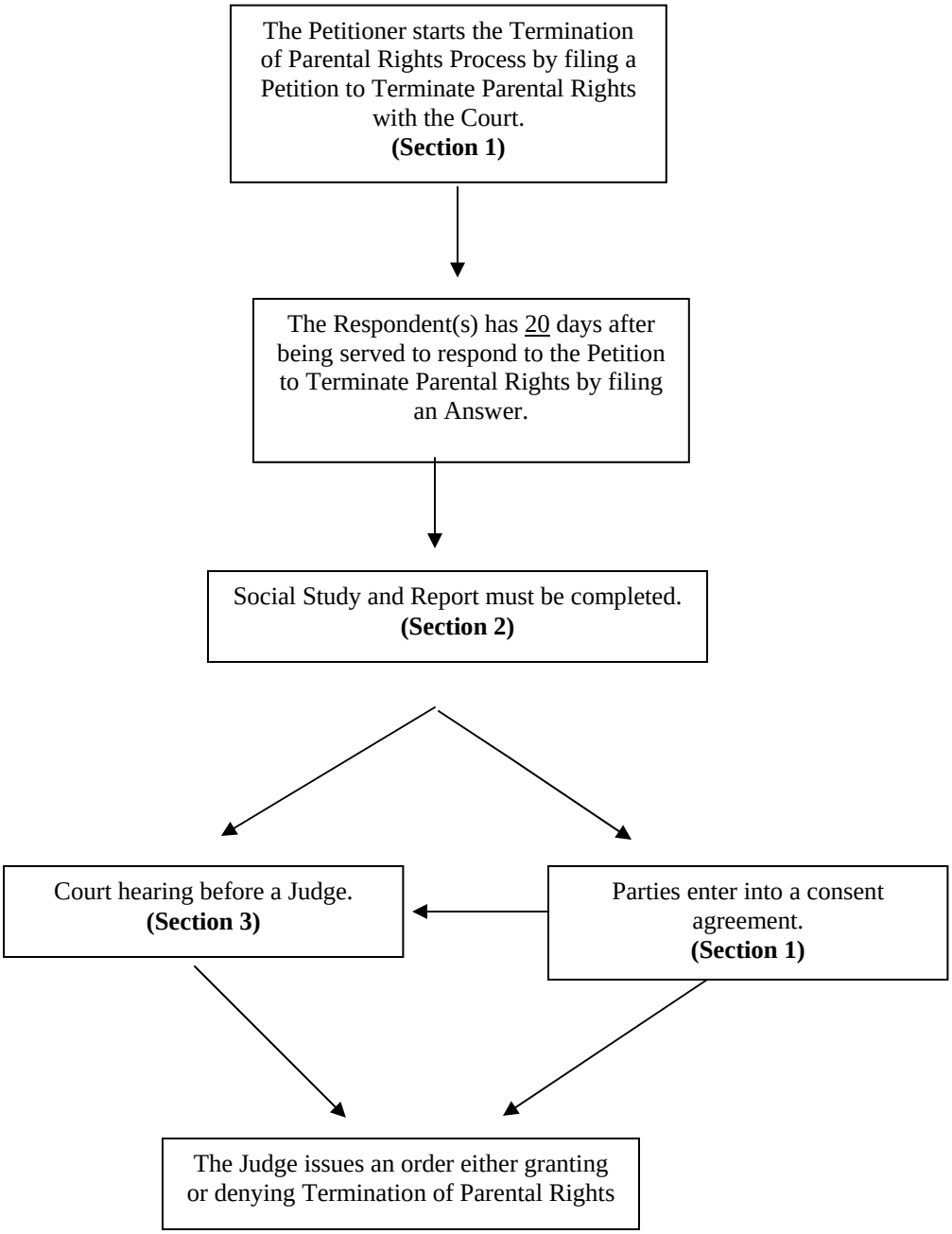
- AND over 21 years old;
- AND a Delaware resident.

It is recommended that you use the TPR Instruction Packet ONLY IF the Department is NOT a party to the TPR proceeding. This means that the Department does NOT have custody over the child (i.e. the child is NOT in foster care) and is not a party to the TPR proceeding. Thus, you are advised to use the TPR Instruction Packet IF:

- You are seeking to terminate someone's parental rights over a child so that you or another individual may pursue adoption of such child.
- AND you are representing yourself in the TPR action (i.e. proceeding pro se)

- AND you are:
    - The mother of the child; OR
    - The father (or presumed father) of the child; OR
    - A blood relative of the child (e.g. aunt; uncle; grandparent(s), sister, brother, or cousin)

THE TERMINATION OF PARENTAL RIGHTS PROCESS



SECTION 1

STARTING THE TERMINATION OF PARENTAL RIGHTS PROCESS

To File for Termination of Parental Rights, the following requirements must be met:

- ❑ You are seeking to terminate someone's parental rights to a child so that you or another person may pursue adoption of that child; **AND**
- ❑ The child had been living in Delaware for **AT LEAST 6 CONSECUTIVE MONTHS BEFORE** the Petitioner filed the Petition for Termination of Parental Rights. (There are exceptions to this 6 month requirement. If the child has not lived in Delaware for at least 6 months, talk to an attorney to see if an exception applies in your situation.); **AND**
- ❑ The Petitioner is at least 18 years of age (you must be 21 in order to adopt); **AND**
- ❑ The Petitioner is the mother, father, or blood relative of the child.

You **MUST** file the **ORIGINAL** and **ONE (1) COPY FOR EACH RESPONDENT** of each form below with the Court.

- ➢ Make a copy of each completed form for your records.
- ➢ Have your set of copies "clocked-in" for your file. Having a paper "clocked-in" means that the Court will stamp on the copy the time and date you filed your papers. Your clocked-in copy will serve as proof of the time and date you filed the paper.

Petition for Termination of Parental Rights form. (*file the original and one copy*).

- Sample Form can be found on page 21.
- Only a **mother, father or blood relative** of the child may petition the Court to Terminate Parental Rights.
- The U.S. and Delaware State Constitutions require that whenever a petition is filed with the Court, **ALL** of the people involved with the case must be notified. By naming a person as a Respondent, you are asking the Court to notify him/her of the petition. In Termination of Parental Rights cases the following people should be named as Respondent(s):
  - The natural parent(s) of the child;
  - Any guardian of the child or the person with whom the child is living;
  - Any Guardian ad Litem of the child;
  - And the organization having custody of the child (for example, the Division of Family Services).

  If you fail to notify any of the necessary parties, your petition may be deficient and you may have to start the process over.
- You **MUST** list **the natural parent(s)** as Respondents, even if one of the parents has never had any contact with the child. If the child lives with a step-parent, you **must list the natural parent**, not the step-parent as the Respondent. For example, if the child lives with his mother and step-father and has had no contact with his natural father, you must name father, not step-father, as the Respondents on your petition.
  - For questions regarding paternity, please see Appendix A.

- If one or both parents are deceased, list the deceased parent(s) as a Respondent(s), indicate on the petition that he/she is deceased and the date of death.
- If the Respondent(s) **voluntarily consent** to the Termination of Parental Rights, they must complete a **Consent to Termination and Transfer of Parental Rights and an Affidavit of Consent to Termination of Parental Rights and Adoption**. For more information, please see page 15.
- You must sign your Petition for Termination of Parental Rights in the presence of a notary public or authorized Court staff.

Grounds for Termination of Parental Rights

- When alleging facts in your Petition For Termination of Parental Rights, you must indicate at least one Ground for Termination of Parental Rights for each child. The Petition for Termination of Parental Rights lists the grounds and you should place an "x" in front of all the grounds that apply. The grounds can be found on pages 53 of this Instruction booklet and can be found on the last three pages of the Petition for Termination of Parental Rights.

Custody Separate Statement form. (*file the original and one copy*).

- Sample form can be found on page 29.
- The Custody Separate Statement explains to the Court a child's past and present living arrangements, so that the Court can determine if it has authority to decide your Petition for Termination of Parental Rights. If all of the children included in your petition have had the **same living arrangements as one another** for the past five years, then you may include all children on a single form. However, if the children have **lived apart** from each other sometime during the past five years, you must complete a separate form for each child. For example, if last year, one child resided with

one parent and one child resided with the other parent, it would be necessary to file two Custody Separate Statements, explaining where each child lived.

Information Sheet form. (*file the original and one copy*).

- Sample form can be found on page 32.
- This form provides the Court with general information about the parties that allows the Court to adequately notify the parties about upcoming proceedings and to maintain up-to-date records.

Praecipe in a Termination of Parental Rights form. (*file the original and one copy*).

- Sample form can be found on page 34.
- This form instructs the Clerk of Court to serve copies of the Petition to Termination Parental Rights on the Respondent(s) and publish notice of the Petition in a local or foreign newspaper if necessary.
- For information on publication, please see page

TPR Order of Reference for Termination of Parental Rights form. (*file the original and one copy*).

- Sample forms can be found on page 35.
- The Order of Reference is a form that includes the information about the agency chosen and an order for the judge to sign.
- On the Order of Reference you will list the name of the licensed child-placing agency that you have selected to complete the Social Study and Report.
- Once you have completed this form and submitted it to the court, along with all other forms, a judge must sign it. The Clerk will then forward the Order to the agency. The agency can then begin preparing the social study and report.

- You **MUST** pay the licensed child-placing agency to complete the Social Study and Report. This is not a court fee and cannot be waived by the court. You are responsible for the entire cost of preparing the Social Study and Report.
- The Social Study and Report can be very expensive so you might want to find out how much different agencies charge before deciding which one to use.
- For more information on the Social Study and Report, please see Section 2.

Order for a Hearing form. (*file the original and one copy*).

- Sample form can be found on page 36.
- This form is used by the Court and you will only partially fill it in as indicated on the sample form. The Court will fill in the rest of the information once it determines the date for a Court hearing. Essentially, this form will become the Court's Order for a Hearing in your TPR case.

Final Order form. (*file the original and one copy*).

- Sample form can be found on page 37.
- This form is used by the Court to grant or deny your Petition for TPR after a hearing. This form may also be used to grant or deny a Petition for Adoption. You will only partially fill in this form as is indicated on the sample form. The Court will fill in the rest of the information when the Judge issues the Order.

BELOW ARE OPTIONAL FORMS

ONLY file the following forms if the situation applies to you.

If you do not know where Respondent(s) lives, file:

Affidavit that a Party's Address is Unknown form. (*file the original and one copy*).

- Sample form can be found on page 38.
- You must provide the Court with each Respondent's current address. If you do not know where the Respondent(s) currently lives, you must **try to locate** him or her. Ways to do this include talking to the Respondent's friends or relatives or checking the Internet. If, after looking for the Respondent(s), you cannot find his/her current address, you must complete this form. **Do not complete** this form until you have made an effort to locate the Respondent(s).
- You must complete this form before we publish notice of the matter in the newspaper. Please see page 35 for more information regarding Notice by Publication.

If all parties agree on the Termination of Parental Rights, file:

Consent to Termination and Transfer of Parental Rights form. (*file one original*).

- Sample form may be found on page 39.

- File this document only if the Respondent(s) have already agreed upon the termination and transfer of parental rights to another person for purposes of adoption.
- This form must be signed by the Respondent(s) who agrees to have his or her parental rights terminated. If there are 2 Respondents agreeing to have their parental rights terminated, they must each sign separate forms.
    - The birth mother may sign this form only after the child is born. The father or presumed father may sign this form either before or after the child is born.
- On this form, the Respondent(s) will describe for the Court:
    - To whom parental rights will be transferred for the purpose of adoption
- On this form, the Respondent(s) will acknowledge that:
    - they understand the rights that they are terminating; **AND**
    - they understand that after the consent is signed, it cannot be revoked unless the requirements of 13 Del.C. §1106B(a) have been met.
- Before the Respondent signs this form, he/she MUST be in the presence of any of the following persons who are authorized to take consents:
    - A judge of a Court of record; OR
    - An individual designated by a Judge to take consents; OR
    - An employee designated by an authorized agency to take consents: OR
    - An attorney other than the attorney(s) representing the adoptive parent(s) or representing the agency to which parental rights will be transferred.
    - **A notary public is NOT an authorized person to take consents!**

Affidavit of Consent to Termination of Parental Rights and Adoption (*file the original and one copy for each Respondent*).

- Sample form may be found on page 41.
- File this document only if the Respondent(s) have already agreed upon the termination and transfer of parental rights to another person for purposes of adoption.
- This form must be signed by the Respondent(s) who agrees to have his or her parental rights terminated. If there are 2 Respondents agreeing to have their parental rights terminated, they must each sign separate forms.
    - The birth mother may sign this form only after the child is born. The father or presumed father may sign this form either before or after the child is born.
- On this form, the Respondent(s) will describe for the Court:
    - To whom parental rights will be transferred for the purpose of adoption
- On this form, the Respondent(s) will acknowledge that:
    - they understand the rights that they are terminating; **AND**
    - they understand that after the consent is signed, it cannot be revoked unless the requirements of 13 Del.C. §1106B(a) have been met.

If Respondent(s) is in the military, file:

Waiver of Rights under the Servicemembers' Civil Relief Act (*file the original and one copy for each Respondent*).

- Sample form may be found on page 43.
- If the Respondent(s) is in the military, the Respondent(s) must file an Answer, an Affidavit of Appearance or **YOU** must have the Respondent(s) sign a Waiver of Rights under the Servicemembers'

Civil Relief Act. If the Respondent(s) does not file one of these documents, you must file a **Motion to Appoint an Attorney**. You should start this process as soon as possible because it takes time. The Court will not schedule your Termination of Parental Rights hearing until you complete this process.

- If there are multiple Respondents who are in the military you must file a separate form for each Respondent.

BE SPECIFIC WHEN COMPLETING THE FORMS and make sure that you address **ALL** of the grounds found on pages 24-27 in your petition. When you complete a form, write in blue or black ink **AND** write neatly.

File the forms at the Family Court **in the County where the child currently lives or the county in which a parent of the child currently lives**. If the child does not currently live in Delaware, you should talk to an attorney before filing to make sure the Delaware Family Court is the right Court to hear your case and to find out in which state and county you should file.

- In Kent and Sussex Counties you may file your papers at the Resource Centers on the first floor of the Family Court buildings.
- In New Castle County, you may file your papers at Family Court Intake on Lower Level 1 of the New Castle County Courthouse.
- If you file your papers by mail, the addresses for each courthouse are available on the Family Court website. The Court does **NOT** accept filings that are faxed or e-mailed.

A filing fee is charged for each petition that is filed. The filing fee can be paid by cash, credit card, debit card, check or money order made payable to "Family Court". If you are filing by mail, you may only pay by check or money order. **FAMILY COURT WILL NOT ACCEPT YOUR PAPERS WITHOUT THE FILING FEE**. There are additional costs if we must publish notice of this action.

ADDITIONAL INSTRUCTIONS FOR TERMINATION OF PARENTAL RIGHTS

SERVICE OF PROCESS

Each Respondent **must receive** a copy of the Petition for Termination of Parental Rights. The delivery of the Petition for Termination of Parental Rights and any other forms you file is called **Service of Process**. The way that the Court accomplishes Service of Process depends on how much information you can provide the Court about where the Respondent(s) lives. Determine from the following options how Service of Process should be accomplished in your case.

- **The Respondent Lives in Delaware and You Know His/Her Address**

  If the Respondent lives in Delaware **AND** you know his/her address, a **Process Server** (someone whose job involves delivering Court papers) will give a copy of your petition and other papers to the Respondent(s). This is called **Personal Service** and the Court will do this for you.

- **The Respondent Does Not Live in Delaware and You Know His/Her Address**

  If a Respondent(s) does **NOT** live in Delaware **AND** you know the Respondent's address, the Court will mail your papers *via* certified mail, return receipt requested, to the Respondent(s). The court will, **AT YOUR EXPENSE**, publish legal notice of your petition in 2 approved newspapers in the county and state where the Respondent(s) lives. You must provide the name of the newspapers for the out of state Respondent(s).

- **You Do Not Know Where the Respondent Lives or Works**

  If you do **NOT** know where a Respondent lives or works so that the Process Server can deliver your petition to that Respondent, **THE COURT** will publish **AT YOUR EXPENSE** a legal notice of your petition in 2 approved newspapers for 3 consecutive weeks in the

county and state where the Respondent's last known address was located. You must also complete an Affidavit that Address is Unknown form (see page 14).

THE ANSWER

- Once the Respondent(s) has been served with the Petition for Termination of Parental Rights, each Respondent(s) has **20 days** from the date of service (the date that the court papers are delivered to the Respondent(s)) to respond by filing an **Answer** to your Petition for Termination of Parental Rights. If there is more than one Respondent in your case, each Respondent must file his/her own separate Answer. You should receive a copy of the Respondent's Answer in the mail.
- On the Answer to your Petition for Termination of Parental Rights, the Respondent(s) must **admit** (agree with) or **deny** (disagree with) each of the statements you made in your petition. The Respondent(s) may explain why he/she disagrees with the statement.

YOU SHOULD BEGIN SECTION 2 ONCE YOU HAVE FILED THE FORMS IN SECTION 1.

Form 112

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

PETITION FOR TERMINATION OF PARENTAL RIGHTS

Petitioner	*2nd Petitioner (if any)*
Name: Anne C. Smith; D.O.B.: 2/3/1964	Name: Scott R. Smith; D.O.B.: 3/14/1964
SSN: 111-11-1111	SSN: 222-22-2222
Street Address: 101 Oak Street	Street Address: 101 Oak Street
Apt. or P.O. Box Number: #123	Apt. or P.O. Box Number: #123
City: Dover; State: DE; Zip Code: 19901	City: Dover; State: DE; Zip Code: 19901
Home Phone Number: (302) 555-1111; Work Phone Number: (302) 555-9999	Home Phone Number: (302) 555-1111; Work Phone Number: (302) 555-5555
Relation to Child(ren): Maternal Aunt	Relation to Child(ren): Maternal Uncle
Attorney Name: None	Attorney Name: None
Street Address:	Street Address:
Apt. or P.O. Box Number:	Apt. or P.O. Box Number:
City: ; State: ; Zip Code:	City: ; State: ; Zip Code:

File Number: CN07-0550

Petition Number: 07-0223

Respondent	*2nd Respondent (if any)*
Name: Michelle Jones; D.O.B.: 11/12/1967	Name: Steven Harding; D.O.B.: 9/14/1969
SSN: 333-33-3333	SSN: 444-44-4444
Street Address: 123 State Street	Street Address: 123 Main Street
Apt. or P.O. Box Number:	Apt. or P.O. Box Number:
City: Dover; State: DE; Zip Code: 19901	City: Dover; State: DE; Zip Code: 19901
Home Phone Number: 302-222-1212; Work Phone Number: 302-333-4434	Home Phone Number: 302-222-4545; Work Phone Number: 302-678-9999
Relation to Children: Mother	Relation to Children: Father
Attorney Name: None	Attorney Name: None
Street Address:	Street Address:
Apt. or P.O. Box Number:	Apt. or P.O. Box Number:
City: ; State: ; Zip Code:	City: ; State: ; Zip Code:

Guardian Ad Litem (if any)			*Attorney for Guardian Ad Litem (if any)*		
Name Jane Walker			Name Martha Bates		
Street Address 525 South Washington Stre			Street Address 111 Legal Way		
Apt. or P.O. Box Number			Apt. or P.O. Box Number		
City Dover	State DE	Zip Code 19901	City Dover	State DE	Zip Code 19901
Home Phone Number (302) 999-9999	Work Phone Number (302) 111-1111		Home Phone Number (302) 888-8888	Work Phone Number (302) 777-6767	

IN THE INTEREST OF THE FOLLOWING CHILD(REN): (**Complete the table below for each child for which petitioner wants parental rights terminated**. Attach additional sheets if necessary.)

Child's Name	Child's Date of Birth	Child's Place of Birth (City, State)	Child's Gender (Check one)
Douglas A. Smith	10/14/2005	Newark, DE	☒ Male ☐ Female
			☐ Male ☐ Female
			☐ Male ☐ Female

1. Complete the table below regarding the child(ren)'s parents (individuals holding parental rights):

	NAME	Address	Date of Birth	Social Security Number
MOTHER	Michelle Jones	123 State Street Dover, DE	11/12/1967	555-55-5555
FATHER	Steven Harding	123 Main Street Dover, DE	9/14/1969	909-22-1011

2. If you do not know the name/address of the child(ren)'s mother and/or father, write in the space provided below what you have done to try to locate him/her/them.

➢ I have attached to this Petition the following affidavits:

- ☐ **Affidavit that a Party's Address is Unknown**
- ☐ **Affidavit that Biological Father's Name is Unknown**
- ☐ **Affidavit of Non-Disclosure** (e.g., Affidavit that mother knows the name of the biological father but is unwilling to disclose his name)

3. Name(s) of the person(s) or organization **having the guardianship, care, control or custody** of the child(ren): Michelle Jones and Steven Harding

   Address of person(s) or organization: See above

4. Name(s) of the person(s) **to whom parental rights are sought to be transferred (i.e. proposed adoptive parent(s))** if this Petition is granted: Anne and Scott Smith

   Address of person(s) or organization if address is different from address of Petitioner(s):

5. Proposed adoptive parent(s)' relationship to child(ren) if proposed adoptive parent is **NOT** the Petitioner: _____

6. I acknowledge the following is true with regards to the child(ren) named in this petition:

☒ Adoption of the child is possible, appropriate, and a Petition for Adoption will be filed with this Court.

☒ In the case where <u>both parents' parental rights are sought to be terminated</u> with regard to the child(ren) named in this Petition, the possibility of placement of the child with blood relatives has been explored.

Results of these efforts:

Petitioners are blood relatives of the child.

☒ Each birth parent has been advised of the right to file an affidavit as provided in 13 Del. C. §§ 961-965.

☒ Termination of Parental Rights is in the best interests of the child.

☒ If there are two Respondents, both consent to the termination and transfer of their parental rights and the *Consent to Termination and Transfer of Parental Rights* for each Respondent is attached to this Petition.

☐ If there is only one Respondent, he/she consents to the termination and transfer of his/her parental rights and the *Consent to Termination and Transfer of Parental Rights* for that Respondent is attached to this Petition.

☐ If there are two Respondents, only one Respondent consents to the termination and transfer of his/her parental rights and the *Consent to Termination and Transfer of Parental Rights* for the consenting Respondent is attached to this Petition.

7. I have attached to this Petition the *Grounds for Termination of Parental Rights* for each child named above. I have indicated <u>at least one</u> *Ground for Termination of Parental Rights* for each child named in this petition.

Sign in the presence of a notary.

STOP

Anne C. Smith	12/15/2007	Scott R. Smith	12/15/2007
Petitioner	Date	2nd Petitioner (if any)	Date

Sworn to subscribed before me:

Sworn to subscribed before me:

Donna King	12/15/2007	Donna King	12/15/2007
Mediator/Notary Public	Date	Mediator/Notary Public	Date

Signed by notary or Court staff

Affidavit of Truth

Fill in your Name(s)

I/We, _____**Anne Smith and Scott Smith**_____state the information in this Petition for Termination of Parental Rights is true and correct to the best of my/our knowledge.

STOP

Sign in the presence of a notary.

Anne C. Smith
_____
Petitioner

Scott R. Smith
_____
2nd Petitioner

SWORN TO AND SUBSCRIBED BEFORE ME on this date, _____December 15, 2007_____.

Donna King
_____
Notary

Signed by notary or Court staff

GROUNDS FOR TERMINATION OF PARENTAL RIGHTS

Complete a separate *Grounds for Termination of Parental Rights* form for each child named in the *Petition for Termination of Parental Rights*. Thus, if there are 2 children, then 2 *Grounds for Termination of Parental Rights* forms MUST be completed and attached to the Petition.

NAME OF THE CHILD: Douglas Smith

Indicate the grounds for Termination of Parental Rights (**Place an "X" next to the grounds that apply**.)

1. ☒ The parent(s) of the child, or the person(s) or organization holding parental rights over such child agree (consent) that this Petition should be granted.
   ☒ A *Consent to Termination and Transfer of Parental Rights* is attached to the Petition.

2. ☒ Respondent has abandoned the child **AND** intended to abandon the child as evidenced by the fact that: (**Place an "X" next to which situation applies**)

   a. ☐ The child is younger than 6 months old at the time of filing this Petition, Respondent FAILED to:

      - Pay reasonable prenatal, natal and postnatal expenses in accordance with Respondent's financial means; **AND**
      - Visit regularly with the child; **AND**
      - Manifest (show) an ability and willingness to assume legal and physical custody of the child (if the child was NOT in the physical custody of the *other* parent).

   b. ☒ The child is at least 6 months old at the time of filing this Petition **AND** for at least 6 consecutive months (6 months in a row) during the year immediately before filing the Petition, Respondent(s) did FAILED to:

      - Make reasonable and consistent payments in accordance with Respondent's financial means, for support of the child; **AND**
      - Communicate or visit regularly with the child; **AND**
      - Manifest (show) the ability and willingness to assume legal and physical custody of the child (if the child was NOT in the physical custody of the *other* parent).

   c. ☐ The child is younger than 6 months old at the time of filing this Petition **AND** Respondent has placed the child in circumstances leaving the child in substantial risk of injury or death and therefore has manifested (shown) the unwillingness to exercise parental rights

3. ☐ Respondent has abandoned the child BUT did **NOT intend** to abandon the child because: (**Place an "X" next to which situation applies**)

   a. ☐ For 12 consecutive months (12 months in a row) in the 18 months before filing this Petition, Respondent FAILED to:

      - Communicate or visit regularly with the child; **AND**

- File or pursue a pending Petition to establish paternity or to establish the right to have contact or visitation with the child; **AND**

- Manifest (show) the ability and willingness to assume legal and physical custody of the child (if the child was NOT in the physical custody of the *other* parent).

AND one of the below applies (**Place an "X" next to all that apply**):

☐ The child is not in the legal and physical custody of the other parent and Respondent is not able or willing promptly to assume legal and physical custody of the child, and to pay for the child's support, in accordance with Respondent's financial means.

☐ Placing the child in Respondent's legal and physical custody would pose a risk of substantial harm to the physical or psychological well being of the child. Respondent is unfit to maintain a relationship of "parent and child" with the child because of any of the following reasons:

i. The circumstances of the child's conception; **OR**

ii. Respondent's behavior during the mother's pregnancy; **OR**

iii. Respondent's behavior after the child was born; **OR**

iv. Respondent's behavior with respect to other children.

☐ Failure to grant the Petition for Termination of Parental Rights would be detrimental to the child.

4. ☐ The parent(s) of the child or any person(s) holding parental rights over such child are mentally incompetent and therefore, are unable to discharge parental responsibilities in the foreseeable future. (*The Court will select 2 qualified psychiatrists to form an opinion regarding mental incompetence and inability to discharge parental responsibilities. The Court also will appoint a licensed attorney, as Guardian Ad Litem, to represent the alleged incompetent's interests in the proceeding*) .

5. ☐ Respondent has been found by a Court of competent jurisdiction to have: (**Place an "X" next to all that apply**)

   a. ☐ Committed a felony level offense as described in subchapter II of Chapter 5 of Title 11 against the person in which the victim was a child;

   b. ☐ Aided or abetted, attempted, conspired or solicited to commit a felony level offense as described in subchapter II of Chapter 5 of Title 11 against the person in which the victim was a child;

   c. ☐ Committed or attempted to commit the offense of Dealing in Children as set forth in § 1100 of Title 11.

   d. ☐ Committed the felony level offense of endangering the welfare of a child as set forth in § 1102 of Title 11.

6. ☒ The parent(s) of the child, or any person(s) holding parental rights over the child, are not able or have failed to plan adequately for the child's physical needs or mental and emotional health and development, and 1 or more of the following conditions has been met: (**Place an "X" next all that apply**)

a. ☐ If the child is in the care of the Department or a licensed agency**:**

☐ The child has been in the care of the Department of licensed agency for a period of one year, or if the child has come into care as an infant, a period of 6 months, or there is a history of previous placement(s) of this child; **OR**

☐ There is a history of neglect, abuse, or lack of care of the child or other children by Respondent; **OR**

☐ Respondent is incapable of discharging parental responsibilities due to extended or repeated incarceration; **OR**

☐ Respondent is not able or willing to assume promptly legal and physical custody of the child, and to pay for the child's support, in accordance with Respondent's financial means; **OR**

☐ Failure to grant the Petition for Termination of Parental Rights will result in continued emotional instability or physical risk to the child.

b. ☒ If the child is in under the care of a stepparent or blood relative**,**

- the child has resided in the home of the blood relative for a period of at least 1 year, or in the case of an infant, a period of 6 months **AND**
- Respondent is incapable of discharging parental responsibilities, and there appears to be little likelihood that Respondent will be able to discharge such parental responsibilities in the near future.

7. ☐ Respondent's parental rights over a sibling (brother, sister, half-brother, half-sister) of the child who is the subject of the Petition have been involuntarily terminated in a prior proceeding.

8. ☐ The parent has subjected the child to torture, chronic abuse, sexual abuse, and/or life-threatening abuse.

9. ☒ The child has suffered unexplained serious physical injury under such circumstances as would indicate that such injuries resulted from the intentional conduct or willful neglect of the parent.

Form 346

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

CUSTODY SEPARATE STATEMENT IN COMPLIANCE WITH TITLE 13, SECTION 1928 OF THE DELAWARE CODE

Petitioner	Respondent	File No.:
Anne C. Smith/Scott R. Smith	Michelle Jones/Steven Harding	CN07-0550

1. What type of petition are you filing? Petition for Termination of Parental Rights

2. Who is the child(ren) named in your petition? (Please provide full name and date of birth)

Doug A. Smith 10/14/05

3. Have all the children listed above continually resided with one another? ☒ Yes ☐ No
If you answered "No," the children have not continually resided with one another, please complete a Custody Separate Statement for each child.

4. Where is the child(ren) living as of today's date?

Street Address	City	State	Zip Code
101 Oak Street, Apt. #123	Dover	DE	19901

Name of person(s) child(ren) is living with	Relationship to child(ren)
Anne C. Smith and Scott R. Smith	Aunt and Uncle

5. During the past five years, where have the child(ren) lived? *List addresses from the most recent to the oldest beginning with the address where the child(ren) currently lives. If the child(ren) is under the age of five years old end with the first address where the child lived.*

Address where child(ren) currently resides		City	State	Zip Code
101 Oak Street, Apt. #123		Dover	DE	19901
Date child(ren) lived there	**Name of person(s) child(ren) is living with**		**Relationship to child(ren)**	
1/1/2004-present	Anne C. Smith and Scott R. Smith		Aunt and Uncle	
Person's current address		**City**	**State**	**Zip Code**
same as above				

Address where the child(ren) lived before that.		City	State	Zip Code
490 Pine Street		Wilmington	DE	19899
Date child(ren) lived there	**Name of person(s) child(ren) is living with**		**Relationship to child(ren)**	
8/10/2002-12/31/2003	Scott and Anne Smith		Aunt and Uncle	
Person's current address		**City**	**State**	**Zip Code**
490 Pine Street		Wilmington	DE	19899

Address where the child(ren) lived before that.		City	State	Zip Code
6160 Beachfront Drive		Virginia Beach	VA	23464
Date child(ren) lived there	**Name of person(s) child(ren) is living with**		**Relationship to child(ren)**	
Birth to 8/10/2002	Michelle Jones and Steven Harding		Parents	
Person's current address		**City**	**State**	**Zip Code**
Same as above				

Address where the child(ren) lived before that.	City	State	Zip Code

Date child(ren) lived there	Name of person(s) child(ren) is living with	Relationship to child(ren)

Person's current address	City	State	Zip Code

16. Check **ONE** and complete as directed.

☒ I have not been involved in any other court action for custody and/or visitation of this child(ren).
☐ I have been involved in another court action for custody and/or visitation of this child(ren). *If you check this box, complete the information below. Attach additional sheets if necessary.*

TYPE OF ACTION (custody, visitation or modification)	**PERSON** who filed action	**STATE** action was filed in	**COURT** where the action was filed

DATE action was filed	**CASE NUMBER**	**RESULT** of action	**DATE OF ORDER**

TYPE OF ACTION (custody, visitation or modification)	**PERSON** who filed action	**STATE** action was filed in	**COURT** where the action was filed

DATE action was filed	**CASE NUMBER**	**RESULT** of action	**DATE OF ORDER**

17. Check **ONE** and complete as directed.

☐ I do not know of any other court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship, Adoption or Paternity involving myself, the other party or the child(ren) that could affect this petition.
☒ I, the other party or the child(ren) have been and/or are currently involved in another court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship or Adoption, that could affect this petition. *If you check this box, complete the information below. Attach additional sheets if necessary.*

TYPE OF ACTION (PFA, TPR, Guardianship, Adoption)	**PERSON** who filed action	**STATE** action was filed in	**COURT** where the action was filed
PFA	Anne C. Smith	DE	Family Court

DATE action was filed	**CASE NUMBER**
12/31/04	CK04-12111

TYPE OF ACTION (PFA, TPR, Guardianship, Adoption)	**PERSON** who filed action	**STATE** action was filed in	**COURT** where the action was filed

DATE action was filed	**CASE NUMBER**

. Check **ONE** and complete as directed.

☒ No one other than the parties have physical custody, legal custody or visitation rights with the child(ren).

☐ A person(s) other than the parties have physical custody, legal custody or visitation rights with the child(ren). *If you check this box, complete the information below. Attach additional sheets if necessary.*

Name of person(s) child(ren) is living with	Relationship to child(ren)

Address of person(s) where child(ren) reside	City	State	Zip Code

Name of person(s) child(ren) is living with	Relationship to child(ren)

Address of person(s) where child(ren) reside	City	State	Zip Code

SWORN TO AND SUBSCRIBED

before me this date,

STOP

Sign in the presence of a notary.

Anne C. Smith/Scott R. Smith

Petitioner

March 23, 2007

STOP

Signed by notary or court staff.

Donna King

Notary Public

Form 240

The Family Court of the State of Delaware

Fill in the date you file the form.

INFORMATION SHEET - **PLEASE PRINT**

Date: March 17, 2007 File No. : 07-0550

Please fill in A to K pertaining to you the Applicant (Petitioner). If there are additional Petitioners, use additional sheets.

A. Name: Anne C. Smith

B. Address: 101 Oak Street, Apartment #123

Dover, Delaware 19901

C. Phone: Home: (302) 555-1111 Work: (302) 555-9999

D. Employer & Work Address: ABC Child Care Center, 500 Pine Street, Dover, Delaware 19904

Hours/Shift: 7:30 to 4:30 Monday-Friday

E. Social Security No.: 111-22-3333 F. Date of Birth: 2/3/64

G. Description: Sex: F Race: white Height: 5'4" Weight: 135 lbs Hair: blond Eyes: brown

Marks/Scars/Tattoos: none

H. Type of Vehicle operated by you: 1998 Honda Accord

I. Driver's License: DE 7654 (State and Number) J. Your relationship to the Defendant/Respondent: sister

K. Attorney: none

If you are filing for Custody, Visitation, Support or Petition for Protection from Abuse please fill out the information needed below in reference to the child(ren) who are involved..

Children (Custody/Visitation/Support/Petition for Protection from Abuse)

Name	Relationship	Sex	Date of Birth
Doug A. Smith	Son	Male	10 / 14 / 05
			/ /
			/ /
			/ /
			/ /
			/ /
			/ /

Please fill in L to X pertaining to the Defendant/Respondent..(For additional respondents use additional sheets)

L. Defendant/Respondent is a: (Check One) **X ADULT** ق **JUVENILE**

M. Name: Michelle Jones

N. Address: 123 State Street
Dover, DE 19901

O. Phone: Home: (302) 222-1212 Work: (302) 222-3333

P. Employer and Work Address: XYZ Corporation, 67 Walnut Avenue, Newark, Delaware 19867

Hours/Shift: 9 am -5pm, Monday-Friday

Q. Social Security No.: 787-98-6767 R. Date of Birth: 7/13/65

S. Description: Sex: F Race: white Height: 5'0" Weight: 120 lbs Hair: black Eyes: brown

Marks/Scars/Tattoos: tattoo of an eagle on right shoulder

T. Drivers License No.: DE93765 U. Type of vehicle operated by Defendant/Respondent 99 Trailblazer

V. Parent's Name (if a Juvenile):

W. Time when Respondent is usually home: 7pm-6:30 am, Monday-Friday and Mornings on the weekends

List places where the Respondent spends time other than at home or at work.

X. Any additional information about Respondent that may aid the process server in locating him/her to serve this petition:
If you are unable to locate the Respondent at her place of residence or her place of employment, she spends a lot of time at brother's house which is located at 775 Spruce Lane, Newark, DE 19867.

Write directions to each address list on this form to make sure that the process serve can locate the Respondent.

DIRECTIONS TO RESPONDENT'S RESIDENCE

Home: Go west on 8th Street until you reach Pine Street. Turn right and go 3 and a half blocks. The Respondent's house is on the right and is white with blue shutters.

Work: Take I-95 towards Baltimore. Get off at Exit 10 and take your first right onto Cherry Drive. Go about a mile and a half. Turn left onto Walnut Ave. XYZ Corporation is on your left.

Brother: Go two blocks past Respondent's home to 10th Street. Turn left and go one block to Spruce Lane. Turn right. It is the second house on the right. The house is green.

Form 115

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

Anne C. Smith/Scott R. Smith, Petitioner	)	
v.	)	File No.: CK07-0550
Michelle Jones/Steven Harding, Respondent	)	Petition No.: 07-0223

PRAECIPE IN A TERMINATION OF PARENTAL RIGHTS ACTION

TO: Clerk of Court,

Please issue a summons and copies of the petition upon the respondent(s) by personal service at the following addresses in Delaware:

RESPONDENT NAME	HOME ADDRESS	WORK ADDRESS
Michelle Jones	123 State Street	XYZ Corporation
		67 Walnut Avenue
	Dover DE 19901	Dover DE 19901
Hours Likely to be served:	5pm to 10pm	9am to 4pm

RESPONDENT NAME	HOME ADDRESS	WORK ADDRESS
Steven Harding	123 Main Street	ACME Corporation
		88 North Avenue
	Dover DE 19901	Dover DE 19901
Hours Likely to be served:	5pm to 10pm	9am to 4pm

In the event that personal service on one or more of the respondents cannot be effected in Delaware, and the Court finds that personal service is unlikely, please send a summons by U.S. first class mail and U.S. registered or certified mail to the h[illegible] addition, please publish notice of this action in the following newspapers n[illegible]nt(s) notice of this action consistent with the requirements of 13 Del. C. § 13[illegible]

Information regarding local publications is available in the self-help/resource centers.

Respondent Name	Local Publication	Foreign Publication (if necessary)
Michelle Jones/Steven Harding	Delaware State News	
Newspaper Address:	110 Galaxy Drive	
	Dover, DE 19901	
Attention:		

December 17, 2007
Date

Anne C. Smith
Attorney for Petitioner

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

Anne C. Smith/Scott R. Smith ,
Petitioner

v.

Michelle Jones/Steven Harding ,
Respondent

File No.: CN07-0550

Petition No.: 07-0223

ORDER OF REFERENCE FOR TERMINATION OF PARENTAL RIGHTS

THE FOREGOING Petition for Termination of Parental Rights Having been presented to the Court, and it appearing that the Petition has been properly filed;

Write in the type of Petition you have filed- Termination of Parental Rights

IT IS ORDERED that the Child Placement Agency perfor[illegible]ort to the Court as required by 13 Del.C. §1107(f).

Write in the name of the Child Placement Agency you have chosen

STOP

_____
Judge

This portion of the form will be completed by the Judge.

_____
Date

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

Fill out only the top portion of this form.

Anne C. Smith/Scott R. Smith , Petitioner	)	File No.: CN07-0550
v.	)	Petition No.: 07-0223
Michelle Jones/ Steven Harding , Respondent	)	

This portion of the form will be completed by Court staff.

ORDER FOR HEARING

AND NOW, TO WIT, the foregoing Petition of _____ having been read and considered,

IT IS ORDERED that the above matter be set down for a hearing on , at o'clock at which time the Petitioner shall appear to establish that Respondent's parental rights in _____ should be terminated and said rights granted to _____ and Respondent may appear in opposition to the petition and in opposition to the evidence offered in support thereof.

IT IS FURTHER ORDERED that the Clerk of Court shall cause notice of the time, place and purpose of the hearing to be served upon _____ at their last known address. If such personal service cannot be accomplished, then such notice shall be published in _____ once each week for three consecutive weeks and notice shall be sent to Respondent by regular and certified mail to the last known address, a copy of the Petition attached thereto.

_____

Judge

This portion will be completed by the Judge.

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

Fill out only the top portion of this form.

Anne C. Smith/Scott R. Smith ,
Petitioner

v.

Michelle Jones/ Steven Harding ,
Respondent

File No.: CN07-0550

Petition No.: 07-0223

This portion of the form will be completed by Court staff.

FINAL ORDER FOR TERMINATION OF PARENTAL RIGHTS

AND NOW, TO WIT, this day of , ,the Petition of _____ for the Termination of Parental Rights of _____ having been presented to and duly considered by this Court and the Court being satisfied from the evidence presented at the hearing on said Petition that the grounds for Termination of Parental Rights as defined by 13 Del.C.§ 1103 have been established

IT IS ORDERED that all parental rights of the said _____ with respect to _____, be and they are hereby terminated and transferred to the Petitioner, _____.

_____
Judge

Form 241

The Family Court of the State of Delaware

in and for New Castle X Kent Sussex County

Check the county in which you are filing.

AFFIDAVIT THAT A PARTY'S ADDRESS IS UNKNOWN

Petitioner Last	First	MI		Respondent Last	First	MI	File No.
Smith	Anne	C.	vs.	Jones	Michelle		
				Harding	Steven		CPI No.

Fill in the county in which you are filing.

State of Delaware)
) SS.
Kent County)

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this 17th day of March, 2007, personally appeared before me, a Notary Public for the State and County aforesaid, Anne C. Smith, ("Affiant"), who, being by me duly sworn according to law did depose and say:

The person filling out the form is the "Affiant" and his/her name goes here.

1. My name is Anne C. Smith

2. I do not know the current address and/or telephone number, nor do I know anyone who could provide me with the current address and/or telephone number of Michelle Jones. I have contacted his/her (Please check as appropriate) ☐ Parent ☐ Spouse ☐ Employer X Other: Respondent's Brother.
   His/Her last known address and telephone number were:

   490 Pine Street
   Wilmington, Delaware 19899

   as of January 10, 2004.

   Fill in the date that the Respondent last lived at the above address.

3. I have had no contact with him/her since January 1, 2004.

4. I have been informed of my responsibility to accomplish publication and my failure to do so will result in the petition being dismissed.

5. The information contained herein is true and correct to the best of my knowledge and belief.

STOP Sign in the presence of a notary.

Anne C. Smith
Affiant

SWORN TO AND SUBSCRIBED before me this date, _____.

STOP Signed by notary.

Donna King
Notary Public

The Family Court of the State of Dela

In and For ☐ New Castle ☒ Kent ☐ Sussex Cou

Check the county in which you are filing

CONSENT TO TERMINATION AND TRANSFER OF PARENTAL RIGHTS

I, Michelle Jones this 4th day of April, 2007

at 3:00 a.m/p.m. at New Castle County Family Court

(location) state as follows:

1. I am the ☒ mother/☐ father of Doug Smith (child's name), born 10/14/2005;
2. My address is 123 State Street
   Dover, DE 19901
3. My date of birth is 2/15/1985
4. I agree to consent to the termination and transfer of my parental rights, for the purpose of adoption, in the child named in paragraph one to (name, address and phone number of individual(s)):

   Name Anne C. Smith and Scott R. Smith
   Address 101 Oak Street. Apartment #123
   Dover, DE 19901

   List the person to whom parental rights will be transferred

5. I understand the importance of my decision and fully realize the effects of the termination of my parental rights in this child.
6. I understand that by terminating my parental rights all of my rights and obligations to this child will be extinguished, except for arrearages of child support.
7. I understand that after this consent is signed by me and confirmed pursuant to 13 Del. C. § 1106(c), this consent is final and may not be revoked or set aside for any reason unless the requirements of 13 Del.C. § 1106B(a) have been met.
8. I have read and/or have had read to me the 7 statements on the reverse side of this form, and fully understand and agree with each statement.
9. I understand that pursuant to 13 Del. C. § 923(b), I have a right to file a notarized statement with the Department of Health and Social Services of Vital Statistics denying the release of any identifying information. Notwithstanding any other provision in the Delaware Code to the contrary, an adoptee 21 years of age or older may obtain a copy of his or her original record of birth from the State Registrar pursuant to sub-section 3110(b) of Title 16, even if that record has been impounded, unless the birth parent has, within the most r period, filed a written notarized statement with the Departm Services of V denying the release of any identifying information.
10. **I know and understand that I have the right to be serve tion for tern parental rights, and have a hearing on my important arental righ child. I understand that the Family Court may co duct . I hereby right to service and any notice of such hearing by checking the following box ☒;**

    Check this box if you waive your right to getting information about a hearing.

    Check this box if you want to receive a copy of the final order.
11. **I know that I will receive notice of the final order of the Court only if I check the following box ☒.**
12. This consent may be revoked if a Court of competent jurisdiction decides not to terminate the other parent's rights to this child.
13. I understand that if I am indigent and wish to have attorney represent me in this matter, an attorney would be appointed to represent me. I knowingly and voluntarily waive my right to an attorney.
14. I have received a copy of my signed consent.
15. **I have signed this consen I have neither been promised nor received any money or an this consent.**

    Only sign in the presence of an authorized person.

Michelle Jones
Consenting Party

TERMINATION OF PARENTAL RIGHTS
CONSENT PARTY STATEMENT

I, Michelle Jones, the ☒ mother ☐ father of Doug A. Smith
who was born on 10/14/05 do state that I:

1. Believe that placement of my child for adoption by Anne C. Smith and Scott R. Smith, would be In the child's best interest.
2. Know that the decision to terminate my parental rights is an important one.
3. Know and understand that when my parental rights in my child are terminated, I will no longer be the legal parent of my child.
4. Know and understand that when I terminate my parental rights in my child that I give up all rights.
5. Know and understand that when I terminate my parental rights in my child and child is adopted, the child becomes the child of Anne C. Smith and Scott R. Smith, and as a result the child's name may be changed.
6. Know and understand that when I terminate my parental rights in my child, my child loses the right to inherit from me and I lose the right to inherit from him/her. This sh de for the disposition of my estate by will.
7. Know and understand that I have the right to be repres d may be entitled to have the Court appoint an attorney to represent me fo

Only sign in the presence of an authorized person.

Michelle Jones — Consenting Party

4/7/2007 — Date

CONFIRMATION STATEMENT

I, the undersigned, hereby certify the f

DO NOT FILL OUT THE REMAINDER OF THIS FORM. THIS MUST BE FILLED OUT BY AN AUTHORIZED PERSON. SEE PAGE ?? FOR A LIST OF AUTHORIZED PERSONS.

ental rights under 13 Del. C. § 1106(c) because I am

nts;

☐ A lawyer other than a lawyer who is representing an adoptive parent or the agency to which parental rights will be transferred;

☐ A commissioned officer on active duty in the military service of the United States, if the individual executing the consent is in the military service; or

☐ An officer of the Foreign Service or a consular officer of the United States in another country, if the individual executing the consent is in that country.

2. I have explained the contents and consequences of the consent to the consenting party Michelle Jones
3. To the best of my knowledge and belief, the consenting party understands that he/she has the right to be represented by an attorney;
4. To the best of my knowledge and belief, the consenting party ☒read/ ☐was read
5. To the best of my knowledge and belief, the individual executing the consent entered into the consent voluntarily;
6. To the best of my knowledge and belief, the individual is: (check one)
   ☒ Not a minor; or
   ☐ Is a minor parent and was advised by a lawyer who is not representing an adoptive parent or the agency to which parental rights are being transferred;
7. The individual executing the consent signed or confirmed the consent in my presence.

4/7/2007	Sandra Dee	*Sandra Dee*
Date	Authorized Person (printed name)	Authorized Person (signature)

Agency: Catholic Charities
Address: 500 Dover Avenue
Dover, DE 19001

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

AFFIDAVIT OF CONSENT TO TERMINATION OF PARENTAL RIGHTS AND ADOPTION

I, Michelle Jones, the mother of Douglas A. Smith, who was born on 10/14/2005, agree and consent to the termination of my parental rights in said child and furthermore consent to the adoption of said child by Anne C. Smith & Scott R. Smith.

Further, I understand the importance of my decision and fully realize the effects of the termination of parental rights and the adoption of said child. I have read and have had read to me the statements on the reverse side of this form and fully understand and agree with each statement.

I have signed this consent voluntarily and of my own free will.

Sign in the presence of a notary.

STOP

Michelle Jones 12/17/2007

Consenting Party Date

State of Delaware

County of Kent

Sworn to subscribed before me:

Signed by notary or court staff.

Donna King 12/17/2007

Notary Public Date

TERMINATION OF PARENTAL RIGHTS AND ADOPTION CONSENTING PARTY STATEMENT

I, _____Michelle Jones_____, THE _____mother_____ of _____Douglas A. Smith_____, who was born on _____10/14/2005_____:

1. Believe the adoption of my child by _____Anne & Scott Smith_____ would be in the child's best interest.

2. Know that my decision to terminate my parental rights and to consent to the adoption of my child is an important one.

3. Know and understand that upon the Court's granting of the final decree of adoption that my parental rights over said child shall be terminated and I will no longer be the legal parent of my child.

4. Know and understand that when my child is adopted and my parental rights in said child are terminated, I give up all rights, privileges, and responsibilities concerning the child.

5. Know and understand that when my child is adopted and my parental rights in said child are terminated, the child becomes the child of _____Anne_____and _____Scott Smith_____, and as a result the child's name may be changed.

6. Know and understand that when my child is adopted and my parental rights in said child are terminated, I will not have the right to visit with him/her or know his/her whereabouts.

7. Know and understand that when my child is adopted and my parental rights in said child are terminated, my child loses the right to inherit from me and I lose the right to inherit from him/her. This shall not in any way limit my right to provide for the disposition of my estate by will.

8. Know and understand that I may, within sixty (60) days of the filing of the adoption petition containing this consent, petition the Family Court to revoke this consent and dismiss the adoption petition.

_____Michelle Jones_____ _____12/17/2007_____
Consenting Party Date

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

Anne C. Smith Petitioner,	)	File No.: _____
and	)	Petition No.: _____
Michelle Jones Respondent,	)	

WAIVER OF RIGHTS UNDER THE "SERVICEMEMBERS CIVIL RELIEF ACT"

STATE OF DELAWARE)
Kent COUNTY) ss.

Check the county in which you are filing.

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, March 25, 2004, personally appeared before me, a Notary Public for the State of Delaware in the County declared above, Michelle Jones, ("Affiant"), who, being duly sworn by me according to law, did depose and say:

1. That Affiant is the Respondent in the above captioned ca
2. That Affiant is active duty in the United States military: a
3. The Affiant waives his/her rights under the "Servicemen n doing so acknowledges that he/she, or his/her attorney, will be d to and appear at all legal proceedings associated with the above oned case.

The "Affiant" is the Respondent. ONLY the Respondent may complete this form. If you are the Petitioner in this proceeding, you may not fill out this form.

Sign in the presence of a notary.

Mischelle Jones
Respondent ("Affiant")

SWORN TO AND SUBSCRIBED before me this date, *March 25, 2007*

Signed by notary.

Donna Young
Notary Public

Section 2

SOCIAL STUDY AND REPORT

For Termination of Parental Rights, a Social Study and Report is Mandatory.

A Social Study and Report is a report that provides detailed information about you and the child which will **help the Court determine whether parental rights should be transferred to you**. A worker from a child-placing agency will talk to all of the people involved with the case including you, the child's parents and the child. The worker will then write a report and submit it to the Court. The report will include information about the following:

- The child and the child's background;
- You and your home where the child will be living;
- The child's physical and mental condition;
- The suitability of the placement;
- Whether all of the requirements under Delaware law have been met; **AND**
- The agency's recommendation regarding whether the termination of parental rights should be granted.

Because the Social Study and Report must contain a lot of information, the worker investigating and preparing the report will probably need to get some information from you. The worker will likely ask you for the **names of people** that he/she can speak with to find out more information about **you**, the **child** and

the **child's situation**. Furthermore, the worker may want to **visit your home** and see the environment where the child will be living. The worker may also ask you to provide him/her with **documents and papers** that are needed to prepare the report. It is **VERY** important that you cooperate with the worker and comply with his/her requests to the best of your ability. Remember, that the information in the report will guide the Court when deciding whether to transfer parental rights.

YOU must **select** a licensed child-placing agency to do the Social Report and Study. A list of child-placing agencies is available in the Family Court Resource Centers located in each courthouse. You select the agency by filing the Order of Reference form described in Section 1, page 13.

SECTION 3 WILL BEGIN NEXT.

Section 3

HEARING WITH A JUDGE

SCHEDULING THE HEARING

- A **Court Hearing** will be scheduled by the Court.

You do not need to file any additional paperwork to have your hearing scheduled. The Court will notify you when your hearing is scheduled, by mailing you a **Notice** to inform you of the time and date of the **Court Hearing.**

If you cannot attend the scheduled hearing, you must file the following form:

Motion for Continuance *(file one original and mail one copy to the Respondent).*

- Sample form may be found on page 50.
- If, once you receive your Notice, you cannot attend the scheduled Termination of Parental Rights Hearing, you must contact the Court **IMMEDIATELY** by filing a **Motion for Continuance.** **DO NOT** call the Court. On this Motion, you must state **very specific reasons** why you cannot attend the hearing. You must have a legal and unavoidable reason for needing to reschedule the hearing. You cannot request a continuance simply because it is not convenient for you to attend the hearing on the scheduled day. Before you file the Motion for Continuance, you must contact each of the Respondent(s) regarding the continuance and then **tell the Court in your motion how the Respondent(s) feels about the**

continuance. Because the law is very strict when it comes to rescheduling, these Motions are not always granted.

- You will be notified by the Court if your Motion for Continuance has been granted. **UNLESS THE COURT GRANTS YOU A CONTINUANCE, YOU <u>MUST</u> APPEAR AT COURT THE DAY OF YOUR SCHEDULED HEARING**. If you fail to appear at your hearing, the Court can dismiss your petition or enter an order granting the Respondent(s) everything that he/she wants.

THE DAY OF THE HEARING

The Court Hearing is a trial in front of a Judge. At the Court Hearing, you and the Respondent(s) will each be given an opportunity to tell your sides of the case and ask witnesses questions. During the Court Hearing, the Judge expects you to follow a certain procedure. It is important that you are familiar with this procedure so that you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story**.**

Family Court has developed a **Court Hearing Procedure Overview** that explains generally what the Court Hearing procedure is and should answer many of the questions you have about the procedure. Family Court also has developed a series of **Answers to Frequently Asked Questions on Your Court Hearing** to help you prepare and organize for your Court Hearing. This information can be found in the Resource Centers in each courthouse.

Unless the parent(s) consent to the termination of parental rights, it is up to **YOU** at the hearing to prove the following:

- The grounds for Termination of Parental Rights are met. These grounds are provided on pages 53-60 of this packet. Review that information before the hearing, so that you are prepared to present your case to the Court.
- It is in the best interests of the child to terminate parental rights. The Court will consider the following 8 factors in determining what is in the best interests of the child:

- The wishes of the child's parents as to his/her custody and living arrangements;
- The wishes of the child as to his/her custody and living arrangements;
- The interaction of the child with his/her parents, brothers and sisters, grandparents and any people living in the child's home or affecting the child's best interest;
- The child's adjustment to his/her home, school and community;
- The mental and physical health of all individuals involved;
- How well each parent has in the past and currently satisfies their parental rights and responsibilities with respect to their children;
- Evidence of domestic violence; and
- The criminal history of any party or other resident of a household, including guilty pleas, pleas of no contest and criminal convictions.

After both sides have presented all of their evidence, one of two things can happen. The Judge can **announce his/her decision** at the end of the hearing, in which case you will leave the Courthouse knowing what the termination of parental rights arrangement is. **OR**, the Judge can **reserve decision**. When the Judge reserves decision, he/she considers all of the information presented during the hearing and issues a written order explaining the why the termination of parental rights was granted or denied. Regardless of how the Judge issues the order, you should receive a copy of the Judge's decision, or Court Order, in the mail.

SECTION 4 WILL BEGIN AFTER THE SAMPLE FORMS FOR SECTION 3.

Form 191

The Family Court of the State of Delaw

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

MOTION FOR Continuance

Fill in the title of the motion that you are filing.

Petitioner	*Respondent*	
Name: Anne C. Smith	Name: Michelle Jones	File Number: CK04-12111
Street Address: 101 Oak Street	Street Address: 123 State Street	
Apt. or P.O. Box Number: Apt. # 123	Apt. or P.O. Box Number:	Petition Number:
City: Dover State: DE Zip Code: 19901	City: Dover State: DE Zip Code: 19901	
Social Security Number: 111-22-333 Date of Birth: 2/3/64	Social Security: 787-98	
Attorney Name and Phone Number: n/a	Attorney Nan: n/a	

Fill in the type of hearing that is scheduled. This information appears on the Notice of Hearing you received in the mail.

A PROCEEDING involving TPR having been filed heretofore in this Court,

Explain what you would like the court to order.

Movant hereby moves the Court for a continuance and, in support thereof, alleges the following facts:

The Petitioner, Anne C. Smith has suffered from severe tonsilitis. She is scheduled for surgery on April 12, 2007, the date of the parties' Termination of Parental Rights hearing. I request that the Court grant a continuance so that I can have the necessary surgery. I have contacted both Respondents and both agree that the continuance should be granted.

Describe in detail for the Court why it should grant your motion. Tell the Court how the other party feels about your request.

SWORN TO AND SUBSCRIBED
before me this date,

November 10, 2004

Sign in the presence of a notary.

Anne C. Smith
Movant/Attorney

Donna King
Notary Public/Clerk of Court

Signed by notary or court staff.

I, the Movant, affirm that a true and correct copy of this Motion was placed in the U.S. Mail on this date 11/10/2004 and addressed to Michelle Jones at the address listed on the petition, being , first class postage pre-paid.

Fill in the Respondent's name and the date that you mailed him/her a copy of the motion.

SWORN TO AND SUBSCRIBED
before me this date,

November 28, 2004

Sign in the presence of a notary.

Anne C. Smith
Movant/Attorney

Donna King
Notary Public/Clerk of Court

Signed by notary or court staff.

Form 405

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

Respondent

Name: Anne C. Smith	Name: Michelle Jones	File Number: CK04-12111
Street Address: 101 Oak Street	Street Address: 123 State Street0 Pine Street	
Apt. or P.O. Box Number: Apt. #123	Apt. or P.O. Box Number:	Petition Number: 04-42301
City: Dover State: DE Zip Code: 19901	City: Dover State: DE Zip Code: 19901	
Social Security Number: 111-22-3333 Date of Birth: 2/3/64	Social Security Number: 787-98-6767 Date of Birth: 7/13/65	
Attorney Name and Phone Number: n/a	Attorney Name and Phone Number: n/a	

Fill in the county where you are filing,

AFFIDAVIT OF NON-MILITARY SERVICE

STATE OF DELAWARE)
) ss.
Kent COUNTY)

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, November 30, 2004, personally appeared Before me, a Notary Public for the State of Delaware in the County declared above, Anne C. Smith, ("Affiant"), who, being duly sworn by me according to law, did depose and say:

1. That Affiant is the Petitioner in the Petition for Termination of Parental Rights;
2. That Respondent is not in the military service of the United States of America; and
3. That Affiant has made this Affidavit pursuant to the provisions of § 200 of the Act of Congress entitled "Soldiers and Sailors Civil Relief Act of 1940" (50 U.S.C.A. App. 520) approved October 17, 1940.

STOP

Sign in the presence of a notary.

Anne C. Smith
Petitioner

SWORN TO AND SUBSCRIBED before me this date, November 30, 2004

STOP

Signed by notary.

Donna King
Notary Public or Clerk of Court

Section 4

APPEAL

- A parent **may not** petition the Court to change a termination of parental rights order once it has been granted.

RIGHT OF APPEAL

If you believe the Court's decision was wrong based on what happened at the Court Hearing, you only have **30 DAYS AFTER** the **Order** was docketed **to file** an **Appeal** with the Supreme Court. An appeal does **NOT** grant you a new trial and it does **NOT** grant you a chance to re-argue your case. It only asks the Supreme Court to examine the record and decide if the Judge applied the law correctly to the facts presented at the hearing.

If you want to file an Appeal, we strongly recommend you speak to an attorney. Just because you disagree with the Judge's decision does not necessarily mean you have one of the legal grounds to file an Appeal. Appeals can be very expensive and an attorney can help you decide whether filing an Appeal is advisable.

Legal Grounds for Terminating Parental Rights

1. The RESPONDENT(s) **WANTS (i.e. consents)** to have his/her parental rights terminated **for the purpose** of someone else **adopting** the child.

2. The RESPONDENT(s) "**abandoned**" the child. (*For the definition of abandonment read the following section regarding the legal definition of abandonment).*

3. The RESPONDENT(s) is "**mentally incompetent**" by reason of mental illness, psychopathology, mental retardation, or mental deficiency **AND** because of such mental incompetence, the RESPONDENT is **unable to care for, support, and provide for the child's physical needs** (including adequate food, clothing, and shelter) **and/or for the child's mental and emotional health and development**. If this is one of the reasons you are filing to terminate parental rights, the Court will select 2 qualified psychiatrists **AT YOUR EXPENSE** for their medical opinion as to whether such person will continue to be unable to provide for the child's physical and/or emotional needs in the foreseeable future. Furthermore, the Court will appoint a licensed attorney as Guardian *ad Litem* to represent the alleged incompetent person in the proceeding. (For more information on Guardians *ad Litem*, read the **Guardian *ad Litem* Overview**.)

4. The RESPONDENT(s) has already had his/her parental rights **involuntarily terminated for the child's sibling** (brother, sister, half-brother, half-sister).

5. The RESPONDENT(s) has subjected the child to **torture, chronic abuse, sexual abuse, and/or life-threatening abuse.**

6. The child has suffered **unexplained serious physical injuries** under such circumstances that would lead you to believe that the injuries resulted from the intentional conduct or willful neglect of the RESPONDENT(s).

7. The RESPONDENT(s) **has been convicted** of any of the following:

   a. Committing a **felony level offense against a child** (Felony level offense as described in Title 11 of the Delaware Code Chapter 5, subchapter II); **OR**

   b. **Aiding or abetting, attempting, conspiring or soliciting to commit a felony level offense against a child** (Felony level offense as described in Title 11 of the Delaware Code Chapter 5, subchapter II); **OR**

   c. Committing or attempting to commit the offense of **Dealing in Children** as set forth in Title 11 of the Delaware Code section 1100; **OR**

   d. Committing the felony level offense of **endangering the welfare of a child** as set forth in Title 11 of the Delaware Code section 1102.

8. The RESPONDENT(s) is **not able or** has **failed to plan adequately** for the child's physical needs or mental and emotional health and development **AND:**

   a. The child has lived in the home of the stepparent or blood relative for a period of at least 1 year, or for a period of 6 months in the case of an infant; **AND**

b. The Court finds that the RESPONDENT(s) is incapable of exercising parental responsibilities, and there appears to be little likelihood that such RESPONDENT(s) will be able to exercise such parental responsibilities in the near future.

Family Court may not terminate an individual's parental rights solely because the individual, in good faith, provides for his or her child by **spiritual means alone through prayer** in accordance with the tenets and practice of a recognized church or religious denomination as opposed to seeking medical treatment. However, in such situation, Family Court may immediately assume custody of a child and order whatever action may be necessary, including medical treatment, to protect the child's health and welfare.

The Meaning of "Abandonment"

"Abandonment" has different meanings depending upon whether or not the RESPONDENT(s) intended to abandon the child and the age of the child.

1. "Abandonment" When the RESPONDENT(s) Intended To Abandon The Child

If the RESPONDENT(s) **INTENDED to abandon** the child, at least one of the following must be true:

a. The child **is younger than 6 months old at the time of filing** the **Petition for TPR, AND** the RESPONDENT(s) **FAILED to**:

- Pay reasonable prenatal, natal and postnatal expenses in accordance with that person's financial means; **AND**
- Visit regularly with the child; **AND**
- Show an ability and willingness to assume legal and physical custody of the child if the child was NOT in the physical custody of the other parent.

OR

b. The child **is at least 6 months old at the time of filing** the **Petition for TPR AND** for at least 6 months in a row during the year immediately before filing the **Petition**, the RESPONDENT(s) **FAILED to**:

- Make reasonable and consistent payments in accordance with that person's financial means for support of the child; **AND**
- Communicate or visit regularly with the child; **AND**

- Show the ability and willingness to assume legal and physical custody of the child if the child was NOT in the physical custody of the other parent.

OR

c. The child is **younger than 6 months old at the time of filing the Petition for TPR AND** the RESPONDENT(s) has placed the child in circumstances leaving the child in substantial risk of injury or death and therefore has demonstrated the unwillingness to exercise parental rights.

2. "Abandonment" When The RESPONDENT(s) Did Not Intend To Abandon The Child

If the RESPONDENT(s) **did NOT intend to abandon** the child, the Court may nevertheless order a TPR based upon abandonment.

The Court may find that a child has been abandoned **IF**, for 12 months in a row in the 18 months **BEFORE** filing the **Petition for TPR**, the RESPONDENT **FAILED to**:

- Communicate or visit regularly with the child; **AND**
- File or pursue a pending **Petition** to establish paternity or to establish the right to have contact or visitation with the child; **AND**
- Show the ability and willingness to assume legal and physical custody of the child if the child was not in the physical custody of the other parent **AND the COURT FINDS** one of the following grounds exist:

a. If the child is **NOT** in the legal and physical **custody** of the **other parent** and that person is **NOT able or willing** promptly to assume legal and physical custody of the child, and to pay for the child's support, in accordance with that person's financial means; **OR**

b. If the child **IS** in the legal and physical custody of the **other parent AND stepparent,** and the **stepparent** is seeking **adoption** of the child**,** the RESPONDENT(s) is **NOT able or willing** to establish and maintain contact with the child and to pay for the child's support, in accordance with that person's financial means; **OR**

c. Placing the child in the legal and physical custody of the RESPONDENT(s) would pose a **risk of substantial harm** to the physical or psychological well being of the child because that RESPONDENT is deemed unfit due to:

   i. The circumstances of the child's conception; **OR**

   ii. The behavior of the RESPONDENT during the mother's pregnancy; **OR**

   iii. The behavior of the RESPONDENT(s) after the child was born; **OR**

   iv. The behavior of the RESPONDENT(s) with respect to other children.

d. **Failure to terminate** the parental rights of RESPONDENT(s) would be **detrimental** to the child. The Court will consider any relevant factor including:

   i. The RESPONDENT's efforts to obtain or maintain legal and physical custody of the child; **AND**

ii. The role of other persons in interfering with the RESPONDENT's efforts to assert parental rights; **AND**

iii. The RESPONDENT's ability to care for the child; **AND**

iv. The age of the child; **AND**

v. The quality of any previous relationship between the RESPONDENT(s) and the child and between the RESPONDENT(s) and any other minor children; **AND**

vi. The duration and suitability of the child's present custodial environment and the effect of a change o f physical custody on the child.

Safe Arms For Babies Act

The **Safe Arms for Babies Act** allows a person to voluntarily surrender a baby to an employee or volunteer working in the emergency department of a Delaware hospital so long as the baby is surrendered alive, unharmed and to a safe place within the emergency department. Abandonment of a baby as provided under the Safe Arms for Babies Act **shall be final 30 DAYS after such abandonment**.

Once the abandonment under the Safe Arms for Babies Act is final, the person surrendering the baby will be deemed to have consented (agreed) to the termination of all parental rights, if any, under abandonment grounds. Such consent is irrevocable, meaning that the person cannot change his/her mind. Furthermore, such person will not be legally entitled to notice of, or an

opportunity to participate in, any TPR proceeding involving the child, unless such person demonstrated an intent to exercise parental rights and responsibilities regarding the child before the abandonment became final (within 30 days of the abandonment).

Frequently Asked Questions About Paternity

***the forms referenced in this section are not included in the forms packet. Should you require one of these forms, please see the Family Court Resource Center located in each courthouse.**

1) What If The Presumed Father Agrees To Have His Parental Rights (If Any) Terminated But Does NOT Want to Expressly Admit He Is The Father?

The presumed birth father does **NOT** have to admit being the father of the child on the **Consent to Termination and Transfer of Parental Rights form**.
If he does not want to admit he is the father but he agrees to the termination of any parental rights he may have over the child, he may write on the first blank line on the form: his name and the word "presumed" and circle the word "father."

2) What If The Presumed Father Denies He Is The Father And Refuses To Sign A "Consent To Termination And Transfer Of Parental Rights" Form?

If the presumed birth father does **NOT** believe he is the father, denies he is the father, and refuses to sign a **Consent** form agreeing to terminate any presumed parental rights he may have, he should **NOT** sign the **Consent Form to Termination and Transfer of Parental Rights form**. Instead, he may sign and have notarized an **Affidavit Denying Paternity**

3) At the time the child was conceived or born, was the birth mother married to a man who was not the father of the child?

If the birth mother was married to someone other than the child's father at the time the child was either conceived or born, birth mother's husband must file and Affidavit of Birth Mother's Husband denying paternity. In this affidavit, which must be signed by a notary public, the man to whom the birth mother was

married at the time the child was either conceived or born will state that he is not the birth father of the child and will waive notice to any proceeding regarding the TPR over this child.

If the birth mother was married to different men at the time the child was conceived and born, and neither man is the father of the child, then each man must sign a separate **Affidavit of Birth Mother's Husband Denying Paternity** and have their signatures notarized. Similarly, if the birth mother was married to different men at the time the child was conceived and born, and one of the men is **NOT** the birth father, then the man who is **NOT** the birth father should sign this **Affidavit of Birth Mother's Husband Denying Paternity** and have his signature notarized.

If the birth mother was married to someone other than the child's father at the time the child was either conceived or born, and you are unable to have this man sign the **Affidavit of Birth Mother's Husband Denying Paternity**, then the Court must provide to this man notice of the TPR Court Hearing.

4) What if you do not know the name and address of the father because the mother knows the name of the biological father but is unwilling to disclose his name (i.e. refuses to tell anyone who the father is)?

If the birth father's address and/or name is **UNKNOWN** because the birth mother either does not know his name and/or address or will not tell anyone, the Petitioner must indicate such on their **Petition**. The Petitioner must also file an **Affidavit of Non-Disclosure**, which must be notarized. If the birth mother agrees to have her parental rights terminated and refuses to reveal the birth father or presumed birth father's name and/or address, she must be advised that the adoption proceeding may be delayed or subject to a challenge if a possible father is not given notice of the proceeding. Notice will consist of publication in 2

newspapers, as specified in the Service of Process section on page 18 of this packet. She also must be informed that the lack of information about the father's medical and genetic history may be detrimental to the child.

5) What if you do not know the father's address and name because the mother does not know the name of the biological father?

If the Petitioner does not know the father's address and name because mother does not know the name of the biological father, the Petitioner must file an **Affidavit that Biological Father's Name is Unknown**. This form must be notarized.

6) What if you do not know the identity of the birth father?

If the birth father is **UNKNOWN**, then you MUST FIRST get a **CERTIFICATE OF SEARCH OF THE REGISTRY OF PATERNITY** from the **OFFICE OF VITAL STATISTICS.** *Your licensed adoption agency will perform such search and submit such certificate to the Court on your behalf*.

The Court will schedule a Court Hearing at which it must be established on the record that the mother and father of the child are not living openly as husband and wife and that they have not done so nor married since the birth of the child. After reviewing a **Social Study and Report**, the Court may dispense with the requirement of the father's consent.

7) Is a parent under 18 years old?

If so, that parent must be advised by an independent lawyer who is not representing an adoptive parent or agency to which parental rights are being transferred **BEFORE** such minor signs the appropriate Consent form. The **Consent** shall NOT be invalid solely by reason that the parent who signed the **Consent** form is younger than 18 years old at the time of signing.