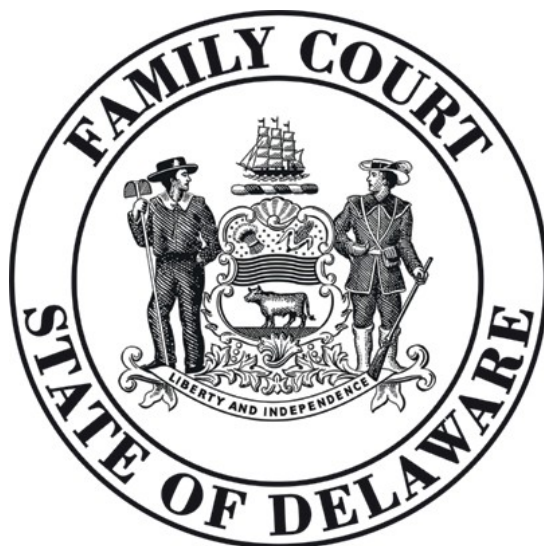


ANSWER TO TERMINATION OF PARENTAL RIGHTS (TPR) INSTRUCTION PACKET



<https://courts.delaware.gov/family>

You may be entitled to the appointment of an attorney to assist you with this matter.

To learn more about whether you qualify

and how to apply, please contact the

Termination of Parental Rights/Adoption

Clerk in the appropriate county.

New Castle: 302-255-0244

Kent: 302-672-1009

Sussex: 302-855-7444

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ANSWER TO TERMINATION OF PARENTAL RIGHTS INSTRUCTION PACKET

Use this Answer to Termination of Parental Rights Packet Only When:

- ✓ You have been named as the Respondent in a Petition for Termination of Parental Rights

FILING AN ANSWER IS YOUR WAY OF TELLING YOUR SIDE OF THE STORY TO THE COURT. The Court will use the information in your Answer when deciding whether to terminate your parental rights. If you **do not** file an Answer, the Court will not know how you feel regarding the Petition for Termination of Parental Rights. It is **VERY IMPORTANT** that you file an Answer, so the Court knows how you feel about the Petition for Termination of Parental Rights.

NOTE: If you agree that the Termination of Parental Rights should be granted, you need to fill out the **Consent to Terminate and Transfer Parental Rights Form** (Form 140). This is explained further on page 14.

HOW TO USE THIS PACKET

This packet contains general information about the process of filing an Answer to a Petition for Termination of Parental Rights and basic instructions on how to complete the Court forms you must file. Blank and sample forms are provided at the Family Court Resource Center in each county, are included in the TPR Forms Packet, and can also be found on the Family Court website at <https://courts.delaware.gov/family/>.

You should read the instructions and look at the 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 THAT YOU FILL OUT.** The sample forms are to help you understand how to fill out the forms you intend to file. Do not file the sample forms.

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 the **Frequently Asked Questions (FAQ)** on Termination of Parental Rights. The FAQ is located at the Resource Center in each courthouse and is also available on the Family Court website at <https://courts.delaware.gov/family/tpr/index.aspx>. The FAQ 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) replying (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 you are a parent responding to a TPR petition, the Court may appoint you an attorney at no cost if you are unable to afford an attorney. If you believe you cannot afford an attorney, please complete a Motion and Affidavit to be Found Indigent and Request for Appointment of an Attorney in Dependency Proceedings (Form 198DN) and submit it to the Court as soon as possible.** Blank and sample forms are provided at the Family Court Resource Center in each county, are included in the TPR Forms Packet, and can also be found on the Family Court website at <https://courts.delaware.gov/family/>.
- ✓ 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 or 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 are not a parent entitled to a Court appointed attorney and you would like assistance finding an attorney, or to see if you qualify for free legal assistance, you can visit <https://courts.delaware.gov/help/legalassistance.aspx>.
- ✓ Always bring your photo identification with you (such as your driver's license or a state-issued photo identification card) whenever you need 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 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 Center, but there is a 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 Center 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 or 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. **Unless the TPR petition is filed under Section 1103(b) of Title 13, a Petition for Adoption must be filed with the TPR petition when neither DSCYF nor a licensed agency is a party to the TPR petition.** 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

The decision to terminate a person’s parental rights is an important one. Once parental rights are terminated, the individual will no longer be a legal parent to the child. This means that all of the individual’s rights and obligations to the child are extinguished (with the exception of outstanding child support arrearages). Once parental rights are terminated, other individuals may adopt the child and become the child’s legal parent. The new legal parents will have all of the rights and obligations that the natural parent once had.



Effect of Losing One’s Parental Rights on Inheritance

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 or from that individual’s relatives.

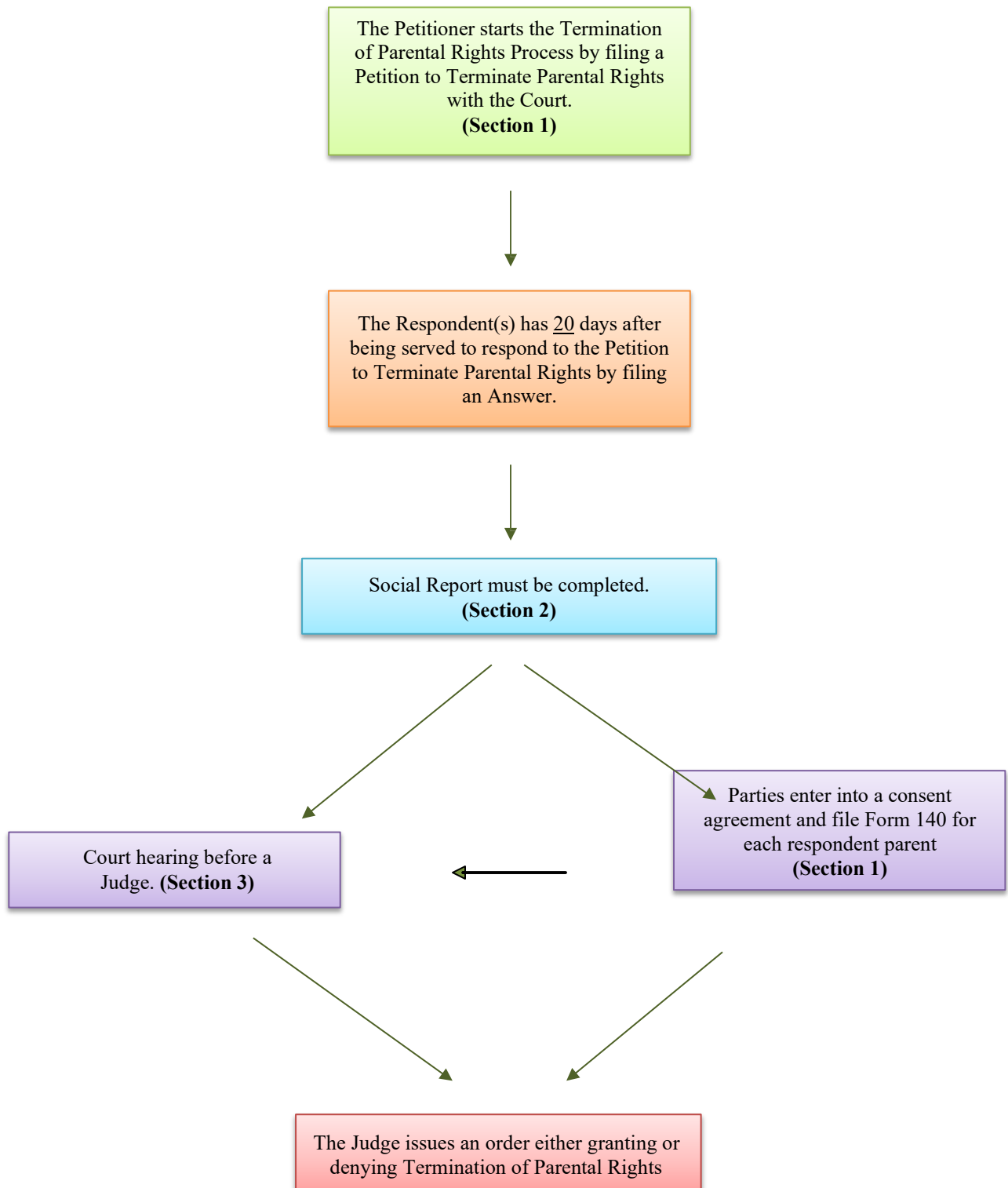
If the individual whose parental rights were terminated still wants the child to inherit from him or her, then he or she must include the child in his or her will. For more information on wills and inheritance rights, you should talk to an attorney. Wills and inheritance rights are not handled in Family Court. For more information, please see Section 1113 of Title 13 of the Delaware Code.



Child's Health and Welfare Consideration

Section 1103 (c) of Title 13 of the Delaware Code provides that 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 a 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 TERMINATION OF PARENTAL RIGHTS PROCESS FLOWCHART



SECTION 1

STARTING THE TERMINATION OF PARENTAL RIGHTS PROCESS



After the Petitioner files a Petition for Termination of Parental Rights, you will be served with notice of the petition. This means that you will receive a Summons (a Court document explaining your rights and responsibilities) and copies of the petition and any other paperwork the Petitioner filed. Service can be accomplished in the following ways:

- ✓ You can be **personally served**. This means that a person designated by the Court will hand the papers to you directly at your home or your job.
- ✓ You can be served by **mail**. This means the papers will be mailed to you by certified mail.
- ✓ You can be served by **publication**. This means that notice of the Petition for Termination of Parental Rights will be placed in a local newspaper. If you read a notice in the newspaper naming you as a Respondent, you must come to Family Court and obtain copies of all the papers that have been filed by the Petitioner.

Regardless of how you receive notice of the petition, it is **VERY IMPORTANT** to read all documents carefully so you can properly respond to the allegations in the Petition for Termination of Parental Rights.



The Petitioner can only file for Termination of Parental Rights if certain jurisdictional requirements are met. If any of the following statements are not true, you may request that the Court dismiss the Petition for Termination of Parental Rights. Please see page 14 for information on how to file a Motion to Dismiss.

- ✓ 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; **AND**
- ✓ The Petitioner is the parent, presumed father, relative (as defined in Section 901 of Title 10), guardian or permanent guardian of the child.

NOTE The Department of Services for Children, Youth & Their Families or a licensed adoption agency can also file as a Petitioner.



To respond to the Petition for Termination of Parental Rights, you **MUST** file the **ORIGINAL** with the Court and mail **ONE (1) COPY** of each form below to the Petitioner within **TWENTY (20) DAYS** of receiving the Petition.



Answer (Form 113 - *file the original and mail one copy to the Petitioner*)

- ✓ In your Answer, you may do the following in response to each statement made by the Petitioner in the Petition for Termination of Parental Rights:
 - **ADMIT** (or agree) that the statement is true; **OR**
 - **DENY** (or disagree) that the statement is true (i.e., you believe that the statement is false).
- ✓ In the Petition, the Petitioner was asked to select the grounds for Termination of Parental Rights (grounds can be found starting on page 24 of this packet). You should admit or deny each of the grounds that the Petitioner has selected. If you deny the statement, explain to the Court **why** the Petitioner's statement is not true. **If you do not respond to a statement, the Court will assume you agree that the statement is TRUE.** If you believe a statement is false, you must deny it.
- ✓ The Answer form provided in the forms packet and on the Family Court website will assist you in admitting or denying each allegation.
- ✓ If you need more space to write, you may attach additional pages to the Answer form. Be sure to state on the form that you have attached more pages, so the Court and the Petitioner will know to look for additional information. Also, number each additional page that you attach by writing the page number at the bottom of the page.
- ✓ You must sign your Answer in the presence of a notary public or authorized Court staff.

OPTIONAL FORMS

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

If the Jurisdictional Requirements on Page 13 have not been met, file:



Motion (Form 191 - file the original and one copy)

- ✓ On this form, you will ask the Court to dismiss the Petition for Termination of Parental Rights. You **MUST** explain which **specific** jurisdictional requirement was not met.
- ✓ When you file the Motion to Dismiss, you must also file a **Notice of Motion** form and a blank **Order form** (Forms 192-193).

NOTE: The Motion, Notice of Motion, and blank Order forms are not included in the Forms Packet. They are available in the Resource Centers located in each courthouse and on the Family Court website.

If You and the Petitioner Agree on the Termination of Parental Rights, file:



Consent to Termination and Transfer of Parental Rights (Form 140 - file one original)

- ✓ File this document only if you and the Petitioner have agreed upon the termination and transfer of parental rights to another person for purposes of adoption.
- ✓ This form must be signed by you if you agree to have your 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, you will acknowledge that:
 - you understand your parental rights are being terminated; **AND**
 - you understand that after the consent is signed, it cannot be revoked unless the requirements of 13 Del. C. §1106B(a) have been met.
- ✓ Before you sign this form, you **MUST** be in the presence of any of the following persons who are authorized to take consents:
 - A Judge or Commissioner 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; OR
- A commissioned officer on active duty in military service of the United States, if the individual executing the consent is in military service; OR
- An officer of the foreign service or a consular officer of the United States in another county, if the individual executing the consent is in that country.

***NOTE* - A NOTARY PUBLIC IS NOT AN AUTHORIZED PERSON TO TAKE CONSENTS**

NOTE: Blank and sample forms are included in the TPR Forms Packet. The forms can also be found at the Family Court Resource Center in each county and on the Family Court website at <https://courts.delaware.gov/family/tpr/forms.aspx>.

If You are in the Military, file:



Waiver of Rights under the Servicemembers' Civil Relief Act (Form 420 - file the original and one copy for each Respondent)

- ✓ **ONLY FILE** this form if you are in the military and would like to **WAIVE** your rights under the Servicemembers' Civil Relief Act.
- ✓ This waiver allows the Court to proceed with the termination of parental rights process if you are unavailable because of military duties.
- ✓ If you are in the military, you **MUST** file a Waiver of Rights under the Servicemembers' Civil Relief Act, an Affidavit of Appearance, **OR** an Answer. If you do not file one of these pleadings, the Court will not schedule your Termination of Parental Rights hearing until a Waiver of Rights under the Servicemembers' Civil Relief Act is filed **OR** an attorney is appointed for you.

NOTE: Blank and sample forms are included in the TPR Forms Packet. The forms can also be found at the Family Court Resource Center in each county and on the Family Court website at <https://courts.delaware.gov/family/tpr/forms.aspx>.



BE SPECIFIC WHEN COMPLETING THE FORMS and make sure that you respond to **ALL** of the Petitioner's grounds. **Remember**, that if you fail to respond to any allegation, the Court will assume you agree that the ground is true. When you

complete a form, write in blue or black ink **AND** write neatly.



WHERE TO FILE

The Termination of Parental Rights petition will have been filed at the Family Court **in the County where the child currently lives, the county in which a parent of the child currently lives, or the county in which the organization having legal or physical care, custody or control of the child is located.** You may file your responsive pleading at any Family Court location.

- ✓ 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 (LL1) of the Leonard L. Williams Justice Center.
- ✓ 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.



FILING BY EMAIL

You may also file your answer by email. To file by email, you must send the petition and required forms to FC_CDN_TPR_Adoption@delaware.gov. For more information on filing by email, please review the Civil Filing by Email FAQ located on Family Court's website at <https://courts.delaware.gov/family/>.



REMEMBER to mail a copy of all the papers that you file with the Court to the Petitioner(s). You **MUST** fill out the **Affidavit of Mailing** on the bottom of the form telling the Court that you have mailed a copy of the papers you filed to the Petitioner or the Petitioner's attorney (if there is one). If you do not mail a copy of the Answer form to the Petitioner, the Court **may not consider** the information on that form. If there is more than one Respondent listed on the Petition, you **MUST ALSO** mail a copy of the Answer that you file to each of the Respondents and indicate you have done so on the Affidavit of Mailing.



SECTION 2 WILL BEGIN NEXT

SECTION 2

SOCIAL REPORT

FOR TERMINATION OF PARENTAL RIGHTS, A SOCIAL REPORT IS MANDATORY



A Social Report ("Report") is a report that provides detailed information about you and the child, which will **help the Court determine whether parental rights should be terminated and transferred**. 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 must consider the best interest factors under Section 722 of Title 13. The Report will include the following:

- Information regarding the child and the child's background;
- The history of the child's custody, visitation, and living arrangements;
- Information regarding the parents;
- Information regarding the petitioner(s);
- Information regarding the efforts at reunification with the parents if the petition is filed under Section 1103(a)(5) of Title 13;
- Information regarding the allegations of dependency and neglect if the petition is filed under Section 1103(a)(6) of Title 13;
- The plan for the child if the petition is granted; and
- A statement that the person preparing the report or the Petitioner has advised each birth parent of the birth parent's right to file a written notarized statement with the Office of Vital Statistics denying the release of identifying information under Section 923(b) of Title 13.

Because the 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 or 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 the home and see the environment where the child will be living. The worker may also ask you to provide him or 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 or her requests to the best of your ability. Remember, that the information

in the report will guide the Court when deciding whether to terminate and transfer parental rights.



The **Petitioner** must **select** a licensed child-placing agency to do the Report. The Petitioner must then complete an **Order of Reference** (Form 110T) and the Court will issue an Order to the agency. You will receive a copy of this Order.

- ✓ The agency preparing the Report has **6 months** to file the completed Report with the Court.



SECTION 3 WILL BEGIN NEXT

SECTION 3

HEARING WITH A JUDGE



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, *file*:



Motion for Continuance (Form 196 – file the original and mail one copy to each Party)

- ✓ Once you receive your notice and you cannot attend the scheduled Termination of Parental Rights Hearing, you must **IMMEDIATELY** file a **Motion for Continuance** (Form 196). **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 parties regarding the continuance and then **tell the Court in your motion how each Respondent 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 A CONTINUANCE OF THE HEARING, YOU MUST APPEAR AT COURT ON THE DAY OF YOUR SCHEDULED HEARING.** If you fail to appear at your hearing, the Court can dismiss your petition or enter an order by default granting the relief requested by the Petitioner.

NOTE: Blank and sample forms are included in the TPR Forms Packet. The forms can also be found at the Family Court Resource Center in each county and on the Family Court website at <https://courts.delaware.gov/family/tpr/forms.aspx>.

THE DAY OF THE HEARING



The Court Hearing is a trial in front of a Judge. At the Court Hearing, you and the Petitioner will 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 ***Preparing for Your Court Hearing***, which explains generally what to expect during the Court Hearing and should answer many of the questions you may have about the hearing process. Family Court also has developed a series of ***Frequently Asked Questions*** to help you prepare and organize for your Court Hearing. It would be helpful to read this information before your scheduled hearing. This information can be found in the Resource Center in each courthouse and on the Family Court website at https://courts.delaware.gov/help/proceedings/fc_CourtHearing.aspx.



Unless you consent to the termination of parental rights, it is up to the **PETITIONER** to prove the following at the hearing:

- ✓ That at least one of the legal grounds for terminating your parental rights exists (see page 24); **AND**
- ✓ Why it is in the best interests of the child for the Court to terminate your parental rights.

BEST INTERESTS FACTORS

The Court will consider the following 8 factors pursuant to Section 722 of Title 13 in determining what is in the best interests of the child:

- (1) The wishes of the child's parent or parents as to his or her custody and residential arrangements;
- (2) The wishes of the child as to his or her custodian or custodians and residential arrangements;
- (3) The interaction and interrelationship of the child with his or her parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife

with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;

- (4) The child's adjustment to his or her home, school and community;
- (5) The mental and physical health of all individuals involved;
- (6) Past and present compliance by both parents with their rights and responsibilities to their child under § 701 of Title 13;
- (7) Evidence of domestic violence as provided for in Chapter 7A of Title 13; and
- (8) The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense.



After both sides have presented all of their evidence, one of two things can happen:

- ✓ The Judge can **announce his or her decision** at the conclusion, or end, of the hearing, in which case you will leave knowing the decision; **OR**
- ✓ The Judge can **reserve decision**. When the Judge reserves decision, he or she will consider all of the information presented during the hearing and will issue a written Order explaining 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 or by email if you have opted to receive orders by email.



SECTION 4 WILL BEGIN NEXT

SECTION 4

APPEAL

RIGHT OF APPEAL



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



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 reargue 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.



SECTION 5 WILL BEGIN NEXT

SECTION 5

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 and unharmed. 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. Such consent is irrevocable, meaning that the person cannot change his or 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).



GROUNDS FOR TERMINATION (FORM 112) WILL BEGIN NEXT

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*. If there are 2 children, then 2 *Grounds for Termination of Parental Rights* forms MUST be completed and attached to the Petition.

CHILD'S NAME: _____

Indicate the grounds for Termination of Parental Rights (Place an "X" next to the grounds that apply). At least one of the boxes numbered 1 through 9 must be checked.

CONSENT:

1. A parent of the child, or a person or organization holding parental rights over the child, agrees (consents) that this Petition should be granted.
 A *Consent to Termination and Transfer of Parental Rights* (Form 140) is attached to the Petition.

INTENTIONAL ABANDONMENT:

2. Respondent(s) have intentionally abandoned the child as evidenced by the fact that (If you check box 2, you must place an "X" next to at least one of the following that apply):
 - a. The child is younger than 6 months old at the time of filing this Petition and Respondent(s) FAILED to:
 - Pay reasonable prenatal, natal and postnatal expenses for the child; **AND**
 - Visit regularly with the child or file a petition for visitation 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) of the 12 months preceding the filing of this Petition, Respondent(s) FAILED to:
 - 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 years old at the time of filing this Petition **AND** Respondent(s) have 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 and responsibilities.

UNINTENTIONAL ABANDONMENT:

3. Respondent(s) have unintentionally abandoned the child because for 12 consecutive months (12 months in a row) in the 18 months before filing this Petition, Respondent(s) FAILED to:
 - Communicate or visit regularly with the child; **AND**
 - File or pursue a pending Petition to establish paternity or to establish a right to have contact or visitation 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).

AND at least one of the below applies (**Place an “X” next to at least one of the following that apply**):

- The child is not in the other parents’ legal and physical custody and Respondent(s) are not able or willing promptly to assume legal and physical custody of the child, and to pay for reasonable support for the child.
- The child is in the legal and physical custody of the other parent and a stepparent, and the stepparent is the prospective adoptive parent, and Respondent(s) are not able or willing promptly to establish and maintain contact with the child and to pay reasonable support for the child in accordance with the Respondent(s)’ financial means.
- Placing the child in Respondent(s)’ legal and physical custody would pose a risk of substantial harm to the child’s physical or psychological well-being. Respondent(s) are unfit to maintain a relationship of “parent and child” with the child because of at least one (1) of the following reasons:
 - i. The circumstances of the child’s conception; **OR**
 - ii. Respondent(s)’ behavior during pregnancy; **OR**
 - iii. Respondent(s)’ behavior after the child was born; **OR**
 - iv. Respondent(s)’ behavior with respect to another child.
- Failure to grant the Petition for Termination of Parental Rights would be detrimental to the child.

DETRIMENTAL TO THE CHILD

In determining whether failure to grant the termination of parental right would be detrimental to the child, the Court will consider all relevant factors, including the following:

- A. The respondent’s efforts to obtain or maintain legal and physical custody of the child.
- B. The role of another person in thwarting the respondent’s efforts to assert parental rights.
- C. The respondent’s ability to care for the child.
- D. The child’s age.
- E. The quality of a previous relationship between the respondent and child, and between the respondent and another child.
- F. The duration and suitability of the child’s current custodial environment.
- G. The effect on the child of a change of physical custody.

CONVICTION OR ADJUDICATION:

4. Respondent(s) have been convicted or adjudicated of the following (or a substantially similar offense in another jurisdiction) (**If you check box 4, you must place an “X” next to at least one of the following that apply**):
- A felony level offense against the person under Subchapter II of Chapter 5 of Title 11, in which the victim was a child; **OR**
 - Aided, abetted, attempted, conspired or solicited to commit a felony level offense against the person under Subchapter II of Chapter 5 of Title 11, in which the victim was a child; **OR**
 - Dealing in Children or attempting to deal in children under § 1100A of Title 11; **OR**
 - Felony level endangering the welfare of a child under § 1102 of Title 11; **OR**
 - Murder or manslaughter of the other parent of the child who is the subject of the petition; **OR**
 - Aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of the other parent of the child who is the subject of this petition.

FAILURE TO PLAN:

5. **DSCYF OR LICENSED AGENCY:** the child is in DSCYF custody or placed by a licensed agency and the Respondent(s) are not able or have failed to plan adequately for the child's physical needs or mental and emotional health and development; **AND** at least **ONE (1)** of the following conditions are met (**CHECK ALL THAT APPLY**):
- The child has been in DSCYF custody or placed by a licensed agency for at least 1 year.
 - The child has been in DSCYF custody or placed by a licensed agency for at least 6 months and the child came into care as an infant.
 - DSCYF previously had custody of the child or another child of the Respondent(s).
 - The Respondent(s) have a history of dependency, neglect, abuse, or lack of care of the child or another child.
 - The Respondent(s) are incapable of discharging parental responsibilities due to extended or repeated incarceration (the Court may consider the Respondent(s)' postconviction conduct).
6. **PRIVATE:** at the time of the Termination of Parental Rights Hearing, the child will be a dependent child or neglected child in the Respondent(s)' care and **ALL** of the following are true:
- The Petitioner is the child's parent, guardian, permanent guardian, or relative.
 - The child has resided in the Petitioner's home for at least 1 year.
 - The Respondent(s) failed to discharge parental responsibilities for at least 12 of the 18 months preceding the filing of the petition.
 - The Respondent(s) are unlikely to be able to remedy the dependency or neglect in the near future. ***NOTE*:** *in making this determination, the Court shall consider the Respondent(s)' efforts to remedy the dependency or neglect.*

You must also include a detailed statement of why the child would be a dependent child or neglected child in the Respondent(s)' care:

7. **PRIOR INVOLUNTARY TERMINATION:** Respondent(s)' parental rights over another child have been involuntarily terminated in a prior proceeding.
8. **ABUSE:** The Respondent(s) have subjected a child to torture, chronic abuse, sexual abuse, or life-threatening abuse.
9. **UNEXPLAINED SERIOUS INJURY OR DEATH:** A child has suffered unexplained serious physical injury, near death, or death under circumstances indicating that the injuries, near death, or death resulted from the Respondent(s)' intentional or reckless conduct or willful neglect.