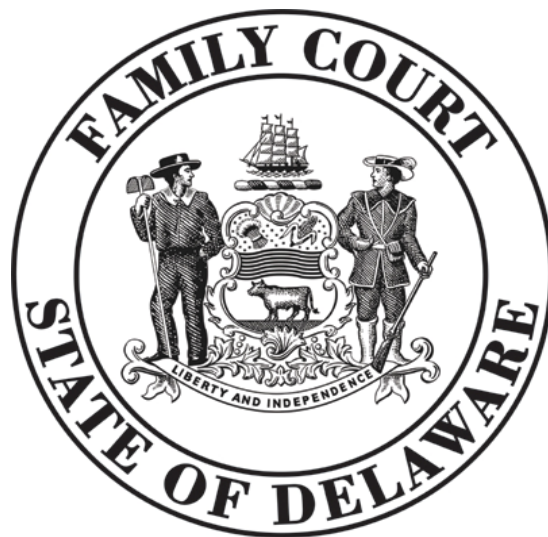


ANSWER TO TERMINATION OF PARENTAL RIGHTS ("TPR") INSTRUCTION PACKET



<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 the **Answer to Termination of Parental Rights Instruction 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 or not 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. This is explained on page 11 and a sample consent form can be found on pages 23.

HOW TO USE THE PACKET

This packet contains general information about the process of filing an Answer to 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. **ONLY FILE THE FORMS THAT YOU FILL OUT.** 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.

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 ensure 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 located in the Resource Center 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.
 - The **RESPONDENT** is the person replying (responding) to the Petition, in other words, you.
- ✓ Remember that just because you fill out the forms correctly does not necessarily mean 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, or to see if you qualify for free legal assistance, you can visit the Delaware Volunteer Legal Services website at <https://delegalhelplink.org>.

You also can refer to the **Attorney Roster** that is located in 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



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.



Transfer of Parental Rights

After the court issues a TPR Order, parental rights are usually then transferred to another person through an Adoption Order. The adoptive parent then becomes the 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.

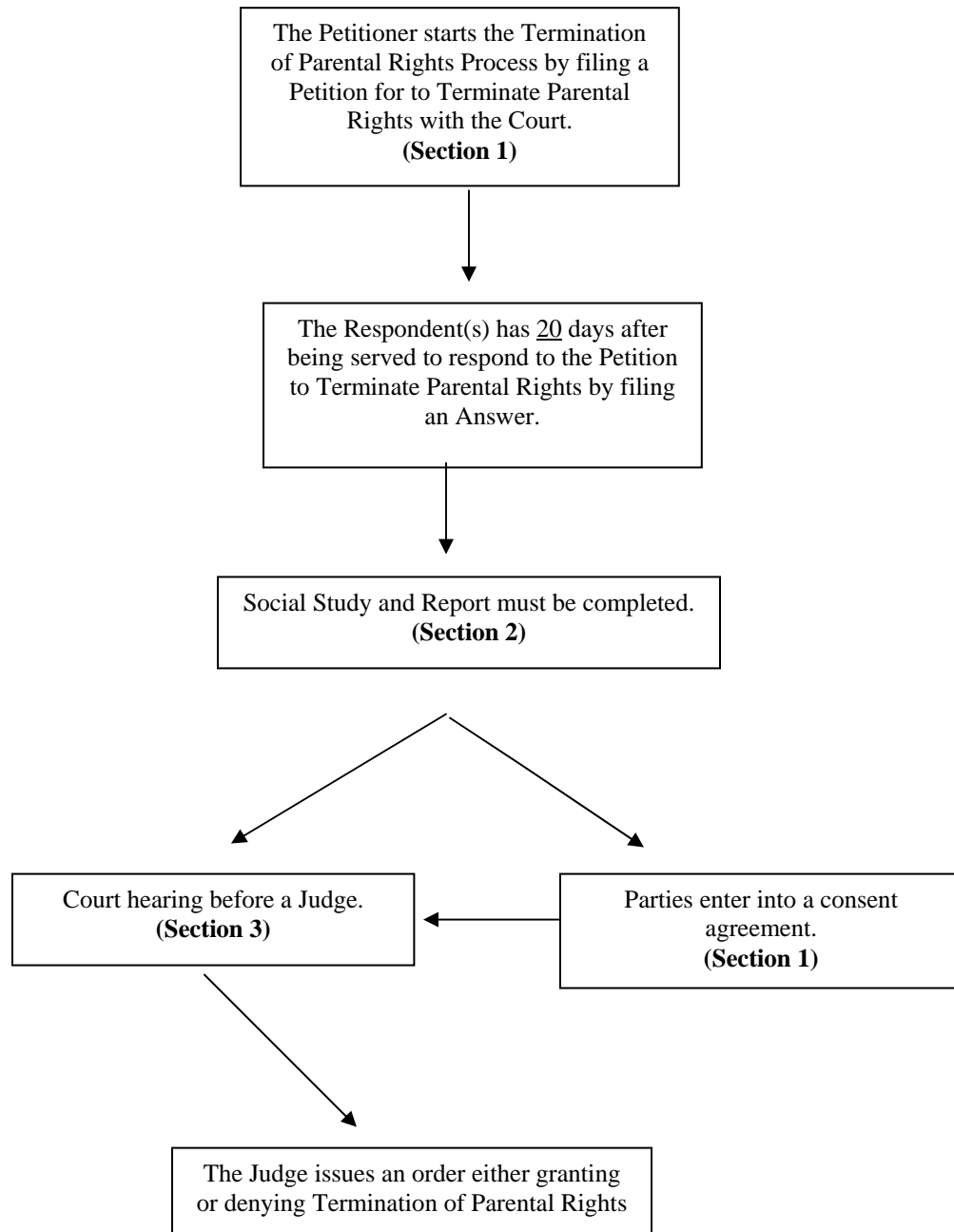


Effect of Losing One's Parental Rights

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 right are not handled in Family Court.


THE TERMINATION OF PARENTAL RIGHTS PROCESS



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 which means the Petitioner must publish notice of the Petition for Termination of Parental Rights 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 the jurisdictional requirements on the next page are met. If the statements on the following page are not true, you should request that the Court dismiss the Petition for Termination of Parental Rights. Please see page (11) 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 mother, father, blood relative or foster parent of the child.



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 20** days of receiving the Petition:



Answer form. (file one original and mail one copy to the Petitioner)

- A Sample Answer may be found on page 15.
- In your Answer you may do the following:
 - **Admit** (you agree the statement is true) or **deny** (you believe the statement is false) any statements made by the Petitioner in the Petition for Termination of Parental Rights. In the Petition, the Petitioner was asked to select the grounds for Termination of Parental Rights (on pages 5-7 of the Petition). You should admit or deny each of the grounds that the Petitioner 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 web 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.

BELOW ARE OPTIONAL FORMS

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

If the jurisdictional requirements on page 9 have not been met, file:



Motion to Dismiss (*file original and one copy*)

- A sample form may be found on page 22.
- 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**.
- The Motion form, the Notice of Motion form and the blank Order form 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 (*file original*)

- Sample form may be found on page 23.
- File this document only if you and the Petitioner have already 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.

- 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 describe for the Court:
 - To whom parental rights will be transferred for the purpose of adoption
- On this form, you will acknowledge that:
 - you understand the rights that they are terminating; **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 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!**

If Respondent is in the military, file:

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

- A sample may be found on page 25.
- **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 the above, 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.



BE SPECIFIC WHEN COMPLETING THE FORMS and make sure 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.



File the forms at the Family Court **in the County where the child currently lives or in the County in which at least one parent lives.**

- 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 one 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.



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(s), the Court **may not consider** the information on that form. If there was more than one Respondent 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 BEGINS AFTER THE
SAMPLE FORMS FOR SECTION 1.**



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

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

Check the county in which you are filing.

ANSWER TO PETITION FOR TERMINATION OF PARENTAL RIGHTS

Petitioner

v. Respondent

Name Anne C. Smith	Name Michelle Jones	File Number CK04-12111
Street Address 101 Oak Street	Street Address 490 Pine Street	
Apt. or P.O. Box Number Apt. # 123	Apt. or P.O. Box Number	Petition Number
City Dover	City Wilmington State DE Zip Code 19899	
Attorney Name and n/a	Attorney Name and Phone Number n/a	

Check the appropriate box depending on whether you admit or deny what the Petitioner stated in their petition. If you deny their statement, you should explain why.

The respondent's answer to the Petition for Termination of Parental Rights ("TPR") as follows:

Part I.

- A. Petitioner(s) resides at the address stated on the Petition.
 - Admitted
 - Denied for the following reason _____
- B. I (Respondent) reside at the address stated on the Petition.
 - Admitted
 - Denied for the following reason _____
- C. The child(ren)'s name, date of birth, place of birth, and gender are correctly stated on the Petition.
 - Admitted
 - Denied for the following reason _____
- D. The parents' names and addresses are correctly stated on the Petition.
 - Admitted
 - Denied for the following reason _____
- E. The name(s) and address(es) of the person(s) or organization having the guardianship, care, control or custody of the child(ren) is correctly stated on the Petition.
 - Admitted
 - Denied for the following reason _____
- F. Adoption of the child(ren) is possible and appropriate.
 - Admitted
 - Denied for the following reason _____
- G. If both parents' parental rights are sought to be terminated in the Petition, the possibility of placement of the child(ren) with blood relatives has been explored.
 - Admitted
 - Denied for the following reason _____
- H. Termination of my parental rights is in the best interests of the child(ren).
 - Admitted
 - Denied for the following reason _____

You should check the appropriate box based upon what the Petitioner stated in their Petition. For instance, if the Petitioner did not allege this particular ground, you should check the "not applicable" box. If they did allege this ground, you should either admit or deny their allegation.

Parental Rights
(Attach additional copies of this form for each additional child named in the Petition for TPR)

Termination of Parental Rights - 13 Del. C. §1103(a)

I. Pursuant to 13 Del. C. §1106, I agree (consent) that this Petition be granted. I have previously consented to Termination and Transfer of Parental Rights for this child. Not applicable for TPR.

106, I agree (consent) that this Petition be granted. I have previously consented to Termination and Transfer of Parental Rights for this child. Not applicable for TPR.

Admitted
 Denied for the following reason _____

J. As defined under 13 Del. C. §§1101(1) and 1103(a)(2)(a), I have intentionally abandoned the child as evidenced by the fact that one of the following statements made in the Petition is true:

i. The child is younger than 6 months olds at the time of filing of the Petition **and** I failed to pay reasonable prenatal, natal and postnatal expenses in accordance with my financial means **and** I failed to visit regularly with the child **and** I failed to 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).

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.
 Admitted
 Denied for the following reason: _____

ii. The child is at least 6 months old at the time of filing of the Petition **and** for at least 6 consecutive months (6 months in a row) during the year immediately before filing the Petition, I failed to make reasonable and consistent payments in accordance with my financial means for support of the child **and** I failed to communicate or visit regularly with the child **and** I failed to 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).

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.
 Admitted
 Denied for the following reason: _____

iii. The child is younger than 6 months old at the time of filing the Petition **and** I have manifested (shown) the unwillingness to exercise my parental rights and responsibilities as

evidenced by my placing the child in circumstances leaving the child in substantial risk of injury or death.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

K. As defined under 13 Del. C. §§1101(1) and 1103(a)(2)(b), I have unintentionally abandoned the child(ren) because for 12 consecutive months (12 months in a row) in the 18 months before this Petition was filed, I failed to communicate or visit regularly with the child **and** I failed to file or pursue a pending Petition to establish paternity or to establish the right to have contact or visitation with the child **and** I failed to 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 at least 1 of the following circumstances applies:**

➤ The child is not in the legal and physical custody of the *other* parent and I am 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 my financial means;

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

➤ **OR** The child is in the legal and physical custody of the *other* parent and stepparent, and the stepparent is the prospective adoptive parent, and I am not able or willing promptly to establish and maintain contact with the child and to pay for the child's support in accordance with my financial means.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

➤ **OR** Placing the child in my legal and physical custody would pose a risk of substantial harm to the physical or psychological well being of the child because the circumstances of the child's conception, my behavior during the mother's pregnancy or since the child's birth, or my behavior with respect to other children indicates that I am unfit to maintain a relationship of parent and child with the child.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

➤ **OR** Failure to terminate my parental rights over the child would be detrimental to the minor.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

L. I am mentally incompetent and therefore unable to discharge parental responsibilities in the foreseeable future.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

M. I have been found by a court of competent jurisdiction to have committed a felony level offense found within 11 Del. C. §§ 601-792 against a victim who was a child, **or** to have aided or abetted, attempted, conspired or solicited to commit such offense found within 11 Del. C. §§ 601-792, **or** to have committed or attempted to commit the offense of *Dealing in Children* found at 11 Del. C. § 1100, **or** to have committed the felony level offense of *Endangering the Welfare of a Child* found at 11 Del. C. § 1102.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

N. I am 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 are met:**

i. In the case of a child in the care of the Department of Services for Children, Youth and Their Families (“the Department”),

- the child has been in the care of the Department or licensed agency for a period of 1 year (or for a period of 6 months in the case of a child who comes into care as an infant) 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 me,
- **OR** I am incapable of discharging parental responsibilities due to extended or repeated incarceration
- **OR** I am 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 my financial means
- **OR** failure to terminate my parental rights over this child will result in continued emotional instability

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

ii. In the case of a child in the home of a stepparent or blood relative, the child has resided 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 I am incapable of discharging parental

responsibilities and there is little likelihood that I will be able to discharge such parental responsibilities in the future.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

O. My parental rights over a sibling (i.e. brother or sister or half-brother or half-sister) of the child have been involuntarily terminated in a prior proceeding.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

P. I have subjected the child to torture, chronic abuse, sexual abuse, and/or life-threatening abuse.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

Q. The child has suffered unexplained serious physical injury under such circumstances as would indicate that such injuries resulted from my intentional conduct or my willful neglect.

Not applicable because the above statement was not alleged by Petitioner in the Petition for TPR.

Admitted

Denied for the following reason: _____

SWORN TO AND SUBSCRIBED before
me this date: March 30, 2004

Donna King
Notary Public



John D. Smith

Sign in the
presence of
a notary.

Respondent/Attorney

A copy of this answer must be sent to the Petitioner.

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



AFFIDAVIT OF MAILING

I affirm that at true, I correct copy of this Answer was placed in the U.S. mail on this
date, March 30, 2004 and sent to the Petitioner or the attorney address listed on the
Petition, being Anne C. Smith, first class
postage pre-paid.

Sign in the
presence of
a notary.

John D. Smith



Respondent/Attorney

SWORN TO AND SUBSCRIBED before me on this date, March 30, 2004



Donna King

Notary Public

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

Check the county in which you are filing.

MOTION FOR Dismissal

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

Petitioner

Respondent

Name	Anne C. Smith		
Street Address	101 Oak Street		
Apt. or P.O. Box Number	Apt. #123		
City	State	Zip Code	
Dover	DE	19901	
Social Security Number	Date of Birth		
111-22-3333	2/3/64		
Attorney Name and Phone Number	n/a		

Name	Michelle Jones		
Street Address	123 State Street		
Apt. or P.O. Box Number			
City	State	Zip Code	
Dover	DE	19901	
Social Security Number	Date of Birth		
787-98-6767	7/13/65		
Attorney Name and Phone Number	n/a		

CK04-12111
Petition Number

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 Termination of Parental Rights having been tried heretofore in this Court, Movant hereby moves the Court for to dismiss the Petition for Termination of Parental Rights support thereof, alleges the following facts:

Explain what you would like the court to order.

The child has only been living in Delaware for three months. Prior to October 2005, the child lived with the Respondent in Virginia. Because the child has not resided in Delaware for at least six months, the Petition for Termination of Parental Rights should be dismissed.

Describe in detail for the Court why it should grant your motion.

SWORN TO AND SUBSCRIBED before me this date,

December 15, 2005



Sign in the presence of a notary.



Michelle Jones

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 December 15, 2005, at Anne C. Smith, at the address listed on the petition, being Anne C. Smith, 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,

December 15, 2005



Sign in the presence of a notary.



Michelle Jones

Movant/Attorney

Donna King

Notary Public/Clerk of Court



Signed by notary or court staff.

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

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 recent 10-year period, filed a written notarized statement with the Department of Health and Social Services of Vital Statistics denying the release of any identifying information.

10. **I know and understand that I have the right to be served with notice of any hearing for termination of my parental rights, and have a hearing on my important child. I understand that the Family Court may conduct a hearing on my consent to terminate my parental rights 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 consent voluntarily and I have neither been promised nor received any money or any other thing in exchange for 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 shall not affect my right to make for the disposition of my estate by will.
7. Know and understand that I have the right to be represented by an attorney and may be entitled to have the Court appoint an attorney to represent me for the purpose of this consent.

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 following: I am not a party to the termination of parental rights under 13 Del. C. § 1106(c) because I am

DO NOT FILL OUT THE REMAINDER OF THIS FORM. THIS MUST BE FILLED OUT BY AN AUTHORIZED PERSON.

1. I am not a party to the termination of parental rights because I am:
 - 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
Date

Sandra Dee
Authorized Person
(printed name)

Sandra Dee
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.

Anne C. Smith

Petitioner,

and

Michelle Jones

Respondent,

File No.: _____

Petition No.: _____

WAIVER OF RIGHTS UNDER THE "SERVICEMEMBERS CIVIL RELIEF ACT"

STATE OF DELAWARE



Check the county in which you are filing.

Kent

COUNTY

SS.



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 case.
2. That Affiant is active duty in the United States military: a
3. The Affiant waives his/her rights under the "Servicemembers Civil Relief Act" and so acknowledges that he/she, or his/her attorney, will be required to appear at all legal proceedings associated with the above captioned 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.



Michelle 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 your parental rights should be terminated**. 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.

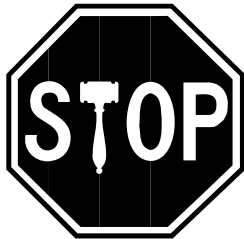
Because the Social Study and Report must contain a lot of information, the worker investigating and preparing the report will probably need to get some information from you. The worker will likely ask you for the **names of people** that he/she can speak with to find out more information about **you**,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



THE PETITIONER must **select** a licensed child-placing agency to do the Social Report and Study. The Petitioner must then complete an **Order of Reference** and the Court will issue an Order to the agency. You will receive a copy of this Order.

- The agency preparing the Social Study and Report has 4 months to file the completed Report with the Court.
- The Court may allow the agency more time to complete the Social Study and Report, but **ONLY IF** the additional time is reasonable and is to enable the agency to complete the report.



**SECTION 3 WILL BEGIN AFTER THE
SAMPLE FORM FOR SECTION 2.**

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 32.
- 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 Petitioner(s) regarding the continuance and then **tell the Court in your motion how the Petitioner(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 MUST APPEAR AT COURT THE DAY OF YOUR SCHEDULED HEARING.** If you fail to appear at your hearing, the Court can dismiss the petition or enter an order granting the Petitioner(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 Petitioner(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 you consent to the termination of parental rights, it is up to **the Petitioner** at the hearing to prove the following:

(1) Why it is in the child's best interests for the Court to terminate your parental rights (see Appendix A); **AND**

(2) that **at least one** of the legal grounds for terminating your parental rights exists (see Appendix B).

You can defeat the Petitioner's arguments by testifying and giving evidence to the Judge as to why the legal grounds for TPR alleged by the Petitioner are not met and why it is not in the best interests of the child that your parental rights are terminated.

 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 guardianship 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 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.**

The Family Court of the State of Delaware

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		
Street Address 101 Oak Street		
Apt. or P.O. Box Number Apt. # 123		
City Dover	State DE	Zip Code 19901
Social Security Number 111-22-333	Date of Birth 2/3/64	
Attorney Name and Phone Number n/a		

Name Michelle Jones		
Street Address 123 State Street		
Apt. or P.O. Box Number		
City Dover	State DE	Zip Code 19901
Social Security Number 787-98	Date of Birth	
Attorney Name and Phone Number n/a		

File Number CK04-12111
Petition Number

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

Explain what you would like the court to order.

The Petitioner, Anne C. Smith has suffered from severe tonsillitis. 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 by 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.

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 Street 0 Pine Street	Petition Number 04-42301
Apt. or P.O. Box Number Apt. #123	Apt. or P.O. Box Number	
City State Zip Code Dover DE 19901	City State Zip Code Dover DE 19901	
Social Security Number Date of Birth 111-22-3333 2/3/64	Social Security Number Date of Birth 787-98-6767 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)
)
Kent COUNTY)

SS.

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, November 30, 2004, personally appeared 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.



Sign in the presence of a notary.



Anne C. Smith

Petitioner

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



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.

Appendix A

Best Interests of a Child Factors

- 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.

Appendix B

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 of 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).