

# PARENT COUNSEL NO REUNIFICATION DESIGNATION HEARING CHECKLIST

**A.C.A. '9-27-365** (New code section merging previous sections on definitions, adjudication and disposition)

## **Purpose:**

To determine whether DHS should provide reunification services to the parent. This is also known as “fast tracking”.

## **Time Constraints:**

- ⊕ Any part can file a “no reunification services” (NRS) motion, which shall be provided to the parties in writing at least 14 calendar days before scheduled hearing. **A.C.A. §9-27-365(a)(1)(A)**
- ⊕ Time for response shall not be later than 10 days after receipt of motion, although a response is not required. **A.C.A. §9-27-365(a)(3)**
- ⊕ Court may conduct the NRS hearing immediately following, or concurrent with an adjudication, or at a separate hearing if proper notice has been provided. **A.C.A. §9-27-365(a)(1)(B)**
- ⊕ Court shall conduct and complete the hearing within 50 days of the date of written notice; however, the court upon good cause shown may continue the hearing an additional 20 days. **A.C.A. §9-27-365(b)**
- ⊕ Following a no reunification finding, the court shall hold a Permanency Planning Hearing within 30 days of the determination, unless permanency has been achieved through guardianship, custody, or a TPR petition has been filed within 30 days. **A.C.A. §9-27-365(d)**
- ⊕ A written order with findings of fact and law shall be filed within 30 days, or before the next hearing, whichever is sooner. **A.C.A. §9-27-365(e)**

## **Notice A.C.A. §9-27-365(a)(1-2)**

- ✓ Shall identify facts and grounds in sufficient detail to put the family on notice of the basis for the no reunification services motion.
- ✓ Shall be provided at least 14 days prior to hearing.

*Best practice: Ask the judge to schedule a pre-trial conference with all attorneys to share witness lists, ensure that exhibits have been shared with all parties, and to determine whether or not sufficient time has been scheduled to complete the hearing.*

## **Present at Hearing:**

- ✓ Judge;
- ✓ Parties, including children, unless excused for good cause by court;
- ✓ Attorneys for all parties;
- ✓ CASA volunteer, if appointed;
- ✓ Foster parents or relative caregivers;
- ✓ Investigator, case worker, and relevant witnesses; and
- ✓ Court Reporter.

## **Burden of Proof:**

Clear and convincing evidence that it is in the child’s best interests, and that one or more of the grounds exists. The burden is on the party requesting the no reunification services finding.

**A.C.A. §9-27-365(c)**

## **No Reunification Grounds:**

- ① A circuit court has determined that the parent subjected the child to aggravated circumstances that include:
  - ▶ abandonment;
  - ▶ chronic abuse;
  - ▶ extreme or repeat cruelty;
  - ▶ sexual abuse;
  - ▶ judicial determination that there is little likelihood that services will result in successful reunification; or
  - ▶ removal from the parent or guardian, with placement in foster care or the care of another person three times in the past 15 months.
- ② A circuit court has determined that the parent has:
  - ▶ committed murder or voluntary manslaughter of any child;

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- ▶ aided, abetted, conspired or solicited such a murder or manslaughter;
- ▶ committed felony battery resulting in serious bodily injury to any child;
- ▶ had parental rights involuntarily terminated as to a sibling of the child: or
- ▶ abandoned an infant as defined in 9-27-303(1) A.C.A. §9-27-365(c)(2)

### **Court Findings:**

- ✓ Whether or not reunification services shall be provided to the family;
- ✓ Basis/grounds for decision, and
- ✓ That not providing reunification services is in the child's best interests.

### **Best Practices:**

- *Review notice for sufficiency.*
- *Do discovery; make sure you have all medical records; talk to all relevant witnesses prior to the hearing.*
- *Request that the time to respond to discovery be shortened if necessary.*
- *Talk to your client about possible placements for the child (relatives—who are fit and willing, or others).*
- *Ensure that your client receives services up until the day of the no reunification services hearing, and if your client complies with those, argue that continued services could result in reunification.*
- *Discuss with your client the possibility of voluntarily relinquishing parental rights. Make sure they know the future impact of an involuntary termination of parental rights.*
- *The Rules of Evidence apply. Make sure they are followed by all parties, and object when appropriate.*
- *Remember that if your client is facing criminal charges, his or her testimony may be used against him or her in a criminal case.*
- *Treat this as you would a TPR, and use all best practices you would employ at that hearing.*

### **Preparing for appeals:**

- *Make sure all issues for appeal are properly preserved by objecting at all necessary times, being sure to get a ruling from the court on each objection.*
- *Proffer all necessary testimony and evidence if the judge refuses to allow it in the case proper.*
- *Expect that the case is headed to TPR, and preserve the record accordingly.*
- *Request findings of fact and conclusions of law so it will be clear exactly why the no reunification services order is being issued.*