

Collaborative Strategies for Juvenile Court Professionals



Tennessee Court Improvement Program,
Tennessee Department of Children's Services, and
Juvenile Court of Memphis and Shelby County

April 29, 2025



A top-down view of a wooden desk. In the center is an open spiral-bound notebook with 'NEW MINDSET' on the left page and 'NEW RESULTS' on the right page. To the left of the notebook is a white cup of black coffee on a wooden saucer. Above the coffee is a pair of black-rimmed glasses. To the right of the notebook is a small potted cactus and a wooden hourglass.

NEW MINDSET

NEW RESULTS

Juvenile Court of Memphis & Shelby County

- Local Rules and Practices
- Dockets
 - First Setting: Appoint attorneys and GALs; Assess case status
 - Settlement: Confirm discovery/investigation
- File According to Timelines



Service of Process and Summons: TRJPP 103

- Timing
 - ✓ Personal service: 3 days before hearing
 - ✓ Mail service: 5 days before hearing
- If child removed without notice:
 - ✓ Parties shall be notified ASAP with hearing details, custody status and reasons for removal
- Methods of service:
 - ✓ Personal
 - ✓ Registered/certified mail
 - ✓ Publication
- Who may serve – Any non-party over 18



Necessary Parties

- Assure all necessary parties have been properly served/noticed:
 - ✓ Parents/Guardians and their counsel
 - ✓ Alleged Biological Fathers
 - ✓ GAL
 - ✓ CASA



Attorneys and Guardian ad Litem

- Right to attorney ***all stages of any proceeding involved abuse, dependency or neglect.***
 - Appointed if indigent
 - Waiver
 - Knowing and voluntary
 - Orally in open court and confirmed in writing
- GAL appointment ***required in all cases where D&N is alleged.***
- GAL Responsibilities:
 - Advocate for child's best interest
 - Advocate for child's concerns & preferences
 - Request attorney for child if conflict exists



CASA

- Court may also appoint CASA to act in the best interest of a child before, during and after court proceedings
- CASA does:
 - Make reports and recommendations pertaining to the welfare of a child (distributed to all parties)
 - Talk to *anyone* involved in the child's life
 - Access to all child's records
 - Serve as fact witness as to what they saw, did and heard
 - Monitor safety and needs of child
- CASA does not:
 - Investigate abuse
 - Provide direct services
 - Transport child
 - Supervise visits



Overview of DCS Case Process

**Intake and
Investigation**

Report Received

**Screening &
Assignment**

**Investigation or
Assessment**

Intervention

**Case Decision
(Services,
Removal, Close)**

**Court
Involvement**

**Ongoing Case
Management**

Resolution

**Permanency
Planning**

Case Closure



Mandated Reporting



- Everyone in Tennessee is a mandated reporter.
- Must report suspected child abuse/neglect ***immediately*** to DCS or to local law enforcement or to Juvenile Court.
- Reports can be made anonymously.
- If you suspect harm, you are required to call the **Tennessee Child Abuse Hotline**.



DCS Focus on Prevention

If a child can remain safely at home or stay with a friend or relative temporarily, that solution is always better than removal.

DCS is charged with making reasonable efforts consistent with child safety to prevent or eliminate the need for removal.

Alternatives to removal run the gamut from informal arrangements with the child remaining in the home to agreements for the child to live temporarily outside the home to court interventions that impose safety conditions.

While child safety and other factors determine the viability of these options, each alternative is a vital tool that can greatly enhance the child's well-being.



Reasonable Efforts

“...reasonable efforts **shall be made** to preserve and reunify families...

[p]rior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home...”

T.C.A. § 37-1-166



What Are “Reasonable Efforts” to Prevent Removal?

“...[R]easonable efforts means the exercise of reasonable care and diligence by [DCS] to provide services related to meeting the needs of the child and the family. In determining reasonable efforts to be made with respect to a child ... and in making such reasonable efforts, the child's health and safety shall be the paramount concern.”
T.C.A. § 37-1-166(g)(1)

- Preventative/ongoing services
- Accurately assessing and monitoring risk
- Focus on family preservation unless child safety is compromised
- Exploring less drastic alternatives
- Exploring community resources
- CFTMs and actively engaging the family in the process
- Basically, doing everything reasonably possible to prevent removal until necessary



Ex Parte Removal: T.C.A. § 37-1-114

Purpose: To determine by **probable cause** to believe that:

- 1) child subject to immediate threat to child's health or safety to extent that ***delay for a hearing would be likely to result in severe or irreparable harm***; **OR**
- 2) there is a ***threat of removal of the child from the jurisdiction*** of the court; **AND**
- 3) there is ***no less drastic alternative to removal***.

Timing:

- If taken into custody without a court order, shall have a probable cause finding **within 48 hours of removal**.
- Preliminary hearing shall be held **within 72 hours** of child's removal, excluding non-judicial days.

Considerations:

- Must have written affidavit (sworn in person or by audio-visual electronic means).
- Court can order child removed from custody of parent/legal guardian and placed with DCS or suitable guardian pending further investigation and hearing.



Private Party D& N Petitions

- If custody or parenting time changes:
 - Hold preliminary hearing; foster care timeline applies, i.e. 72-hour preliminary, etc.
 - Order of Reference (Investigative Order) to DCS
 - Appoint of GAL and counsel for indigent parents
- If parent versus parent case (no change in parenting time):
 - No preliminary hearing required
 - Hold adjudicatory hearing within 30 days and disposition within 90 days
- If nonparent custodian and parenting time changes:
 - Hold preliminary hearing; foster care timeline applies, i.e. 72-hour preliminary, etc.



Order of Reference (Investigative Order)

- Court order DCS to evaluate child and submit report of findings and recommendations to the Court.
- Report to Court **shall be made within 15 days of the Order of Reference** (may be extended up to 30 days for good cause).
- Court should **include the “return to court” date in the Order of Reference**
 - When setting the date, the court considers:
 - ✓ urgency of the investigation
 - ✓ potential harm to child
 - ✓ Location of parties,
 - ✓ DCS resources
 - ✓ child’s safety and well being the most important consideration



D & N Timeline

Initiate Case

By Court Order
or File Petition
with Proper
Service to All
Parties

Preliminary Hearing

Probable Cause;
w/in 72 Hours

Adjudicatory Hearing

Clear &
Convincing;
w/in 30 days if in
custody or 90
days if not

Dispositional Hearing

Preponderance
of the Evidence;
w/in 15 days if in
custody or 90
days if not

File Order of
Court or Agreed
Order; Advise of
Right to Appeal



Preliminary Hearing: *T.C.A. § 37-1-117; TRJPP 302*

Purpose: To determine if there is **probable cause** to believe that:

- 1) child is dependent, neglected, or abused; **AND**
- 2) there is an immediate threat to child's health or safety likely to result in severe or irreparable harm; **AND**
- 3) there is ***no less drastic alternative to removal.***

Timing:

- **Within 72 hours** of child's removal, excluding non-judicial days. (cannot exceed 84 hours.)

Considerations:

- Reliable hearsay is admissible.
- Goal is to address ***immediate*** concerns/issues.
- Were reasonable efforts made to avoid removal?
- Is there a less drastic alternative to removal?
- Can the child safely return home with services?
- Are there better temporary placements available? (i.e. relatives)
- Has a visitation plan been established to support permanency?



Maximize Discovery Request

- ❖ TRJPP 305: Requires first discovery attempt to be informal, to avoid undue expense and delay and to ensure proceedings are heard expeditiously.

Tips

- Start early: Call or email DCS counsel for discovery early.
- Review evidence early to assist with settlement negotiations and client discussions.
- Make discovery requests narrow and specific for faster responses.
- Focus on what is important.
- Know the petition and talk with DCS attorney before requesting documents.



Adjudicatory Hearing: *T.C.A. § 37-1-129; TRJPP 307*

Purpose: Trial on the allegations of dependency, neglect, or abuse alleged in petition using a **clear and convincing** standard.

Timing:

- **Within 30 days of removal** or filing of petition; not more than 90 days if child not removed.
- Upon good cause, may be continued to a date certain.

Considerations:

- TN Rules of Evidence apply.
- Goal: Get services to families quickly for safe reunification.
- DCS must show reasonable efforts.
- Key questions:
 - Were services provided and related to reasons for removal?
 - Have parents participated in services?
 - Is DCS seeking a severe abuse finding?
 - Are there any related criminal charges?
 - Are there reasons DCS might not have to exercise reasonable efforts?



Role of GAL in Adjudication

- Independently investigates the facts of the case
 - Interviews the child, parents, relatives, teachers, doctors, and others
 - Reviews important records (medical, school, DCS reports, etc.)
 - Visits child's home and/or placement
- Participates in Adjudicatory Hearing
 - Present evidence
 - Cross-examine witnesses
 - Call their own witnesses
 - Advocate for child's concerns and preference and what GAL believes is in the child's best interest
- Duties are outlined in Tenn. Sup. Ct. R. 40



Reasons to Stipulate/Agree

- √ Facts that are not in dispute to focus on the issues that need to be heard.
- √ When the facts are overwhelming, may be strategically advantageous.
 - A hearing could expose the client to worse outcomes.
 - New law: Must prove D&N at the time of filing of the petition. Once court hears evidence in the adjudication, it can't "unhear" that evidence at the dispositional phase.
- √ To limit findings.
 - Stipulating to a D&N finding can preserve parental rights while still allowing the case to proceed toward services or supervision.
 - Choose carefully which part of statute you want the court to find
- √ To protect against criminal exposure if there's a related criminal case.



Benefits of Stipulating/Agreeing

- √ Speeds up resolution of case to move toward disposition and timely permanency for children.
- √ Opens up creative permanency plans.
- √ Enables mutually beneficial agreements: visitation plan and relative placements in the child's best interest.
- √ Can be part of a treatment or reunification plan.
- √ Can focus on available services and client's compliance.
- √ In substance abuse cases, gives parents time to show sobriety.
- √ Helps with court efficiency:
 - Keep dockets moving.
 - Use settlement dockets.
 - Schedule pre-trial conferences to reach stipulations/agreements.



Before Stipulating/Agreeing

- Must ensure won't prejudice client's position.
- Must obtain client's consent.
- Be cautious if:
 - Party wasn't properly served or fails to appear
 - Unable to meet with client
- Can not advocate if don't know client's position
- Can not withdraw from representation without proper motion and notice



Case Simulation



Importance of a Severe Abuse Finding

- Ground for termination of parental rights. *T.C.A. §36-1-113(g)*.
- If in DCS custody, must follow statutory requirement to return child to the home. *T.C.A. §37-1-130(d)*.
- Excuses DCS from making reasonable efforts to reunify if ordered by the court. *T.C.A. §37-1-166(g)(4)*.



Reasonable Efforts to Reunify Not Required

A court does not have to require reasonable efforts to reunify if any of the following apply:

- Parent subjected the child (or any child in the household) to aggravated circumstances, including:
 - Abandonment of a child or an infant
 - Aggravated assault
 - Aggravated kidnapping or especially aggravated kidnapping
 - Aggravated child abuse and neglect
 - Aggravated sexual exploitation of a minor or especially aggravated sexual exploitation of a minor
 - Aggravated rape, rape, rape of a child, or incest

(Others at T.C.A. § 36-1-102(9); 37-1-166)



Dispositional Hearing: *T.C.A. §§ 37-1-130 to 132; TRJPP 308*

Purpose: To determine appropriate order to **meet the needs of the child and to achieve the objectives of the state** by **preponderance of the evidence**.

Timing:

- **Within 15 days** of adjudication if child has been removed; 90 days if child is not removed.
- Shall be separate from adjudicatory hearing – but can be immediately following.

Considerations:

- TN Rules of Evidence apply, except reliable hearsay is admissible.
- YSO should be witnesses regarding admissible evidence they know firsthand.
- Assess possibility of:
 - Working with child and family in-home with community resource support.
 - Reasonable efforts to reunify the family.
 - Safety of returning the child home with services.
 - Setting a visitation plan.



Case Simulation





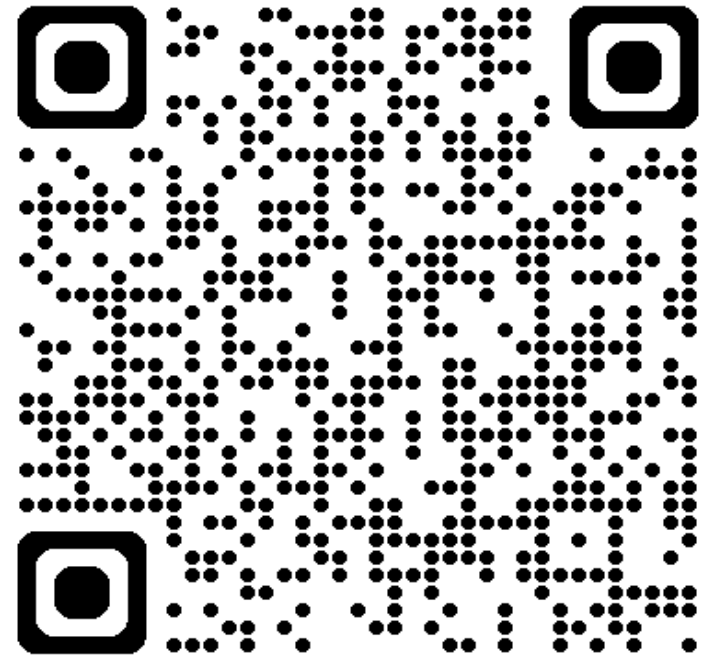
**PRACTICE
MAKES
PROGRESS**



CIP Online Resources

<https://www.tncourts.gov/programs/court-improvement>

- On-Demand Training
- Upcoming Training/Events
- Sample Motions, Orders,
and Forms
- Reference Guides and
Manuals



Any Questions

Stacy Lynch
Court Improvement Program Director
Administrative Office of the Courts
(615) 741-2687 ext. 1040
stacy.lynch@tncourts.gov

Stephanie Etheridge
Juvenile Court Manager
Statewide Judicial Safe Baby Court Coordinator
Administrative Office of the Courts
(615) 741-2687 ext. 1111
stephanie.etheridge@tncourts.gov

Sammi S. Maifair
General Counsel
Statewide DCS Safe Baby Court Coordinator
Tennessee Department of Children's Services
sammi.maifair@tn.gov



**Please scan the QR code below to complete the
Training Evaluation and CLE Request Form.**



**Thank you for all you do for Tennessee children
and families!**

