

# Termination of Parental Rights & Adoption

## A Court Reference Guide for Tennessee Child and Parent Attorneys, Multidisciplinary Professionals and Court Staff

*A quick-reference guide to Tennessee's legal procedures, timelines, and best practices for termination of parental rights and adoption.*

### **TERMINATION OF PARENTAL RIGHTS (TPR)**

#### **Jurisdiction and Filing**

- Filed in Circuit, Chancery, or Juvenile Court. (T.C.A. §§ 36-1-113(a); 36-1-111(b); 37-1-104(c))

#### **VOLUNTARY TERMINATION (SURRENDER)**

- By Whom: Any birth parent or legal guardian, regardless of age. (T.C.A. § 36-1-110).
- Where: Courtroom, judge's chambers, or virtual video platform. (T.C.A. § 36-1-111(b), (j)(3)(C)).
- When: Pre-birth – not filed until after birth with written reaffirmation within 3 days after birth; Post-birth – no sooner than 48 hours after birth or upon hospital discharge. (T.C.A. § 36-1-111(d)).
- Revocation: May revoke within 3 calendar days, excluding weekends and holidays. (T.C.A. § 36-1-112(a)(1)). Exception applies for represented parents; revocation within 24 hours.

#### **Voluntary Waiver of Interest for Putative Father**

- A putative father may voluntarily waive any rights or interest in a child by executing a written waiver pursuant to T.C.A. § 36-1-111(s).
- Waiver relinquishes the father's right to notice of future proceedings, including TPR and adoption. It must be executed knowingly and voluntarily. Once accepted by the court, it is irrevocable.

#### **Surrender Checklist**

- ✓ Surrender Forms (T.C.A. § 36-1-111(b)(3))
- ✓ Mother's Affidavit (T.C.A. § 36-1-111)
- ✓ Affidavit Waiving Custody (T.C.A. § 36-1-111)
- ✓ Waiver of Interest (for putative fathers) (T.C.A. § 36-1-111(s)) and/or Denial of Paternity (for legal father) (T.C.A. § 36-1-111(t))
- ✓ Social and Medical History Forms
- ✓ Court Report/Home Study (if directly to adoptive parents)
- ✓ Motion/Order for Guardianship (if applicable)

**For additional resources and information:**

**TBA Adoption Law Section @**  
<https://www.tba.org/?pg=Adoption-Law-Section>

#### **INVOLUNTARY TERMINATION (TPR)**

- By Whom: DCS, licensed agencies, GALs, certain relatives, or prospective adoptive parents (T.C.A. § 36-1-113(b)).

#### **Grounds (T.C.A. § 36-1-113(g))**

Grounds are cumulative and nonexclusive.

- 1) Abandonment: "non-willful" failure to visit or support (defined in T.C.A. § 36-1-102)
  - ≥4 yrs at time of filing = 4 month abandonment period
  - <4 yrs at time of filing = 3 month abandonment period
- 2) Substantial noncompliance with Perm Plan
- 3) Persistent conditions
- 4) Severe child abuse (defined in T.C.A. § 37-1-102)
- 5) Parental sentence >2 yrs for severe child abuse
- 6) Parental sentence >10 yrs + child <8 yrs at sentencing
- 7) Murder/wrongful death of parent
- 8) Mental incompetence
- 9) Grounds for putative fathers
- 10) Conception of child from particular sex crime
- 11) Prior conviction for severe child sexual abuse
- 12) Trafficking for commercial sex act conviction
- 13) Child sex trafficking conviction
- 14) Failure to manifest ability or willingness to assume custody or financial responsibility of child
- 15) Attempted first/second degree murder of parent
- 16) Father's unlawful sexual penetration against mother

#### **Best Interest Factors** (T.C.A. § 36-1-113(i))

- Court shall consider all relevant and child-centered factors including the 20 statutory factors.
- Key considerations include:
  - Effect termination will have on child's need for stability and continuity of placement;
  - Consistency in meeting the child's material, educational, emotional and financial support needs;
  - Impact of parent's conduct or living situation on child's trauma or well-being;
  - Secure and healthy attachment between child and parent;
  - Emotional ties and attachments between child and caregivers;
  - Parental efforts to establish safe home environment and performance of parenting responsibilities;
  - Parental efforts to maintain contact with the child;
  - History of abuse, neglect, or criminal activity by parent;
  - Willingness and ability to assume responsibility for child;
  - Success (or failure) in parenting other children;
  - DCS's reasonable efforts to assist parent in making lasting adjustments.
- Clear and convincing evidence is required.
- The prompt and permanent placement of the child in a safe environment is presumed to be in the child's best interest. (T.C.A. § 36-1-113(j))

# **ADOPTION**

## **Jurisdiction and Filing**

- Filed in Chancery or Circuit Court (T.C.A. § 36-1-115)
- Filing Considerations:
  - With or without TPR
  - Married or Single
  - Residency
  - Petition Requirements (T.C.A. § 36-1-116)
  - Putative Father Response (T.C.A. § 36-1-116(b)(13)(A))
- Timeframe – Finalization of adoption is required within 1 year of filing. (T.C.A. § 36-1-116)
- Juvenile Court jurisdiction continues only until Adoption Petition is filed; however, Juvenile Court retains jurisdiction for reviews/foster care permanency hearings. (T.C.A. § 36-1-116(f)). Only the adoption court has jurisdiction to modify visitation or custody of the child while adoption is pending.

## **Adoption Hearings & Finalization Requirements**

Adoption finalization requires several legal and procedural steps:

- Hearing may occur in open court or chambers
- Adoptive parents typically testify to establish relationship and intent
- Social worker testimony may be required to confirm child's adjustment
- Final Decree of Adoption establishes legal parent-child relationship
- Consent forms for minors aged 14+ (T.C.A. §§ 36-1-102(16), 36-1-117(i))

## **Adoption Checklist**

- ✓ Petition for Adoption
- ✓ Supporting Documents:
  - Birth/Death/Marriage Certificates
- ✓ Order of Reference
- ✓ Putative Father Clearance
- ✓ Attorney Affidavit/Declaration disclosing fees and expenses
- ✓ Agency Affidavit disclosing fees and expenses
- ✓ Order of Guardianship (Agency only)
- ✓ Final Decree/Order of Adoption with specific language (T.C.A. § 36-1-120)
- ✓ Copy of certified Final Order
- ✓ Application for Certificate of Birth
- ✓ Fees to Division of Vital Records of TN Department of Health in Nashville

## **Required Documents in Agency and Private Adoptions**

- Order of Reference
- Home Study & Final Court Report

## **Types of Adoption**

- Agency
- Private
- Relative
- Step-parent - home study, Order of Reference, final court report and final Order of Adoption may be waived (T.C.A. § 36-1-119(b))
- Re-adoption (T.C.A. § 36-1-106) - distinction on procedures depending on child's citizenship status
- Recognition of Foreign Decrees
- Adult Adoption

## **Foster Parent Adoption Considerations**

Timelines:

- 6 months for significant relationship (T.C.A. § 37-2-403 (b)(4))
- 9 months not just notice but may be kind of party status (T.C.A. § 37-2-415(a)(17))
- 12 months preference if child is available for adoption (T.C.A. § 36-1-115(g)(1))
- Have right to engage an attorney for the purposes of consultation and advice

## **Access to Records**

- Adoption records are confidential. (T.C.A. § 36-1-125)
- Adults adopted after 1951 may request records unless birth parent was a rape/incest victim. (T.C.A. § 36-1-127) (effective 7/1/2025)
- Court-ordered release under strict conditions. (T.C.A. § 36-1-138)

## **Post-Adoption Considerations**

- Post-Adoption Contact Agreements (PACA): Enforceable until child turns 18 (T.C.A. § 36-1-145)
- New Birth Certificates issued within 45 days (T.C.A. § 68-3-312(g))
- Statute of Repose: 9 months (T.C.A. § 36-1-122)

## **Financial & Leave Benefits**

- Tax Credit: Up to \$16,810 in qualified expenses (IRS Adoption Credit)
- Paid Leave: 6 weeks for eligible State of Tennessee employees post-adoption (effective 4/11/2025)

## **Adoption Alternatives**

Permanent Guardianship (PG) & Subsidized Permanent Guardianship (SPG):

- No TPR required
- SPG requires kinship and is subsidy-eligible
- PG does not require prior relationship but is not subsidy-eligible

## **Additional Resources**

TN Children's Services Adoption Fee	<a href="https://www.tn.gov/content/dam/tn/dcs/documents/licensing/TN_Adoption_Fee_Schedule.pdf">https://www.tn.gov/content/dam/tn/dcs/documents/licensing/TN_Adoption_Fee_Schedule.pdf</a>
Application for Certificate of Birth	<a href="https://www.tn.gov/health/health-program-areas/vital-records/applications.html">https://www.tn.gov/health/health-program-areas/vital-records/applications.html</a>
DCS Adoption Best Practices Manual	<a href="https://files.dcs.tn.gov/policies/chap15/AdoptionManual.pdf">https://files.dcs.tn.gov/policies/chap15/AdoptionManual.pdf</a>
DCS Adoption Program Area	<a href="https://www.tn.gov/dcs/program-areas/adoption.html">https://www.tn.gov/dcs/program-areas/adoption.html</a>