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Paternity Issues	
ABUSE, NEGLECT, DEPENDENCY AND	
TERMINATION OF PARENTAL RIGHTS: A COURSE FOR DISTRICT COURT JUDGES	
BY: SARA DEPASQUALE, JD, MSW	
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Objectives	
1. A Father's Role in an A/N/D Proceeding	
2. A/N/D Statutory References to Fathers	
3. Determining Whether Paternity Is an Issue	
4. Adjudicating Paternity in the 7B Action	
5. Why Adjudicating (Non)Paternity Matters	
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Q1: What is a father's role in a child welfare action?	-
• It takes two	
• 7B-401.1(b) Parents. "The juvenile's parent	
shall be a party" (unless exception)	
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Q2: What does GS 7B say about fathers?	
Defendance to Eath and	
References to Fathers "parent"	
"patern"	
paterinty	
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Nonsecure Custody	
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 7B-503(a) Criteria court shall first consider release to juvenile's 	
<u>parent</u>	
• 7B-506(h)(1) The court shall	
 inquire into the identity and location of any missing parent and whether <u>paternity</u> is an issue 	
 include findings of efforts to locate and serve and establish <u>paternity</u> when paternity is an issue 	
○ court may specify efforts	
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Pre-adjudication Hearing, 7B-800.1(a)	
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• The Court shall consider	
○(2): identification of parties	
○(3): whether <u>paternity</u> has been	
established or efforts made to establish	
including identity and location of missing parent	
parent	
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Initial Dispositional Hearing: 7B-901(b)	<u></u>
- The Count shall	
• The Court shall	
oinquire into the identity and location of any <u>missing parent</u> and whether <u>paternity</u> is an issue	
is an issue	
oinclude findings of efforts to locate and serve and establish <u>paternity</u> when paternity is an issue	
paterinty is an issue	
○Court may specify efforts	
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What do efforts look like?	
a Pinth contificate	
Birth certificate Marriage certificates	
• Paternity orders	
Child support orders	
• DNA testing	
• Family Tree	
• IV-D Agency	
What are diligent efforts re: publication?	
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Purpose of the Juvenile Code	
Direct of constitutional sights of immedia 6	-
 Protect constitutional rights of juveniles & <u>parents</u> Respect <u>family autonomy</u> and juvenile's needs for safety, 	
continuity, & permanence	
 Prevent unnecessary or inappropriate separation of juveniles from their <u>parents</u> 	
 Provide standards for removal (when nec) and <u>return</u> of 	
juveniles to their <u>homes</u>	
• Reunification/Return Home	
o Placement of the juvenile in the home of either parent	

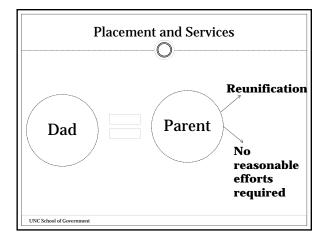
Q3. Is Paternity an Issue?	
• Who is the Father?	
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Presumptions & Operation of Law	
Husband of mother at time of conception – birth Rebuttable by clear, cogent, and convincing evidence	
• Reputed father who married mother o GS 49-12	
Man who has adopted a child GS 48-1-106(b)	
 Husband of women who gave birth to child through heterologous artificial insemination GS 49A-1 	
Affidavit of Parentage/Birth Certificates	
"Hospital affidavits" (GS 130A-101(f))	
○1993- 2005: presumption of paternity	
 Certified copy admissible in action to establish paternity 	
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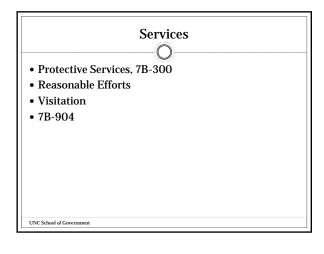
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Affidavit of Parentage: GS 110-132	
• "Constitutes an admission of paternity"	
"GL NI J. D. CO.	
"Shall have the same legal effect as a judgment of paternity for the purpose of	
establishing a child support obligation."	
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Judicial Adjudications of Paternity	
GS 49-14 District court action to establish (or dis-establish) paternity	
• GS 49-10; 49-12.1	
 Special proceeding before the clerk to legitimate a child born out of wedlock 	
• Declaratory Judgment • GS 1-256, et. seq.	
Other Judicial Determinations	
0	
When paternity is an element or issue that was litigated	
○ Criminal nonsupport (GS 14-322; 49-2) ○ Custody orders	
○ Child support orders○ Divorce orders	
○ Juvenile court orders	

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Now what?	
COLLATERAL ESTOPPEL!!!!!	
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Q4: How do you adjudicate paternity?	
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Hearing Required	
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• Testimony	
• AOP	
Birth Certificate	
Marriage Certificate	
• DNA Testing	
Child's appearance	
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DNA Testing	
• 8-50.1(b1): In the trial of any civil action in which the question of parentage arises, the court shall	
OAdmissibility/Foundation	
○ Rebuttable presumptions, 85% — 97%	
O Does Not Apply To:	
Testing not via 8-50.1(b1)	
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Order	
• Paternity	
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• Non-Paternity Amended	-
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Q5: Why Does It Matter?	
• Parties	
Nonsecure Custody	
• Adjudication	
DispositionReunification	
Reunincation Termination of Parental Rights	
• Adoption	
• Timing / Outcome of Court Action	

Party Status and Rights • Not a parent ○ Remain a party? ○ Visitation? ○ Reunification services? • Caretaker? • Appointed Counsel? • Right to appeal?





Adjudication: Status of Child	
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Dependency, -101(9) In need of assistance because parent, guardian, custodian Vnable to provide care or supervision and	
 Lacks an appropriate alternative child care arrangement 	
○ Applies to Both Parents! ×In re V.B., 768 S.E. 2d 867 (Feb. 17, 2015)	
×In re H.H., 767 S.E. 2d 347 (Dec. 2, 2014)	
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Consideration of Relatives	
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Relative Involvement: Notice	
-505(b) order to make diligent efforts to notify relatives and persons with custody of sibling unless contrary to	
BIC	
800.1(a)(4) whether relatives have been identified and notified	
• -901(b) inquire about efforts made to identify and notify	
• Side note: 42 USC 671(a)(29)	
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Relative Involvement: Placement	
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Nonsecure Custody, -505 Consider if relative willing and able to provide proper care and	
supervision in a safe home	
o Shall order unless contrary to BIC	
• Disposition, -903(a1)	
 Out of home placement, same as above 	
○ In re E.R., N.C. App (July 29, 2016)	
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Concurrent Permanent Plans: -906.2	
Concurrent Permanent Plans900.2	
• Reunification = Priority	
○ -101(18b): reunification/return home	
 -101(18): reasonable efforts -906.1(d), each review/PP hearing 	
★ Services offered to reunite	
 ➤ Whether efforts would be futile ➤ When and if TPR should be considered 	
 -906.1(e), each PP hearing x If possible to place with parent w/in 6 months 	
If unlikely, consider guardianship/custody with other and what rights and responsibilities remain with parents	
× Consider adoption/need for TPR	
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Ongoing Case Action	
Oligoling Case Action	
Waive reviews	
• 906.1(k), automatic if custody with parent	
Terminate jurisdiction	
 Dismiss case at adjudication/disposition -911 custody order 	
5 511 castody order	

Termination of Parental Rights



- Unknown Parent, 7B-1105
- Adjudication of Non-Paternity = Dismiss
- Issue of paternity raised = Determine
- Grounds, -1111(a)(5)

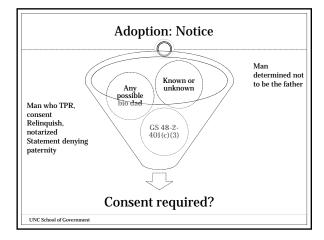
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Legally Clear for Adoption



- Relinquish, Consent, TPR
- -906.1(f)(3), no TPR to be filed by DSS if DSS did not provide family with services when reasonable efforts required
- $\circ\,$ In re A.E.C., 768 S.E. 2d 166 (January 20, 2015)

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Adoption: Consent Not Required
• GS 48-3-603
 ○ Not timely respond to notice ○ TPR ○ Relinquishment
Neilinquishment Man determined not to be father or another determined to be father
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Integral Part of Proceeding!
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