

Abuse, Neglect,  
Dependency, and  
Termination of Parent  
Rights Proceedings  
in North Carolina

2023 Edition

Sara

# Pre-Adjudication & Paternity

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Chapters 2, 3, 5

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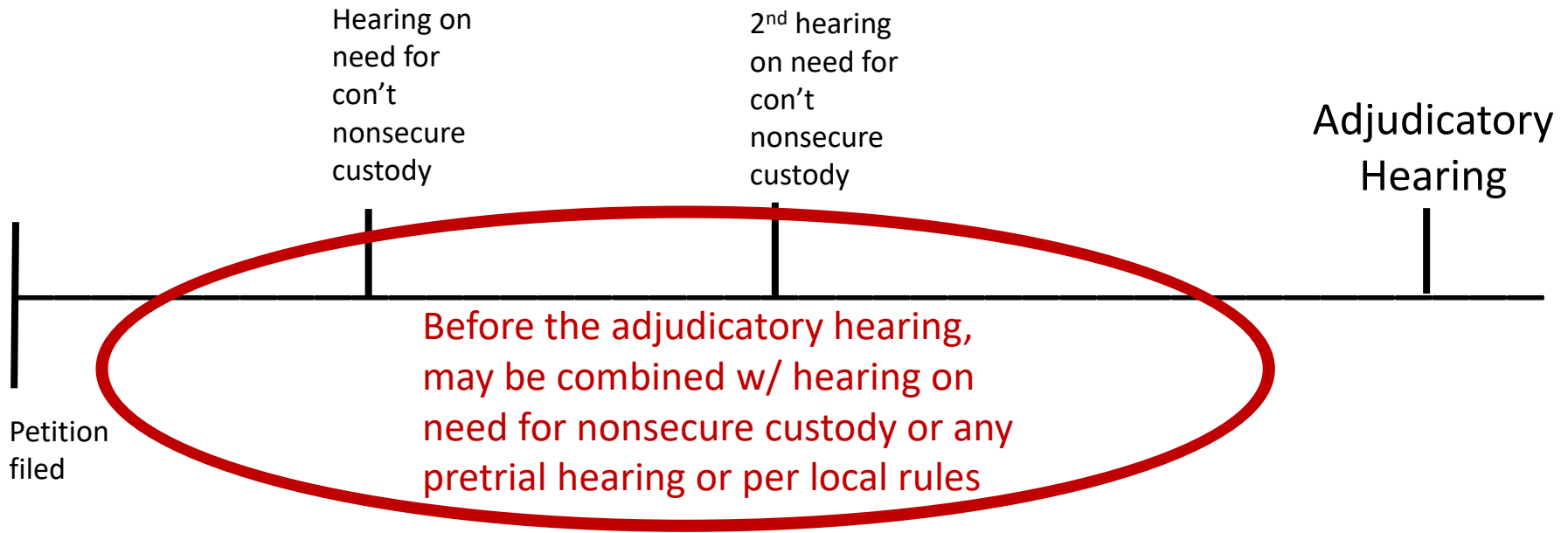
# Objectives

- ✓ Identify the Issues that Need to Be Addressed
- ✓ KIDS: Utilize the Resources to Assist You w/ Those Issues



# Pre-adjudication Hearings

## G.S. 7B-800.1



## Procedure Oriented

- Subject Matter Jurisdiction
- Amend Petition
- Discovery
- Continuance of Adjudicatory Hearing
- Notice requirements
- Stipulations
- Consent Orders

## People Oriented

- Parties/Personal Jurisdiction
- Retention/Release of Provisional Counsel
- GAL for Respondent Parent
- Paternity
- “Relatives” Identification & Notification

Other Issues that Can Properly Be Addressed as a Preliminary Matter

# Subject Matter Jurisdiction, 7B-402

|   |                      |                      |                      |   |  |
|---|----------------------|----------------------|----------------------|---|--|
| <b>STATE OF NORTH CAROLINA</b>                              |                      |                      |                      | <b>File No.</b><br><input type="text"/>   |  |
| <input type="text"/> County                                 |                      |                      |                      | In The General Court Of Justice<br>District Court Division  |  |
| <b>IN THE MATTER OF:</b>                                    |                      |                      |                      | <b>JUVENILE PETITION</b><br><b>(ABUSE/NEGLECT/DEPENDENCY)</b>   |  |
| <i>Name And Address Of Juvenile</i><br><input type="text"/> |                      |                      |                      |   |  |
| <input type="text"/>  |                      |                      |                      |   |  |
| <input type="text"/>  |                      |                      |                      |   |  |
| <i>Juvenile's Date Of Birth</i>                             | <i>Age</i>           | <i>Race</i>          | <i>Sex</i>           | G.S. 7B-101, -400, -402   |  |
| <input type="text"/>  | <input type="text"/> | <input type="text"/> | <input type="text"/> |   |  |
| <i>Name Of Petitioner</i><br><input type="text"/>           |                      |                      |                      | <b>Condition Alleged</b><br><input type="checkbox"/> Abused <input type="checkbox"/> Neglected <input type="checkbox"/> Dependent |  |

# Properly Signed, 7B-403

## In re T.R.P.

|   |  | VERIFICATION                                  |  |
|---|--|---|--|
| Being first duly sworn, I say that I have read this Petition and that the same is true to my own knowledge, except as to those matters alleged upon information and belief, and as to those, I believe it to be true. |  |   |  |
| <b>SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME</b>   |  | Name And Address Of Petitioner                |  |
| Date  | Signature Of Person Authorized To Administer Oaths |   |  |
| <input type="checkbox"/> Deputy CSC   | <input type="checkbox"/> Clerk Of Superior Court   | <input type="checkbox"/> District Court Judge | Signature Of Petitioner  |
| <input type="checkbox"/> Assistant CSC  | <input type="checkbox"/> Magistrate                |   |  |
| <input type="checkbox"/> Notary   | Date My Commission Expires                         |   | Telephone No.  |
| <b>SEAL</b>   | County Where Notarized                             |   | <input type="checkbox"/> Director <input type="checkbox"/> Authorized Representative Of Director |
|   | County Department of Social Services               |   |  |
| WITNESS/ES  |  |   |  |

# Properly Verified, 7B-403; In re N.T.



|   |   | VERIFICATION   |  |
|---|---|--|--|
| Being first duly sworn, I say that I have read this Petition and that the same is true to my own knowledge, except as to those matters alleged upon information and belief, and as to those, I believe it to be true. |   |  |  |
| <b>SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME</b>   |   | Name And Address Of Petitioner   |  |
| Date  | Signature Of Person Authorized To Administer Oaths                                      |  |  |
| <input type="checkbox"/> Deputy CSC<br><input type="checkbox"/> Assistant CSC   | <input type="checkbox"/> Clerk Of Superior Court<br><input type="checkbox"/> Magistrate | Signature Of Petitioner  |  |
| <input type="checkbox"/> Notary   | Date My Commission Expires  | Telephone No.  |  |
| SEAL  | County Where Notarized  | <input type="checkbox"/> Director <input type="checkbox"/> Authorized Representative Of Director |  |
|   |   | County Department of Social Services   |  |
| WITNESS/ES  |   |  |  |

AND FILE-STAMPED!



Slow down!



# KIDS



## Abuse, Neglect, and Dependency (A/N/D) Petitions: Sign and Verify

This entry was contributed by Sara DePasquale on March 4, 2015 at 5:00 am and is filed under Child Welfare Law.



Who signs an A/N/D/ petition and whether it is properly verified determines if the court has subject matter

# April 1, 2026 New Requirement



Petition signed by “legal counsel for department”

OR




Director attests petition reviewed by “legal counsel for the department”



# UCCJEA 7B-402

# KIDS

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A UNC School of Government Blog

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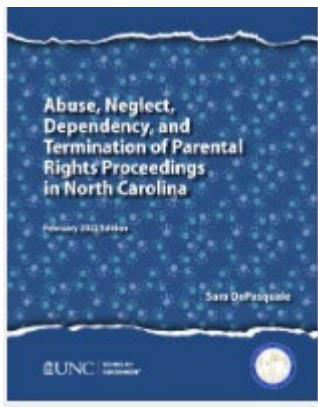
### Search Results

Keywords: uccjea

Applying UCCJEA Temporary Emergency Jurisdiction in A/N/D Cases

Subscribe

Email \*

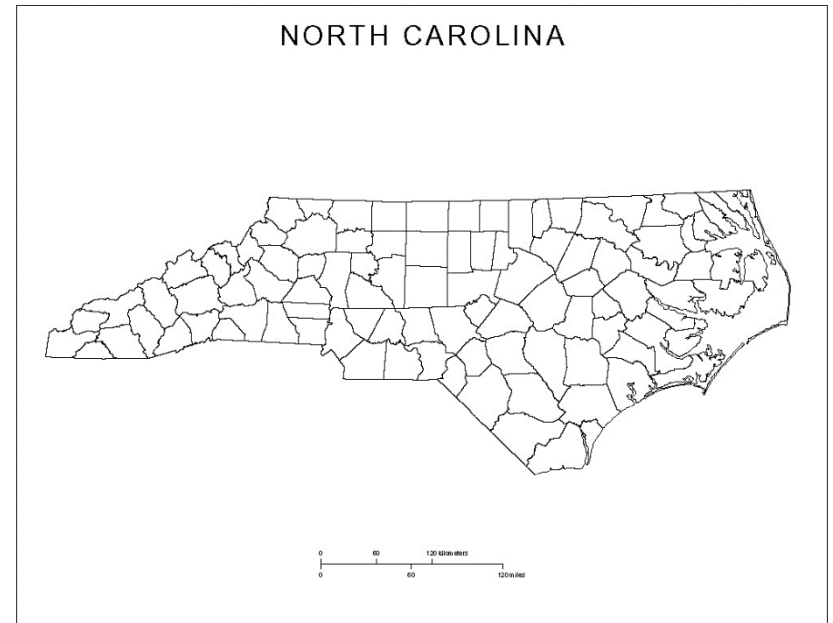


## Child Welfare Case Compendium

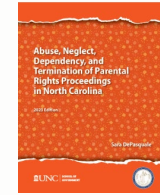
New Search

Print Results

# Venue



- Juvenile resides or is present
- Can be waived
- Change of venue pre-adjudication
  - does not change petitioner or who has non-secure custody (changing Oct. 1, 2025 if COI)



# Do Rules of Civil Procedure apply?

Yes, if:

Ch. 7B says it does

Rule fills procedural gap

No, if:

Ch. 7B provides different procedure


Rule confers a new right



## Amend Petition

DSS filed a petition alleging neglect based on various conditions in the home. While the child is in nonsecure custody, she discloses that “daddy mike” has been inappropriately touching her. DSS seeks to amend its petition to add abuse.

What is the proper procedure?



# Service and Process

- Summons = AOC-J-142
- Rule 4 of Rules of Civil Procedure
- Service on one parent is sufficient for purposes of subject matter jurisdiction

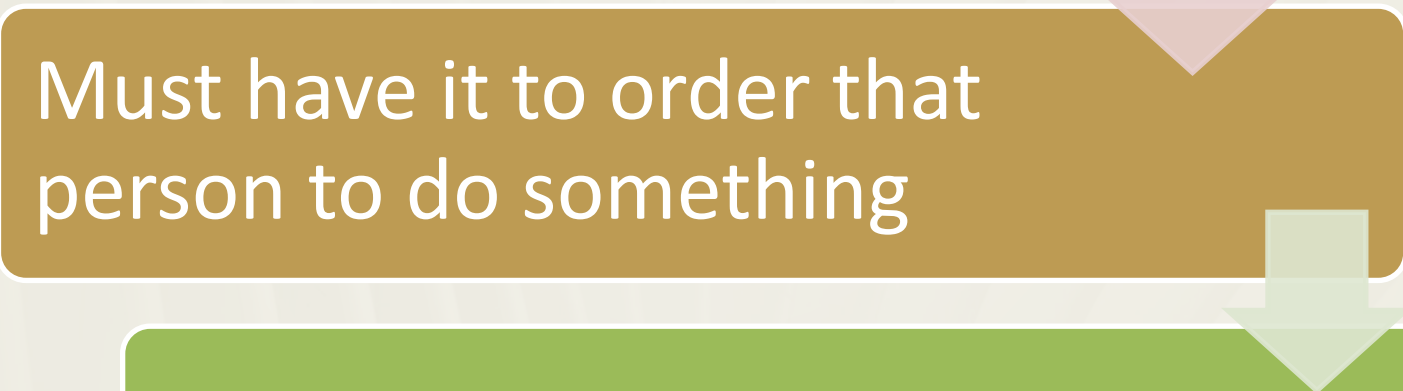
*In re Poole*, 357 N.C. 151 (2003), reversing for reasons stated is dissenting opinion in 151 N.C. App. 472 (2002).

# Personal Jurisdiction

≠ subject matter jurisdiction  
but



Must have it to order that  
person to do something



How do you get it?





# Representation

## **Child, G.S. 7B-601**

- Abuse/neglect automatic
- Dependency?

## **Parent, G.S. 7B-602**

- Attorney
- Rule 17 GAL?

# Continuance

## G.S. 7B-803



1. Continue for good cause ...
2. Otherwise extraordinary circumstances when necessary for proper administration of justice or in BIC

How long?

What is the impact on case? On child? On family?

Discovery

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G.S. 7B-700

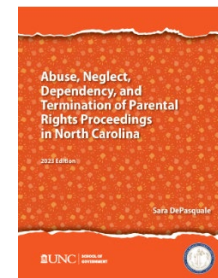
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In re M.M.

# Writ for Incarcerated Parents



# Title VI Civil Rights Act



## Chapter 13.4

# Language Access





## Civil Rights

### Nondiscrimination Statements and Multilingual Language Notices

| Nondiscrimination Statements   | NC DHHS Multilingual Language Notice                |
|--|---|
| <a href="#">English</a>  | <a href="#">English</a>                             |
| <a href="#">የማዳላት ተግባር ላለመፈጸም የጥገና መግለጫ - Amharic</a>                | <a href="#">በላብዙ ቋንቋ መስጠት - Amharic</a>             |
| <a href="#">تصريح بعدم التمييز - Arabic</a>                          | <a href="#">متعدد اللغات إشعار وشعار - Arabic</a>   |
| <a href="#">非歧视声明 - Chinese Simplified</a>                           | <a href="#">多语言通知和标语 - Chinese Simplified</a>       |
| <a href="#">非歧視聲明 - Chinese Traditional</a>                          | <a href="#">多語言通知 - Chinese Traditional</a>         |
| <a href="#">Deklarasyon Kont Diskriminasyon - Creole</a>             |   |
| <a href="#">Izjava o nediskriminaciji - Croatian</a>                 | <a href="#">višejezična obavijest - Croatian</a>    |
| <a href="#">میتاق (بیانیہ) عدم تبعیض - Farsi</a>                     | <a href="#">Farsi</a>                               |
| <a href="#">Déclaration de non-discrimination de l'USDA - French</a> | <a href="#">avis multilingue et slogan - French</a> |

# Applies to Services



## Office of Language Access Services

Committed to removing barriers that hinder equal access to justice by individuals with limited English proficiency (LEP).



### Contents

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[Language Access Updates to Standards and Initiating Forms](#) - July 25, 2024

# Applies to Court

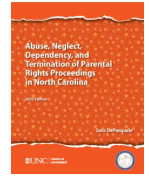
*Keep KIDS in Mind*

Do you have suggestions/tips for

How to work with language interpreters?



# Disability



## Chapter 13.5

Americans  
with  
Disabilities Act

Section 504

# ADA - 504

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- Applies to
  - Parents
  - Children
  - Foster Parents
  - Pre-adoptive Parents





# THE AMERICANS WITH DISABILITIES ACT

- Is a reasonable accommodation/modification needed?
- Does it need to be specified in reasonable efforts?

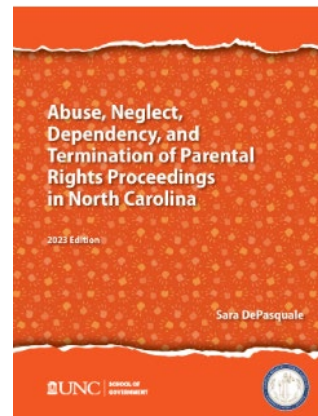
## *Keep KIDS in Mind*

Have you had to make accommodations in your courtroom?

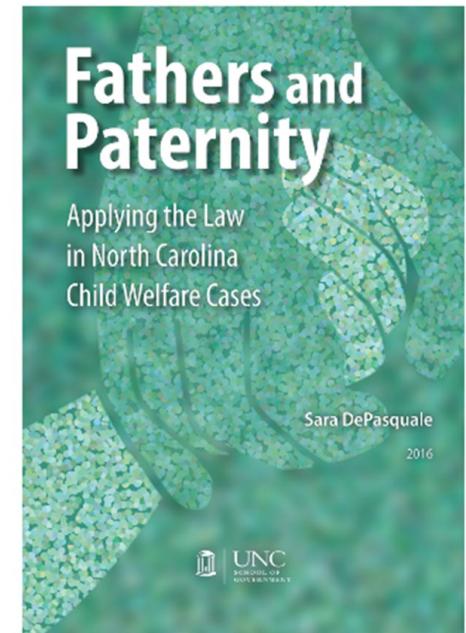
Tips to share...

Have you had a reasonable accommodation come up in a A/N/D or TPR case? How so? How did you address it?

# Addressing Paternity



## Chapter 5.4



Q1: What is a father's role in a child welfare action?

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It takes two

**G.S. 7B-401.1(b)**

**Parents.** "The juvenile's parent shall be a party" (unless exception)



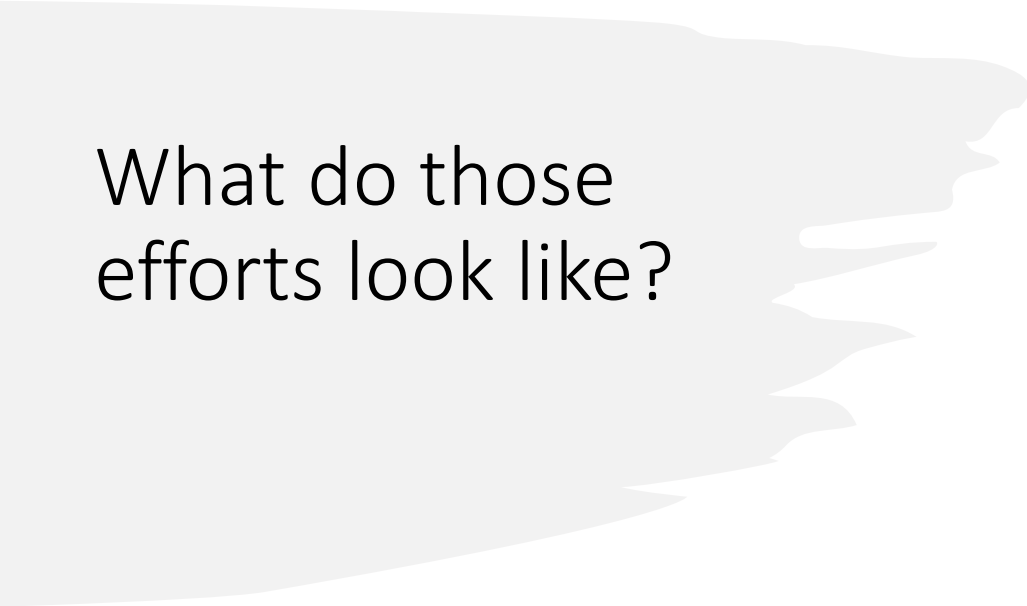
# Purpose of the Juvenile Code

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- Protect constitutional rights of juveniles & parents
  - Respect family autonomy and juvenile's needs for safety, continuity, & permanence
  - Prevent unnecessary or inappropriate separation of juveniles from their parents
  - Provide standards for removal (when nec) and return of juveniles to their homes
- 
- Reunification/Return Home (G.S. 7B-101(18b))
    - Placement of the juvenile in the home of either parent....

| Nonsecure Custody  | Pre-adjudication Hearing   | Initial Disposition  |
|--|--|--|
| <p>G.S. 7B-503(a) Criteria<br/>Court shall 1<sup>st</sup> consider placement with a parent...</p>  | <p>G.S. 7B-800.1(a)(2)<br/>The court shall consider identification of the parties to the proceeding</p>  |  |
| <p>G.S. 7B-506(h)(1)<br/>At each continued nonsecure custody hearing, court shall inquire into</p> <ul style="list-style-type: none"> <li>• identity &amp; location of any missing parent</li> <li>• whether paternity is an issue</li> </ul> <p>The court shall make findings about efforts to locate, serve, &amp; establish paternity (when an issue)</p> <p>The court may specific efforts</p> | <p>G.S. 7B-800.1(a)(3)<br/>The court shall consider whether paternity has been established or efforts made to establish paternity, including the identity &amp; location of any missing parent</p> | <p>G.S. 7B-901(b)<br/>The court shall inquire into</p> <ul style="list-style-type: none"> <li>• identity &amp; location of any missing parent</li> <li>• whether paternity is an issue</li> </ul> <p>The court shall make findings of efforts to locate, serve, &amp; establish paternity (when an issue)</p> <p>The court may specify efforts</p> |





What do those  
efforts look like?

Appendix 3A

**Checklist: Diligent Search to Identify a Father**

Appendix 4A

**Worksheet: Determining When Paternity Is an Issue  
in the Abuse, Neglect, or Dependency Proceeding**

Appendix 3B

**Checklist: Diligent Search to Locate a Father**



## Q2. Is Paternity an Issue?

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Who is the Father?

| <b>Presumptions &amp; Operation of Law</b>   | <b>Affidavit of Parentage (AOP)</b>  | <b>Judicial Adjudications of Paternity</b>   | <b>Judicial Determinations:<br/>Paternity included as Issue</b> |
|--|--|--|---|
| <p>Marital Presumption (mother married any time between conception–birth)</p> <p>*rebuttable by clear &amp; convincing evidence</p>  | <p>Hospital affidavits w/in 10 days of birth<br/>G.S. 130A-101(f)</p> <p>*Certified copy admissible in action to establish paternity</p>   | <p>Paternity action in district court<br/>(establish or de-establish)<br/>G.S. 49-14</p>   | <p>Criminal Nonsupport<br/>G.S. 14-322<br/>G.S. 49-2</p>        |
| <p>Reputed father marries mother after child’s birth</p> <p>(basis of legitimation under G.S. 49-12)</p>   | <p>IV-D child support purposes<br/>G.S. 110-132<br/>“constitutes an admission of paternity”<br/>“shall have the same legal effect as a judgment of paternity for the purpose of establishing a child support obligation”</p> | <p>Legitimation proceeding before clerk of superior court<br/>G.S. 49-10<br/>G.S. 49-12.1<br/><br/>(legitimation includes paternity determination)</p> | <p>Child Custody Orders</p>                                     |
| <p>Adoption<br/>(G.S. 48-1-106(b))</p>   |  | <p>Declaratory judgment<br/>G.S. 1-256 et seq.</p>   | <p>Child Support Orders</p>                                     |
| <p>Spouse of woman who gave birth to child through heterologous artificial insemination when request &amp; consent in writing to use of such technique<br/>(G.S. 49A-1; G.S. 12-3(16))</p> |  |  | <p>Juvenile Court Orders<br/>(A/N/D &amp; TPR)</p>              |
|  |  |  | <p>Divorce Orders (maybe)</p>                                   |

COLLATERAL ESTOPPEL – Does It Apply?



# Is Paternity an Issue #1

Mom and Dad are married and have several children. Child at issue is born of the marriage. Dad is listed on the birth certificate, but he is not the biological father of the child. The reported biological father saw the child a few years ago but has no relationship with the child. Dad acknowledges the child as his, and neither parent wants the biological father involved. The child is 13 and believes Dad is his father. The GAL believes it is contrary to the child's best interest to challenge Dad status as dad.

# Is paternity at issue #2?

Within two weeks of becoming pregnant, Mom starts new relationship. When baby is born, mom and new boyfriend both believe he is the father. Mom and new boyfriend execute an AOP, and he is named on birth certificate. Two years later, DSS files a neglect petition naming new boyfriend as respondent father.

Q3: How  
do you  
adjudicate  
paternity?

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# Hearing Required

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- Testimony
- AOP (certified copy)
- Birth Certificate
- Marriage Certificate
- DNA Testing
- Child's Appearance



Evidence matters.



# Questions to answer

The petition alleging neglect of a 2 year old names as respondents mom, her husband of 6 years from whom she has not seen for 4 years, and putative father. Service is made on mom and putative father.

1. Can the court address paternity in a hearing?
2. Does the court have to have genetic marker test results to determine paternity?

# DNA Testing

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**G.S. 8-50.1(b1):** In the trial of any civil action in which the question of parentage arises, the court shall...

- Admissibility/Foundation
- Rebuttable presumptions, 85% – 97%



# Order

---

Address Both

- Paternity
- Non-Paternity

**Amended**



**Birth Certificate**  
This Certifies That

\_\_\_\_\_  
(Name)  
was born to

\_\_\_\_\_  
(Mother) and \_\_\_\_\_  
(Father)

on \_\_\_\_\_ at \_\_\_\_\_  
(Date) (Time)

weight \_\_\_\_\_ length \_\_\_\_\_  
(Weight) (Length)

at \_\_\_\_\_  
(Location)

in \_\_\_\_\_  
(City) (State)

\_\_\_\_\_  
(Signed) \_\_\_\_\_  
(Signed)

www.FreePrintableCertificates.net

Q4: Why Does  
Adjudicating (Non)  
Paternity Matter?

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# Impacts

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Parties

---

Adjudication

---

Disposition

---

Reunification

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Timing/Outcome of Court Action

---

Adoption

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Termination of Parental Rights

# Party Status and Rights

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## **Not a parent**

- Remain a party?
- Visitation?
- Reunification services?

## **Caretaker or custodian?**

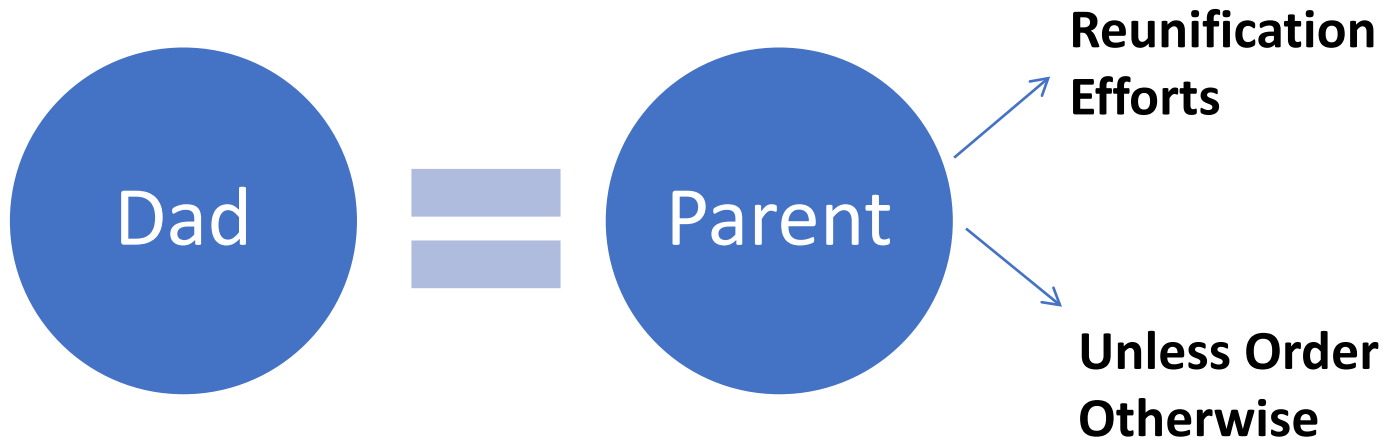
- Appointed Counsel?
- Reunification services?
- Right to appeal?

# Adjudication: Status of Child

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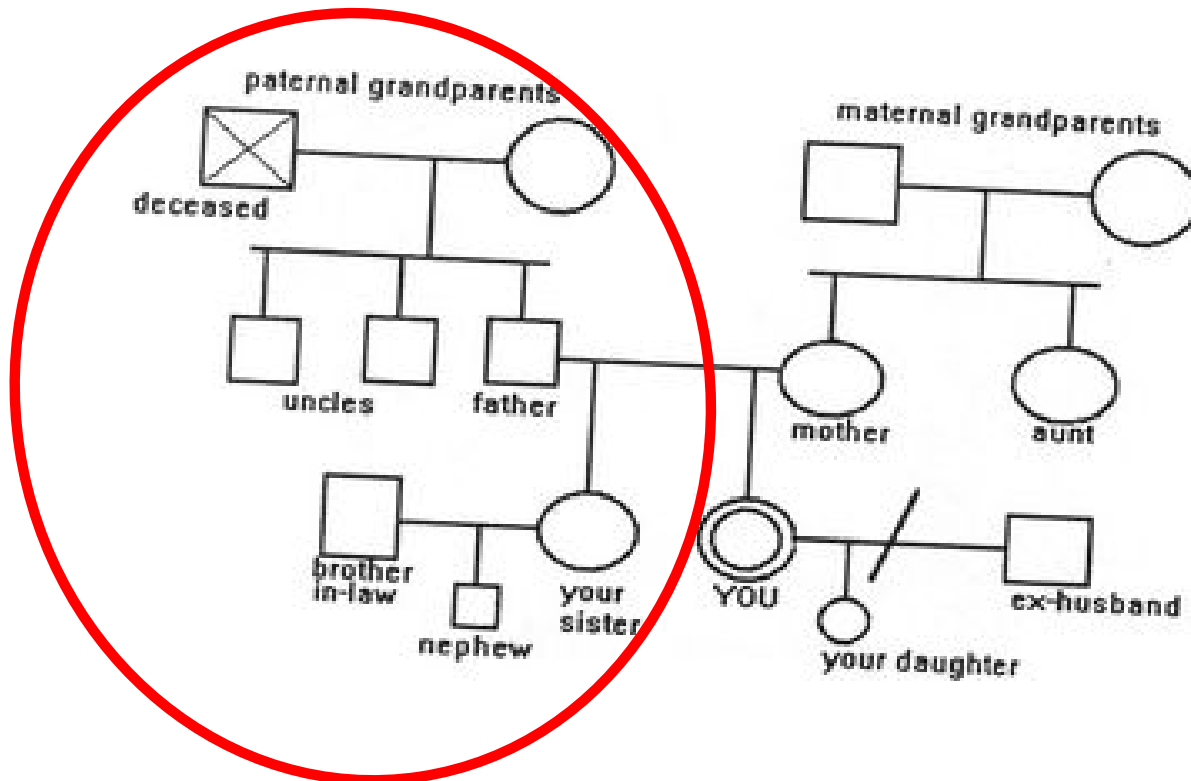
- Dependency, 7B-101(9)
  - In need of assistance because parent, guardian, custodian
    - Unable to provide care or supervision and
    - Lacks an appropriate alternative child care arrangement
- Applies to Both Parents!
  - In re V.B., 239 N.C. App. 340 (2015)

# Placement and Services





# Consideration of Relatives



# Concurrent Permanent Plans: G.S. 7B-906.2

Reunification = Priority

- -906.1(d), each review/PP hearing
  - Services offered to reunite
  - Whether efforts would be unsuccessful/contrary to child's health & safety
  - When /if TPR should be considered
- -906.1(e), each PP hearing
  - 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

# Ongoing Case Action (we'll get to this later)

- Waive Further Reviews

G.S. 7B- 906.1(k), automatically relieved of obligation if custody w/ parent

- Terminate Jurisdiction

G.S. 7B-911 custody order, no time limit

# Any Other Issues?



# Keep KIDS in Mind

