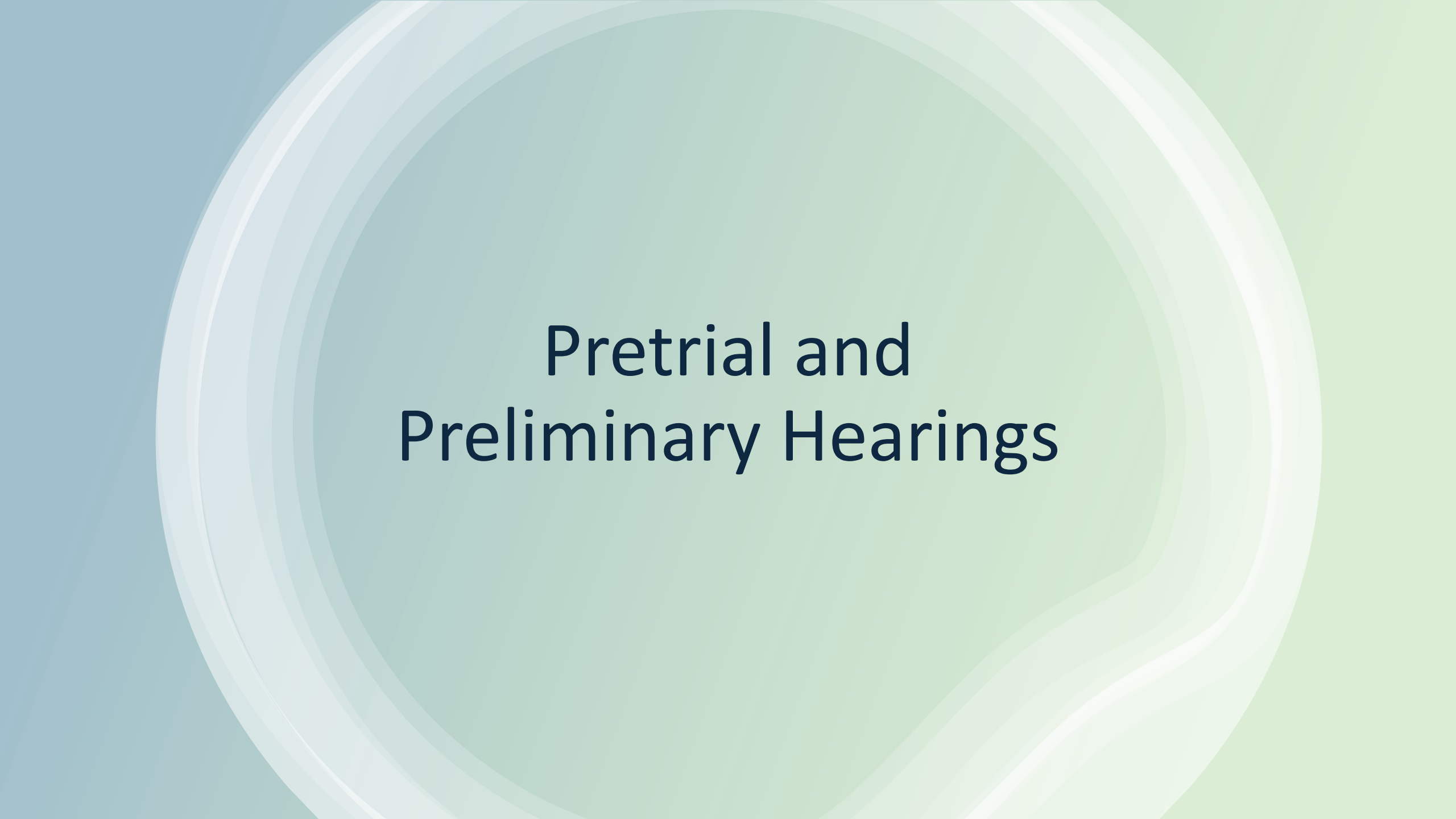




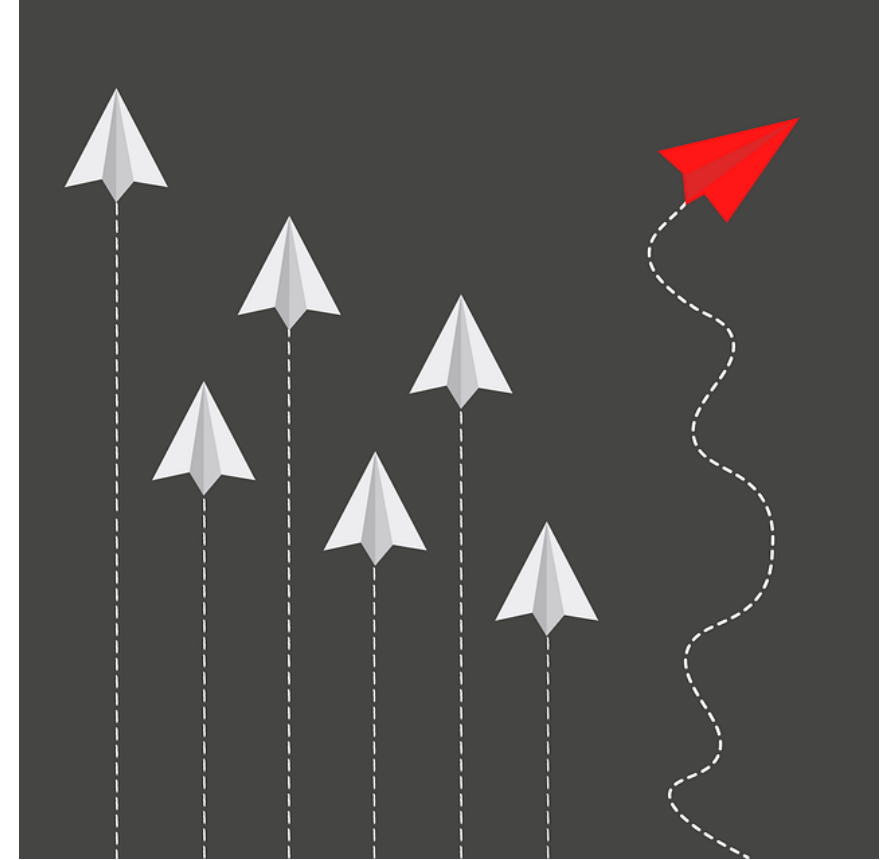
Pretrial and Preliminary Hearings

TPRs in Practice

- Trauma-Informed Approaches
- Procedures Are Different
- Rights Are Constitutional and Statutory
- Specific Findings Are Required



Preliminary Hearings: The Specials





Unknown Parent

Infant Safe Surrender



Pre-Trial Hearing

May be combined with adjudicatory hearing

- (1) Retention or release of provisional counsel.
- (2) Whether a guardian ad litem should be appointed for the juvenile, if not previously appointed.
- (3) Whether all summons, service of process, and notice requirements have been met.
- (4) Any pretrial motions.
- (5) Any issues raised by any responsive pleading, including any affirmative defenses.
- (6) Any other issue which can be properly addressed as a preliminary matter.

GAL for Juvenile

G.S. 7B-1108

G.S. 7B-601





New Ethics Opinion on Dual Role GAL–Attorney Advocates in Juvenile Proceedings



This entry was contributed by Timothy Heinle on August 17, 2022 at 10:45 am and is filed under Child Welfare Law, Juvenile Law, Social Services.

This post was updated on September 6, 2022 in response to helpful reader feedback regarding the nuances that exist when determining whether there is a conflict of interest for a GAL program and, if so, the possible options available to cure that conflict. The amended portion can be found in the Conflicts of Interests section below.

The State Bar has issued an ethics opinion discussing the role of attorneys who are appointed as a guardian ad litem (GAL) volunteer, GAL attorney advocate, or both, in juvenile abuse, neglect, dependency or termination of parental rights matters. See [N.C. State Bar, Formal Ethics Opinion 1 \(2022\)](#), hereinafter 2022 FEO 1. While the opinion does not specifically mention termination proceedings, G.S. 7B-601—the statute that details the duties of a GAL in an abuse, neglect, dependency matter—also applies to GALs in termination proceedings. G.S. 7B-1108. 2022 FEO 1 should be considered as applying to GAL appointments in both juvenile and termination proceedings. This ethics opinion places new obligations on the appointed attorney and includes a role for the district court judge making the appointment. Typically, the attorney appointed to serve as both GAL attorney advocate and volunteer is an attorney known to the juvenile court for representing parents. The guidance provided in 2022 FEO 1 is important for parent attorneys and all other court actors in juvenile proceedings.

2022 Formal Ethics Opinion 1: Attorney Serving Dual Role of Guardian ad Litem and Advocate

Adopted: April 22, 2022

OPINION SUMMARY

Opinion rules that an attorney appointed by the court as the guardian ad litem and the attorney advocate in an abuse, neglect, and dependency proceeding may not testify as a witness unless directed to do so by the court.

AOC-J-207

STATE OF NORTH CAROLINA		File No. _____
_____ County		In The General Court Of Justice District Court Division
IN THE MATTER OF: <i>Name And Address Of Juvenile(s)</i> _____ _____ _____		ORDER TO APPOINT OR RELEASE GUARDIAN AD LITEM AND ATTORNEY ADVOCATE G.S. 7B-601, -1108
<i>Name And Address Of</i> ☐ <i>Mother</i> ☐ <i>Other (Designate)</i> _____ _____ _____		
		<i>Name And Address Of</i> ☐ <i>Father</i> ☐ <i>Other (Designate)</i> _____ _____ _____
ORDER OF APPOINTMENT		
Pursuant to the authority contained in G.S. 7B-601 or 7B-1108, the following Guardians ad Litem and attorney advocate are appointed to represent the juvenile(s) named above in this proceeding.		
<i>Name Of Guardian Ad Litem Volunteer</i> _____ <i>Name Of Guardian Ad Litem Program Staff</i> _____ <i>Address</i> _____ _____ _____		<i>Name And Address Of Attorney Advocate</i> _____ _____ _____ ☐ Attorney Advocate is also acting as Guardian ad Litem.
<i>Telephone No.</i> _____		<i>Telephone No.</i> _____



A/N/D and TPR Cases: The Role of the Child's Guardian ad Litem



This entry was contributed by Sara DePasquale on April 30, 2025 at 8:04 am and is filed under Child Welfare Law.

In abuse, neglect, dependency (A/N/D) and termination of parental rights (TPR) proceedings, the child who is the subject of the action is a party. G.S. [7B-401.1\(f\)](#); [-601](#); [-1104](#). In most actions, the child is represented by a guardian ad litem (GAL). See G.S. [7B-601](#); [-1108\(b\)-\(c\)](#). This post provides an overview of the rights and duties of the child's GAL, which are addressed in statute and case law.

The Child as a Party and Their Rights

The child, regardless of their age, is a party to both A/N/D and TPR proceedings. G.S. [7B-401.1\(f\)](#); [-1104](#); see G.S. [7B-601\(a\)](#) ("the juvenile is a party in all actions under this Subchapter"). As a party, the child has due process rights to notice of and participation in the proceedings – proceedings that impact their lives related to their care, custody, control, and relationship with their parents. In some cases, like a nonverbal infant, direct participation by the child is impossible. Sometimes, the child's direct participation is possible but does not occur. In other cases, the child's direct participation is desired or necessary. For example, the child may be the only witness to the alleged abuse, neglect, or dependency and must testify to the factual allegations in the petition. For juveniles who are 16 or 17 years old, the court must question the teen before ordering a primary permanent plan of Another Planned Permanent Living Arrangement (APPLA). [G.S. 7B-912\(d\)](#).

In addition to due process protections, the Juvenile Code explicitly allows the juvenile (not just their GAL) to present evidence and to have the court consider information the juvenile provides. G.S. [7B-901\(a\)](#); [-906.1\(c\)](#); [-908\(a\)](#), [\(b\)\(1\)](#). For children who are 12 and older, they must receive notice of review, permanency planning, and post-TPR placement review hearings, and in TPR actions, they must be served with a copy of the TPR order. G.S. [7B-906.1\(b\)](#); [-908\(b\)\(1\)](#); [-1110\(d\)](#). The child has the right to appeal. [G.S. 7B-1002\(1\)-\(2\)](#).

The Juvenile Code does, however, exclude the juvenile from being served with the summons and petition in A/N/D and TPR actions even though the juvenile is a party. Instead, those pleadings are provided to the GAL. See G.S. [7B-402\(c\)](#); [-406\(a\)](#), [-408](#), [-1106\(a\)](#), [\(a1\)](#), [-1106.1\(a\)\(5\)](#).

The Appointment of a GAL

GAL for Parent

- Incompetency



Minor Parent

- Attorney and Rule 17 GAL



AOC-J-206

STATE OF NORTH CAROLINA		File No.(s)
County		In The General Court Of Justice District Court Division
IN THE MATTER OF		ORDER TO APPOINT, DENY, OR RELEASE GUARDIAN AD LITEM (FOR RESPONDENT)
<i>Name(s) Of Juvenile(s)</i> 		
<i>Name And Address Of Respondent</i> 		
		G.S. 1A-1, Rule 17; 7B-602, -1101.1

Procedures not in statute



In case law

Divests Parent of Rights

Must be Present at all Hearings

Other Issues?

- Paternity
- Change in venue
- Discovery
- Motion in Limine
- Language interpreter

What Federal Laws Apply?

Indian Child Welfare
Act

Servicemembers
Civil Relief Act



Did we miss
anything that
comes up in
your court?

TPRs in Practice

- Trauma-Informed Approaches
- Procedures Are Different
- Rights Are Constitutional and Statutory
- Specific Findings Are Required

