

Keep **KIDS** in Mind Benchcard (TPR)  
*August 2025*

<p><b>RESOURCES</b></p> <p><u>School of Government</u> (available on SOG website) Abuse, Neglect, Dependency, TPR Manual Child Welfare Case Compendium On the Civil Side</p> <p><u>Other</u> Juvenile Code, G.S. Chapter 7B 10A N.C.A.C. 70 NC DHHS Division of Social Services Child Welfare Policy Manual</p>	<p><b>STANDING</b></p>	<p><b>ATTORNEY REPRESENTATION/RELEASE OF COUNSEL</b></p> <p>When there is an underlying A/N/D action, if respondent in TPR is represented by confirmed counsel, that attorney represents respondent in TPR action (regardless of whether initiated by petition or motion). Attorney is not provisional counsel. Motion to withdraw must be filed for attorney to be released by order of the court after record shows there is (1) justifiable cause and (2) reasonable notice sent to the client of the attorney’s intent to seek permission from the court to withdraw. If no notice, counsel cannot be released. Your discretion to continue case to allow notice to be sent.</p>
<p><b>CHILD’S GAL</b></p> <p>Child is a party. G.S. 7B-1104; 7B-601(a).</p> <p>Court must address GAL appointment at pretrial hearing. G.S. 7B-1108.1(a)(2). If underlying A/N/D case, GAL continues in TPR case. If no GAL in A/N/D case (or there is no A/N/D case), GAL must be appointed if there is an answer or response that denies a material allegation. Otherwise, court may exercise discretion and appoint a GAL. G.S. 7B-1108.</p>	<p><b>MY VIEW of the OVERARCHING PRINCIPLES of an A/N/D-TPR CASE</b></p>	<p><b>SERVICE</b></p>
	<p><b>INDIAN CHILD WELFARE ACT</b></p> <p>At the first hearing, ask every participant if they know or have reason to know the child is an “Indian child.” Make sure the responses are recorded. If no one knows, instruct the participants to inform the court if they later receive information that provides reason to know the child is an “Indian child.”</p> <p>If a participant knows, all ICWA provisions apply. Direct petitioner (movant) to send sufficient notice to each tribe and the regional BIA director. Do not proceed to adjudication until at least 30 days from when the tribe(s) and BIA received the notice. If no notice is received from every tribe or BIA after 30 days and multiple requests by petitioner/movant, schedule hearing for person asserting child is an “Indian child” to prove the child is an “Indian child.”</p>	

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<b>ADJUDICATORY HEARING</b>  No judgment on the pleadings. Must take evidence.  At start of hearing, court must inquire as to whether parent respondent is present. If so, ask if parent is represented by counsel. If parent does not have an attorney, is indigent, and wants counsel, court must appoint and may need to continue hearing to allow for attorney to prepare. Note continuance criteria in G.S. 7B-1109(d).	<b>EVIDENCE ISSUES</b>	<b>PATERNITY</b>  If not the father, no parental rights to terminate. Dismiss case. In re J.S.L., 218 N.C. App. 610 (2012). If paternity raised and genetic marker testing requested, G.S. 8-50.1(b1) applies.
<b>DETERMINATIVE TIME PERIODS to PROVE GROUND ALLEGED</b>	<b>TPR IS NOT A PERMANENT PLAN</b> A TPR may be necessary to achieve the permanent plan of adoption. The permanent plan is not a TPR. It is adoption.  When adoption is the primary permanent plan and the parent has not relinquished, DSS must initiate a TPR within 60 days of the entry of the order, unless the court makes findings why this cannot occur. The court must specify the time frame within which the TPR must be filed. G.S. 7B-906.1(m).	
<b>BEST INTERESTS FACTORS</b> If a GAL is appointed, court cannot complete disposition hearing without receiving evidence from the GAL (report or testimony). <i>In re S.D.H.</i> , 296 N.C. App. 392 (2024)		

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