

NOTICE AND SERVICE IN A/N/D AND TPR PROCEEDINGS

UNC School of Government
Feb. 2008

	<u>Abuse, Neglect, Dependency</u>	<u>Termination of Parental Rights</u>	
	Petition	Motion (where A/N/D pending)	Petition
<u>Required Notice</u>	SUMMONS Rule 4, issued immediately upon filing. <u>See</u> Form AOC-J-142	NOTICE per 7B-1106.1 (no summons required)	SUMMONS Rule 4, issued immediately upon filing. <u>See</u> Form AOC-J-208 (5/07 revision or later)
<u>To Whom</u> (if not a movant or petitioner)	Summons Issued to and Served <i>with Petition</i> upon: "Parent, guardian, custodian, or caretaker"* Not less than five days prior to hearing. (Court may waive this time requirement in its discretion.) <u>See 7B-406 and 7B-407.</u>	Notice Directed to and Served <i>with Motion</i> upon: 1. Parents 2. Guardian of the Person 3. Custodian 4. DSS or other agency w/ placement authority 5. G.A.L. if appointed per 7B-601 and not relieved 6. Juvenile, if 12 years or older at time motion filed	Summons Issued to and Served <i>with Petition</i> upon: 1. Parents 2. Guardian of the Person 3. Custodian 4. DSS or other agency w/ placement authority 5. The juvenile (of any age) <u>See 7B-1106. See also 7B-1105</u> for service upon unknown parent.
<u>Method of Service</u>	Per Rule 4(j). Rule 4(j1) service (publication) may be used if person "cannot be found by a diligent effort" <u>See 7B-407.</u> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">*Although only the "parent, guardian, custodian, or caretaker" is issued a summons and formally served, copies of the petition must be prepared to be "available" to each parent, guardian ad litem, social worker, or other necessary party. <u>See</u> 7B-402(c). Also, the clerk of court must provide a copy of the petition and notices to the local G.A.L. office. <u>See</u> 7B-408.</div>	Per Rule 5(b). But per Rule 4 if the recipient: 1. Not originally served the A/N/D summons [Note: The juvenile is likely to fall into this category]; 2. Originally was served by publication that did not include notice in conformity with 7B-406(b)(4)e; 3. Two years has elapsed since date the original A/N/D action filed; or 4. The Court so orders. <u>See 7B-1102(b).</u>	Per Rule 4(j).** Exception: If a juvenile has been appointed a G.A.L., the juvenile's summons and copy of the petition must be served upon the G.A.L. rather than per Rule 4(j). <u>See 7B-1106(a).</u> **Note that minor parents are not to be treated as under a "disability" per the meaning of 4(j)(2)).