

RHODE ISLAND FAMILY COURT  
ADMINISTRATIVE ORDER 98-2

RE: TERMINATION OF PARENTAL RIGHTS (TPR) CASEFLOW CALENDAR

Pursuant to Rhode Island General Laws Sections 8-10-3, 8-10-14, 15-7-7.1, 15-7-7.2 and 15-7-14.1 and other applicable law as well as the Rhode Island Family Court Rules of Juvenile Proceedings, there is hereby created a court-managed caseflow calendar for Providence County termination of parental rights (TPR) cases. It encompasses recent statutory changes as well as current theories and initiatives prevalent at the federal and state levels concerning permanency for children in foster care. This new case management program adopted by the Family Court represents a collaborative effort aimed at achieving permanency for children in a more efficient, expeditious manner.

1. All TPR cases will be placed on a caseflow calendar system from the initial filing of a petition. At the time of filing a TPR petition, the petitioner for the Department of Children, Youth and Families (DCYF) will be provided with two dates by the clerk's office: the date of arraignment and the date of the case management conference. Arraignments will be scheduled within 21 days of filing of the petition; case management conferences will be scheduled 49 days from date of arraignment. Counsel for DCYF shall notify the Office of the Public Defender, the appointed Guardian ad Litem (Court Appointed Special Advocate or private guardian, as the case may be), Rhode Island Legal Services and any other attorneys of record, of the date and time of the arraignment and case management conference.
2. Upon filing of a termination petition, each case will be assigned to a judge and case manager for all proceedings from filing to disposition.
  - (a) In the event that DCYF files an affidavit setting forth that the whereabouts of a parent(s) of a child is unknown, and the court determines that personal service cannot be effectuated, an order of notice shall be entered directing that notice be given by publication in a newspaper of general circulation.

(b) At arraignment, if it appears that the father (natural/putative) has not been joined in a petition to terminate parental rights, inquiry shall be made of the mother. Once identified, notice shall be given to the father either by personal service, or if the whereabouts of the father is unknown, by publication of notice.

3. If a parent is financially unable to engage counsel, the court shall refer the parent to the Office of the Public Defender, or, in the event of conflict, the court shall appoint Rhode Island Legal Services or counsel from the rotating list of panel attorneys. Within 14 days after arraignment,, all counsel engaged to represent a party shall file with the Juvenile Clerks' Office an entry of appearance. If counsel does not enter an appropriate appearance, a party will be deemed to represent himself or herself pro se and all future notices shall be forwarded accordingly.
4. At the date and time set for the case management conference, all parties (DCYF case worker, parents/guardians and guardian for the child), all counsel of record and the Family Court case manager assigned to the case shall attend. Counsel and their clients shall be prepared to discuss with the judge assigned to hear the case, at a minimum, the scope, extent and timing of discovery, the appropriate placement of the child during pendency of the petition, the permanency plan for the child, the efficacy of mediation and any other matter considered appropriate by the court.

If the assigned judge, case manager/mediator and all parties agree that mediation would be a feasible alternative, the first mediation session will be scheduled to be held within three weeks at a date and time certain. Mediation will be given approximately 91 days to conclude.

5. If either or both parents have not been arraigned prior to the case management conference, he or she shall be arraigned at the time of the case management conference.

At the conclusion of the case management conference a case management order will be entered setting: the closure date for all discovery and motions, the date and time for mediation, the date and time for a pre-trial conference, all stipulated facts, if any, statement of disputed issues, any necessary orders regarding placement, services, visitation or other issues. The closure date for discovery and motions shall be one week prior to the pre-trial conference.

TPR CASEFLOW CALENDAR

6. Seven days prior to the closure date, all counsel shall certify to the court that counsel has complied with the exchange of discovery. Counsel is under a continuing duty to supplement information provided through discovery.
  
7. Mediation sessions will occur in Family Court at the Garrahy Judicial Complex in Providence, Rhode Island. The participants will include the parties, the social worker, the child protection agency, agency attorney, the parents' attorneys, the child's guardian ad litem, and the case manager/mediator, as well as the proposed adoptive parent(s), if any. It is expected that each mediation session will last approximately one hour. Prior to a scheduled session, the case manager/mediator will confirm the time and meeting place with all parties.

The case manager/mediator will be responsible for assisting the parties in identifying the issues involved and conducting the mediation sessions to allow all parties to have an opportunity to be heard. Mediation sessions must be concluded within 91 days from the date of the case management conference, unless the court orders otherwise.

In an effort to successfully complete each of the mediation stages, it may be necessary for the case manager/mediator to meet with some of the parties separately (caucusing). If a mediated agreement is reached, the case manager/mediator will assist in the drafting of the agreement and will present it to the court.

If satisfied with a mediated agreement, the court may confirm same and enter it as an order. If rejected by the court, the court may continue the matter to pre-trial, commit the parties to further mediation or modify the agreement.

8. In instances where no mediation was agreed to, or where mediation has been unsuccessful, a pre-trial conference shall be conducted approximately 98 days after the case management conference. If at any time after arraignment, the parties are able to reach a resolution of the case, the parties shall notify the case manager assigned to the case who shall set the matter down for hearing as soon as practicable.

At the pre-trial conference, the presence of all attorneys, social caseworkers and parties is required. Social workers and parties shall be available during the pre-trial conference for consultation.

Upon the conclusion of a pre-trial conference, a pre-trial order will be entered. The pre-trial order will provide a trial date and time, stipulated facts, list of witnesses and subject of testimony, list of exhibits, issues still in dispute, anticipated length of trial, and any other orders deemed necessary. If at pre-trial, the case resolves, an immediate hearing will be held to place findings on the record.

9. Within 21 days of the pre-trial conference, trial shall commence on the date and time set by the court in the pre-trial order (except for extraordinary, extenuating circumstances approved by the court). Within 14 days after a decision is rendered by the court, counsel shall prepare and file with the court a conforming decree.
10. In the event that the court grants a TPR petition, a permanency hearing shall be conducted 35 days from the date of the termination adjudication at which DCYF is required to document the steps it is taking to find an adoptive home or other permanent living arrangement for the child who is the subject of the TPR petition.
11. In the event that a TPR petition is withdrawn or the court denies a TPR petition, the matter shall be set down for a permanency review on the underlying dependency/neglect/abuse petition.
12. The Chief Judge of the Family Court reserves the right to impose sanctions on any party of a case before the court who is found to be in non-compliance with this Administrative Order.

EFFECTIVE DATE

This Administrative Order shall become effective on April 1, 1998. All cases filed on or after April 1, 1998 shall be processed in accordance with this order.

4/1/98  
Date

Jeremiah S. Jeremiah, Jr.  
Chief Judge

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If the assigned judge, case manager/mediator and all parties agree that mediation would be a feasible alternative, the first mediation session will be scheduled to be held within three weeks at a date and time certain. Mediation will be given approximately 91 days to conclude.

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