

## Termination Of Parental Rights Hearing

S.C. Code Ann. § 63-7-2510

1. DSS or any interested party may file for TPR.
2. A summons and complaint for termination of parental rights must be filed and served on the child, the parents, and the agency having placement.
3. The court must assure that counsel has been appointed as required. S.C. Code Ann. § 63-7-2560.
  - a) Counsel for the volunteer guardian *ad litem* must be appointed if the case is contested, otherwise if the volunteer guardian *ad litem* finds the appointment of counsel necessary one must be appointed.
  - b) If the guardian *ad litem* is an attorney, the appointment of another attorney is on a case-by-case basis.
  - c) Appointment of counsel for indigent parents is required unless the parents are in default.
4. To terminate parental rights, the court must find by *clear and convincing evidence* that TPR is in the best interest of the minor child and that one of the following grounds exists:
  - a) Severity or repetition of the abuse or neglect, and the home cannot be made safe within twelve months;
  - b) Parent has not remedied the conditions, which resulted in the child's removal and the child has been out of the home for six months following adoption of a placement plan by court order or by agreement between DSS and parent.
  - c) Willful failure to visit for six months;
  - d) Willful failure to support for six months;
  - e) Presumptive legal father is not the biological father of the child and the welfare of the child can be best served by terminating the legal father's rights;
  - f) Diagnosable condition of alcohol or drug addiction, mental deficiency or mental illness, which is unlikely to change in a reasonable time period and the condition makes the parent unlikely to provide minimally acceptable care of the child. There is a presumption that the diagnosable condition of alcohol or drug addiction is unlikely to change in a reasonable time if the parent as required by the department or family court has been required to participate in a treatment program, and the parent has failed two or more times to complete the program successfully or has refused in two or more separate meetings with the department to participate in a treatment program;
  - g) The child is abandoned. S.C. Code Ann. § 63-7-20;
  - h) The child has been in foster care for 15 of the most recent 22 months;
  - i.) The child or another child of the parent—as a result of the physical abuse—has died or is admitted to the hospital for in-patient care and the parent has been convicted, pled guilty or nolo contendere to an offense against a person S.C. Code Ann. § 16-3-10 (et seq.), criminal domestic violence S.C. Code Ann. §16-25-20, CDV of a high and aggravated nature S.C. Code Ann. § 16-25-65, or assault and battery of a high and aggravated nature.
  - j) The parent of the child pleads guilty or nolo contendere to or is convicted of the murder of the child's other parent.
  - k) Conception of a child as a result of criminal sexual conduct, unless the sentencing court makes a specific finding that the criminal sexual conduct conviction is based upon consensual sex where neither the victim nor the actor were younger than 14 years nor older than 18 years.

5. The court issues an order forever terminating parental rights to the child and granting custody to the plaintiff or child-placing agency for adoption. A permanent placement plan must be submitted to the court and the guardian *ad litem* within 30 days after close of the proceedings. S.C. Code Ann. § 63-7-2580.
6. The court can deny the TPR complaint, but must specify a new permanent plan or order a hearing on a new permanent plan. S.C. Code Ann. § 63-7-2580.
  - a) If a hearing is required, it must be held within 15 days of the denial of the TPR complaint and before the same judge if possible.
  - b) If the court determines that an additional permanency hearing is not needed, the court may: (a) grant custody to the parents, if they have counterclaimed for custody and there is not an unreasonable risk to the child, with supervision by the agency for up to one year; or (b) order another permanent plan pursuant to S.C. Code Ann. § 63-7-1700.