

DEPENDENCY AND NEGLECT ACTION

Protect the child

See D&N Handbook at:
http://www.courts.state.co.us/userfiles/File/Self_Help/d_nweb.pdf

Categories of D&N: **CRS §19-3-102**

60-90 days*
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Initial Interview

- **CRS §19-3-100.5(1)**: The Children's Code makes reunification of the family a primary purpose of a D&N
- Caseworker has a duty to help respondent parents, but . . . owes a higher duty to DSS, the court and the child
- **Anything you say or do can be used against you**

Petition and Summons

Petition: DSS sets forth the facts of the case and allegations
- Only one of the allegations need be proved §19-3-502
- must contain prayer for termination §19-3-503
Summons: recites the contents of the Petition sets forth termination as a possible remedy §19-3-312(2)
- contains date, time and place of hearing

Temp Custody Hearing
"Preliminary Protection Proceeding"

Determine temporary custodial arrangements
Within 72 hours of placement §19-1-104(3); §19-3-508(1)(d)(I)
May offer other relatives as custody alternatives §19-3-605

Advisement Hearing
"Return on Summons"

Advisement-right to jury trial-right to counsel §19-3-202 & 212
Child's Guardian Ad Litem appointed by the court §19-3-203
Counsel may waive advisement CRJP Rule 4.2
Petition may be admitted or denied;
If admitted, move forward to Treatment Phase

Pre-Trial Conference

Decision made whether to go to trial
Choose: Court Trial or 6-person Jury trial §19-3-202
Pre-Trial statement + Compel witnesses §19-3-503
Admission of the Petition = **first step towards termination**
- must have factual basis, must be voluntary
- no promise of disposition
- termination is possible remedy

Informal Adjustment

An informal Adjustment may be negotiated with DSS
Normally an informal adjustment agreement lasts for 6 months;
D&N dismissed w/out prejudice; re-file if agreement breached

Motions Hearings

Discovery: CRCP 26-37; CRJP Rule 3.3; §13-90-107; §19-1-106; §19-3-207; 19-3-308.5; §19-3-313.5;
Motion(s) in Limine
Examinations CRCP Rule 35

Adjudicatory Hearing

Trial on the Merits CRJP 4.3
Finding of Dependency & Neglect
DSS must prove D&N by preponderance of the evidence
No more than 90 days after service; if child < 6 yrs old;
If ≥ 6, then no more than 60 days after service §19-3-505(3)
Dispositional Hearing w/in 30 days (in the 18th JD)

Dispositional Hearing

Caseworker's **Treatment Plan** submitted 7 days prior §19-1-107
- details necessary changes to regain custody
- plan for monitoring & evaluating changes CRJP Rule 15
Right to examine authors of any report submitted
Counsel may submit independent treatment plan to court
Court may approve **Treatment Plan**

OR

PERIODIC REVIEWS

— Periodic reviews while child remains in DSS custody or supervision. Court evaluates if Treatment Plan is being followed. Respondents must attend each review.

PERMANENCY PLAN

— Within 12 months of removal of child if under 6 yrs

TERMINATION HEARING

Written Motion of factual grounds for termination §19-3-602(1)
Motion must be filed at least 30 days prior to termination hearing
No right to jury trial, heard w/in 120 days of Motion §19-3-602
Usually expert testimony by professionals
Custodial preference to timely requesting relative §19-3-605(1)
Indigent client entitled to one expert of their choosing §19-3-607
Court may order termination only if: §19-3-604
1) Adjudicated D&N + abandoned (primarily question of intent) or
2) Adjudicated D&N + no treatment plan can be devised, or
3) Adjudicated D&N + treatment plan not followed

An Order of Termination divests the child and the parent of all legal rights, powers, privileges, immunities, duties and obligations with respect to each other, except for the right of the child to inherit from the parent. [The child's right to inherit is terminated by a final decree of adoption.] CRS §19-3-608