

JV TPR ADVISEMENT (COLO. REV. STAT. § 19-3-601)

- DHS has filed a motion to terminate your parental rights to your child
- The motion was filed on (date) and the basis for the motion is (describe the reasons for the motion)
- If the motion is granted, your rights as parents would stop and the child would be eligible for adoption, the child's right to inherit from you would end once a final decree of adoption was entered, you would have no right to notice of and no right to object to an adoption, and you would have no right to notice of or to participate in subsequent proceedings
- You have certain rights in connection with the Department's motion:
 - A judge, not a jury, will hear evidence to determine whether termination is appropriate
 - The hearing must be held no sooner than 30 days after the motion is filed and, if your child was under six years old when this case began and this is an expedited permanent placement or EPP case, no more than 120 days after the motion is filed, unless good cause is shown for a longer period and it is in the child's best interests
 - Continuances may not be granted unless there is a showing that 1) there is good cause and 2) the best interests of the child will be served by granting a delay.
 - At the hearing, the Department has the burden of proving their case by clear and convincing evidence if the Indian Child Welfare Act (ICWA) does not apply
 - If ICWA does apply, the Department has the burden of proving their case beyond a reasonable doubt
 - You have the right to subpoena witnesses, that is, to ask that the Court order your witnesses to attend the hearing so that the witnesses may testify on your behalf
 - You have the right to testify at the hearing
 - You have the right to cross-examine the Department's witnesses
 - The Court may consider written reports and other materials concerning the child's mental, physical, and social history and you have the right to request the person who wrote the report or prepared the material to appear as a witness and be required to testify and you can cross-examine that witness
 - You have a right to have an attorney represent you, and if you cannot afford an attorney, one will be appointed for you if you request a court-appointed attorney
 - If you qualify, you have the right to have an expert appointed by the Court at State expense to provide expert witness testimony in your case. You must file a motion to assert this right.
 - Your communications with the expert are considered confidential
 - You have the right to prevent the expert from testifying if you so choose
 - A grandparent, aunt, uncle, brother, or sister of the child must file a request for guardianship or legal custody of the child within 20 days of the filing of the Department's motion to terminate
 - The Court must consider whether there are less drastic alternatives to terminating your parental rights, such as an allocation of your parental rights or any other viable options
 - In considering whether it is appropriate to terminate your parental rights, the Court must give primary consideration to the physical, mental, and emotional conditions and needs of your child

- You also have the right to voluntarily relinquish your parental rights and, if you decide to voluntarily relinquish your parental rights, you will not have a hearing on termination and the Court will again advise you of your rights before accepting any relinquishment
- If the Court enters an order of termination, you have the right to appeal that order to the Colorado Court of Appeals by filing an appeal within 21 days of the termination order
- If an appeal is filed, you have the right to an attorney to represent you during the appeal and to obtain transcripts of these hearings
- I want to ask again whether you or your child are enrolled in or eligible to enroll in an Indian tribe so we can provide notice of the motion to terminate parental rights to any applicable Indian tribe

<p>The People of the State of Colorado in the Interest of Child :</p> <p>, Petitioner: The _____ Department of Human Services</p> <p>Respondents:</p>	<p>Case Number: Xref:</p> <p>Ctrm.: Div:</p>
<p>Attorney or Party Without Attorney: Name: _____, Assistant City Attorney. Address:</p> <p>Phone Number: FAX Number: E-mail: Atty. Reg. #:</p>	
<p>NOTICE OF TERMINATION HEARING</p>	

Please take notice that a hearing on the PETITIONER’S MOTION FOR TERMINATION OF PARENT-CHILD LEGAL RELATIONSHIP has been set for the _____ day of _____, 20____ at _____ a/pm, in Courtroom _____ /Div. _____ in _____.

Pursuant to the Colorado Children’s Code you have the right to request legal representation for this hearing if you are not already represented by counsel. If you are without sufficient financial means, you may request appointment of counsel by the Court.

You also have the right, if you are indigent, to have the Court appoint, at no expense to you, one expert witness of your own choosing at any hearing on the termination of your parent-child legal relationship.

You previously received notice in the motion for termination of the parent-child legal relationship that the Colorado Children’s Code provides that a grandparent, aunt, uncle, brother, or sister of the child must file a request for guardianship and legal custody of the child within twenty days of the filing of the motion. That motion was filed with the court on _____, 20____.

Dated this _____ day of _____, 20____.

Respectfully submitted,

Assistant City/County Attorney

CERTIFICATE OF MAILING

The undersigned does certify that on the ____ day of _____, 20____, a true copy of the within NOTICE OF HEARING DATE AND THE MOTION FOR TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP, was deposited, via daily delivery by the _____ - and to the following parties:

_____, Guardian ad Litem

_____, Attorney for Respondent Mother

_____, Attorney for Respondent Father

I hereby certify that I have deposited in the United States Mails, postage prepaid a true and correct copy of the within NOTICE OF HEARING DATE, directed to the following:

_____, Paralegal

_____, Caseworker

	♦ COURT USE ONLY ♦
The People of the State of Colorado in the Interest of Children: Petitioner: Respondents: Special Respondent:	Case Number: Ctrm.: Div:
Attorney for Petitioner: Name: Assistant City Attorney Address: Denver City Attorney Phone Number FAX Number E-mail: Atty. Reg. #	
MOTION FOR TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP	

Pursuant to the Colorado Children’s Code, you have the following rights in this termination proceeding:

- Right to counsel
- Right to court-appointed counsel if you are indigent
- Right to a guardian ad litem if you are a minor or incompetent
- Right to one court-appointed independent expert of your choosing if you are indigent, subject to court review and approval, at no cost to you

- Right to hearing before a judge. However, you **do not** have a right to have a jury decide the termination hearing
- Right to a separate termination hearing following the adjudication of your child as dependent or neglected.
- Right to cross-examine witnesses
- Right to testify on your own behalf
- Right to subpoena certain witnesses to testify on your behalf
- Right to proof by “clear and convincing” evidence. If you are a parent of an Indian child, the evidence must be proven “beyond a reasonable doubt” that continuing custody with you would result in serious emotional or physical damage to your child
- Right to appeal

PETITIONER further advises the Respondent as follows:

PURSUANT to C.R.S. §19-3-602, *et seq.*, be advised that a grandparent, aunt, uncle, brother, sister, half-sibling, or first cousin of the child must file a request for guardianship and legal custody of the child within twenty days of the filing of the motion.

The court may terminate your parent-child legal relationship if the court finds:

- (a) That you have abandoned your child, or
- (b) That you are unfit to parent your child and that no appropriate treatment plan can be devised to address your unfitness to parent, or

(c) That you have failed to comply with or be successful under an appropriate treatment plan.

In deciding whether to terminate your parental rights, the court must give primary consideration to the physical, mental, and emotional conditions and needs of your child.

Termination of your parent-child legal relationship frees the child for adoption.

Termination of your parent-child legal relationship means that the court permanently eliminates all of your legal rights, duties, obligations, powers, privileges, and immunities as the child's parent. This includes residual parental rights and responsibilities, such as:

- Duty to pay future child support.
- Right to consent to adoption,
- Right to visit the child,
- Right to determine the child's religion, and

COMES NOW the Petitioner pursuant to C.R.S. §19-3-601, *et seq.* and moves this Court for an order terminating the parent-child legal relationship of the Respondent, _____ to the child, _____ and states as grounds therefor:

1. Judgment was entered against the respondent, _____, on _____ and the child, _____, was adjudicated dependent and neglected. **[May need to modify or use more sentences if different dates and/or different children.]**

2. An appropriate treatment plan for the Respondent, _____ was adopted by the Court on _____ . **[May need to modify sentence or use two sentences if different dates.]**
3. The treatment plan has been unsuccessful in rehabilitating the Respondent and _____ s/he cannot provide reasonable parental care for the minor child.
4. The Respondent has not complied with the treatment plan.
5. The Respondent is unfit.
6. The conduct or condition of Respondent renders the Respondent unwilling and/or unable to give the child reasonable parental care.
7. The conduct or condition of Respondent is unlikely to change within a reasonable time.
8. On _____ , the _____ Department of Human Services made inquiries regarding the heritage of the minor child, _____. _____ Department of Human Services has inquired of the following family members as to whether the child who is the subject of this petition is an Indian Child, as defined in Section 1903(4) of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq.* and §19-1-103(65.3), C.R.S. (2017): _____ Such inquiries were conducted in accordance with §19-3-502(2.7), C.R.S. (2017). It was reported that: _____ .

If Indian heritage alleged:

Notice was sent to the following tribes: . None of the notified tribes responded that the child, , is an Indian Child. No new information regarding the child's heritage has been provided to the _____ Department of Human Services.

Based on those inquiries there is not reason to know that this child is an Indian Child at this time. Continuing inquiries will be made in conjunction with any hearing on this motion.

9. The _____ Department of Human Services has made reasonable efforts to prevent or eliminate the need to remove the child from a parent's home, but these efforts have not been successful.
10. Less drastic alternatives to termination of the parent-child relationship are not viable or in the best interests of the minor child.
11. It is in the best interests of the minor child to terminate the parent-child legal relationship.
12. The foregoing Motion is based upon the grounds set forth, and such additional testimony as may be adduced at the time of the hearing on this matter.

WHEREFORE, Petitioner prays this Honorable Court for an Order terminating the parent-child relationship.

Dated this ____ day of _____ 2018.

Respectfully submitted,

Assistant City/County Attorney

District Court, _____ County, Colorado Court Address: <hr/> The People of the State of Colorado, Plaintiff, In the Interests of _____, a child And concerning: Mother and Father, Respondent Parents.	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case Number:
PRETRIAL CONFERENCE ORDER	

Date and Time:
 Nature of Hearing/Matter: Telephonic Pretrial Conference
 Presiding Judge:
 Plaintiff Appeared by:
 Respondent Parent Appeared by:
 Guardian *ad litem*:
 Court Reporter: FTR

Action by Court:

This matter is scheduled for a hearing on the Department's/Guardian *ad litem*'s Motion to Terminate Parental Rights for _____ days commencing on _____ at _____ a.m.

2. Opening statements are limited to _____ minutes for each party.
3. Any discovery requests shall be tendered such that the deadline for completion is no later than _____.
4. By no later than _____ each party shall file a detailed disclosure of all non-expert witnesses and exhibits that party intends to present at the hearing. Rebuttal witness disclosures shall be due 14 days thereafter. All disclosures shall contain a detailed summary of the expected testimony and contact information for witness. The failure of a party to comply with this disclosure requirement may result in a restriction on their presentation of evidence.
5. Any motion for appointment of an expert witness shall be filed by no later than _____. By no later than _____ each party shall file a detailed disclosure of all expert witnesses and exhibits that party intends to present at the hearing. Rebuttal expert disclosures shall be filed no later than 14 days thereafter. All expert reports shall be filed no later than 14 days prior to the hearing. The failure of a party to comply with this disclosure requirement may result in a restriction on their presentation of evidence.

6. The length of the hearing is confirmed for _____ day(s).
6. Special witness problems have been resolved as follows:

7. Sequestration Order is entered. It is the responsibility of counsel to advise their witnesses of the entry and scope of this order, which is as inclusive as permitted pursuant to C.R.E. 615.
8. All exhibits shall be marked as agreed between counsel before trial.
9. Remaining evidentiary issues are resolved as follows:

10. Procedural issues are resolved as follows:

11. Trial briefs shall be filed 7 days prior to the hearing.
12. Any dispositive motion shall be filed by no later than _____. Any response shall be filed by no later than _____ days thereafter and any reply shall be filed no later than _____ days thereafter.
13. Other issues are resolved as follows:

District Court Judge