

NON-REUNIFICATION HEARING

TIMEFRAME

The hearing must be held within 30 days of DFCS's non-reunification report or case plan being filed.

PURPOSE

To determine, by clear and convincing evidence, whether a reunification plan continues to be appropriate considering the child's health and safety and need for permanence.

- ▶ Refer to the **At Every Hearing** guide for findings, practices, and considerations that apply across all hearings.

COURT FINDINGS

At the non-reunification hearing,

- DFCS shall notify the court whether and when it intends to proceed with TPR.
- The court shall hold a permanency plan hearing to consider in- and out-of-state permanent placement options and incorporate a permanency plan for the child. See the **Permanency Plan** Hearing guide.

In addition to the findings on the **At Every Hearing** guide, the court must determine whether there is a presumption that reunification is detrimental. This presumption applies if the court finds, by clear and convincing evidence, that:

- The parent has unjustifiably failed to comply with a previously ordered reunification case plan;
- The child has been removed from home on at least two previous occasions, and reunification services were provided on those occasions;
- A ground for TPR exists (even if no TPR petition has been filed)*; or
- Circumstances exist making it unnecessary to provide reasonable efforts to reunify.

Even if this presumption applies, it may be overcome by sufficient evidence that reunification remains in the child's best interests.

**The ground for TPR must have been proven by clear and convincing evidence before it can create a presumption that reunification is detrimental. This includes situations in which a court found a ground proven at a TPR hearing but determined termination was not in the child's best interests at that time.*

A non-reunification finding is required before the court can grant permanent guardianship without parental consent.



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PREPARING FOR THE HEARING

Preparing for this hearing means honestly weighing whether continued reunification efforts are likely to succeed, and if not, what permanency path best serves this child.

QUESTIONS TO CONSIDER

- Should reunification services continue to be offered to this family, considering the case's progress and duration?
- Is reunification still appropriate considering the child's health, safety, and need for permanence?
- If non-reunification is granted, will visitation and contact with the parents still be appropriate?
- If non-reunification is granted, what would be the most appropriate permanency plan for this child and family — adoption, permanent guardianship, or APPLA?
- If non-reunification is granted, what support will the child need to understand and adjust to this finding?



PRACTICE POINTS

- Prepare a written report focused on whether reunification continues to be appropriate for this family, supported by relevant best interest factors.
- Request the next hearing occurs no more than 90 days later.

KEY PRACTICE NOTES

NON-REUNIFICATION IS NOT APPROPRIATE IF DFCS HAS NOT MADE REASONABLE EFFORTS

Except in cases of statutory aggravated circumstances, parents should not be subjected to non-reunification unless DFCS has first fully complied with the case plan and provided all court-ordered services, including appropriate family time.

THE LEGAL QUESTION IS DETRIMENT, NOT JUST DELAY

The question for non-reunification is whether continuing to provide reunification services would be detrimental to the child. It must be clear exactly what that detriment would be and why. A general lack of progress is not, by itself, the same as demonstrating detriment.

A BENEFICIAL RELATIONSHIP CAN STILL BE PRESERVED

Even if a parent cannot complete a reunification case plan and the court orders another permanency plan, a meaningful and beneficial parent-child relationship should be preserved when possible, often through permanent guardianship or a voluntary post adoption contact agreement.

CASA CAN RAISE THE ISSUE

Nothing in the code prohibits a party from making a motion for non-reunification or a CASA volunteer from making a recommendation for it. If the evidence supports it and reunification services no longer serve the child's best interests, CASA is not constrained to wait for DFCS to raise the issue.

NON-REUNIFICATION IS NOT A PERMANENCY PLAN

If the court grants non-reunification, it must adopt another permanency plan (permanent guardianship, adoption, or APPLA). Consider which option would be best for this child and family before the hearing.



CASA

Court Appointed Special Advocates
FOR CHILDREN

GEORGIA