

§ 7B-1105. Preliminary hearing; unknown parent.

(a) If either the name or identity of any parent whose parental rights the petitioner seeks to terminate is not known to the petitioner, the court shall, within 10 days from the date of filing of the petition, or during the next term of court in the county where the petition is filed if there is no court in the county in that 10-day period, conduct a preliminary hearing to ascertain the name or identity of such parent.

(b) The court may, in its discretion, inquire of any known parent of the juvenile concerning the identity of the unknown parent and may order the petitioner to conduct a diligent search for the parent. Should the court ascertain the name or identity of the parent, it shall enter a finding to that effect; and the parent shall be summoned to appear in accordance with G.S. 7B-1106.

(c) Notice of the preliminary hearing need be given only to the petitioner who shall appear at the hearing, but the court may cause summons to be issued to any person directing the person to appear and testify.

(d) If the court is unable to ascertain the name or identity of the unknown parent, the court shall order publication of notice of the termination proceeding and shall specifically order the place or places of publication and the contents of the notice which the court concludes is most likely to identify the juvenile to such unknown parent. The notice shall be published in a newspaper qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and published in the counties directed by the court, once a week for three successive weeks. Provided, further, the notice shall:

- (1) Designate the court in which the petition is pending;
- (2) Be directed to "the father (mother) (father and mother) of a male (female) juvenile born on or about _____ in _____ County, _____, _____, respondent";
(date)
(city)
(State)
- (3) Designate the docket number and title of the case (the court may direct the actual name of the title be eliminated and the words "In Re Doe" substituted therefor);
- (4) State that a petition seeking to terminate the parental rights of the respondent has been filed;
- (5) Direct the respondent to answer the petition within 30 days after a date stated in the notice, exclusive of such date, which date so stated shall be the date of first publication of notice and be substantially in the form as set forth in G.S. 1A-1, Rule 4(j1); and
- (6) State that the respondent's parental rights to the juvenile will be terminated upon failure to answer the petition within the time prescribed.

Upon completion of the service, an affidavit of the publisher shall be filed with the court.

(e) The court shall issue the order required by subsections (b) and (d) of this section within 30 days from the date of the preliminary hearing unless the court shall determine that additional time for investigation is required.

(f) Upon the failure of the parent served by publication pursuant to subsection (d) of this section to answer the petition within the time prescribed, the court shall issue an order terminating all parental rights of the unknown parent.

(g) No summons shall be required for a parent whose name or identity is unknown and who is served by publication as provided in this section. (1977, c. 879, s. 8; 1987, c. 282, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2011-295, s. 12; 2018-68, s. 5.1.)