

**§ 7B-1105.1. Preliminary hearing; safely surrendered infant.**

(a) Within 10 days from the date of filing of a petition to terminate the parental rights of a surrendering or non-surrendering parent of a safely surrendered infant, 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, the court shall conduct a preliminary hearing to address the infant's safe surrender. The preliminary hearing shall be recorded and shall be closed unless the surrendering parent appears and requests that it be open. The purpose of the hearing shall be to ascertain the circumstances of the safe surrender in order to determine any efforts that should be made to ascertain the identity and location of either parent and to establish appropriate notice regarding termination of parental rights proceedings.

(b) The court shall inquire of the director of the department of social services as to all of the following:

- (1) The circumstances of the safe surrender.
- (2) Whether, at the time of surrender, the surrendering parent was provided the information pursuant to G.S. 7B-528.
- (3) Whether notice of a safe surrender was made by publication as required by G.S. 7B-526. An affidavit of the publisher of that notice shall be filed with the court at this preliminary hearing.
- (4) Whether either parent has made any efforts to contact the department of social services and the nature of those contacts.
- (5) Whether the identities or locations of either parent are known to the director of the department of social services.

(c) The court shall determine whether any diligent efforts are required to identify or locate the surrendering parent considering the need to protect the confidentiality of that parent's identity and the parent's due process rights. The court may specify the type of diligent efforts the department of social services is required to take. The court shall determine whether the surrendering parent shall be served pursuant to Rule 4 of the Rules of Civil Procedure and, if so, may specify the type of service that must be provided in lieu of Rule 4 whether the parent shall be served by publication in accordance with subsection (e) of this section.

(d) When the identity of the non-surrendering parent is known, the court shall order service pursuant to Rule 4 of the Rules of Civil Procedure. When the non-surrendering parent's identity is not known, service shall be by publication in accordance with subsection (e) of this section.

(e) The court shall specifically order the place or places of publication and the contents of the notice that the court concludes is most likely to identify the juvenile to either of the juvenile's parents without including the name of the surrendering 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, including in the county where the local department of social services that received the safely surrendered infant is located and where the parent is residing, if known, once a week for three successive weeks. The notice shall do each of the following:

- (1) Designate the court in which the petition is pending.
- (2) Be directed to "the mother (father) (mother and father) of a male (female) juvenile born on or about \_\_\_\_\_ and if known in \_\_\_\_\_ (date) \_\_\_\_\_ (hospital or health care facility where the infant was born.) \_\_\_\_\_ (County), \_\_\_\_\_ (City), \_\_\_\_\_, respondent." (State)

- (3) Designate the docket number and title of the case which shall be "In re Baby Doe."
- (4) State that the infant was surrendered by a person claiming to be the infant's mother or father who did not express an intent to return for the infant and that the infant was surrendered to an individual pursuant to G.S. 7B-521 by specifying (i) the profession of the person authorized to accept the surrendered infant, (ii) the facility at which the infant was surrendered, and (iii) the date of surrender.
- (5) State the physical characteristics of the infant at the time of the surrender.
- (6) State that a petition seeking to terminate the parental rights of the respondent has been filed and the purpose of the termination hearing.
- (7) Notice that if the parent is indigent, the parent is entitled to appointed counsel and may contact the clerk immediately to request counsel.
- (8) State the date and time of the pretrial hearing pursuant to G.S. 7B-1108.1 and notice that the parent may attend the hearing.
- (9) Direct the respondent to file with the clerk a written answer to 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).
- (10) State that if the parent fails to answer the petition within the time prescribed and the court determines the ground for termination has been proved and that termination of that parent's rights is in the best interests of the juvenile, the respondent's parental rights to the juvenile will be terminated.

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

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

(g) No summons is required for a parent who is served by publication. (2023-14, s. 6.2(f).)