

Last reviewed and edited October 7, 2021  
Includes amendments effective October 18, 2021

## **RULE 128. PETITIONS TO TERMINATE PARENTAL RIGHTS UNDER TITLE 19-A**

**(a) Petition.** Petitions to terminate parental rights in a family matter may be filed pursuant to 19-A M.R.S. § 1658. If the petition is filed under 19-A M.R.S. § 1658(2)(C), the petitioner shall attach the final order of parental rights and responsibilities. If a petition is filed that does not comply with 19-A M.R.S. § 1658(1-A), the filing is incomplete. The court shall notify the petitioner that the filing is incomplete and that the petitioner has 21 days from the date of the incomplete filing to complete the filing. After the 21 days to complete the filing have expired, the court shall dismiss without hearing any petition that does not meet all of the requirements in 19-A M.R.S. § 1658(1-A). The court shall send notice of the dismissal to all parties.

**(b) Service.** Once the court determines the petition may proceed, the court shall schedule an initial status conference. The petitioner shall then serve the petition, accompanying affidavit, and notice of status conference on the respondent parent(s) at least 10 days before the date of the initial status conference. Service must be made in accordance with Rule 103.

**(c) Response.** A party who intends to respond to a petition to terminate parental rights must file a response within 21 days after being served and shall serve the response on all parties to the proceeding. If the responding party does not file a written response, the responding party may still appear at the hearing and respond to the petition.

### **(d) Payment of Counsel and Guardian ad Litem.**

(1) Payment of Counsel. The Maine Commission on Indigent Legal Services shall pay for the services of an attorney appointed under 19-A M.R.S. § 1658(2-A).

(2) Payment of Guardian ad Litem. The court shall pay for the services of a guardian ad litem appointed under 19-A M.R.S. § 1658(2-A). The court may reallocate the responsibility for payment to the parties at the final

hearing, but the court shall not allocate responsibility for payment to any party found to be indigent.

**(e) Abstract of Order on Petition to Terminate Parental Rights.** If the court issues a judgment granting the petition to terminate parental rights, the court shall issue an abstract of the termination of parental rights order (form FM-267 Abstract of Order Terminating Parental Rights and Responsibilities) for the parties.

**(f) Closed Proceedings and Records.** All proceedings and records subject to this subsection shall be closed to the public, unless the court orders otherwise. Requests for access to closed records under this subsection shall be made as follows, unless otherwise ordered by the court:

(1) The person seeking access shall file a motion for access with an affidavit alleging under oath specific facts explaining how the records are relevant to the party's participation in a pending case. The motion for access and affidavit shall be filed in the pending case to which the records are claimed relevant.

(2) Motions for access and responses shall be sealed from public access until the court orders otherwise.

(3) The court shall grant access to records in a termination of parental rights case only if it finds that the movant has shown, by a preponderance of the evidence, that there is a compelling interest in access to these records. If the court allows access, it may impose reasonable conditions to protect the privacy interests at issue, including limiting access to counsel of record, providing the parties in the termination of parental rights case notice and the opportunity to respond to the request, reviewing and redacting records, and imposing restrictions on further dissemination of the records

**(g) Recording.** All hearings held in any case involving a petition for termination of parental rights shall be recorded.

## **Advisory Note – October 2021**

Rule 128 of the Maine Rules of Civil Procedure establishes procedures for petitions to terminate parental rights filed pursuant to 19-A M.R.S. § 1658. *See* P.L. 2021, ch. 340, § 2 (effective Oct. 18, 2021).