

**Retired Judge Kennedy's Checklist for GALs in Title 22 cases**

1. Review the Order of Appointment as GAL.
2. Review 22 MRSA c. 1071 (§§ 4001-4059), especially §§ 4005, and 4034 to 4036.
3. Consider a Motion to Amend the GAL Order if clarification is needed.
4. Calendar deadlines for "C-1" hearing (§ 4034, sub-§ 4) and initial report.
5. Keep track of your time!!
6. To the extent possible, check court indexes for related cases (FM, PA, Criminal, including bail conditions and/or conditions of probation.) Review pending pleadings in T.22 cases and pre-existing orders in other cases governing the parents' rights and responsibilities regarding the children or the parents right to contact each other.
8. Follow GAL Order regarding duties, which may include:
  - A. Interview the parents in person unless otherwise agreed or ordered and obtain releases for child information medical and school and any other releases that have been ordered.
  - B. Interview the parent and child in the home of each parent to allow inspection of the home and take notes.
  - C. Interview the child in person separate from parent when age appropriate and take notes.
  - D. Interview all others provided in the GAL Order and take notes. Decide whether other persons to be interviewed can be done on the phone rather than in person. (Don't put this off to the night before the report is due.)
  - E. Review documents provided or obtained and take notes.
9. Make a determination as to whatever additional work not included in the GAL Order is necessary.
  - A. Obtain position of parties to amend GAL Order if additional investigation is recommended.
  - B. Prepare Motion and Proposed Order.
  - C. Request a hearing if necessary.

10. Conduct other duties as ordered and take notes.

11. Jeopardy Hearing "C-2" Report.

A. Review notes and § 4035.

B. List the last date of contact with the child.

C. Outline your investigation in the report.

What did you do?

Who did you interview?

What documents did you review?

D. List the issues to be investigated. (Background context for the issues is helpful.)

E. Summarize conclusion. (Most readers go to the last page to read the conclusion first, so you may as well put it in the front.)

F. Summarize only the meaningful, relevant and persuasive facts found from each individual interviewed and any documents that you reviewed. (You do not need to list each person interviewed and recount what he or she said. Just list the facts that you found relevant and persuasive, and the source of those facts.)

G. List the relevant statutory factors and apply the facts as determined to the law to make determinations.

H. Write recommendations on each issue and provide the reasons for your recommendations based on the relevant best interest factors.

I. Submit written report to the court and all counsel at least 14 days prior to hearing. If unable to do so, a motion to continue should be considered before the report is due. If not, your report should explain why you were not able to provide it reasonably in advance of trial.

J. Remember, standard of review is preponderance of evidence.

12. Judicial Review Status Reports

A. Keep it clear and concise.

B. Include a concise restatement of background; 1-3 paragraphs.

C. What has happened since last court appearance?

D. Is there anything you need to ask the Judge to Order?  
(If so, is a separate Motion necessary?)

E. Has your recommendation changed? If so, why?

13. Termination of Parental Rights Hearing "TPR" Report.

A. Review notes.

B. Review 22 MRSA § 4054, 4055 & 4056 (Again; even if you did it last week.)

C. List the last dates of contact with the child and each parent. Outline your investigation in the report.

- What did you do?
- Who did you interview?
- What documents did you review?

D. List the issues you investigated. Background context for the issues is helpful.

E. Summarize your C1 and C2 findings and conclusions.

F. State your TPR conclusion. (Most readers go to the last page to read the conclusion first, so you may as well put it in the front.)

F. Summarize only the meaningful, relevant and persuasive facts found from each individual interviewed and any documents that you reviewed. (You do not need to list each person interviewed and recount what he or she said. Just list the facts you found relevant and persuasive and the source of those facts.)

G. List the relevant statutory factors and apply the facts as determined to the law to make determinations.

H. Write recommendations on each issue and provide the reasons for the recommendation based on the relevant interest factors.

I. Submit written report to the court and all counsel at least 14 days prior to hearing. If unable to do so, a motion to continue should be considered before the report is due. If not, your report should explain why you were not able to provide it reasonably in advance of trial.

J. Remember:

*A truly contested TPR is the family law equivalent of a murder trial.*

The standard of proof is "clear and convincing evidence."

There is a clear two-step process; you and the judge don't get to consider the child's best interests unless you first conclude that un-remediated jeopardy continues. (See, e.g., *In re Baby Duncan*, 2009 Me 85; *In re Adoption of Tobias D.*, 2012 ME 45.)