



## **Engagement Efforts to Achieve Permanency: Moving the Focus to the Front of the Case**

*John Specia, Office of Court Administration - Jurist in Residence*

Child Welfare data maintained by the Department of Family and Protective Services (DFPS) indicates that only about half of CPS cases reach a final order within the statutory deadline of 12 months. That means that judges frequently find extraordinary circumstances and extend cases beyond the statutory dismissal deadline. A [November 2010 Texas Appleseed report](#) addressing children in long-term foster care summed up the results of over 100 interviews with stakeholders with three words: **lack of urgency**. There is a one-page checklist included with this letter to assist you in your efforts to maintain a sense of urgency throughout the foster care case.

**Q: What can judges do to make sure cases aren't unnecessarily delayed?**

**A:** Set expectations for attorneys in your court, demand excellence of those appearing before you, and provide oversight to ensure that attorneys are fulfilling their duties pursuant to §§107.004, 107.0131. Make sure attorneys and DFPS come to court **prepared** with a plan for the child and family.

**Q: How can I accommodate my county's not to appoint parent attorneys too soon and still keeping the case on track?**

**A:** While county budgetary constraints are a very real problem, it is considered by most to be critical to appoint parents' attorneys **prior to the 14-day full adversary hearing**. There is evidence that earlier appointment results in more timely resolution of cases and more positive outcomes, thereby saving court time, county resources, and foster care dollars. On average, foster care costs almost \$2,000 per month per child, not including the cost for judicial resources and legal representation. So the resulting costs from delayed appointment are likely more than the costs for early appointments.

**Q: How can I make sure placement issues do not delay the case?**

**A:** Make sure that DFPS is **exercising due diligence to find relatives** and appropriate placements for children. Placement with a relative not only saves the state money, but it is also less disruptive to the child. Additionally, children placed with relatives are more likely to be reunified with their parents than children placed in a non-relative foster home. Engaging relatives at the beginning of the case will help to identify individualized solutions and family resources that might not otherwise be explored. Welcome relatives to participate in hearings.

**Q: How can I make sure cases are resolved timely?**

**A:** Set the expectation at the outset of the case that you will not grant extensions unless there are truly extraordinary circumstances. Then, consider whether the reasons for the extension should be borne by the child because that is the party who pays the price for the extension, not to mention the actual dollars spent. Remember, it is about 12,000.00 in foster care expense for every six month extension.

**Q: How can I improve timeliness and permanency for kids that are in PMC?**

**A:** For children in the PMC of the state, maintain urgency to find a permanent home. Require DFPS to come to court with realistic options for permanency. Frequently reevaluate permanency options that have not worked out. Make sure the youth is in court for permanency and placement review hearings, unless expressly excused. Youth want to have their voices heard and often feel left out of the process.

### Timeline Checklist

<b>Ex parte hearing</b>	<ul style="list-style-type: none"> <li>- Inquire about DFPS’s efforts to locate and notify family; ensure caseworker understands family situation/placement options.</li> <li>- Require that parents be invited to hearings, where appropriate and assess indigence and appoint parents’ attorney at that point</li> </ul>
<b>Full Adversary Hearing</b>	<p>Before hearing, check notice and service:</p> <ul style="list-style-type: none"> <li>- <b>Notice of Removal (§ 262.109):</b> DFPS must give written notice when DFPS takes possession of a child to each parent, conservator, or guardian as soon as practicable, but no later than 1<sup>st</sup> working day after possession.</li> <li>- <b>Exception:</b> The written notice may be waived by the court at the initial hearing on a showing that: (A) they could not be located; or (B) DFPS took possession under Subchapter D (Emergency Possession Of Certain Abandoned Children); or for other good cause. <b>Service of Citation (Petition):</b> DFPS is responsible for obtaining service of citation to all parties listed in TFC § 102.009(a)<sup>1</sup> in accordance with Texas Rule of Civil Procedure 106 and by a person in Rule 103. Petition and accompanying affidavit should allege facts warranting removal and provide “fair notice” of the claim. TEX. R. CIV. P. 45, 47.</li> <li>- <b>Notice of Hearing:</b> All persons entitled to service should receive at least three days’ notice of the hearing, per Tex. R. Civ. P. 21a.</li> </ul> <p>At hearing, review relative/designated caregiver options and forms:</p> <ul style="list-style-type: none"> <li>- <b>Review Child Placement Resources Form</b> (required to be filed under TFC § 262.114)</li> <li>- If the child is not already placed with individual identified in form, inquire regarding DFPS’s reasons for not placing the child with that person and the steps DFPS is taking to place the child with a relative or other designated caregiver (TFC § 262.201(e))</li> <li>- Ensure each parent, alleged father, or relative before the court completes the child placement resources form (TFC §262.201(c))</li> </ul>
<b>Status Hearing</b>	<ul style="list-style-type: none"> <li>- Review DFPS filing to verify notice to adult relatives of the removal and the opportunities for placement within 30 days of removal (TFC §§ 262.1095 &amp; 263.007).             <ul style="list-style-type: none"> <li>o Inquire into sufficiency of DFPS’s efforts to identify, locate, and provide information to each adult; If insufficient, order DFPS to make further efforts (TFC § 263.202(f))</li> </ul> </li> <li>- Verify that service plan was filed in court and             <ul style="list-style-type: none"> <li>o Plan was developed jointly with parents and informs parents of their rights (TFC § 263.103)</li> <li>o Is reasonably tailored to address any specific issues identified by the department or other agency (TFC § 263.106)</li> <li>o States realistic permanency goals – <i>make sure DFPS is actively working on these goals</i></li> <li>o Allow parents the opportunity to express concerns regarding the plan (TFC § 263.202(g))</li> </ul> </li> </ul>
<b>All Hearings there after</b>	<ul style="list-style-type: none"> <li>- Children/Youth should be present in court and have an opportunity to be heard, unless child/youth wishes not to be present</li> <li>- Inquire regarding whether attorneys have met with client before hearing</li> </ul> <p><b>Notice of Hearings</b></p> <ul style="list-style-type: none"> <li>- To all required parties (TFC § 102.009)</li> <li>- Notice must comply with Tex. R. Civ. P. 21a: “in person or by agent or by courier receipt delivery or by certified or registered mail, to the party’s last known address, or by [fax] . . . or by such other manner as the court in its discretion may direct.”</li> </ul> <p><b>Notice of Hearings and Trial Settings</b></p> <ul style="list-style-type: none"> <li>- To all required parties (TFC § 102.009)</li> <li>- Tex. R. Civ. P. 245 – timeframe for notice of trial settings</li> </ul>