Required Participation in Services Hearing Checklist

Statutory

Prior to the Hearing, review the court file to determine:

- ☐ Hearing set within 14 days from the date of the filing of petition unless good cause for extension. Tex. Fam. Code § 264.203(f)
- ☐ AAL for child has been appointed and notified of hearing. Tex. Fam. Code § 264.203(g)
- ☐ AAL for parent has been appointed and notified of hearing. Tex. Fam. Code § 264.203(h)
- ☐ All necessary parties served. Tex. Fam. Code § 264.203(l)

At the Hearing:

- ☐ Determine if language interpretation is needed. Tex. Gov't Code § 57.002
- ☐ Identify those present, note those not present, determine service on parties, and swear witnesses. Tex. Fam. Code § 102.009
- ☐ Prior to commencement of hearing, parents named in the suit are informed of their right to be represented by counsel, and if indigent and in opposition to suit, of right to court-appointed attorney. Tex. Fam. Code § 264.203(i)
- ☐ If parent claims indigence, hear evidence and make a determination. Tex. Fam. Code § 264.203(j)
- ☐ If the parent is found to be indigent, continue the appointment of attorney. If parent is found not to be indigent, release attorney at the end of the hearing and order parent to pay the county for cost of representation. If needed, reset the hearing for no more than 7 days. Tex. Fam. Code § 264.203(j)-(k)
- ☐ Ask child's Attorney Ad Litem if they have seen client and when.
- ☐ If AAL has not seen client, determine whether the AAL has shown good cause for not meeting with client. Tex. Fam. Code § 107.004(e)

Court Findings

At the End of the Hearing:

- ☐ Determine if sufficient evidence to order participation in services by parent(s) or caregiver(s) for the child; if not, deny the request for required participation in services. Evidence must be sufficient to satisfy a person of ordinary prudence and caution that:
  - Abuse or neglect has occurred, or
  - There is substantial risk of abuse or neglect, or
  - There is continuing danger to the physical health or safety of the child caused by an act or failure to act by named party/parties; and
  - Services are necessary to ensure the physical health or safety of the child. Tex. Fam. Code § 264.203(m)
- ☐ **ISSUE COURT ORDER** and include or address:
  - Court findings;
  - Appropriate temporary orders under Chapter 105 to ensure the safety of the child, excluding orders that place the child outside the child's home or in the conservatorship of DFPS;
  - Required participation in services narrowly tailored to address court findings;

  Tex. Fam. Code § 264.203(n)
  - A dismissal deadline of 180 days; and
  - A scheduled review hearing within 90 days.

  Tex. Fam. Code § 264.203(p)-(q)

Required Participation in Services Hearing Checklist

continued

Court Findings

Review Hearings:

- ☐ Address the continued need for the temporary order and dismiss if there is no longer a continued need. Tex. Fam. Code § 264.203(p)
- ☐ Set a review hearing within 90 days if temporary order is continued. Tex. Fam. Code § 264.203(p)
- ☐ Determine whether there is good cause to extend dismissal deadline if DFPS can show a continued need for services beyond the original 180-day dismissal deadline. Tex. Fam. Code § 264.203(r)-(s)

- The court may find good cause for extension if:
  - necessary to allow the person required to participate in services under the plan of service time to complete those services;
  - DFPS made a good faith effort to timely provide the services to the person;
  - the person made a good faith effort to complete the services; and
  - completion of the services is necessary to ensure the physical health and safety of the child; and
  - extension is requested by the person or the person's attorney.

Tex. Fam. Code § 264.203(s)

Best Practices

- ☐ Engage parties with direct questions
- ☐ Review services with parents
- ☐ Set Review Hearing date within 90 days
- ☐ Give notice in open court
- ☐ Engage parties with direct questions:
  - *Do you understand the purpose of the court ordered services?*
- ☐ Consider the following questions:
  - *How are these services specific to this child and this family?*
  - *Are there issues impacting this family that we need to understand?*
  - *Is there a need for ongoing services or can the case be dismissed today?*