Permanency Hearing After Final Order Checklist

Statutory

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

- ☐ If parental rights terminated, ensure first Permanency Hearing After Final Order set within 90 days of final order date, then at least every six months thereafter. Tex. Fam. Code § 263.501(b)
- ☐ If parental rights not terminated, ensure first Permanency Hearing After Final Order set within 6 months of final order date, then at least every six months thereafter. Tex. Fam. Code § 263.501(a)
- ☐ Persons entitled to notice given at least 10 days' notice of hearing, including a child 10 years and older or the court determines it is appropriate for the child to receive notice. Tex. Fam. Code § 263.0021
- ☐ Whether DFPS Permanency Progress Report filed at least 10 days before hearing pursuant to Tex. Fam. Code § 263.502(a), and, in addition to elements required by Tex. Fam. Code § 263.502, includes:
  - Summary of Medical Care. Tex. Fam. Code § 266.007
- ☐ The court file includes:
  - Designation of Medical Consenter (Form 2085-B). Tex. Fam. Code § 266.004
  - Notice of Education Decision-Maker (Form 2085-E). Tex. Fam. Code § 263.004

At the Hearing:

- ☐ Identify those present, including the child's caregiver, note those not present, and swear witnesses. Tex. Fam. Code § 263.5031(a)(1)
- ☐ Ensure the child's attendance is in person or by videoconference or phone unless specifically excused.
  - Youth in Texas Juvenile Justice Department (TJJD) may attend in person or by telephone or videoconference. Tex. Fam. Code § 263.302
- ☐ Review DFPS efforts to provide notice under Tex. Fam. Code § 263.0021. Tex. Fam. Code § 263.5031(a)(2)
- ☐ Review the Permanency Progress Report to determine:
  - Child's safety and well-being and whether child's needs, including any medical or special needs, are being adequately addressed. Tex. Fam. Code § 263.5031(a)(4)(A)
  - Whether the child had an opportunity to identify a relative or designated caregiver. Tex. Fam. Code § 263.5031(a)(4)(B)
  - Whether DFPS placed child with a relative or other designated caregiver and the continuing necessity and appropriateness of child's placement, including with respect to child placed outside of state, whether the placement continues to be in the child's best interest. Tex. Fam. Code § 263.5031(a)(4)(C)
  - If the child is placed in institutional care, whether efforts have been made to ensure that the child is placed in the least restrictive environment consistent with the child's best interest and special needs. Tex. Fam. Code § 263.5031(a)(4)(D)
  - The appropriateness of the primary and alternative permanency goals for the child,
  - whether DFPS has made reasonable efforts to finalize the permanency plan, including concurrent permanency goals, in effect for the child and whether:
    - DFPS exercised due diligence in attempting to place the child for adoption if parental rights are terminated and the child is eligible for adoption; or
    - Another Planned Permanent Living Arrangement (APPLA), including appointing a relative as PMC or returning the child to a parent, is appropriate for the child. Tex. Fam. Code § 263.3026

Tex. Fam. Code § 263.5031(a)(4)(E)

- For a child whose permanency goal is APPLA:
  - the desired permanency outcome for the child; and
  - whether, as of the hearing date, APPLA is the best permanency plan for the child and, if so, provide compelling reasons why it continues to not be in the child's best interest to:
    - return home,
    - be placed for adoption,
    - be placed with a legal guardian, or
    - be placed with a fit and willing relative.

Permanency Hearing After Final Order Checklist

continued

Statutory

- ◦ whether DFPS has conducted an Independent Living Skills (ILS) assessment under Tex. Fam. Code § 264.121(a-3).
- ◦ whether DFPS has addressed the goals identified in the youth's permanency plan. for youth 16 years of age or older, whether DFPS has provided documents required by Tex. Fam. Code § 264.121(e).
- ◦ for youth 18 years or older, or has had disabilities of minority removed, whether DFPS has provided youth with documents and information listed in Tex. Fam. Code § 264.121(e-1).

Tex. Fam. Code § 263.5031(a)(4)(F)

- If the child is 14 or older, whether services that are needed to assist the child in transitioning from substitute care to independent living are available in the child's community. Tex. Fam. Code § 263.5031(a)(4)(G)
- Whether the child is receiving appropriate medical care and has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on any medical care provided. Tex. Fam. Code §§ 263.5031(a)(4)(H), and 266.007
- For a child receiving psychotropic medication, whether the child:
  - ◦ has been provided appropriate non-pharmacological interventions, therapies, or strategies to meet the child's needs; or
  - ◦ has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days.

Tex. Fam. Code § 263.5031(a)(4)(I) **(*See* Topical Checklist: Medical and Mental Health Care)**

Whether an Education Decision-Maker for the child has been identified, the child's education needs and goals have been identified and addressed, and there are major changes in the child's school performance or there have been serious disciplinary events.

Tex. Fam. Code § 263.5031(a)(4)(J) **(*See* Topical Checklist: Foster Care & Education)**

- For a child for whom DFPS has been named Managing Conservator in a final order that does not include termination of parental rights,
- whether to order DFPS to provide services to a parent for not more than 6 months after the date of the permanency hearing if:
  - ◦ the child has not been placed with a relative or other individual, including a foster parent, who is seeking PMC of the child; and
  - ◦ the court determines that further efforts at reunification with a parent are:
    - ▪ in the best interest of the child; and
    - ▪ likely to result in the child's safe return to the parent.

Tex. Fam. Code § 263.5031(a)(4)(K)

- Whether DFPS has identified a family or other caring adult who has made a permanent commitment to the child. Tex. Fam. Code § 263.5031(a)(4)(L)
- If the child is placed in a Residential Treatment Center (RTC) or Qualified Residential Treatment program (QRTP), whether continued placement in an RTC or QRTP is appropriate according to Tex. Fam. Code §§ 263.002 and 263.00201 respectively. Tex. Fam. Code § 263.5031(a)(4)(M)-(N)

☐ Review DFPS efforts to ensure the child has regular, ongoing opportunities to engage in age-appropriate normalcy activities, including activities not listed in the child's service plan. Tex. Fam. Code § 263.5031(b)

☐ Determine if Special Immigrant Juvenile Status (SIJS) for the child (or teen parent) is appropriate. 8 C.F.R. § 204.11

☐ Determine if child's caregiver is present and given opportunity to provide information about the child. Tex. Fam. Code § 263.0021(f)

☐ If the child has been placed with a relative or designated caregiver, inform the individual serving as a placement for the child of the ability to become a licensed foster parent and apply for the Permanency Care Assistance (PCA) program. Tex. Fam. Code § 263.5031(3)

☐ Ensure those present have the opportunity to present evidence and be heard. Tex. Fam. Code § 263.0021(b)

Permanency Hearing After Final Order Checklist

continued

Statutory

- ☐ Confer with child, if age 4 or older, in developmentally appropriate manner regarding child's permanency plan. Tex. Fam. Code § 263.302
- ☐ Ask the child's Attorney Ad Litem (AAL) if they have seen their client and when.
  - If AAL has not seen client, determine whether the AAL has shown good cause for not meeting with the client. Tex. Fam. Code § 107.004(e)
  - AAL should also be knowledgeable about medical care and education goals and progress. Tex. Fam. Code §§ 107.003(b), 107.004(d-2)
  - AAL has duty to advise clients 16 and older of right to seek designation from the court to serve as own medical consenter. Tex. Fam. Code § 107.004(b)(3)

Court Findings

At the End of the Hearing:

- ☐ Ensure **FINDINGS** and **ISSUE COURT ORDER** which comports with determinations made pursuant to Tex. Fam. Code § 263.5031.
- ☐ Set next Permanency Hearing After Final Order no later than six months from date of present hearing. Tex. Fam. Code § 263.501(a)

Best Practices

- ☐ If necessary parties (including child) did not receive notice, consider resetting hearing to secure their attendance.
- ☐ Engage youth.
  - *Tell me how you feel about your medical care, school, grades, and activities.*
  - *Tell me how you're being treated in your placement.*
  - *What do you want for your future?*
- ☐ Engage caregivers with direct questions.
  - *Do you understand the purpose of this hearing?*
  - *Do you understand the DFPS permanency goal for the child(ren)?*
  - *Were you given the opportunity to discuss or provide input into this permanency plan?*
- ☐ REASONABLE EFFORTS: Ask direct and child-specific questions of DFPS about *both* the primary goal and the concurrent goal.
  - *If primary goal is adoption: please articulate the specific efforts you have made to find an adoptive home for Sam; please be specific in describing your actions with regard to each.*
  - *If concurrent goal is permanent managing conservatorship to a relative: articulate the specific efforts you have made to place Sam with the grandmother, etc.*
- ☐ Set next Permanency Hearing within 90 or 120 days instead of 180 days.
- ☐ For Youth Receiving Transitional Living Services:
  - Youth 14 and older are eligible for family group decision-making about their future;
  - Youth 16 and older must be enrolled in Preparation for Adult Living (PAL); and
  - All youth who will turn 18 while in foster care are:
    - Discuss eligibility for extended foster care and trial independence;
    - Ensure referrals to Texas Workforce Commission; and
    - Ensure certain documents in their possession *before* they leave care, including a driver's license or identification card, birth certificate, social security card, immunization records, proof of enrollment in Medicaid, and copy of credit report.
- ☐ Determine if the child has been advised of eligibility for Family Group Decision Making or Circles of Support in regard to their future.
- ☐ Determine if child has been enrolled in PAL or provided transitional services after 14th birthday.
- ☐ Consider the following questions:
  - *What is preventing this child from achieving positive permanency?*
  - *How is my decision specific to this child and this family?*
  - *Are there issues impacting this family that we need to understand?*

Permanency Hearing After Final Order Checklist

continued

Well-being Issues

Medical and Mental Health Care:

- ☐ Permanency Progress Report must include a summary of medical care, including:
  - Nature of emergency medical care provided to child and circumstances necessitating care, include injury or acute illness of child.
  - All medical and mental health treatment child receiving and child's progress with treatment.
  - This would include mental health exams, physical health exams, immunizations, dental and eye exams, and any physical mental health illnesses and treatments.
  - Any medication prescribed for child, condition, diagnosis, and symptoms for which medication was prescribed and child's progress with medication.
  - For child receiving psychotropic medication:
    - any psychosocial therapies, behavior strategies, or other non-pharmacological interventions provided to child;
    - dates since previous hearing of any office visits child has had with prescribing physician, physician assistant, or advanced practice nurse;
    - degree to which child or foster care provider complied or failed to comply with any plan of medical treatment for child;
    - any adverse reaction to or side effects of any medical treatment provided to child;
    - any specific medical condition of child diagnosed or for which tests are being conducted to make diagnosis;
    - any activity child should avoid or engage in that might affect effectiveness of treatment, including physical activities, other medications, and diet; and
    - other info required by DFPS or rule of court.

Education and Educational Decisions:

- ☐ Child enrolled in school and in appropriate grade.
- ☐ Child remains in current school, regardless of placement changes.
- ☐ If change in school required due to placement change, determine:
  - Where child wants to attend school;
  - How the child will be transported;
  - Whether change can be coordinated with grading and testing periods; and
  - Whether records and credits transferred.
- ☐ If too young for school (0-3 years), child assessed for developmental milestones through ECI; if 0-5, child enrolled in Early Head Start, Head Start, or Pre-Kindergarten.
- ☐ Education Decision-Maker identified (Form 2085-E). Tex. Fam. Code § 263.004
- ☐ School supports and disciplinary issues addressed, including signed form prohibiting corporal punishment.
- ☐ Child involved in extracurricular/normalcy activities.
- ☐ As needed, child evaluated for and receiving special education services.
- ☐ If child 14 or older, has postsecondary education plan.