Status Hearing Checklist

Statutory

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

- ☐ Hearing set no later than 60 days after DFPS appointed TMC unless aggravated circumstances. Tex. Fam. Code § 263.201
- ☐ Persons entitled to notice given 10 days' notice of hearing. Tex. Fam. Code § 263.0021
- ☐ If parent is unrepresented, inform of right to counsel, determine indigency, and appoint attorney if indigent and in opposition to suit. Tex. Fam. Code § 107.013
- ☐ DFPS filed copy of Visitation Plan at least 10 days before Status Hearing. Tex. Fam. Code § 263.107(d)
- ☐ DFPS filed Family Plan of Service (Service Plan) not later than 45th day after appointed TMC. Tex. Fam. Code § 263.101
- ☐ Child received developmentally appropriate assessment by no later than 45th day after DFPS appointed TMC. Tex. Fam. Code § 266.012
- ☐ Notice of Education Decision-Maker (Form 2085-E) filed with court. Tex. Fam. Code § 263.004
- ☐ Designation of Medical Consenter (Form 2085-B) filed with court. Tex. Fam. Code § 266.004(c)
- ☐ Dismissal date set. Tex. Fam. Code § 263.401

At the Hearing:

Due Process and General Matters

- ☐ Identify those present, including the child's caregiver, note those not present, determine service on parties, and swear witnesses. Tex. Fam. Code §§ 102.009, 263.0021(f)
- ☐ Review DFPS' due diligence to locate parties not present. Tex. Fam. Code § 263.202(a)(1)
- ☐ Confirm that DFPS notified relatives about removal. Tex. Fam. Code § 263.007
- ☐ Determine if language interpretation is needed. Tex. Gov't Code § 57.002
- ☐ Inform each parent not represented by an attorney of right to counsel; determine indigence; appoint counsel if indigent and in opposition to suit. Tex. Fam. Code §§ 263.203, 263.0061
- ☐ Determine status of paternity issues and whether Paternity Registry searched. Tex. Fam. Code § 263.202(a)(1)
- ☐ Determine whether parent, alleged father, or relative before the court submitted Child Placement Resources Form. Tex. Fam. Code § 263.201(c)
- ☐ Review current and alternative placements. Tex. Fam. Code § 263.002
- ☐ Determine whether the child has had the opportunity to provide information about relative or designated caregivers. Tex. Fam. Code § 263.202(h).
- ☐ Determine status of initiated home studies. Tex. Fam. Code § 262.114(a)-(b) [Best Practice at Status Hearing]
- ☐ 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 § 263.202(i)
- ☐ 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 § 263.202(b)(5)-(6)
- ☐ Review the conservatorship appointment and substitute care of the child. Tex. Fam. Code § 263.002(a)(1)
- ☐ Inquire about Indian/Native American Heritage. 25 U.S.C. § 1912; Tex. Fam. Code § 263.202(f-1)
  - Inquire of all parties if there is Indian heritage in the family.
  - Determine which Tribes may be involved.
  - Ensure proper notice to parent, Tribe, if known, and Secretary of the Interior and Bureau of Indian Affairs, if Tribe unknown. **(*See* Topical Checklist: ICWA)**
- ☐ Determine if DFPS held or plans to hold Permanency Planning Meeting. Tex. Fam. Code § 263.009(a)

Status Hearing Checklist

continued

Statutory

- ☐ Ask child's Attorney Ad Litem (AAL) 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 the client. Tex. Fam. Code § 107.004(e)
- ☐ Determine whether child or parent is a citizen of the United States. 8 C.F.R. § 204.11
  - If not, determine if Special Immigrant Juvenile Status for the child (or teen parent) is appropriate, and issue Order for DFPS to initiate the process.
  - Determine if notice given to appropriate Consulate.
- ☐ Review medical care provided child since last hearing. Tex. Fam. Code § 266.007(a)

Family Plan of Service

- ☐ Determine if:
  - Original Service Plan was developed jointly with child's parents. Tex. Fam. Code § 263.103(a)
  - Each term and element discussed and parents informed of rights in connection with service plan process. Tex. Fam. Code § 263.103(a-1)
  - If parent not able or willing to participate in development of Service Plan, this is noted in the plan. Tex. Fam. Code § 263.103(a)
  - Parents have reviewed and understand the plan. Tex. Fam. Code § 263.202(b)(2)
  - The plan has both a primary and a concurrent goal. Tex. Fam. Code §§ 263.102(e), 263.3025(d)
  - Plan is signed by parents and DFPS. Tex. Fam. Code § 263.103(b)
- ☐ Provide parent opportunity to comment on Service Plan. Tex. Fam. Code § 263.202(g)
- ☐ Court can modify service plan at any time. Tex. Fam. Code § 263.105(c)

Visitation Plan

- ☐ Review Visitation Plan and consider:
  - Age and safety of child at/during visitation;
  - Desires of each parent regarding visitation;
  - Location of each parent and child;
  - Transportation to/from visits; and
  - Resources available to DFPS, including transportation and those necessary to ensure visitation is properly supervised.

Tex. Fam. Code § 263.107(c)

- ☐ Court may modify visitation plan at any time. Tex. Fam. Code § 263.108(b)
- ☐ If court finds visitation is not in child's best interest, include in order the reasons and the specific steps parent must take to have visitation. Tex. Fam. Code § 263.109(b)

Court Findings

At the End of the Hearing:

- ☐ Determine whether the Service Plan is narrowly tailored to address any specific issues identified by DFPS. Tex. Fam. Code § 263.202(b)(3)
- ☐ Determine whether any Service Plan that has the goal of reunification adequately ensures that reasonable efforts are made to enable the parents to provide a safe environment for the child. Tex. Fam. Code § 263.202(b)(1)
- ☐ Advise/warn parents and parties:
  - That custodial rights and duties may be subject to restriction or termination or child not returned unless parent demonstrates willingness and ability to provide child with safe environment. Tex. Fam. Code § 263.202(b)(2)
  - Progress under Service Plan is reviewed at all hearings, including review of newly acquired knowledge or skills. Tex. Fam. Code § 263.203(b)
- ☐ Incorporate Service Plan into the Court Order and render additional appropriate orders to implement or require compliance with the Service Plan. Tex. Fam. Code §§ 263.106, 263.202(b-1)
- ☐ **ISSUE COURT ORDER** and include or address:
  - Dismissal date. Tex. Fam. Code § 263.401
  - Transfer to court of continuing, exclusive jurisdiction, if necessary for convenience of parties and in child's best interest or order transfer of the SAPCR from the CCEJ if necessary for convenience of parties and in child's best interest. Tex. Fam. Code § 262.203

Status Hearing Checklist

continued

Best Practices

- ☐ Set first Permanency Hearing Before Final Order and announce in open court. Tex. Fam. Code § 263.304
- ☐ Determine status of initiated home studies. Tex. Fam. Code § 262.114(a)-(b)
- ☐ Engage parties with direct questions.
  - *Do you understand the purpose of this hearing?*
  - *Do you understand the purpose of the Service Plan?*
  - *Were you given the chance to discuss or provide input into the Service Plan?*
  - *Do you understand what I've explained about your parental rights?*
- ☐ Ask direct and specific questions of the Department about reasonable efforts.
  - *What about this plan is narrowly tailored to address specific issues present in Ms. Smith's case?*
  - *What about this service plan will help Ms. Smith provide a safe environment for her child?*
- ☐ Consider the following questions:
  - *What is preventing this child from returning home today?*
  - *How is my decision specific to this child and this family?*
  - *Are there issues impacting this family we need to understand?*

Well-being Issues

- ☐ Education Decision-Maker, school stability, education goals, progress, school-related issues. Tex. Fam. Code § 263.004; Tex. Educ. Code § 25.001(g), (g-1)
- ☐ Medical Consenter may need to be identified or updated. Tex. Fam. Code § 263.202(e)
- ☐ Child received Texas Health Steps exam no later than 30th day after DFPS appointed TMC.
- ☐ Review psychiatric care, especially if child or youth prescribed psychotropic medication. Tex. Fam. Code § 266.007(a)(4)
- ☐ Young adult presence at hearing or opinion about education or medical care. Tex. Fam. Code § 263.302 [Best Practice at Status Hearing]; Tex. Fam. Code § 266.007(c)