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# STATUS HEARING

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## Legal Overview of Status Hearing

Texas Family Code  
Title 5. The Parent-Child Relationship & the Suit Affecting the Parent-Child Relationship  
Chapter 263. Review of Placement of Children under Care of Department of Family and  
Protective Services  
Subchapter C. Status Hearing

The Status Hearing focuses on the child's status and service plan. The Status Hearing is an opportunity for the judge and other parties to review the service plan, but it is generally not considered an opportunity to re-litigate whether the child should have been placed in the legal custody of DFPS.

***Please see the Checklist Section for Status Hearing Checklist.***

- A. Status Hearing**
- B. Mandatory Findings**
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- D. Court Shall Review Service Plan**
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- F. Child Placement Resources Form Required**
- G. Permanency Planning Meetings**
- H. Assessments**
- I. Inquiry About Child's Native American Heritage**

### **A. Status Hearing**

#### **1. Hearing is Mandatory**

The Status Hearing is mandatory unless the court holds an initial Permanency Hearing under [Tex. Fam. Code § 262.2015](#) (aggravated circumstances) before the date a Status Hearing is required. [Tex. Fam. Code § 263.201\(b\)](#).

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## 2. Must Be Held No Later Than 60th Day After Temporary Managing Conservatorship Order

Not later than the 60th day after the date the court renders a temporary order appointing DFPS as temporary managing conservator of a child, the court shall hold a Status Hearing to review the child's status and service plan. [Tex. Fam. Code § 263.201\(a\)](#).

## 3. Notice Must Be Given Pursuant to Tex. Fam. Code § 263.0021

In 2015, the 84<sup>th</sup> Texas Legislature enacted a new statute regarding notice of a hearing under [Tex. Fam. Code Chapter 263](#). Notice of a hearing under [Tex. Fam. Code Chapter 263](#) shall be given to all persons entitled to notice of the hearing. [Tex. Fam. Code § 263.0021\(a\)](#).

The following persons are entitled to at least 10 days' notice and are entitled to present evidence and be heard at a hearing under [Tex. Fam. Code Chapter 263](#):

- DFPS;
- The foster parent, pre-adoptive parent, relative providing care, or the director or director's designee of the group home or general residential operation where the child resides;
- Each parent of the child;
- The managing conservator or guardian of the child;
- An attorney ad litem appointed for the child, if the appointment was not dismissed in the final order;
- A guardian ad litem appointed for the child, if the appointment was not dismissed in the final order;
- A volunteer advocate appointed for the child, if the appointment was not dismissed in the final order;
- The child if:
  - the child is 10 years of age or older; or
  - the court determines it is appropriate for the child to receive notice; and
- Any other person or agency named by the court to have an interest. [Tex. Fam. Code § 263.0021\(b\)](#).

Notice of a hearing under [Tex. Fam. Code Chapter 263](#) may be given:

- As provided by [Tex. R. Civ. P. 21a](#);

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- In a temporary order following a full Adversary Hearing;
  - In an order following a hearing under [Tex. Fam. Code Chapter 263](#);
  - In open court; or
  - In any manner that would provide actual notice to a person entitled to notice. [Tex. Fam. Code § 263.0021\(c\)](#).

## B. Mandatory Findings

During a Status Hearing, the court shall make findings as to whether:

- DFPS has exercised due diligence to locate all necessary persons, including an alleged father of the child, regardless of whether the alleged father is registered with the paternity registry under [Tex. Fam. Code § 160.402](#). DFPS is required to file a report under [Tex. Fam. Code § 263.007](#) detailing its efforts to identify, locate, and provide information to each adult described by [Tex. Fam. Code § 262.1095\(a\)](#). [Tex. Fam. Code § 263.202\(f\)](#) requires that the court review the report and order DFPS to make further efforts, if warranted. [Tex. Fam. Code § 262.202\(a\)\(1\)](#); [Tex. Fam. Code § 263.202\(f\)](#); [Tex. Fam. Code § 262.1095\(a\)](#); and [Tex. Fam. Code § 263.007](#).
- The child and each parent, alleged father, or relative of the child before the court have furnished to DFPS all available information necessary to locate another absent parent, alleged father, or relative of the child through the exercise of due diligence. [Tex. Fam. Code § 263.202\(a\)\(2\)](#).
- A plan that has the goal of returning the child to the parent adequately ensures that reasonable efforts are made to enable the child's parents to provide a safe environment for the child. [Tex. Fam. Code § 263.202\(b\)\(1\)](#). The court shall give the child's parents the opportunity to comment on the service plan. [Tex. Fam. Code § 263.202\(g\)](#).
- The parents have reviewed and understand the plan, the plan is reasonably tailored to address any specific issues identified by DFPS, and the child's parents and the representative of DFPS has signed the plan. [Tex. Fam. Code § 263.202\(b\)\(2\)](#), (3) and (4).
- The court has identified the individual who has the right to consent to medical treatment for the child under [Tex. Fam. Code § 266.004](#). [Tex. Fam. Code § 263.202\(e\)](#).
- The court is directed to inquire at the Status Hearing whether parents or other parties have provided information necessary to locate an alleged father, an absent parent, or a relative of the child. It is left to the court to decide what action, if any, should be taken in response to a negative answer. [Tex. Fam. Code § 263.202\(a\)\(2\)](#).

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- The court is required, after reviewing and making any necessary modifications, to incorporate the service plan into the orders of the court and may render additional appropriate orders to implement or require compliance with the plan. [Tex. Fam. Code § 263.202\(b-1\)](#).

**Special Issue:** DFPS is required to involve the parents in developing the Service Plan. [Tex. Fam. Code § 263.102\(a\)\(3\)](#). Parent attorneys are entitled to attend any case staffing in which the parent is invited to participate, including to develop a family service plan. [Tex. Fam. Code §107.0131\(a\)\(2\)\(F\)](#). Courts should consider whether DFPS has involved counsel for the child and whether the parent has substantial input as to what services are appropriate to help the family reunify and ensure the child's well-being. Courts should also consider including language which takes into account the individualized needs and circumstances of the family and the reasons the child was removed rather than the use of boilerplate language.

## C. Court Shall Advise/Warn Parents

### 1. Service Plan Progress Shall Be Reviewed at All Subsequent Hearings

The court shall advise the parties that progress under the service plan will be reviewed at all subsequent hearings, including a review of whether the parties have acquired or learned any specific skills or knowledge stated in the service plan. [Tex. Fam. Code § 263.203\(b\)](#).

### 2. Court Shall Warn Parents

The court is required to inform each parent in open court that parental and custodial rights and duties may be subject to restriction or to termination unless the parent or parents demonstrate a willingness and ability to provide the child with a safe environment. [Tex. Fam. Code § 263.006](#) and [Tex. Fam. Code § 263.202\(b\)\(2\)](#).

### 3. Advise Parent of Appointment of Attorney

[Tex. Fam. Code § 263.203\(a\)](#) requires that the court advise the parties of the provisions regarding the mandatory appointment of an attorney ad litem under [Tex. Fam. Code Subchapter A Chapter 107](#) and appoint an attorney ad litem to represent the interests of any person eligible if the appointment is required by that subchapter. [Tex. Fam. Code § 263.203\(a\)](#).

[Tex. Fam. Code § 263.0061](#) requires notice to parents of right to counsel. At the Status Hearing required by [Tex. Fam. Code Chapter 263, Subchapter C](#) and at each Permanency Hearing required by [Tex. Fam. Code Chapter 263, Subchapter D](#), the court shall inform each parent not represented by an attorney of:

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- The right to be represented by an attorney; and
  - If a parent is indigent and appears in opposition to the suit, the right to a court-appointed attorney. [Tex. Fam. Code § 263.0061\(a\)](#).

If a parent claims indigence and requests the appointment of an attorney in a proceeding under [Tex. Fam. Code Chapter 263, Subchapter C](#) and [Tex. Fam. Code Chapter 263, Subchapter D](#), the court shall require the parent to complete and file with the court an affidavit of indigence. The court may hear evidence to determine whether the parent is indigent. If the court determines the parent is indigent, the court shall appoint an attorney to represent the parent. [Tex. Fam. Code § 263.0061\(b\)](#).

#### **4. Court Shall Review Visitation Plan**

Court shall review the visitation plan, taking into consideration the factors specified in [Tex. Fam. Code § 263.107\(c\)](#). [Tex. Fam. Code § 263.108\(a\)](#). See Section E of this chapter.

The court may modify, or order DFPS to modify, an original or amended visitation plan at any time. [Tex. Fam. Code § 263.108\(b\)](#).

### **D. Court Shall Review Service Plan**

#### **1. Service Plan Shall Be Filed**

Except as provided by [Tex. Fam. Code § 262.2015](#), DFPS must file a service plan not later than the 45th day after the date the court renders a temporary order appointing DFPS as temporary managing conservator of a child. [Tex. Fam. Code § 263.101](#).

[Tex. Fam. Code § 263.103](#) requires that the service plan shall be developed jointly with the parents. If the parents refuse to or are unable to participate, DFPS is required to file the service plan with the court and request that the court order that it is effective. The service plan remains in effect until amended by the court. [Tex. Fam. Code § 263.103](#).

[Tex. Fam. Code § 263.104](#) clarifies that any amendments to the service plan shall be developed jointly with the parents. If the parents refuse to or are unable to participate, DFPS is required to file the service plan with the court for it to become effective. The parent is allowed to file a motion with the court at any time to request review and modification of the amended service plan. [Tex. Fam. Code § 263.104](#). A court can modify a service plan at any time. [Tex. Fam. Code § 263.106](#).

#### **2. Contents of the Service Plan**

The service plan must:

- Be specific;
- Be in writing and in a language that the parents understand, or made otherwise available;

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- Be prepared by DFPS in conference with the child’s parents;
  - State appropriate deadlines;
  - Specify the primary permanency goal and at least one alternative goal;
  - State the steps necessary to:
    - return the child to the child’s home if the placement is in foster care;
    - enable the child to remain in the child’s home with the assistance of a service plan if placement is in the home under DFPS’s supervision; or
    - otherwise provide a permanent safe placement for the child;
  - State the actions and responsibilities that are necessary for the child’s parents to take to achieve the plan goal during the period of the service plan and the assistance to be provided to the parents by DFPS or other agency toward meeting that goal;
  - State any specific skills or knowledge that the child’s parents must acquire or learn, as well as any behavioral changes the parents must exhibit, to achieve the plan goal;
  - State the actions and responsibilities that are necessary for the child’s parents to take to ensure that the child attends school and maintains or improves the child’s academic compliance;
  - State the name of the person with DFPS whom the child’s parents may contact for information relating to the child if other than the person preparing the plan; and
  - Prescribe any other term or condition that DFPS determines to be necessary to the service plan’s success. [Tex. Fam. Code § 263.102\(a\)](#).

The service plan shall include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT WITHIN THE REASONABLE TIME PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU. THERE WILL BE A COURT HEARING AT WHICH A JUDGE WILL REVIEW THIS SERVICE PLAN. [Tex. Fam. Code § 263.102\(b\)](#).

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### 3. Service Plans for Children Under Two Years of Age

DFPS shall consult with relevant professionals to determine the skills or knowledge that the parents of a child under two years of age should learn or acquire to provide a safe placement for the child. DFPS shall incorporate those skills and abilities into service plans, as appropriate. [Tex. Fam. Code § 263.102\(f\)](#).

### 4. Effective Date

The service plan takes effect when:

- The child’s parents and the appropriate representative of DFPS sign the plan; or
- The court issues an order giving effect to the plan without the parents’ signatures. [Tex. Fam. Code § 263.103\(d\)](#).

The plan is in effect until amended by the court or is superseded by a new plan negotiated between the parents and DFPS. [Tex. Fam. Code § 263.103\(e\)](#) and [Tex. Fam. Code § 263.104](#). A court can modify a service plan at any time. [Tex. Fam. Code § 263.106](#).

### 5. Court Implementation of Service Plan

After reviewing the original or any amended service plan, and making any changes or modifications deemed necessary, the court must incorporate the original or amended service plan into the orders of the court. The court may also render additional appropriate orders to implement or require compliance with an original or amended service plan. [Tex. Fam. Code § 263.106](#).

## E. Court Shall Review Visitation Plan

For more information regarding visitation and relevant forms, please see [Bench Book chapter on Family Visitation](#).

### 1. Visitation Plan

Visitation plans apply only to a child in the temporary managing conservatorship of DFPS for whom the goal of DFPS is reunification of the child with the child’s parent. [Tex. Fam. Code § 263.107\(a\)](#).

Not later than the 30th day after the date DFPS is named temporary managing conservator of a child, DFPS, in collaboration with each parent of the child, shall develop a visitation plan. [Tex. Fam. Code § 263.107\(b\)](#).

In determining the frequency and circumstances of visitation under [Tex. Fam. Code § 263.107](#), DFPS must consider:

- The safety and best interest of the child;

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- The age of the child;
  - The desires of each parent regarding visitation with the child;
  - The location of each parent and the child; and
  - The resources available to DFPS, including the resources to:
    - ensure that visitation is properly supervised by a DFPS employee or an available and willing volunteer DFPS determines suitable after conducting a background and criminal history check; and
    - provide transportation to and from visits. [Tex. Fam. Code § 263.107\(c\)](#).

Not later than the 10th day before the date of a Status Hearing under [Tex. Fam. Code § 263.201](#), DFPS shall file with the court a copy of the visitation plan developed under [Tex. Fam. Code § 263.107](#). [Tex. Fam. Code § 263.107\(d\)](#).

DFPS may amend the visitation plan on mutual agreement of the child's parents and DFPS or as DFPS considers necessary to ensure the safety of the child. An amendment to the visitation plan must be in the child's best interest. DFPS shall file a copy of any amended visitation plan with the court. [Tex. Fam. Code § 263.107\(e\)](#).

A visitation plan developed under [Tex. Fam. Code § 263.107](#) may not conflict with a court order relating to possession of and access to the child. [Tex. Fam. Code § 263.107\(f\)](#).

## **2. Review of Visitation Plan; Modification**

At the first hearing held under [Tex. Fam. Code Chapter 263](#) after the date an original or amended visitation plan is filed with the court under [Tex. Fam. Code § 263.107](#), the court shall review the visitation plan, taking into consideration the factors listed under [Tex. Fam. Code § 263.107\(c\)](#). [Tex. Fam. Code § 263.108\(a\)](#).

The court may modify, or order DFPS to modify, an original or amended visitation plan at any time. [Tex. Fam. Code § 263.108\(b\)](#).

A parent who is entitled to visitation under a visitation plan may at any time file a motion with the court to request review and modification of an original or amended visitation plan. [Tex. Fam. Code § 263.108\(c\)](#).

## **3. Court Implementation of Visitation Plan**

After reviewing an original or amended visitation plan, the court shall render an order regarding a parent's visitation with a child that the court determines appropriate. [Tex. Fam. Code § 263.109\(a\)](#).

If the court finds that visitation between a child and a parent is not in the child's best interest, the court shall render an order that:

- States the reasons for finding that visitation is not in the child's best interest; and

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- Outlines specific steps the parent must take to be allowed to have visitation with the child. [Tex. Fam. Code § 263.109\(b\)](#).

If the order regarding visitation between a child and a parent requires supervised visitation to protect the health and safety of the child, the order must outline specific steps the parent must take to have the level of supervision reduced. [Tex. Fam. Code § 263.109\(c\)](#).

## F. Child Placement Resources Form

The court shall require all parties present at the Status Hearing to file a Child Placement Resources Form, if they have not already done so. [Tex. Fam. Code § 263.201\(c\)](#).

## G. Permanency Planning Meetings

### 1. Timing of Permanency Planning Meetings

DFPS shall hold a permanency planning meeting for each child for whom DFPS is appointed temporary managing conservator in accordance with department rule that is designed to allow the child to exit the managing conservatorship of DFPS safely and as soon as possible and be placed with an appropriate adult caregiver who will permanently assume legal responsibility for the child. [Tex. Fam. Code § 263.009\(a\)](#).

### 2. Permanency Planning Meeting Requirements

At each permanency planning meeting, DFPS shall:

- Identify any barriers to achieving a timely permanent placement for the child;
- Develop strategies and determine actions that will increase the probability of achieving a timely permanent placement for the child; and
- Use the family group decision-making model whenever possible. [Tex. Fam. Code § 263.009\(b\)](#).

## H. Assessments

Not later than the 45<sup>th</sup> day after the date a child enters the conservatorship of DFPS, the child shall receive a developmentally appropriate comprehensive assessment. [Tex. Fam. Code § 266.012\(a\)](#).

The assessment must include:

- A screening for trauma; and
- Interviews with individuals who have knowledge of the child's needs. [Tex. Fam. Code § 266.012\(a\)](#).

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## I. Inquiry Regarding Child’s Native American Heritage

The court shall ask all parties present at the Status Hearing whether the child or the child’s family has a Native American heritage and identify any Native American tribe with which the child may be associated. [Tex. Fam. Code § 263.202\(f-1\)](#). For more information regarding requirements when a child has a Native American heritage, please see the [Bench Book chapter on the \*Indian Child Welfare Act\*](#).