

III. Stairsteps to Permanency (Chart)

The following chart summarizes the series of mandated hearings designed to move the cases to a resolution within the permanency deadline.

Day	Activities Required	Discussion and Comments
	Emergency removal without court order. § 262.104	If the emergency possession is without a court order, an ex parte hearing must be held on the “first working day” after removal (maximum 3 days) § 262.106; but 14-day clock starts
	Possession with intent to return to caretaker.	Whether the possession is by police under § 262.007 or the Department under § 262.110, the Department has <i>five</i> days to either return the child or file suit.
0	Emergency removal (with prior ex parte order).	The 365 day clock, § 263.401, starts when DFPS gets Temporary Managing Conservatorship (TMC), which may be ex parte. § 105.001(h); 14-day clock starts with possession.
0	Initial hearing and order; may be § 262.106 hearing, or “full adversary hearing.”	If the child remains in care, the court must appoint the Department as TMC and start the clock; <i>ad litem</i> (GAL and AAL) for the child also required. § 107.001(b). Removal may also be <i>after</i> the adversary hearing. § 262.205
14 [or 0]	“Full adversary hearing;” temporary orders or return to parent required § 262.201.	Court must inform each parent in open court that parental rights may be restricted or terminated unless the parent is willing and able to provide a safe environment for the child. § 262.201(c); § 262.205(c)(2). Court must also designate a person to consent to medical care for a child in foster care. § 266.004.
15	Request for identification of court of continuing jurisdiction; motion to transfer. § 155.201 et seq.	If the court has rendered temporary orders, DFPS must request identity of Court of Continuing Jurisdiction. § 262.202. Motion to transfer may be filed outside the time limits in Chapter 155. § 262.203(b). The court hearing the protective services case may determine the transfer issue if transfer is mandatory § 262.203(a)(2); transfer is not required until the CPS case has been resolved if the basis for transfer is a divorce action. § 262.203(c).
45	File service plan.	DFPS must file its service plan. § 263.101.
60	Status hearing.	Court must hold hearing to review child’s status and the service plan within 60 days after TMC is awarded. § 263.201. Court must review a summary of the medical care provided to the child (normally included in the CPS court reports) and consider the child’s views on the medical care being provided. § 266.007. Court must inform each parent in open court that parental rights may be restricted or terminated unless the parent is willing and able to provide a safe environment for the child. § 263.006.
170	Permanency Progress Report and Notice of Initial Permanency Hearing	Notice of the first permanency hearing must be given to foster parent, “preadoptive” parent, relative caretaker, <i>ad litem</i> attorney, CASA, etc., 10 days prior to hearing. § 263.301(b). A copy of the DFPS permanency plan must be given to each of the persons entitled to notice at least 10 days prior to the permanency hearing. § 263.3025(a). The Department is not required to search for relatives if the child has been abandoned under the “baby Moses” law and DFPS does not have information concerning the identity of the child or the child’s

		<p>parents. § 263.3025(a).</p> <p>The permanency progress report must (1) recommend that the suit be dismissed, or (2) recommend that the suit continue and identify the dismissal date, identify persons not served and efforts made to complete service of citation, and describe the efforts of the parents to provide locate information on unserved parties. § 263.303(b).</p> <p>The report must also (1) evaluate the parties' compliance with temporary orders and the DFPS service plan, (2) evaluate whether the foster care placement meets the child's needs and recommend actions to ensure that the child's needs are met, (3) describe the permanency plan for the child and recommend actions necessary to ensure that a final order is rendered within the time frames permitted, and (4) if the child is 16 or older, identify services necessary to assist the child in transition to adult life. § 263.303(b)(2)(C)-(E).</p> <p>A parent, or attorney for either the parent or the child may file a response to the permanency report not later than 3 days prior to the hearing. § 263.303(c).</p> <p>The department is also required to provide a summary of the child's medical care at or before each hearing, and usually includes a medical report as part of the permanency progress report. § 266.007(b).</p>
180	Initial Permanency Hearing. §§ 263.304; 263.306	<p>Court must review locate/service efforts, <i>including cooperation of parties before the court.</i> §§ 263.301(c); 263.306(a)(2) & (3).</p> <p>Court must conduct a "judicial review of medical care" as mandated by §266.007; <i>the foster child shall be provided an opportunity to express to the court the child's views of the medical care being provided.</i> §266.007(c).</p> <p>Child must attend, and the court must consult with a child four years of age or older (if in the child's best interest) unless attendance is specifically waived by court. § 263.302.</p> <p>Court must inform each parent in open court that parental rights may be restricted or terminated unless the parent is willing and able to provide a safe environment for the child. § 263.006.</p> <p>Specific additional duties of the court:</p> <p>Identify all persons present at hearing or those given notice but failing to appear. § 263.306(a).</p> <p>Return the child to parents if safe and in child's best interest. <i>Id.</i></p> <p>Place the child with a non-parent having standing under Chapter 102 if safe and in child's best interest. <i>Id.</i></p> <p>Evaluate DFPS efforts to identify relatives with whom placement could be safely made. <i>Id.</i></p> <p>Evaluate the parties' compliance with temporary orders and the service plan. <i>Id.</i></p> <p>Determine whether the child needs continued sub-care; whether the current placement is appropriate; and whether other plans or services are needed to meet the child's special needs. <i>Id.</i></p> <p>Determine whether institutional placement is in least restrictive environment and meets the child's special needs. <i>Id.</i></p> <p>If child is 16 or older, order transition services for independent</p>

		<p>living if available. <i>Id.</i></p> <p>Determine plans, services, and further temporary orders necessary to ensure final orders are rendered prior to dismissal deadline. <i>Id.</i></p> <p>Determine mandatory date for dismissal of the suit and give notice in open court to all parties of:</p> <ul style="list-style-type: none"> the dismissal date; the date of the next permanency hearing; and the date the suit is set for trial. <i>Id.</i> <p>Review all information to determine: (1) the safety of the child, (2) the continuing need and appropriateness of the placement, (3) compliance by all parties with the case plan, (4) progress toward alleviating or mitigating the circumstances making the foster care placement necessary, and (5) whether the Department has made reasonable efforts to finalize the permanency plan in effect for the child [e.g. reunification or termination/adoption].</p> <p>§ 263.306(b).</p> <p>Project a likely date by which the child may be returned home, placed for adoption, or placed in permanent managing conservatorship. <i>Id.</i></p>
290	Permanency Progress Report.	DFPS must file a permanency progress report and serve it on all parties at least 10 days prior to each permanency hearing. TEX. FAM. CODE § 263.303. Contents the same as for initial report.
300	Permanency Hearing.	<p>Court may shorten, but may not extend the 120-day deadline for subsequent permanency hearings. § 263.305.</p> <p>Required findings and orders are the same for subsequent as for initial permanency hearing. § 263.306(a).</p>
364	Extension order.	<p>The court may extend the time by not more than 180 days from the original deadline. § 263.401(b).</p> <p>The court may not grant an extension beyond the authorized 180 days. § 263.401(c).</p> <p>The parties may not agree to extend the deadlines set by the court. § 263.402(a). However, a motion to dismiss made after the court commences the trial on the merits is untimely and waives the objection. § 263.402(b).</p> <p>The court may place the child with a parent for up to 180 days of monitoring without regard to the deadlines, and special rules apply to removals from this “monitored placement” with a parent. § 263.403. See “special rule” below.</p>
365	Commence trial or dismiss case deadline. (Actually the “first Monday” following the one-year anniversary)	<p>The trial court must “commence” the trial on the merits not later than the first Monday after the first anniversary of the date the trial court granted the department TMC. § 263.401(a).</p> <p>Final orders appointing DFPS as permanent managing conservator without terminating parental rights to make adoption possible are discouraged. § 263.404.</p>
410	Permanency Progress Report (during extension).	DFPS must file a permanency progress report and serve it on all parties at least 10 days prior to each permanency hearing. § 263.303.
420	Permanency Hearing (during extension).	All requirements for initial permanency hearing apply. § 263.306.
540	Final Deadline; final	Case must be dismissed 180 days after the first Monday following

	<p>“permanency hearing” scheduled.</p>	<p>the first anniversary of the date TMC was granted to DFPS unless: trial on the merits has commenced; or the child has been placed with a parent for up to 180 days of monitoring.</p> <p>If a permanency hearing is scheduled on this date, it will be within days, if not hours of the absolute deadline for merits trial or dismissal.</p>
<p>**</p>	<p>Special rule when temporary placement for monitoring breaks down.</p>	<p>The court may, in lieu of a final order, continue DFPS as temporary managing conservator for not more than 180 days with the child placed in the home of a parent for monitoring. § 263.403(a).</p> <p>The court order must include specific findings of the grounds for the order, and must establish a dismissal date not more than 180 days after the order is <i>rendered</i>. § 263.403(b).</p> <p>If DFPS removes the child during the monitoring period, the deadline for dismissal or merits trial is the original dismissal date or 180 days after the removal of the child, whichever is later. § 263.403(c).</p>
	<p>Placement Review Hearings</p>	<p>If the final order appoints DFPS as the managing conservator of the child, with or without termination of parental rights, the court must continue to review the placement of the child at least every six months until the child is placed for adoption or becomes an adult. § 263.501.</p> <p>Remaining parties are entitled to notice [terminated parents would no longer be parties]. § 263.501(d).</p> <p>Placement review reports must be filed 10 days before each hearing. § 263.502.</p> <p>The court must review the placement in much the same manner as before the final judgment and must evaluate the Department's efforts to finalize the permanency plan for the child, such as to obtain an adoptive placement. § 263.503.</p> <p>The court must also continue to review the child’s medical care as required by Chapter 266.</p>

