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# PERMANENCY HEARING AFTER FINAL ORDER

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When a child is in the permanent managing conservatorship of DFPS, the court must periodically review the case to ensure that the child's needs are being met and that efforts to obtain permanency for the child are ongoing. As long as the child remains in the permanent managing conservatorship of DFPS, whether or not parental rights have been terminated, the court must continue to review the status of the child until the child permanently leaves the managing conservatorship of DFPS through adoption, appointment of a person as managing conservator, or transitioning out of care upon the child's 18th birthday or graduation from high school, whichever occurs later. In some instances, young adults will voluntarily remain in extended foster care until their 21<sup>st</sup> birthday.

The Texas Family Code envisions continued efforts to achieve permanency for a child, even after the appointment of DFPS as permanent managing conservator. This includes changing the terminology regarding this hearing to emphasize the need to seek permanency for a youth until the youth leaves care, even if DFPS has permanent managing conservatorship.

**Please see the Checklist Section for the  
Permanency Hearing After Final Order Checklist.**

## A. When Permanency Hearing After Final Order is Conducted

After the entry of an order that appoints DFPS as permanent managing conservator of a child, if the parental rights are not terminated, a Permanency Hearing After Final Order must be held within six months. If the parental rights are terminated, the first Permanency Hearing After Final Order must be held within 90 days after the court renders the final order. [Tex. Fam. Code § 263.501\(a\) and \(b\)](#). Thereafter, a Permanency Hearing After Final Order must be held every six months until the date the child leaves the permanent managing conservatorship of DFPS. [Tex. Fam. Code § 263.501\(a\)](#).

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**Special Issue:** *Positive permanency for children and youth can still be achieved at any stage of a case. Placement options can become available until the child turns 18, so judges can continue to set judicial expectations that positive permanency is the goal and that urgency to identify placement before the youth ages out is critical. Continuing to engage family and youth in their case, setting frequent hearings, and employing techniques to locate and engage relatives and kin also facilitate positive permanency after final orders are entered.*

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## B. Notice of the Permanency Hearing After Final Order

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\(a\)](#). Notice of a hearing under Chapter 263 must state that the individual receiving notice pursuant to [Tex. Fam. Code § 263.0021\(b\)](#) may, but is not required to, attend the hearing and may request to be heard at the hearing. [Tex. Fam. Code § 263.0021\(e\)](#). Courts must determine whether the child's caregiver is present at the hearing and allow the caregiver to testify if the caregiver wishes to provide information about the child. [Tex. Fam. Code § 263.0021\(f\)](#).

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](#):

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- 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](#);
- 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\(c\)](#).

The licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee is entitled to at least 10 days' notice of a Permanency Hearing After Final Order. [Tex. Fam. Code § 263.0021\(d\)](#).

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**Special Issue:** [Tex. Fam. Code 263.501\(c\)](#) requires notice of a Permanency Hearing After Final Order be given as provided by [Tex. Fam. Code § 263.0021](#) which includes notice to each parent. If a parent's rights have been terminated, the legal status of that parent no longer exists and notice is not required. If DFPS has been named permanent managing conservator without termination of a parent's rights, that parent is entitled to notice, even if they are not represented by counsel.

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## C. The Child Shall Attend the Permanency Hearing After Final Order

The child shall attend each Permanency Hearing After Final Order in accordance with [Tex. Fam. Code § 263.302](#). [Tex. Fam. Code § 263.501\(f\)](#).

## D. Permanency Progress Report After Final Order

### 1. Filing the Permanency Progress Report After Final Order

Not later than the 10th day before the date set for a Permanency Hearing After Final Order, DFPS shall file a permanency progress report with the court. [Tex. Fam. Code § 263.502\(a\)](#). For good cause shown, the court may order a different time for filing the report or that a report is not required for a specific hearing. [Tex. Fam. Code § 263.502\(a-2\)](#).

### 2. Copies of Report Provided

DFPS shall provide a copy to each person entitled to notice of the hearing under [Tex. Fam. Code § 263.0021](#). [Tex. Fam. Code § 263.502\(a\)](#).

### 3. Permanency Progress Report Contents

The permanency progress report must contain:

- Information necessary for the court to conduct the Permanency Hearing and make its findings and determinations under [Tex. Fam. Code § 263.5031](#);
- Information on significant events, as defined by [Tex. Fam. Code § 264.018](#); and
- Any additional information DFPS determines is appropriate or that is requested by the court and relevant to the court's findings and determinations under [Tex. Fam. Code § 263.5031](#). [Tex. Fam. Code § 263.502\(a-1\)](#).

## E. Conducting a Permanency Hearing After Final Order

At each Permanency Hearing After Final Order, the court shall:

- Identify all persons and parties present at the hearing;
- Review the efforts of DFPS or other agency in notifying persons entitled to notice under [Tex. Fam. Code § 263.0021](#);
- Make a finding as to whether DFPS is able to place the child with a relative or other designated caregiver and state the evidence that supports its finding either way. [Tex. Fam. Code § 262.0022](#), [Tex. Fam. Code § 263.002](#), and [Tex. Fam. Code § 263.5031\(3\)\(B\)](#); and
- Review the permanency progress report to determine:
  - the safety and well-being of the child and whether the child's needs, including any medical or special needs, are being adequately addressed;

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- whether DFPS placed the child with a relative or other designated caregiver and the continuing necessity and appropriateness of the placement of the child, including with respect to a child who has been placed outside of this state, whether the placement continues to be in the best interest of the child;
  - if the child is placed in institutional care, whether efforts have been made to ensure that the child is placed in the least restrictive setting consistent with the child's best interest and special needs;

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**Special Issue:** Under *Tex. Fam. Code § 263.001(3-a)*, “least restrictive setting” means a placement that, in comparison to all other available placements, is the most family-like setting. For children older than six, placing the child in a cottage home, even though part of a general residential operation and considered congregate care under federal law, is permissible and considered under *Tex. Fam. Code § 263.001(c)* to be a “least restrictive setting” if a suitable relative or other designated caregiver is not available as a placement for the child. Under *Tex. Fam. Code § 263.001(d)*, for children younger than six, the only acceptable “least restrictive setting” is a foster home. A cottage home may be considered the least restrictive setting for a child younger than six only if DFPS determines it is in the best interest of the child to be placed in the cottage home.

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- the appropriateness of the primary and alternative permanency goals for the child, whether DFPS has made reasonable efforts to finalize the permanency plan, including the concurrent permanency goals, in effect for the child, and whether:
  - DFPS has exercised due diligence in attempting to place the child for adoption if parental rights to the child have been terminated and the child is eligible for adoption; or
  - another permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;
- for a child whose permanency goal is another planned permanent living arrangement:
  - the desired permanency outcome for the child, by asking the child;
  - whether, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child, and, if so, provide compelling reasons why it continues to not be in the best interest of the child to:
    - return home;
    - be placed for adoption;
    - be placed with a legal guardian; or
    - be placed with a fit and willing relative;
  - whether DFPS has:

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- conducted an independent living skills (ILS) assessment under [Tex. Fam. Code § 264.121\(a-3\)](#);
  - addressed the goals identified in the child’s permanency plan, including the child’s housing plan, and the results of the ILS assessment;
  - provided a youth 16 years and older with the documents and information listed in [Tex. Fam. Code § 264.121\(e\)](#); and
  - provided a youth who is 18 years or has had the disabilities of minority removed, the documents and information listed in [Tex. Fam. Code § 264.121\(e-1\)](#). [Tex. Fam. Code § 263.306\(a-1\)\(5\)](#);
- if the child is 14 years of age 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;
  - 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;
  - 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;
  - 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;
  - 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 six 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 permanent managing conservatorship 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 child’s parent; and
  - whether DFPS has identified a family or other caring adult who made a permanent commitment to the child. [Tex. Fam. Code § 263.5031](#).

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- 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\(b\)](#).
  - The court shall inquire from all parties whether the child has had the opportunity to provide information regarding potential caregivers and whether individuals identified by the child are listed on the proposed Child Placement Resources Form. [Tex. Fam. Code § 263.5031\(4\)\(B\)](#).
  - If the child has been placed with a relative or designated caregiver, the court shall inform the individual serving as a placement for the child of the ability to become a licensed foster parent and apply for a Permanency Care Assistance agreement. [Tex. Fam. Code § 263.5031\(3\)](#).

Additionally, [Tex. Fam. Code § 263.503\(c\)](#) requires that, in addition to the requirements of [Tex. Fam. Code § 263.5031](#), at each Permanency Hearing After a Final Order the court shall review DFPS efforts to ensure that the child has regular, ongoing opportunities to engage in age-appropriate normalcy activities as defined by [Tex. Fam. Code § 264.001](#); this may include activities not listed in the child's service plan. [Tex. Fam. Code § 263.503](#).

## **F. Review of Placement of a Child in Qualified Residential Treatment Program**

As long as a child remains in a Qualified Residential Treatment Program (QRTP), DFPS must provide the court with information at the Status Review Hearing and at each Permanency Hearing demonstrating that:

- The ongoing assessment of the child's strengths and needs shows the needs of the child cannot be met through placement in a foster home;
- Placement in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment, and;
- The placement is consistent with the short-term and long-term goals for the child specified in the permanency plan.

DFPS must provide information documenting the specific treatment or service needs that will be met for the child in the placement, the length of time the child is expected to need the treatment or services, and the efforts made by DFPS to prepare the child to be placed in a home, with a foster home, relative, legal guardian, or adoptive parent. [Tex. Fam. Code § 263.00201\(d\)](#).

The review of a child's placement in a QRTP may be conducted through a remote proceeding. [Tex. Fam. Code § 263.00201\(f\)](#).

## **G. Court Orders Related to Permanent Managing Conservatorship**

### **1. Court Ordered Services for Parents**

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When a parent is still involved or over time becomes re-involved in the case, a court may order DFPS to provide services to a parent for not more than six 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 permanent managing conservatorship 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 child's parent. [Tex. Fam. Code § 263.5031\(3\)\(J\)](#).

## **2. Termination of Parental Rights After Denial of Prior Petition to Terminate**

The court may terminate the parent-child relationship after rendition of an order that previously denied termination of the parent-child relationship if:

- The petition under [Tex. Fam. Code § 161.004](#) is filed after the date the order denying termination was rendered;
- The circumstances of the child, parent, sole managing conservator, possessory conservator, or other party affected by the order denying termination have materially and substantially changed since the date that the order was rendered;
- The parent committed an act listed under [Tex. Fam. Code § 161.001](#) before the date the order denying termination was rendered; and
- Termination is in the best interest of the child. [Tex. Fam. Code § 161.004\(a\)](#).

At a hearing under [Tex. Fam. Code § 161.004](#), the court may consider evidence presented at a previous hearing in a suit for termination of the parent-child relationship of the parent with respect to the same child. [Tex. Fam. Code § 161.004\(b\)](#).

## **3. Child Committed to Texas Juvenile Justice Department**

A court is required to conduct a Permanency Hearing After Final Order for a child while the child is committed to or released under the supervision of TJJD, unless the child is adopted or permanent managing conservatorship of the child is awarded to an individual other than DFPS. [Tex. Fam. Code § 263.501\(g\)](#).

## **H. Foster Youth Bill of Rights and Ombudsman's Office**

Each child in foster care shall be informed of the child's rights provided by state or federal law or policy that relate to:

- Abuse, neglect, exploitation, discrimination, and harassment;
- Food, clothing, shelter, and education;

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- Medical, dental, vision, and mental health services, including the right of the child to consent to treatment;
  - Emergency behavioral intervention, including what methods are permitted, the conditions under which it may be used, and the precautions that must be taken when administering it;
  - Placement with the child's siblings and contact with members of the child's family;
  - Privacy and searches, including the use of storage space, mail, and the telephone;
  - Participation in school-related extracurricular or community activities;
  - Interaction with persons outside the foster care system, including teachers, church members, mentors, and friends;
  - Contact and communication with caseworkers, attorneys ad litem, guardians ad litem, and court-appointed special advocates;
  - Religious services and activities;
  - Confidentiality of the child's records;
  - Job skills, personal finances, and preparation for adulthood;
  - Participation in a court hearing that involves the child;
  - Participation in the development of service and treatment plans;
  - If the child has a disability, the advocacy and protection of the rights of a person with that disability; and
  - Any other matter affecting the child's ability to receive care and treatment in the least restrictive environment that is most like a family setting. [Tex. Fam. Code § 263.008\(b\)](#).

DFPS shall provide a written copy of the foster children's bill of rights to each child placed in foster care in the child's primary language, if possible, and shall inform the child of the rights described by the foster children's bill of rights:

- Orally in the child's primary language, if possible, and in simple, non-technical terms; or
- For a child who has a disability, including an impairment of vision or hearing, through any means that can reasonably be expected to result in successful communication with the child. [Tex. Fam. Code § 263.008\(c\)](#).

The Health and Human Services Commission must appoint an ombudsman for children and youth in foster care. [Tex. Gov't Code § 531.992\(a\)](#). The ombudsman serves as a neutral party in assisting children and youth in the conservatorship of DFPS with complaints regarding issues with the authority of DFPS or another health and human services agency. [Tex. Gov't Code § 531.993](#).

Youth may contact the Foster Care Ombudsman through the following methods:

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- Toll-free phone: 1-844-286-0769 (8am to 5pm, Monday through Friday)
  - Toll-free fax: 1-888-780-8099
  - Mail: Texas Health and Human Services Commission  
Foster Care Ombudsman, MC H-700  
P O Box 13247  
Austin, Texas 78711-3247
  - Online: [HHS Ombudsman Foster Care Help](#)<sup>9</sup>
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**Special Issue:** Judges, Parents, Attorneys, CASA and other individuals with inquiries and complaints about a child or youth's case may continue to contact the DFPS [Office of Consumer Relations](#) by phone at 1-800-720-7777 or by email at [OCR@dfps.texas.gov](mailto:OCR@dfps.texas.gov).

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## I. Transitional Services

### 1. Transition to Independence

DFPS has a duty to address unique challenges facing youth in conservatorship transitioning to independence, including efforts to improve transition planning and providing experiential life skills-training. [Tex. Fam. Code § 264.121](#). The life skills-training must include instruction on financial literacy including, but not limited to, understanding the timeline to file taxes, protecting against identity theft, and preparing a budget. For youth 17 or older, the training must also include lessons related to insurance, civic engagement, and identification documents. [Tex. Fam. Code § 264.121\(a-2\)](#). For youth 14 or older, DFPS must ensure the youth has an email address through which they can receive documents before they leave foster care. [Tex. Fam. Code § 264.121\(a-7\)](#).

DFPS must conduct an independent living skills (ILS) assessment for all youth 16 and older in DFPS Temporary or Permanent Managing Conservatorship and must conduct an ILS assessment for all youth 14 and older in DFPS Permanent Managing Conservatorship. [Tex. Fam. Code § 264.121\(a-3\) and \(a-4\)](#). DFPS must annually update the youth's ILS assessment to determine the skills acquired by the youth during the preceding year. [Tex. Fam. Code § 264.121\(a-5\)](#).

DFPS also must coordinate with the Texas Higher Education Board to establish a workgroup to develop a plan to ensure that youth in foster care who complete a standardized the Preparation for Adult Living (PAL) curriculum are eligible to receive college credit for completing the PAL program. used around the state by providers. DFPS will report this plan to the legislature not later than November 1, 2022. [Tex. Fam. Code § 264.121\(a-6\)](#).

DFPS must also ensure that before a youth leaves foster care, each youth who is 14 years of age or older has an email address where they can receive encrypted copies of personal documents and records. [Tex. Fam. Code § 264.121\(a-7\)](#).

DFPS must ensure that the transition plan for each youth 16 years of age or older includes provisions to assist the youth in managing the youth's housing needs after the youth leaves foster care, including provisions that:

- Identify the cost of housing in relation to the youth's sources of income, including any benefits or rental assistance available to the youth;

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- If the youth's housing goals include residing with family or friends, state that DFPS has addressed the following with the youth:
    - the length of time the youth expects to stay in the housing arrangement;
    - expectations for the youth regarding paying rent and meeting other household obligations;
    - the youth's psychological and emotional needs, as applicable; and
    - any potential conflicts with other household members, or any difficulties connected to the type of housing the youth is seeking, that may arise based on the youth's psychological and emotional needs;
  - Inform the youth about emergency shelters and housing resources, including supervised independent living (SIL) and housing at colleges and universities, such as dormitories;
  - Require DFPS to review a common rental application with the youth and ensure that the youth possess all of the documentation required to obtain rental housing; and
  - Identify any individuals who are able to serve as cosigners or references on the youth's application for housing. [Tex. Fam. Code § 264.121\(i\)](#).

## **2. Housing for Homeless Youth Aging out of Care**

For youth who will voluntarily enter extended foster care, DFPS shall do the following:

- Complete any necessary transitional housing paperwork for youth entering extended foster care, six months before the youth turns 18 and to review the qualifications for housing 90 days before the youth turns 18.
- Waive background checks if a youth in extended foster care continues to live with the same substitute caregivers.
- Notify the youth and document the communication if their placement will not allow them to live there after the youth's 18th birthday. A foster home that prohibits a youth from living there after they turn 18 shall notify the caseworker 90 days before the youth's 18th birthday and congregate care facilities must notify the caseworker six months before the youth's 18th birthday or as soon as possible if the youth is placed there within six months of their 18th birthday.
- Assist the youth in Supervised Independent Living (SIL) programs to develop a rental history by allowing them to co-sign for the lease on their housing.
- Develop a protocol to prevent a youth from aging out of residential treatment center and implement the protocol when the youth turns 17 years old. [Tex. Fam. Code § 264.1214](#).

## **3. Provision of Copies of Certain Records**

DFPS must ensure that each youth acquires a copy and a certified copy of the youth's birth certificate, a social security card or replacement social security card, as appropriate, and a personal identification

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certificate under [Tex. Transp. Code Chapter 521](#), on or before the date the on which the youth turns 16 years old. [Tex. Fam. Code § 264.121\(e\)](#).

If, at the time a youth is discharged from foster care, the youth is at least 18 years of age or has had the disabilities of a minor removed, DFPS shall provide to the youth, not later than the 30th day before the date the child is discharged from foster care, the following information and documents unless the youth already has the information or document:

- The youth's birth certificate;
- The youth's immunization records;
- The information contained in the youth's health passport;
- A personal identification certificate under [Tex. Transp. Code Chapter 521](#);
- A social security card or a replacement social security card, if appropriate; and
- A Medicaid card or other proof of the youth's enrollment in Medicaid or an insurance card from a health plan that provides health coverage to foster youth. [Tex. Fam. Code § 264.121\(e-1\)](#).

When providing a youth with a document required by [Tex. Fam. Code § 264.121\(e-1\)](#), DFPS shall provide the youth with a copy and a certified copy of the document or with the original document, as applicable. [Tex. Fam. Code § 264.121\(e-2\)](#).

Prior to the youth leaving care, the youth's DFPS caseworker shall:

- Assist the youth with developing a plan for keeping the document described in [Tex. Fam. Code § 264.121\(e\)](#) in a safe place; and
- Inform the youth about the documents the youth is required to receive before the date the youth is discharged from foster care. [Tex. Fam. Code § 264.121\(e-4\)](#).

When obtaining a copy of a birth certificate to provide to a foster youth or assisting a foster youth in obtaining a copy of a birth certificate, the department shall obtain the birth certificate from the state registrar. If the department is unable to obtain the birth certificate from the state registrar, the department may obtain the birth certificate from a local registrar or county clerk. [Tex. Fam. Code § 264.121\(e-3\)](#).

Attorneys and guardians ad litem, along with other advocates, are responsible for ascertaining whether youth in care have received a copy of the documents referenced in [Tex. Fam. Code § 264.121\(e\)](#) and [\(e-1\)](#). [Tex. Fam. Code § 107.003\(b\)](#). Courts are also required to determine whether the department has provided the youth with documents required by [Tex. Fam. Code § 264.121\(e\)](#), and for youth 18 years or older, or who has had the disabilities of minority removed, whether the department has provided the youth with the documents and information listed in [Tex. Fam. Code § 264.121\(e-1\)](#). [Tex. Fam. Code § 263.306\(a-1\)](#) and [Tex. Fam. Code § 263.5031\(3\)](#).

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For more information about how to support youth who are transitioning from foster care, please visit the Texas RioGrande Legal Aid [Texas Foster Youth Justice Project website](#), including [A Guide for Those "Aging Out" of Foster Care in Texas](#).<sup>10</sup>

## J. Extended Jurisdiction for Youth Aging Out of Foster Care

### 1. Young Adult

“Young adult” is a person who was in the conservatorship of DFPS on the day before the person’s 18th birthday. [Tex. Fam. Code § 263.601\(4\)](#).

### 2. Extended Foster Care

“Extended foster care” is foster care that extends beyond the young adult’s 18th birthday. It requires the young adult to voluntarily reside in a residential setting that is licensed or approved and paid for by DFPS, including a foster home, foster group home, Residential Treatment Center (RTC), and Supervised Independent Living (SIL) facility through a provider who has a contract with DFPS for extended foster care services. [Tex. Fam. Code § 263.601\(1\)](#).

### 3. Trial Independence

“Trial independence” means the status assigned to a young adult under [Tex. Fam. Code § 263.6015](#), which is automatic and mandatory for a minimum of 6 months beginning on:

- The date of the young adult’s 18th birthday; or
- The date the young adult exits extended foster care. [Tex. Fam. Code § 263.6015\(b\)](#).

A court may order trial independence status extended for a period that exceeds the mandatory period under [Tex. Fam. Code § 263.6015\(b\)](#) but cannot exceed one year from the date the period under [Tex. Fam. Code § 263.6015\(b\)](#) commences. [Tex. Fam. Code § 263.6015\(c\)](#).

Each time a young adult exits foster care (originally at 18 or extended foster care), the youth adult will complete a new six-month period of trial independence. [Tex. Fam. Code § 263.6015\(d\)](#).

A young adult’s trial independence status ends on the young adult’s 21<sup>st</sup> birthday. [Tex. Fam. Code § 263.6015\(e\)](#).

### 4. Extended Jurisdiction After Child’s 18th Birthday

Any court with jurisdiction over a youth on the day before they turn 18 will automatically continue to have jurisdiction of the youth beyond their 18th birthday for at least six months. [Tex. Fam. Code § 263.602\(a\)](#).

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**Special issue:** *A young adult age 18 or older is allowed to temporarily leave foster care, and as long as the court has jurisdiction, the state is eligible for federal funding to provide services for the young adult, including independent living supports such as housing.*

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While a youth is in extended foster care, the Texas Family Code requires the court to conduct review hearings every six months and make specific findings regarding the young adult’s living arrangement,

144

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the permanency plan, whether the young adult participated in developing the plan, and whether it reflects independent living skills and appropriate services in order for the young adult to achieve independence, and whether additional services are needed to meet the young adult's needs. [Tex. Fam. Code § 263.602\(b\)](#).

The extended jurisdiction statute states that, unless a court extends its jurisdiction over a young adult beyond the end of trial independence as provided by [Tex. Fam. Code § 263.6021\(a\)](#) or [Tex. Fam. Code § 263.603\(a\)](#), the court's extended jurisdiction over a young adult terminates on the earlier of:

- The last day of the month in which trial independence ends; or
- The young adult's 21st birthday. [Tex. Fam. Code § 263.602\(f\)](#).

A court with extended jurisdiction is not required to conduct periodic hearings as described in [Tex. Fam. Code § 263.602](#) for a young adult who is only on trial independence and may not compel a young adult who has elected to not enter or has exited extended foster care to attend a court hearing. However, a court may, at the request of the young adult who is on trial independence, conduct a hearing described by [Tex. Fam. Code § 263.602\(b\)](#) or [Tex. Fam. Code § 263.6021](#) to review any transitional living services the young adult is receiving during trial independence. [Tex. Fam. Code § 263.602\(g\)](#).

For more information, see an [Extended Court Jurisdiction Flowchart](#) developed by DFPS.<sup>11</sup>

Unless a young adult receiving voluntary transitional living services while on trial independence reenters extended foster care before the end of the court's extended jurisdiction, the extended jurisdiction of the court ends on the earlier of:

- The young adult's 21st birthday; or
- The date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court. [Tex. Fam. Code § 263.6021\(b\)](#).

For more information, see a [Brief Overview of Transitional Living Services](#) developed by DFPS.<sup>12</sup>

## **5. Extended Jurisdiction in Guardianship Situation**

If a court believes that a young adult may be incapacitated as defined by [Tex. Est. Code § 1002.017\(2\)](#), the court may extend its jurisdiction on its own motion without the young adult's consent to allow DFPS to refer the young adult to the Health and Human Services (HHS) Guardianship Services Program (formerly known as the Department of Aging and Disability Services or DADS) for guardianship services, as required by [Tex. Hum. Res. Code § 48.209](#). [Tex. Fam. Code § 263.603\(a\)](#).

The extended jurisdiction to determine guardianship under [Tex. Fam. Code § 263.603](#) terminates on the earliest of the date when:

- Guardianship Services Program determines a guardianship is not appropriate under [Tex. Hum. Res. Code Chapter 161](#);
- A court with probate jurisdiction denies the application to appoint a guardian; or

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- A guardian is appointed and qualifies under the Texas Estates Code. [Tex. Fam. Code § 263.603\(b\)](#).

If DFPS or HHS Guardianship Services Program determines a guardianship is not appropriate, or the court with probate jurisdiction denies the application to appoint a guardian, the court, under [Tex. Fam. Code § 263.603\(a\)](#), may continue to extend its jurisdiction over the young adult only as provided by [Tex. Fam. Code § 263.602](#) or [Tex. Fam. Code § 263.6021](#). [Tex. Fam. Code § 263.603\(c\)](#).

A young adult for whom a guardian is appointed and qualifies is not considered to be in extended foster care or trial independence and the court's jurisdiction ends on the date the guardian for the young adult is appointed and qualifies, unless the guardian requests the extended jurisdiction of the court under [Tex. Fam. Code § 263.604](#). [Tex. Fam. Code § 263.603\(d\)](#).

## **6. By Guardian Request**

A guardian appointed for a young adult may request that the court extend the court's jurisdiction over the young adult. A court that extends its jurisdiction over a young adult for whom a guardian is appointed may not issue an order that conflicts with an order entered by the probate court that has jurisdiction over the guardianship proceeding. [Tex. Fam. Code § 263.604](#).

## **7. Role of Attorney ad Litem, Guardian ad Litem, or Volunteer Advocate**

A court with extended jurisdiction may continue or renew the appointment of an attorney ad litem, guardian ad litem, or volunteer advocate for the young adult to assist in accessing services the young adult is entitled to receive from DFPS or any other service provider. [Tex. Fam. Code § 263.605](#).

An attorney ad litem or guardian ad litem appointed for a young adult who receives services in the young adult's own home from a service provider or resides in an institution that is licensed, certified, or verified by a state agency other than DFPS shall assist the young adult as necessary to ensure that the young adult receives appropriate services. [Tex. Fam. Code § 263.606](#).

## **8. Prohibited Appointments and Orders**

The court may not appoint DFPS or HHS Guardianship Services Program as the managing conservator or guardian of the young adult. [Tex. Fam. Code § 263.607\(a\)](#). A court may not order DFPS to provide a service to a young adult unless DFPS:

- Is authorized to provide the services under state law; and
- Is appropriated money to provide the services in an amount sufficient to comply with the court order and DFPS obligations to other young adults for whom DFPS is required to provide similar services. [Tex. Fam. Code § 263.607\(b\)](#).

## **9. Rights of Young Adults**

A young adult who consents to the continued jurisdiction of the court has the same rights as any other adult of the same age. [Tex. Fam. Code § 263.608](#).