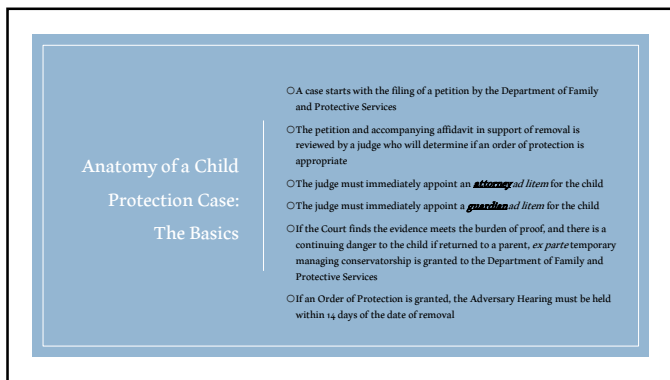
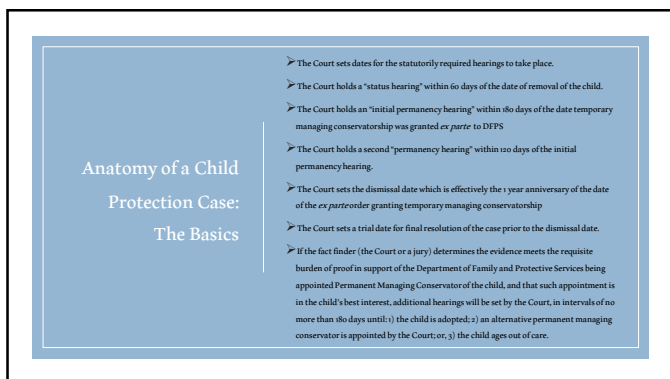




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3

Mandatory Appointments: *Guardian Ad Litem*

Pursuant to Texas Family Code §107.011(a), "in a suit filed by a governmental entity seeking termination of the parent-child relationship or the appointment of a conservator for a child, **the court shall appoint a guardian ad litem to represent the best interest of the child immediately after the filing of the petition but before the full adversary hearing.**" *Emphasis added.*

That guardian ad litem may be "a charitable organization composed of volunteer advocates or an individual volunteer advocate appointed under Subchapter C." Tex. Fam. Code §107.011(b)(1).

The court may "appoint a charitable organization composed of volunteer advocates whose charter mandates the provision of services to allegedly abused and neglected children or an individual who has received the court's approved training regarding abused and neglected children and who has been certified by the court to appear at court hearings as a guardian ad litem for the child or as a volunteer advocate for the child." Tex. Fam. Code §107.031(a).

4

Roles in a Child Protection Case

Parties:

Petitioner - Department of Family and Protective Services. DFPS is typically represented by a DFPS attorney, County Attorney or District Attorney.

Respondent - Mother. May be pro se or represented by retained or appointed counsel.

Respondent - Adjudicated Father. May be pro se or represented by retained or appointed counsel.

Respondent - Presumed Father. May be pro se or represented by retained or appointed counsel.

Respondent - Alleged Father (including Unknown Father). May be pro se or represented by retained or appointed counsel.

Respondent conservator. May be pro se or represented by retained or appointed counsel.

Respondent - Office of the Attorney General. Represented by an Assistant Attorney General. Involved in those instances where a prior order has been issued as a result of a child support case involving the Office of the Attorney General.

Intervenor. May be pro se or represented by retained or appointed counsel.

Child. Represented by a court appointed attorney ad litem to represent the legal interests of the child.

Non-party participant:

Guardian Ad Litem. Court appointed to represent the best interest of the child.

5

Roles in a Child Protection Case

Parties:

Petitioner - Department of Family and Protective Services. Attorney representing DFPS advocates the position established by DFPS.

Respondent - Mother. Counsel for the mother owes to the mother the duties of loyalty, confidentiality and competent representation.

Respondent - Adjudicated Father. Counsel for the adjudicated father owes to the adjudicated father the duties of loyalty, confidentiality and competent representation.

Respondent - Presumed Father. Counsel for the presumed father owes to the presumed father the duties of loyalty, confidentiality and competent representation.

Respondent - Alleged Father (including Unknown Father). Counsel for the alleged father owes to the alleged father the duties of loyalty, confidentiality and competent representation.

Respondent conservator. Counsel for the respondent conservator owes to the respondent conservator the duties of loyalty, confidentiality and competent representation.

Respondent - Office of the Attorney General. Counsel for the Office of the Attorney General advocates the position of the TV-D agency.

Intervenor. Counsel for the intervenor owes to the intervenor the duties of loyalty, confidentiality and competent representation.

Child. Counsel for the child owes to the child the duties of loyalty, confidentiality and competent representation.

Non-party participant:

Guardian Ad Litem. Court appointed to represent the best interest of the child.

6

HOW IS "BEST INTEREST" DETERMINED?

7

Texas Family Code §263.307 Factors in Determining Best Interest of Child

(a) In considering the factors established by this section, the prompt and permanent placement of the child in a safe environment is presumed to be in the child's **best interest**.

(b) The following factors should be considered by the court and the department in determining whether the child's parents are willing and able to provide the child with a safe environment:

- (1) the child's age and physical and mental vulnerabilities;
- (2) the frequency and nature of out-of-home placements;
- (3) the magnitude, frequency, and circumstances of the harm to the child;
- (4) whether the child has been the victim of repeated harm after the initial report and intervention by the department;
- (5) whether the child is fearful of living in or returning to the child's home;
- (6) the results of psychiatric, psychological, or developmental evaluations of the child, the child's parents, other family members, or others who have access to the child's home;
- (7) whether there is a history of abusive or assaultive conduct by the child's family or others who have access to the child's home;
- (8) whether there is a history of substance abuse by the child's family or others who have access to the child's home;
- (9) whether the perpetrator of the harm to the child is identified;
- (10) the willingness and ability of the child's family to seek out, accept, and complete counseling services and to cooperate with and facilitate an appropriate agency's close supervision;
- (11) the willingness and ability of the child's family to effect positive environmental and personal changes within a reasonable period of time;

8

Texas Family Code §263.307 Factors in Determining Best Interest of Child

(12) whether the child's family demonstrates adequate parenting skills, including providing the child and other children under the family's care with:

- (A) minimally adequate health and nutritional care;
- (B) care, nurturance, and appropriate discipline consistent with the child's physical and psychological development;
- (C) guidance and supervision consistent with the child's safety;
- (D) a safe physical home environment;
- (E) protection from repeated exposure to violence even though the violence may not be directed at the child; and
- (F) an understanding of the child's needs and capabilities; and

(13) whether an adequate social support system consisting of an extended family and friends is available to the child.

(c) In the case of a child 16 years of age or older, the following guidelines should be considered by the court in determining whether to adopt the permanency plan submitted by the department:

- (1) whether the permanency plan submitted to the court includes the services planned for the child to make the transition from foster care to independent living; and
- (2) whether this transition is in the **best interest** of the child.

9

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12

Powers and Duties of the
Guardian *Ad Litem*
for a Child

Good grief!
That is a long list and tiny print!

13

Texas Family Code §107.002
"Powers and Duties of
Guardian *Ad Litem* for Child"

(a) A guardian *ad litem* appointed for a child under this chapter is not a party to the suit but may:

- (1) conduct an investigation to the extent that the guardian *ad litem* considers necessary to determine the best interests of the child; and
- (2) obtain and review copies of the child's relevant medical, psychological, and school records as provided by Section 107.006.

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Texas Family Code §107.002
"Powers and Duties of
Guardian *Ad Litem* for
Child"

(b) A guardian *ad litem* appointed for the child under this chapter shall:

- (1) within a reasonable time after the appointment, interview:
 - (A) the child in a developmentally appropriate manner, if the child is four years of age or older;
 - (B) each person who has significant knowledge of the child's history and condition, including educators, child welfare service providers, and any foster parent of the child; and
 - (C) the parties to the suit;
- (2) seek to elicit in a developmentally appropriate manner the child's expressed objectives;
- (3) consider the child's expressed objectives without being bound by those objectives;
- (4) encourage settlement and the use of alternative forms of dispute resolution; and
- (5) perform any specific task directed by the court.

15

Texas Family Code §107.002
 "Powers and Duties of
 Guardian *Ad Litem*
 for Child"

(b-1) In addition to the duties required by Subsection (b), a guardian *ad litem* appointed for a child in a proceeding under Chapter 262 or 263 shall:

- (1) review the medical care provided to the child;
- (2) in a developmentally appropriate manner, seek to elicit the child's opinion on the medical care provided;
- (3) for a child at least 16 years of age, ascertain whether the child has received the following documents:
 - (A) a certified copy of the child's birth certificate;
 - (B) a social security card or a replacement social security card;
 - (C) a driver's license or personal identification certificate under Chapter 521, Transportation Code; and
 - (D) any other personal document the Department of Family and Protective Services determines appropriate; and
- (4) seek to elicit in a developmentally appropriate manner the name of any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child and immediately provide the names of those individuals to the Department of Family and Protective Services.

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Texas Family Code §107.002
 "Powers and Duties of
 Guardian *Ad Litem*
 for Child"

(c) A guardian *ad litem* appointed for the child under this chapter is entitled to:

- (1) receive a copy of each pleading or other paper filed with the court in the case in which the guardian *ad litem* is appointed;
- (2) receive notice of each hearing in the case;
- (3) participate in case staffings by the Department of Family and Protective Services concerning the child;
- (4) attend all legal proceedings in the case but may not call or question a witness or otherwise provide legal services unless the guardian *ad litem* is a licensed attorney who has been appointed in the dual role;
- (5) review and sign, or decline to sign, an agreed order affecting the child;
- (6) explain the bases for the guardian *ad litem*'s opposition to the agreed order if the guardian *ad litem* does not agree to the terms of a proposed order;
- (7) have access to the child in the child's placement;
- (8) be consulted and provide comments on decisions regarding placement, including kinship, foster care, and adoption placements;
- (9) evaluate whether the child welfare services providers are protecting the child's best interests regarding appropriate care, treatment, services, and all other foster children's rights listed in Section 203.006;
- (10) receive notification regarding and an invitation to attend meetings related to the child's service plan and a copy of the plan; and
- (11) attend court-ordered mediation regarding the child's case.

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Texas Family Code §107.002
 "Powers and Duties of
 Guardian *Ad Litem*
 for Child"

(d) The court may compel the guardian *ad litem* to attend a trial or hearing and to testify as necessary for the proper disposition of the suit.

(e) Unless the guardian *ad litem* is an attorney who has been appointed in the dual role and subject to the Texas Rules of Evidence, the court shall ensure in a hearing or in a trial on the merits that a guardian *ad litem* has an opportunity to testify regarding, and is permitted to submit a report regarding, the guardian *ad litem*'s recommendations relating to:

- (1) the best interests of the child; and
- (2) the bases for the guardian *ad litem*'s recommendations.

18

Texas Family Code §107.002

"Powers and Duties of
Guardian *Ad Litem*
for Child"

(f) In a nonjury trial, a party may call the guardian *ad litem* as a witness for the purpose of cross-examination regarding the guardian's report without the guardian *ad litem* being listed as a witness by a party. If the guardian *ad litem* is not called as a witness, the court shall permit the guardian *ad litem* to testify in the narrative.

(g) In a contested case, the guardian *ad litem* shall provide copies of the guardian *ad litem*'s report, if any, to the attorneys for the parties as directed by the court, but not later than the earlier of:

- (1) the date required by the scheduling order; or
- (2) the 10th day before the date of the commencement of the trial.

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Texas Family Code §107.002

"Powers and Duties of
Guardian *Ad Litem*
for Child"

(h) Disclosure to the jury of the contents of a guardian *ad litem*'s report to the court is subject to the Texas Rules of Evidence.

(i) A guardian *ad litem* appointed to represent a child in the managing conservatorship of the Department of Family and Protective Services shall, before each scheduled hearing under Chapter 263, determine whether the child's educational needs and goals have been identified and addressed.

20

Best Interest of Child

Texas Family Code §107.011(a) -
the court shall appoint a guardian *ad litem* to represent the *best interest of the child*

Texas Family Code §153.002 -
The *best interest* of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.

21

What does the Judge do at the Adversary Hearing?

At the Adversary Hearing, the Court hears evidence and is required to make certain determinations.

- At the conclusion of the adversary hearing, the court *shall order the return of the child to the parent – or person entitled to possession of the child – from whom the child was removed unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that:*
 - There was a danger to the physical health or safety of the child... which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child;
 - The urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to eliminate or prevent the child's removal; and
 - Reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home.
- If the court does not return the child to the person from whom the child was removed and finds that another parent – or person entitled to possession – did not cause the immediate danger to the physical health or safety of the child or was not the perpetrator of the neglect or abuse alleged in the suit, the court shall order possession of the child by that person unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that, specific to each person entitled to possession:
 - The person cannot be located after diligent efforts or is unable or unwilling to take possession of the child; or
 - Reasonable efforts have been made to enable the person's possession of the child, but possession by that person presents a continuing danger to the physical health or safety of the child caused by an act or failure to act of that person.

Texas Family Code §263.201

22

This Judge's Wish List for the basis of the Guardian *Ad Litem's* recommendation at the Adversary Hearing

- A review of the affidavit of removal
- A visit to and/or conversation with the child and/or care provider
- A visit to and/or conversation with each parent
- Investigation into potential relative/fictive kin placements
- A conversation with the child's daycare/teachers
- A conversation with any medical providers, if applicable
- A conversation with the DFPS investigator
- A conversation with the child's attorney ad litem
- Review any available documents relevant to the child's mental and physical health and the child's education

23

What does the Judge do at the Status Hearing?

At the Status hearing, within 60 days of the removal of the child, the Court must:

- Determine what, if anything, is preventing the child from returning to the parent's home *that day*.
- Determine if there are any cultural issues that need to be taken into consideration and/or need to be understood
- Review the visitation plan for the parent(s) and the child(ren) and modify the visitation plan, if appropriate
 - If there is a finding that visitation is not in the child's best interest, identify specific steps the parent must take to have visitation
- Determine if the service plan is reasonably tailored for the specific issues presented in the case
- Determine whether any service plan with the goal of reunification adequately ensures that reasonable efforts are made to enable the parents to provide a safe environment for the child
- Incorporate the service plan into an order of the court and render additional, appropriate orders to require compliance with or to implement the service plan
- Address the appropriateness of the child's current placement

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This Judge's Wish List
for the basis of the
Guardian *Ad Litem's*
recommendation at
the Status Hearing

- Visits and/or conversations with the child and/or placement
- Visits and/or conversations with daycare/teachers/service providers for the child
- Participate in the child's ARD, if applicable
- Visits and/or conversations with each parent
- Investigation into potential relative/fictive kin placements
- Visits and/or conversations with each potential placement
- A conversation with the child's daycare/teachers
- A conversation with any medical providers of the child, if applicable
- Be familiar with the child's medications, and dosages, if applicable
- Attend Family Group Conference(s)
- A conversation with the DFPS caseworker
- A conversation with the child's attorney ad litem
- Observe at least one supervised visit between parent and child each month
- Review any available documents relevant to the child's mental and physical health and the child's education

25

What does the Judge do at the
Permanency Hearings before Final Order?

At the Permanency Hearings held prior to the final order, the Court hears evidence and makes certain findings, including:

- A determination whether to return the child if the parents are willing and able to provide a safe environment AND the return to the parents is in the child's best interest
- Incorporate or make changes to the service plan, as appropriate
- A determination whether the parent is in compliance with the court ordered services
- A determination of what, if anything, is preventing the child from returning to the parent's home *that day*
- Make additional, appropriate orders to require compliance with or to implement the service plan.
- Address the child's medical and educational needs
- Address the appropriateness of the child's placement

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This Judge's Wish List
for the basis of the
Guardian *Ad Litem's*
recommendation at
the Permanency
Hearings

- Visits and/or conversations with the child and/or placement
- Visits and/or conversations with daycare/teachers/service providers of the child
- Participate in the child's ARD, if applicable
- Visits and/or conversations with each parent
- Investigation into potential relative/fictive kin placements
- Visits and/or conversations with each potential placement
- A conversation with any medical providers of the child, if applicable
- Be familiar with the child's medications, and dosages, if applicable
- Review documentation of the parents' compliance with the services ordered by the court and have conversations with parent's service providers if possible
- Observe at least one supervised visit between parent and child each month
- Attend Permanency Conference(s)
- A conversation with the DFPS caseworker
- A conversation with the child's attorney ad litem
- Review any available documents relevant to the child's mental and physical health and the child's education

27

What does the Judge do at the Final Hearing?

If it is a bench trial, the Judge must make certain determinations after hearing the evidence presented.

- Whether the evidence presented meets the "clear and convincing" standard for the ground(s) for termination
- Whether the evidence presented meets the "clear and convincing" standard supporting the best interest of the child element
- If termination is not granted, determine whether the appointment of a parent as a managing conservator is not in the best interest of the child as such appointment would significantly impair the child's physical health or emotional well being, and if so, determine whether it is in the child's best interest to appoint a relative of the child or another person as managing conservator. If it is not in the best interest of the child to appoint a relative or other person as managing conservator, appoint DFPS managing conservator.
- If there is no termination and DFPS is awarded permanent managing conservator, the Court must take into consideration the age of the child, the child's position (when age appropriate) on adoption, and the needs and desires of the child.
- If DFPS is awarded permanent managing conservatorship of the child, set a Permanency Hearing After Final Order for a date within 90 days of such appointment.

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This Judge's Wish List
for the basis of the
Guardian *Ad Litem's*
recommendation at
the Final Hearing

- Visits and/or conversations with the child and/or placement
- Visits and/or conversations with daycare/teachers/service providers of the child
- Participate in the child's ARI, if applicable
- Visits and/or conversations with each parent
- Investigation into potential relative/fictive kin placements
- Visits and/or conversations with each potential placement
- A conversation with any medical providers of the child, if applicable
- Be familiar with the child's medications, and dosages, if applicable
- Review documentation of the parents' compliance with the services ordered by the court and have conversations with parent's service providers if possible
- Conversations with the DFPS caseworker regarding the child as well as the parents' service plan compliance
- Observe at least one supervised visit between parent and child each month
- Conversations with the child's attorney ad litem
- Attend Permanency Conference(s)
- Review any available documents relevant to the child's mental and physical health and the child's education
- Participation in the entire final trial to hear all testimony as well as review exhibits presented

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After the final hearing, a Final Order is entered....

So, now what???

30

TEXAS FAMILY CODE §263.5031
PERMANENCY HEARINGS FOLLOWING
FINAL ORDER

31

Sec. 263.5031. Permanency Hearings Following Final Order.

- (a) At each permanency hearing after the court renders a final order, the court shall:
- (1) identify all persons and parties present at the hearing;
 - (2) review the efforts of the department or other agency in notifying persons entitled to notice under Section 263.0021;
 - (3) for a child placed with a relative of the child or other designated caregiver, review the efforts of the department to inform the caregiver of:
 - (A) the option to become verified by a licensed child-placing agency to operate an agency foster home, if applicable; and
 - (B) the permanency care assistance program under Subchapter K, Chapter 264, and
 - (4) review the permanency progress report to determine:
 - (A) the safety and well-being of the child and whether the child's needs, including any medical or special needs, are being adequately addressed;
 - (B) whether the child has been provided the opportunity, in a developmentally appropriate manner, to identify any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child;
 - (C) whether the department placed the child with a relative or 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;
 - (D) 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;
 - (E) the appropriateness of the primary and alternate permanency goals for the child, whether the department has made reasonable efforts to fulfill the permanency plan, including the concurrent permanency goals, in effect for the child, and whether:
 - (i) the department 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
 - (ii) another permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;

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Sec. 263.5031. Permanency Hearings Following Final Order (continued).

- (F) for a child whose permanency goals is another planned permanent living arrangement:
 - (i) the desired permanency outcome for the child, by asking the child;
 - (ii) 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 be in the best interest of the child; or
 - (iii) if the child is:
 - (A) return home;
 - (B) be placed for adoption;
 - (C) be placed with a legal guardian; or
 - (D) be placed with a fit and willing relative;
 - (iii) whether the department has conducted an independent living skills assessment under Section 264.121(a)-(3);
 - (iv) whether the department has addressed the goals identified in the child's permanency plan, including the child's housing plan, and the results of the independent living skills assessment;
 - (v) if the youth is 16 years of age or older, whether there is evidence that the department has provided the youth with the documents and information listed in Section 264.121(c); and
 - (vi) if the youth is 18 years of age or older or has had the disabilities of minority removed, whether there is evidence that the department has provided the youth with the documents and information listed in Section 264.121(e)-(1);
- (G) 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;

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Sec. 263.503. Permanency Hearings Following Final Order (continued).

- (F) 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;
- (I) for a child receiving psychotropic medication, whether the child:
- ⑥ has been provided appropriate or pharmacological interventions, therapies, or strategies to meet the child's needs; or
 - ⑦ has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days;
- (J) 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;
- (K) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, whether to order the department to provide services to a parent for not more than six months after the date of the permanency hearing if:
- ⑥ 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
 - ⑦ the court determines that further efforts at reunification with a parent are:
 - ① in the best interest of the child; and
 - ② likely to result in the child's safe return to the child's parent; and
- (L) whether the department has identified a family or other caring adult who has made a permanent commitment to the child.
- (M) In addition to the requirements of Subsection (K), at each permanency hearing after the court renders a final order, the court shall review the department's efforts to ensure the child has regular, ongoing opportunities to engage in age-appropriate extracurricular activities, including activities not listed in the child's service plan.

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Timing of the Permanency Hearing after Final Order

- If the Department of Family and Protective Services is appointed as Permanent Managing Conservator in a final order that does not include termination of parental rights, the court shall conduct a permanency hearing at least once every six months until the Department of Family and Protective Services is no longer the child's managing conservator.
- If the Department of Family and Protective Services is appointed as Permanent Managing Conservator in a final order that terminates a parent's parental rights, the court shall conduct a permanency hearing not later than the 90th day after the date the court renders the final order and conduct additional permanency hearings at least once every six months until the Department of Family and Protective Services is no longer the child's managing conservator.

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What does the Judge do at a Permanency Hearing after Final Order

The Court needs to hear evidence on the following:

- The child's safety and well being
- The child's special needs
- The child's placement:
 - relative or fictive kin placement;
 - Institutional placement – is it the least restrictive possible?
- Permanency goals – primary and alternative
- The Department's reasonable efforts to finalize the permanency plan:
 - Due diligence to place the child for adoption if parental rights have been terminated;
 - Due diligence to locate a relative for placement and PMC of the child
 - Due diligence to determine if returning the child to a parent is appropriate

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What does the Judge do at a Permanency Hearing after Final Order - continued

The Court needs to hear evidence on the following:

- If there is another planned permanent living arrangement (APPLA) for the child, what are the compelling reasons for it not to be in the child's best interest to:
 - Return the child home;
 - Be placed for adoption;
 - Be placed with a legal guardian
- For older youth the court also reviews whether:
 - DFPS has conducted Independent Living Skills Assessment for all youth 14 years and older
 - The Assessment should be updated annually
 - DFPS *is addressing* the goals identified in the youth's permanency plan
 - DFPS provided the youths who are 16 and older with a copy and certified copy of the youth's:
 - Birth certificate;
 - Social Security card;
 - State issued ID or DL.

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What does the Judge do at a Permanency Hearing after Final Order - continued

The Court must consider evidence, or confirm documentation is in the Court's file, of the following:

- Notification of consent for medical care
- Education Decision Maker Form 2085E
- Services to assist the youth, 14 years and older, in transitioning from care to independent living in the community
- Confirmation that the child is receiving appropriate medical care and provided the opportunity to express an opinion on medical care
- If the child has been prescribed psychotropic medication:
 - Has the child received appropriate non-pharmacological interventions, therapies or strategies to meet the child's needs;
 - Has the child been seen by the prescribing physician, physician assistant or advance practice nurse at least once every 90 days

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What does the Judge do at a Permanency Hearing after Final Order - continued

The Court must consider evidence, or confirm documentation is in the Court's file, of the following:

- Education decision-maker and education needs and goals identified, major changes in school performance or serious disciplinary events
- For a child in PMC without termination, review whether DFPS is providing services to the parent for up to six months after the Permanency Hearing:
 - If the child is not placed with a relative or other individual, including a foster parent, seeking permanent managing conservatorship; and,
 - Determine further efforts at reunification with parent are in the child's best interest and likely to result in the child's safe return to the parent
- The efforts by DFPS to identify family or other caring adults with a permanent commitment to the child
- If the child is placed with a relative, determine whether that individual has been informed about the Permanency Care Assistance program

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What does the Judge do at a Permanency Hearing after Final Order - continued

The Court must also do the following:

- If the child is in not in a permanent placement: (1) determine if further efforts to reunify with a parent are in the child's best interest and likely to result in the child's safe return to a parent; and (2) determine if there is a family member or another caring adult who may be able to make a permanent commitment to the child.
- Address, if applicable, Special Juvenile Immigration Status
- Ensure the persons present are given the opportunity to be heard
- If the caregiver is present, he/she /give them the opportunity to provide information
- Review whether the child has regular and ongoing opportunities to engage in age-appropriate normalcy activities

The Court may also confer with the child about the permanency plan

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What does the Judge do at a Permanency Hearing after Final Order - continued

The Court should also hear evidence regarding:

- Medical and Mental Health Care:
 - Nature of any emergency care since the last hearing
 - All medical and mental health treatment the child is receiving and the progress of such
 - Any medication prescribed, including dosages, and the progress of such treatment
 - Caregiver compliance with the child's treatment plan
 - Any adverse reactions or side effects
 - Diagnosis or diagnostic testing

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What does the Judge do at a Permanency Hearing after Final Order - continued

The Court should also hear evidence regarding:

- Education and Educational Decisions
 - The child's enrollment in school
 - The child's enrollment in the appropriate grade
- Whether any change in placement:
 - Has changed where the child attends school
 - Where the child wants to attend school
 - Whether transportation is available for the child to attend the school of preference
- Whether any change in placement was made in coordination with the grading/testing periods for the child
- Whether a child who is 3 years of age or less, has the child been assessed for developmental milestones through ECI
- Whether a child who is 5 years of age or less, has been enrolled in Early Head Start, Head Start or Pre-Kindergarten
- School supports and disciplinary issues
- Extracurricular activities/normalcy
- Whether the child has been evaluated for or is receiving Special Education services
- Whether a child who is 14 year of age or older has a post-secondary education plan

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This Judge's Wish List
for the basis of the
Guardian *Ad Litem's*
recommendation at
the Permanency
Hearing
after Final Order

For children 5 years of age or younger:

- Review the child's CANS assessment and ensure recommendations are being followed.
- Review the child's developmental assessment/ ECI evaluation and ensure that recommendations are being followed.
- If the child is participating in a service, such as play therapy or occupational therapy, make sure the child is attending appointments, review notes/reports, assess if child is hitting targets, ensure recommendations are being followed, and assess for appropriateness.
- Review child's medical vision and dental care.
 - A consultation with any medical providers of the child, if applicable.
- Be familiar with the child's medications, and dosages, if applicable.
 - Medications are typically not prescribed for younger children. Be vigilant!
- Visit the child in the placement and privately to ensure the child's needs are being met.
- Visit and/or conversations with daycare/teachers/service providers of the child.
- Visit and/or conversations with child's placement.
- Conversations with the child's attorney ad litem and Department before court.
- Prepare a report with recommendations and reasons that support your recommendations and file in advance of the hearing.

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This Judge's Wish List
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Guardian *Ad Litem's*
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For children 6 years of age to 13 years of age:

- Review the child's CANS assessment and ensure recommendations are being followed.
 - CANS are to be updated annually.
- Review the child's mental health assessments (psychological and psychiatric) and ensure that recommendations are being followed.
 - Psychological Evaluations are updated annually.
 - Psychotropic medications are usually reviewed every 30 days but should be reviewed at least every 90 days.
- If the child is participating in a service such as therapy, make sure the child is attending appointments, review notes/reports, assess if child is hitting targets, ensure recommendations are being followed, and assess for appropriateness.
- Review child's medical vision and dental care.
 - A consultation with any medical providers of the child, if applicable.
- Be familiar with the child's medications, and dosages, if applicable.
 - Younger children are more likely to misread than older children. Be vigilant!
- Visit the child in the placement and privately to ensure the child's needs are being met.
- Visit and/or conversations with daycare/teachers/service providers of the child.
- Visit and/or conversations with child's placement.
- Conversations with the child's attorney ad litem and Department before court.
- Prepare a report with recommendations and reasons that support your recommendations and file in advance of the hearing.

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This Judge's Wish List
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For children 14 to 17 years of age:

- Review, visit, assess and report just as you would for any other child.
- Encourage the child to attend court. To be more involved.
- Be vigilant about child's academic progress.
- Beginning at age 14 and 6 months the child is to have a CASEY / Life Skills Assessment. Review it. Address it.
- Make sure that the child's Casey is updated annually. (Paper work book)
- At age 15 in addition to making sure the child's Casey is updated, review whether the Department has a copy of the child's social security card and birth certificate.
- At age 16 the child should begin and complete PAM. (Preparation for Adult Living Classes). Encourage the child to attend.
 - Consider encouraging summer jobs / volunteer opportunities.
 - Driver's Ed.
 - Opening a savings account.
 - Credit/Checks.
 - Teach child skills, preparing meals, grocery shopping, changing a tire, making medical appointments.
- At age 16 child should have all IDs.
- Annual Care/of Support (if annually) Ensure that the child has one as often as needed.
- Keep in contact w/ child's PAM worker and advocate for services.
- At 17 if child is disabled, advocate for social security, DDS, IPS placement.
- At 17, if child is not disabled, work with child's team to ensure child is prepared for aging out.
 - Encourage the youth and caregiver to seriously consider foster care.
- Come to court armed with ideas / recommendations about how we can soften the child's transition into adulthood. Build support network for the child dependent on the child, and in general ideas prepared to help ensure that the child becomes a healthy functioning adult.
- https://www.dhs.gov/sites/default/files/asset/document/Child_Permanency_Standards_and_Young_Adults_Transitional_Living_Arrangements_Transitioning_and_Services_Planbook.pdf

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This Judge's Wish List
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For youth remaining in extended care 18 years and older:

- Meet with the young adult about his or her needs.
- Review the young adult's plan of service and go over it with the youth.
- Assess whether the youth is making progress toward becoming more independent
 - Are they in school?
 - Are they working?
 - Do they have an ID?
- Advocate for services the youth wants and/or may be entitled to.
- Encourage the youth to participate. It's their life!

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Best Interest of Child

Texas Family Code §107.011(a) -
the court shall appoint a guardian ad litem to represent the *best interest of the child*

Texas Family Code §153.002 -
The *best interest* of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.

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Contact Information

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