

FLORIDA'S DEPENDENCY BENCHBOOK

BENCHCARD: DISPOSITION HEARING

Items in **bold font** are required by Florida Statutes.

Introductory remarks.

- Explain purpose of the hearing. State the number of days the child has been in care and the number of placements to date.
- Swear in the parties, participants, and relatives. (*See Parties and Participants, Section 8*)

Representation and appointment counsel.

- If parents do not have counsel, advise parents of right to legal counsel. The offer of counsel must be renewed at every hearing. **§§ 39.013(9).**
- **Ascertain whether the right to counsel is understood. § 39.013(9)(a).**
- If parents request counsel and claim to be indigent, have parents fill out affidavit for indigency. **If indigent per affidavit, appoint counsel for parents. § 39.013(9)(a).**
- If counsel is waived, it must be on the record. Rule 8.320(b)(2). **Determine if waiver is made knowingly, intelligently, and voluntarily.**
- If parents are ineligible for the appointment of counsel or knowingly, intelligently and voluntarily waive appointed counsel, ask if they want to proceed pro se or hire a private attorney. Explain “pro se” if necessary.
- Follow the circuit plan (developed by the chief judge) so that orders appointing counsel are entered on an expedited basis.

Parties and notices.

- Have all parties identify themselves for the record and verify that the court has the parents' current addresses. Notify the parents that the address they provide will be used by the court and DCF to provide them with notice of all court hearings and orders. (Note: Do not openly identify the address when one or more of the parents is party to an injunction for protection against domestic violence.)
- **If child, parents, caregivers, or relatives who requested notice are absent, confirm that they were properly noticed. Rule 8.305(b)(1); §§ 39.301(14)(b), 39.402(5)(a), 39.402(8)(h)(9), 39.502(19). The Fostering Connections Act requires DCF to use due diligence to identify and notify all relatives within 30 days of removal. Verify that DCF used due diligence to notify all relatives within 30 days of removal. (*See Fostering Connections Act, Section 7 and Service, Section 8*)**
- Require a thorough description of DCF's efforts to locate and advise any absent parent of the hearing and confirm that a diligent search was begun by DCF, if needed; ask parents if

any other individuals should be involved in the court matter, or who else is significant in the child's life.

- **If an absent parent's location is unknown, determine whether it is in the child's best interest to proceed to disposition without notice to that parent. § 39.503(5).**
- Identify those present and their relationship to the case and conduct a paternity inquiry if paternity has not been established and paternity is still in dispute. If a parent has not legally established paternity, DNA testing should be ordered after proper inquiry, applying Privette principles as appropriate. If necessary, examine birth certificate or inquire as to marriage status. (See *Paternity in Dependency Cases, Section 3*)
- **Appoint the Guardian ad Litem Program to represent the best interests of the child if it has not yet been appointed. § 39.822(1), Rule 8.215. (See *Guardian ad Litem, Section 4*)**
- Inquire as to the applicability of the Indian Child Welfare Act. If the child is a member of a tribe or eligible for membership, confirm that DCF/CBC notified the tribe as required. (See *Indian Child Welfare Act, Section 7*)
- Ask the parents if they are involved in any other past or pending family law, paternity, domestic violence, delinquency, or child support cases other than those previously disclosed. (See *Dependency in the Context of Unified Family Court, Section 2*)
- Verify timely compliance with all ICPC requirements. (See *Interstate Compact on the Placement of Children, Section 7*)
- **Confirm that the case plan has been filed on time. §§ 39.521(1)(a), 39.6011(7).**

Review predisposition study (PDS).

- **PDS must be filed not less than 72 hours before the hearing. § 39.521(1)(a).**
- **The court may grant an exception to the requirement for a PDS by order of the court. § 39.521(1)(a).**
- **The case worker must conduct home studies of proposed legal custodians, including relative, parent, or other adult approved by the court. § 39.521(2)(r).**
- **The PDS must state the reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference. § 39.521(2)(e).**

Determine whether DCF made reasonable efforts to reunify.

- **If DCF made reasonable efforts to reunify, make written findings. A reasonable effort by DCF for reunification has been made if DCF's appraisal of the home situation indicates the severity of the conditions of dependency is such that reunification efforts and provision of services in home are inappropriate. DCF has the burden of demonstrating to the court that reunification efforts were inappropriate. § 39.521(1)(f)(4).**

- **If the court determines that reunification is not a viable alternative, and prior to the filing of the petition for termination of parental rights, it shall advise the parents of the availability of private placement of the child with an adoption entity as defined in § 63.032. §§ 39.802(4)(d) & 63.082(6)(g); Rule 8.255(i).**
- If the court finds that the child can remain safely at home or be safely returned to the home with prevention or reunification services, the court shall allow the child to remain at home or be returned to the home. (*See American Bar Association Safety Guide, Section 6*)
- If the court finds that prevention or reunification efforts of DCF would not have permitted the child to remain safely at home, the court may commit the child to the temporary legal custody of DCF.

Review the child's placement.

- Ask what changes, if any, have been made in the child's living arrangement and/or placement since the last hearing. If there has been a change, ask if the change was necessary to achieve the child's permanency goal or meet the child's service needs. (*See Placement Stability Considerations, Section 4*)
- Review/update the availability of relative placements for the child, including out of state relatives and parents of previously adopted siblings. **If no fit parent is willing or available to assume care and custody of the child, place the child in the temporary legal custody of an adult relative, the adoptive parent of the child's sibling, or another adult approved by the court who is willing to care for the child, under the protective supervision of the department. § 39.521(3)(c).**
- **If the child cannot be safely placed in a nonlicensed placement, the court shall commit the child to the temporary legal custody of the department. § 39.521(3)(d).**
- **Advise the parent that he or she has a continuing duty to inform DCF of any relative who should be considered for placement of the child. §§ 39.402(17), 39.507(7)(c).**
- DCF **MUST** make reasonable efforts to place siblings together in foster, relative, and adoptive homes unless contrary to the safety or well-being of the child.
- When parents provide relative information, and the child is in foster care or an unstable placement, or it's in the best interest of the child, order immediate commencement of home studies, especially in ICPC cases. Require that the ICPC packet be sent to the ICPC central office within 5 working days of the order of compliance being signed. Contact the Florida compact administrator or the receiving state compact administrator if necessary. (*See Interstate Compact on the Placement of Children, Section 7*)
- Verify that the caregiver is willing and able to meet the needs of the child.
- Order the case worker to file a written notification before children change placements, when possible. When it is not possible to provide the notification before the placement change, then DCF and CBC should file notification promptly following the change. Ensure the guardian ad litem is involved with the decision.

- Inquire of the child, caregiver, the guardian ad litem, and the case worker of any issues with the current placement.
- Determine if concurrent planning is appropriate based on the facts of the case. If adoption is a permanency option, verify that all adoption home studies have been completed. Also, verify that the case worker has produced all the necessary adoption documents. (*See Concurrent Case Planning Model, Section 4*)
- **Order a person who has or is requesting custody to submit to a mental health or substance abuse disorder assessment or evaluation. § 39.507(10), 39.521(1)(b)1; See also § 39.407(16).**
- If the case involves domestic violence, ensure adequate safety provisions exist, the placement is appropriate to protect the child, and safety plan compliance. (*See Domestic Violence and the Effects on Children, Section 3*)
- If siblings are not placed together, determine why not and ask about efforts made (when appropriate) to keep them together. Order continuing contact between/among siblings (when appropriate) when they are not placed together.
- Require placement of pregnant teens in a foster home that will also accept the baby.

Review family time (visitation). (*See Family Time Protocol, Section 4 and Co-Parenting, Section 4*)

- Reassess the type, frequency, duration, and quality of family time (visitation). At a minimum, several hours a week of visitation is needed for the purposes of bonding. Get input from all parties/participants including child and caregiver.
- Ensure that visitation is occurring if appropriate and that there is ongoing supporting documentation regarding the frequency, quality, and progress of the visitation. Inquire if transportation has been an issue and determine who has been present and participated in the visits.
- Verify that the visitation is consistent to meet the developmental, emotional, and mental needs of the child.
- **If siblings are unable to be placed together, verify sibling visitation is occurring. § 39.4085(15). DCF must make reasonable efforts to provide frequent sibling visitation, even with previously adopted siblings.**
- If visitation is not possible because of the distance of the parent, the court should specify what alternative forms of contact are permitted (such as phone, email, webcam, or video conferencing).
- If the case involves domestic violence, ensure visitation practices are adequate to protect the child. (*See Domestic Violence and the Effects on Children, Section 3*)

Inform the parents of the legal consequences if they fail to successfully complete the tasks and objectives in the case plan in a timely fashion.

Address the needs of the child.

- Verify that the child's mental, physical, and dental health care needs have been addressed. Get input from all parties/participants, including the child and caregiver. (*See Health Considerations, Section 5*)
- Verify that the parents are participating in the child's medical and educational appointments. (*See Family Time Protocols, Section 4 and Co-Parenting, Section 4*)
- Ask the child if there is someone who should be present at this hearing or at future hearings.
- Review appropriate school records, including any Individualized Education Program (IEP). If an educational surrogate parent has been appointed, the surrogate should report to the court as appropriate. (*See Educational Considerations, Section 5*)
- Verify that the child is attending the same school as when he or she entered care. If not, ask what has been done to ease the transition.
- Verify that the child is attending school on a regular basis and has adequate transportation.
- If an educational surrogate parent has been appointed for the child, the surrogate parent should report on the child's education as appropriate.

Order child support, if appropriate. Review compliance if previously ordered. (*See Child Support in Dependency Cases, Section 3*)

Advise parents of their right to appeal and appellate counsel. (*See Appeals, Section 8*)

- Inform the parents that they have 30 days from the entry of the disposition order to file an appeal in their case and if they cannot afford an attorney, one will be appointed to represent them.

Set the next hearing.

- **Judicial review must occur within 90 days of disposition or the date the court approves the case plan, whichever is earlier (but no later than 6 months after removal). § 39.521(1)(c).**
- **Case plan approval hearing must occur within 30 days, if the case plan is not approved at disposition. § 39.521(1)(a).**
- When setting non-TPR hearings, be cognizant of counsels' TPR hearings that are scheduled before other judges and defer to those TPR hearings.
- Provide written notices of the next hearing at the conclusion of every hearing and make sure that parties not present at the hearing are noticed.
- **Order the Children's Legal Services attorneys to provide notice to caregivers of the next court hearing if caregivers are not in court. § 39.502(19). See also §§ 39.301(14)(b) & 39.502(17).**
- Ask if the child had difficulty attending the hearing. Facilitate telephonic or video conferencing if necessary. (*See Children in Court, Section 4*)

Complete a written order.

DISPOSITION HEARING SUPPLEMENT

Generally.

➤ Representation and appointment of counsel.

What do I need to do with regard to representation and/or appointment of counsel? See section in shelter hearing supplement titled, “Representation and appointment of counsel.”

What should I do after swearing in the parties? The court shall advise parents of the right to counsel, ascertain whether the right to counsel is understood, and appoint counsel for parents who qualify as indigent. §§ 39.013(9), 39.013(9)(a).

➤ Parties and notices.

All parties are entitled to disclosure of the information in reports submitted to the court. Rule 8.340(b).

Confirm that the case plan has been filed on time. Case plan must be filed not less than 72 hours before the hearing. The case plan must also be served on the parents and provided to other parties, including any guardian ad litem, not less than 3 business days/72 hours before the hearing. §§ 39.521(1)(a), 39.6011(7).

Case plan approval should occur at disposition unless otherwise ordered. See case plan approval benchcard and supplement.

➤ Review predisposition study (PDS).

May I grant an exception to the requirement for a PDS? The court may grant an exception to the requirement for a PDS by separate order or within the judge’s order of disposition upon finding that all of the family and child information required by § 39.521(2) is available in other documents filed with the court. § 39.521(1)(a).

What must a PDS include? The PDS must include the following documented information:

- The capacity and disposition of the parents to provide the child with food, clothing, medical care, or other remedial care/material needs, § 39.521(2)(a);
- The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity, § 39.521(2)(b);
- The mental and physical health of the parents, § 39.521(2)(c);
- The home, school, and community record of the child, § 39.521(2)(d);
- The reasonable preference of the child, if ascertainable, § 39.521(2)(e);
- Evidence of domestic violence or child abuse, § 39.521(2)(f);
- An assessment of the dangers and risks of returning the child home, including changes in and resolutions to the initial risks, § 39.521(2)(g);
- Whether risks are still present and what resources are available and will be provided for the protection and safety of the child, § 39.521(2)(h);
- Benefits of returning the child home, § 39.521(2)(i);

- A description of all unresolved issues, § 39.521(2)(j);
- A Florida Abuse Hotline Information System history and criminal records check for all caregivers, family members, and individuals residing within the household from which the child was removed, § 39.521(2)(k);
- Child protection team report or a statement that no report has been made, § 39.521(2)(l);
- All opinions or recommendations from other professionals or agencies that provide evaluative, social, reunification, or other services, § 39.521(2)(m);
- A listing of prevention or reunification services, including the availability of family preservation services.
 - If the services were provided, the outcome of the services.
 - If the services were not provided, reason they were not provided.
 - If the services are currently being provided, whether they need to be continued. § 39.521(2)(n);
- A listing of prevention and reunification services that were determined to be inappropriate and why, § 39.521(2)(o);
- Whether dependency mediation was provided, § 39.521(2)(p);
- If the child has been removed and a parent is being considered for custody, a recommendation as to whether such placement would be detrimental to the child, § 39.521(2)(q);
- If the child has been removed and will remain with a relative, parent, or other adult approved by the court, a home study concerning the proposed placement, § 39.521(2)(r);
- If the child has been removed, the amount of child support each parent will be required to pay pursuant to §§ 61.30, 39.521(2)(s); and
- If placement of the child with anyone other than a parent is being considered, when custody by the parent will be reconsidered, § 39.521(2)(t).
- Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. § 39.521(2).

➤ **Review home studies of proposed legal custodians**

Must I require DCF to conduct a home study of the proposed legal custodians? If DCF is recommending out-of-home placement for a child other than placement in a licensed shelter or foster home, it must conduct a home study of the proposed legal custodians. If the results are unfavorable, DCF cannot place or leave the child in the home, unless the court finds placement is in the child's best interests.

What information must the home study include? The home study must include, at a minimum:

- An interview with the proposed legal custodians to assess their ongoing commitment and ability to care for the child.

- Records checks through the Florida Abuse Hotline Information System, local and statewide criminal and juvenile records checks through FDLE, and out-of-state criminal records checks on all household members 12 years of age or older and any other persons made known to DCF who are frequent visitors in the home.
- An assessment of the physical environment of the home.
- A determination of the financial security of the proposed legal custodians.
- A determination of suitable child care arrangements if the proposed legal custodians are employed outside of the home.
- Documentation of counseling and information provided to the proposed legal custodians regarding the dependency process and possible outcomes.
- Documentation that information regarding support services available in the community has been provided to the proposed legal custodians. § 39.521(2)(r).

➤ **Determine whether DCF made reasonable efforts to reunify.**

Definition of “reasonable effort” – the exercise of reasonable diligence and care by DCF to provide the services ordered by the court or delineated in the case plan.

§ 39.521(1)(f)(1). DCF has the burden of proving reasonable efforts. § 39.521(1)(f).

If the child is not reunified with the initial parent or placed with a different parent, determine whether DCF made reasonable efforts to reunify and make written findings.

Does the Federal ASFA language require the exact “reasonable efforts” language be used as in state statute? ASFA does not require that exact “reasonable efforts” language from the statute be used. 65 Fed.Reg. 4056. The finding needs to clearly state that the court determined DCF made reasonable efforts. Examples of detailed findings in the court order include:

- Description of efforts made;
- Cross-references to detailed statements in reports submitted to the court; and
- Checking off items from a detailed checklist. See 65 Fed.Reg. 4056.

How do I know if DCF has made a reasonable effort to prevent or eliminate the need for removal? A court may find that DCF has made a reasonable effort to prevent or eliminate the need for removal if:

- DCF’s first contact with the family occurs during an emergency;
- DCF’s appraisal of the home situation indicates that it presents a substantial and immediate danger to the child’s safety or physical, mental, or emotional health which cannot be mitigated by preventive services;
- The child cannot safely remain at home, either because there are no preventive services that can ensure the health and safety of the child or, even with appropriate and available services being provided, the health and safety of the child cannot be ensured; or
- The parent is alleged to have committed any of the acts listed as grounds for expedited termination of parental rights in §§ 39.806(1)(f)-(l). § 39.521(1)(f)(3)(d).

- The parent or parents engaged in or failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or a sibling. Proof of a nexus between egregious conduct to a child and the potential harm to the child's sibling is not required. § 39.806(1)(f).
- The parent or parents subjected the child or another child to aggravated child abuse (§ 827.03), sexual battery or sexual abuse (§ 39.01), or chronic abuse. § 39.806(1)(g).
- The parent or parents committed the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery that resulted in serious bodily injury to the child or to another child. Proof of a nexus between the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery to a child and the potential harm to a child or another child is not required. § 39.806(1)(h).
- Parental rights of the parent to a sibling of the child have been terminated involuntarily. § 39.806(1)(i).
- The parent or parents have a history of extensive, abusive, and chronic use of alcohol or a controlled substance which renders them incapable of caring for the child, and have refused or failed to complete available treatment for such use during the 3-year period immediately preceding the filing of the petition for termination of parental rights. § 39.806(1)(j).
- A test administered at birth that indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant, and the biological mother of the child is the biological mother of at least one other child who was adjudicated dependent after a finding of harm to the child's health or welfare due to exposure to a controlled substance or alcohol as defined in § 39.01, after which the biological mother had the opportunity to participate in substance abuse treatment. § 39.806(1)(k).
- On three or more occasions the child or another child of the parent or parents has been placed in out-of-home care pursuant to Chapter 39, and the conditions that led to the child's out-of-home placement were caused by the parent or parents. § 39.806(1)(l).

If the court finds that prevention or reunification effort of DCF would not have permitted the child to remain safely at home, the court may commit the child to the temporary legal custody of DCF. § 39.521(1)(f)(5).

➤ **Review the child's placement.**

What is paramount in placement decisions? According to ASFA, safety of the child is paramount in placement decisions. 42 U.S.C. § 671(15)(A); 45 C.F.R. § 1356.21(b).

Do I have the ability to direct DCF to place a child in a specific home or institution?

Although the court does have the authority to place a child in DCF's custody, the court does not have the ability to direct DCF to place the child in a specific home or institution.

See State Dept. of Health and Rehabilitative Services v. Brooke, 573 So. 2d 363 (Fla. 1st DCA 1991).

The child should return home or remain at home if the court determines that:

- The child can safely remain in the home with the parent the child was residing with when the child was brought within the jurisdiction of the court, and
- Remaining in the home is in the best interests of the child.

After making that determination, the court must order conditions under which the child may remain in or return to the home. The placement must remain under the protective supervision of DCF for at least 6 months. § 39.521(3)(a).

The child must be placed with the other parent if:

- There is a parent who desires custody and was not residing with the child at the time of the events which gave rise to the dependency and no protective supervision is required; and
- There is a completed home study. Such placement is not required if it would endanger the safety, well-being, or physical, mental, or emotional health of the child. Any party with knowledge of the facts may present evidence on this point.
- If the court places the child with such parent, it may either:
 - Order the parent to assume sole custodial responsibilities for the child, provide for reasonable visitation by the noncustodial parent, and terminate its jurisdiction over the child,
 - OR
 - Order the parent to assume custody subject to the jurisdiction of the court. The court may order that reunification services be provided to the parent from whom the child has been removed, that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court jurisdiction, or that services be provided to both parents, in which case the court shall determine at every review hearing which parent, if either, shall have custody of the child. § 39.521(3)(b).

What should I do if no fit parent is willing or available to take custody of the child? Place the child in the temporary legal custody of an adult relative, the adoptive parent of the child's sibling, or another adult approved by the court who is willing to care for the child, under the protective supervision of DCF. DCF must supervise this placement until the child reaches permanency status in this home and in no case for a period of less than 6 months. Permanency in a relative placement shall be by adoption, long-term custody, or guardianship. § 39.521(3)(c).

What should I do if the child cannot be safely placed in a non-licensed placement? The child must be committed to the temporary legal custody of DCF, and DCF has all rights and responsibilities of a legal custodian.

- If diligent efforts to locate an adult relative are made but, because no suitable relative is found, the child is placed with DCF or other adult approved by the court,

the court shall consider transferring temporary legal custody to an adult relative approved by the court at a later date. Neither DCF nor the court is obligated to so place the child if it is in the child's best interests to remain in the current placement.

- "Diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed. § 39.521(1)(d)8.b.
- DCF shall not return any child to the physical care and custody of the person from whom the child was removed, except for court-approved visitation periods, without the approval of the court. The term of such commitment continues until terminated by the court or until the child reaches the age of 18. § 39.521(3)(d).

In an ICWA case, no foster care placement may be ordered in the absence of a determination, supported by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. 25 U.S.C. § 1912(e).

Verify that the caregiver is willing and able to meet the needs of the child.

Are there special placement considerations for sexually exploited children? Except as provided in § 39.407 or § 985.801, a dependent child 6 years of age or older who has been found to be a victim of sexual exploitation as defined in § 39.01(70)(g) must be assessed for placement in a safe house or safe foster home as provided in § 409.1678 using the initial screening and assessment instruments provided in § 409.1754(1). If such placement is determined to be appropriate for the child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if a safe house or safe foster home is unavailable, as long as the child's behaviors are managed so as not to endanger other children served in that setting. § 39.524(1).

➤ **Review family time (visitation) schedule.**

Enter order that clearly defines visitation schedule - who, where, and when.

Inquire if transportation has been an issue and determine who has been present and participated in the visits.

Ensure that there is ongoing supporting documentation regarding the frequency, quality, and progress of the visitation.

Any order for visitation or other contact must conform to the provisions of § 39.0139. § 39.521(3)(d).

➤ **Determine any additional services needed.**

What services may I order once the child is adjudicated dependent? Once a child is adjudicated dependent, the court may order any of the following:

- The parent and/or the legal custodian and the child to participate in necessary treatment and services. § 39.521(1)(b).

- The parties to participate in dependency mediation. § 39.521(1)(b).
- The parents and legal custodians to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the parent or child. § 39.521(5).

➤ **Order child support, if appropriate.**

If the child is in an out-of-home placement, the court may order child support to be paid by the parents, or the guardian of the child's estate, if appropriate. The court may exercise jurisdiction over all child support matters; shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian; and shall enforce the financial obligation as provided in Chapter 61. Placement of the child shall not be contingent upon issuance of a support order. § 39.521(1)(d)7. *(See Child Support in Dependency Cases, Section 3)*

➤ **Right to appeal.**

See section in adjudicatory hearing supplement titled "Right to appeal."

➤ **Requirements for written order.**

- Include findings regarding indigency and appointment or waiver of counsel. § 39.013(9)(a).
- Cite the specific provision of § 39.0136 when granting continuances.
- Ensure that the order clearly sets forth each specific date on which the disposition hearing was held.
- Placement or custody of the child. § 39.521(1)(d)1.
- Special conditions of placement and visitation. § 39.521(1)(d)2.
- Include any evaluation, counseling, treatment activities, and other actions to be taken by the parties. § 39.521(1)(d)3.
- Detail persons or entities responsible for supervising or monitoring services. § 39.521(1)(d)4.
- Include orders regarding continuation or discharge of the guardian ad litem, as appropriate. § 39.521(1)(d)5.
- Include the date, time, and location of the next scheduled review hearing. § 39.521(1)(d)6.
- Include child support, if appropriate. § 39.521(1)(d)7.
- When the child is committed to the temporary legal custody of DCF, include the reasons for such placement and whether diligent efforts were made by DCF to locate an adult relative, legal custodian, or other adult willing to care for the child. § 39.521(1)(d)(8)a.
- If the child is removed before the disposition hearing, include a written determination as to whether after removal DCF made a reasonable effort to reunify the parent and child. § 39.521(1)(f).

- If the child is being placed in an out-of-home placement, include a written determination that the child cannot safely remain at home with services and that removal is necessary to protect the child. § 39.521(1)(f).
- Include findings as to whether or not prevention or reunification efforts were indicated. § 39.521(1)(f)2.a.
- If prevention or reunification efforts were indicated, include a brief description of what prevention and reunification efforts were made. § 39.521(1)(f)2.b.
- Indicate in writing reasons why further efforts could or could not have prevented or shortened the separation of the parent and child. § 39.521(1)(f)2.c.
- Approval of case plan as filed with the court. If the court does not approve the case plan at the disposition hearing, the court must set a hearing within 30 days after the disposition hearing to review and approve the case plan. Rule 8.340(c)(10).
- Other requirements necessary to protect the health, safety, and well-being of the child, to preserve the stability of the child's educational placement, and to promote family preservation or reunification whenever possible. § 39.521(1)(d)9.
- Specify all visitation details in the written order.

POSTDISPOSITION CHANGE OF CUSTODY SUPPLEMENT

➤ **Postdisposition change of custody.**

The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing. § 39.522.

➤ **Change of custody.**

A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other interested person, upon the filing of a petition alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other legal custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child shall be the best interest of the child. When applying this standard, the court shall consider the continuity of the child's placement in the same out-of-home residence as a factor when determining the best interests of the child. If the child is not placed in foster care, then the new placement for the child must meet the home study criteria and court approval pursuant to chapter 39. § 39.522(1).

➤ **Changing custody from a non-parental placement to a parent.**

In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the parent has substantially complied with the terms of the case plan to the extent that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by the return of the child to the home. § 39.522(2); Rule 8.345(a)(1).

➤ **Changing custody from one parent to the other parent.**

In cases where the issue before the court is whether a child who is placed in the custody of a parent should be reunited with the other parent upon a finding of substantial compliance with the terms of the case plan, the standard shall be that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child. § 39.522(3); Rule 8.345(a)(2).