232.104 Permanency hearing — permanency order — subsequent proceedings.

1. *a.* The time for the initial permanency hearing for a child subject to out-of-home placement shall be the earlier of the following:

(1) For a temporary removal order entered under section 232.78, 232.95, or 232.96, for a child who was removed without a court order under section 232.79, or for an order entered under section 232.102, for which the court has not waived reasonable efforts requirements, the permanency hearing shall be held within twelve months of the date the child was removed from the home.

(2) For an order entered under section 232.102, for which the court has waived reasonable efforts requirements under section 232.102A, subsection 4, the permanency hearing shall be held within thirty days of the date the requirements were waived.

b. The permanency hearing may be held concurrently with a hearing under section 232.103 to review, modify, substitute, vacate, or terminate a dispositional order.

c. Reasonable notice of a permanency hearing shall be provided to the parties. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court and the reasonable efforts made concerning the child. Upon completion of the hearing, the court shall enter written findings and make a determination identifying a primary permanency goal for the child. If a permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and complying with the other provisions of that permanency plan.

2. After a permanency hearing the court shall do one of the following:

a. Enter an order pursuant to section 232.102 to return the child to the child's home.

b. Enter an order pursuant to section 232.102 to continue placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

c. Direct the county attorney or the attorney for the child to institute proceedings to terminate the parent-child relationship.

d. Enter an order, pursuant to findings required by subsection 4, to do one of the following:

(1) Transfer sole custody of the child from one parent to another parent.

(2) Transfer guardianship and custody of the child to an adult relative, a fictive kin, or another suitable person.

(3) Transfer custody of the child to a suitable person for the purpose of long-term care.

(4) If the child is sixteen years of age or older and the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "*d*" would not be in the child's best interest, order another planned permanent living arrangement for the child.

3. If the court enters an order for another planned permanent living arrangement pursuant to subsection 2, paragraph "*d*", the court shall do all of the following:

a. Ask the child about the child's desired permanency outcome and make a judicial determination that another planned permanent living arrangement is the best permanency plan for the child.

b. Require the department to do all of the following:

(1) Document the efforts to place a child permanently with a parent, relative, or in a guardianship or adoptive placement.

(2) Document that the planned permanent living arrangement is the best permanency plan for the child and compelling reasons why it is not in the child's best interest to be placed permanently with a parent, relative, or in a guardianship or adoptive placement.

(3) Document all of the following at the permanency hearing and the six-month periodic review:

(a) The steps the department is taking to ensure that the planned permanent living arrangement follows the reasonable and prudent parent standard.

(b) Whether the child has regular opportunities to engage in age-appropriate or developmentally appropriate activities.

4. Prior to entering a permanency order pursuant to subsection 2, paragraph *"d"*, convincing evidence must exist showing that all of the following apply:

a. A termination of the parent-child relationship would not be in the best interest of the child.

b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.

c. The child cannot be returned to the child's home.

5. A court shall apply the priority of placement requirements of section 232.102, subsection 1, paragraphs *"a"* and *"c"*, when entering a permanency order pursuant to subsection 2, paragraph *"d"*.

6. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.

7. With respect to a dispositional order providing for transfer of custody of a child and siblings to the department or other agency for placement for which the court has suspended or terminated sibling visitation or interaction, when a review is made under this section the court shall consider whether the visitation or interaction can be safely resumed and may modify the suspension or termination as appropriate.

8. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence, that returning the child to such custody would be in the best interest of the child.

9. *a.* Following an initial permanency hearing and the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When the order places the child in the custody of the department for the purpose of long-term foster care placement in a facility, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

b. In lieu of the procedures specified in paragraph *"a"*, the court may close the child in need of assistance case and may appoint a guardian pursuant to chapter 232D.

10. Notwithstanding any provision to the contrary, legal custody and placement of a newborn infant for whom physical custody was relinquished pursuant to section 233.2 shall be determined in accordance with chapter 233.

87 Acts, ch 159, §4; 89 Acts, ch 229, §6; 95 Acts, ch 182, §5; 98 Acts, ch 1190, §18, 19; 2000 Acts, ch 1067, §11, 12; 2001 Acts, ch 135, §21, 22; 2007 Acts, ch 67, §4; 2007 Acts, ch 172, §7; 2010 Acts, ch 1143, §1; 2016 Acts, ch 1063, §16, 17; 2017 Acts, ch 54, §73; 2019 Acts, ch 56, §31, 44, 45; 2022 Acts, ch 1098, §52, 53; 2023 Acts, ch 46, §5; 2023 Acts, ch 66, §45

Referred to in §232.117, 232D.201