

## Statute, Rules, and Other Provisions Concerning Permanency Planning

### Texas Government Code

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#### Section 531.0245. PERMANENCY PLANNING FOR CERTAIN CHILDREN.

(a) The commission and each appropriate health and human services agency shall develop procedures to ensure that permanency planning is provided for each child residing in an institution in this state on a temporary or long-term basis or for whom institutional care is sought.

(b) In this section:

(1) "Institution" has the meaning assigned by Section [242.002](#), Health and Safety Code.

(2) "Permanency planning" has the meaning assigned by Section [531.151](#).

Added by Acts 1997, 75th Leg., ch. 913, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.011, eff. Sept. 1, 2003.

#### Section 531.162. PERMANENCY REPORTING.

(a) For each of the local permanency planning sites, the commission shall develop a reporting system under which each appropriate health and human services agency responsible for permanency planning under this subchapter is required to provide to the commission semiannually:

(1) the number of permanency plans developed by the agency for children residing in institutions or children at risk of being placed in institutions;

(2) progress achieved in implementing permanency plans;

(3) the number of children served by the agency residing in institutions;

(4) the number of children served by the agency at risk of being placed in an institution served by the local permanency planning sites;

(5) the number of children served by the agency reunited with their families or placed with alternate permanent families; and

(6) cost data related to the development and implementation of permanency plans.

(b) The commissioner shall submit a semiannual report to the governor and the committees of each house of the legislature that have primary oversight jurisdiction over health and human services agencies regarding:

(1) the number of children residing in institutions in this state and, of those children, the number for whom a recommendation has been made for a transition to a community-based residence but who have not yet made that transition;

(2) the circumstances of each child described by Subdivision (1), including the type of institution and name of the institution in which the child resides, the child's age, the residence of the child's parents or guardians, and the length of time in which the child has resided in the institution;

(3) the number of permanency plans developed for children residing in institutions in this state, the progress achieved in implementing those plans, and barriers to implementing those plans;

(4) the number of children who previously resided in an institution in this state and have made the transition to a community-based residence;

(5) the number of children who previously resided in an institution in this state and have been reunited with their families or placed with alternate families;

(6) the community supports that resulted in the successful placement of children described by Subdivision (5) with alternate families; and

(7) the community supports that are unavailable but necessary to address the needs of children who continue to reside in an institution in this state after being recommended to make a transition from the institution to an alternate family or community-based residence.

Added by Acts 1997, 75th Leg., ch. 241, Sec. 1, eff. May 23, 1997.

Renumbered from Sec. 531.155 and amended by Acts 2001, 77th Leg., ch. 590, Sec. 1, eff. Sept. 1, 2001.

#### Section 531.164. DUTIES OF CERTAIN INSTITUTIONS.

(a) This section applies only to an institution described by Section [531.151](#)(3)(A), (B), or (D).

(b) An institution described by Section [531.151](#)(3)(A) or (B) shall notify the local mental retardation authority for the region in which the institution is

located of a request for placement of a child in the institution. An institution described by Section 531.151(3)(D) shall notify the Department of Aging and Disability Services of a request for placement of a child in the institution.

(c) An institution must make reasonable accommodations to promote the participation of the parent or guardian of a child residing in the institution in all planning and decision-making regarding the child's care, including participation in:

- (1) the initial development of the child's permanency plan and periodic review of the plan;
- (2) an annual review and reauthorization of the child's service plan;
- (3) decision-making regarding the child's medical care;
- (4) routine interdisciplinary team meetings; and
- (5) decision-making and other activities involving the child's health and safety.

(d) Reasonable accommodations that an institution must make under this section include:

- (1) conducting a meeting in person or by telephone, as mutually agreed upon by the institution and the parent or guardian;
- (2) conducting a meeting at a time and, if the meeting is in person, at a location that is mutually agreed upon by the institution and the parent or guardian;
- (3) if a parent or guardian has a disability, providing reasonable accommodations in accordance with the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), including providing an accessible meeting location or a sign language interpreter, as applicable; and
- (4) providing a language interpreter, if applicable.

(e) Except as otherwise provided by Subsection (f):

- (1) an ICF-MR must:
  - (A) attempt to notify the parent or guardian of a child who resides in the ICF-MR in writing of a periodic permanency planning meeting or annual service plan review and reauthorization meeting not later than the 21st day before the date the meeting is scheduled to be held; and
  - (B) request a response from the parent or guardian; and
- (2) a nursing facility must:
  - (A) attempt to notify the parent or guardian of a child who resides in the facility in writing of an annual service plan review and

reauthorization meeting not later than the 21st day before the date the meeting is scheduled to be held; and

(B) request a response from the parent or guardian.

(f) If an emergency situation involving a child residing in an ICF-MR or nursing facility occurs, the ICF-MR or nursing facility, as applicable, must:

(1) attempt to notify the child's parent or guardian as soon as possible; and

(2) request a response from the parent or guardian.

(g) If a child's parent or guardian does not respond to a notice under Subsection (e) or (f), the ICF-MR or nursing facility, as applicable, must attempt to locate the parent or guardian by contacting another person whose information was provided by the parent or guardian under Section [531.1533\(1\)\(B\)](#).

(h) Not later than the 30th day after the date an ICF-MR or nursing facility determines that it is unable to locate a child's parent or guardian for participation in activities listed under Subsection (e)(1) or (2), the ICF-MR or nursing facility must notify the Department of Aging and Disability Services of that determination and request that the department initiate a search for the child's parent or guardian.

Added by Acts 2005, 79th Leg., Ch. 1131 (H.B. [2579](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.002(7), eff. September 1, 2007.

Section 531.165. SEARCH FOR PARENT OR GUARDIAN OF A CHILD.

(a) The Department of Aging and Disability Services shall develop and implement a process by which the department, on receipt of notification under Section [531.164\(h\)](#) that a child's parent or guardian cannot be located, conducts a search for the parent or guardian. If, on the first anniversary of the date the department receives the notification under Section [531.164\(h\)](#), the department has been unsuccessful in locating the parent or guardian, the department shall refer the case to:

(1) the child protective services division of the Department of Family and Protective Services if the child is 17 years of age or younger; or

(2) the adult protective services division of the Department of Family and Protective Services if the child is 18 years of age or older.

(b) On receipt of a referral under Subsection (a)(1), the child protective services division of the Department of Family and Protective Services shall exercise intense due diligence in attempting to locate the child's parent or guardian. If the division is unable to locate the child's parent or guardian, the department shall file a suit affecting the parent-child relationship requesting an order appointing the department as the child's temporary managing conservator.

(c) A child is considered abandoned for purposes of the Family Code if the child's parent or guardian cannot be located following the exercise of intense due diligence in attempting to locate the parent or guardian by the Department of Family and Protective Services under Subsection (b).

(d) On receipt of a referral under Subsection (a)(2), the adult protective services division of the Department of Family and Protective Services shall notify the court that appointed the child's guardian that the guardian cannot be located.

Added by Acts 2005, 79th Leg., Ch. 1131 (H.B. [2579](#)), Sec. 1, eff. September 1, 2005.

Section 531.166. TRANSFER OF CHILD BETWEEN INSTITUTIONS.

(a) This section applies only to an institution described by Section [531.151](#)(3)(A), (B), or (D) in which a child resides.

(b) Before transferring a child who is 17 years of age or younger, or a child who is at least 18 years of age and for whom a guardian has been appointed, from one institution to another institution, the institution in which the child resides must attempt to obtain consent for the transfer from the child's parent or guardian unless the transfer is in response to an emergency situation, as defined by rules adopted by the executive commissioner.

Added by Acts 2005, 79th Leg., Ch. 1131 (H.B. [2579](#)), Sec. 1, eff. September 1, 2005.

Section 531.167. COLLECTION OF INFORMATION REGARDING INVOLVEMENT OF CERTAIN PARENTS AND GUARDIANS.

(a) The Department of Aging and Disability Services shall collect and maintain aggregate information regarding the involvement of parents and guardians of children residing in institutions described by Sections 531.151(3)(A), (B), and (D) in the lives of and planning activities relating to those children. The department shall obtain input from stakeholders concerning the types of information that are most useful in assessing the involvement of those parents and guardians.

(b) The Department of Aging and Disability Services shall make the aggregate information available to the public on request.

Added by Acts 2005, 79th Leg., Ch. 1131 (H.B. 2579), Sec. 1, eff. September 1, 2005.

Section 531.060. FAMILY-BASED ALTERNATIVES FOR CHILDREN.

(a) The purpose of the system of family-based alternatives required by this section is to further the state's policy of providing for a child's basic needs for safety, security, and stability through ensuring that a child becomes a part of a successful permanent family as soon as possible.

(b) In achieving the purpose described by Subsection (a), the system is intended to be operated in a manner that recognizes that parents are a valued and integral part of the process established under the system. The system shall encourage parents to participate in all decisions affecting their children and shall respect the authority of parents, other than parents whose parental rights have been terminated, to make decisions regarding their children.

(c) In this section:

(1) "Child" means a person younger than 22 years of age who has a physical or developmental disability or who is medically fragile.

(2) "Family-based alternative" means a family setting in which the family provider or providers are specially trained to provide support and in-home care for children with disabilities or children who are medically fragile.

(3) "Institution" means any congregate care facility, including:

(A) a nursing home;

(B) an ICF-MR facility, as defined by Section 531.002, Health and Safety Code;

(C) a group home operated by the Texas Department of Mental Health and Mental Retardation; and

(D) an institution for the mentally retarded licensed by the Department of Protective and Regulatory Services.

(4) "Waiver services" means services provided under:

(A) the Medically Dependent Children Program;

(B) the Community Living Assistance and Support Services Program;

(C) the Home and Community-based Waiver Services Program, including the HCS-OBRA Program;

(D) the Mental Retardation-Local Authority Pilot Project (MRLA);

(E) the Deaf, Blind, and Multiply Disabled Program; and

(F) any other Section 1915(c) waiver program that provides long-term care services for children.

(d) The commission shall contract with a community organization, including a faith-based community organization, or a nonprofit organization for the development and implementation of a system under which a child who cannot reside with the child's birth family may receive necessary services in a family-based alternative instead of an institution. To be eligible for the contract under this subsection, an organization must possess knowledge regarding the support needs of children with disabilities and their families. For purposes of this subsection, a community organization, including a faith-based community organization, or a nonprofit organization does not include:

(1) any governmental entity; or

(2) any quasi-governmental entity to which a state agency delegates its authority and responsibility for planning, supervising, providing, or ensuring the provision of state services.

(e) The contractor may subcontract for one or more components of implementation of the system with:

(1) community organizations, including faith-based community organizations;

(2) nonprofit organizations;

(3) governmental entities; or

(4) quasi-governmental entities to which state agencies delegate authority and responsibility for planning, supervising, providing, or ensuring the provision of state services.

(f) The commission shall begin implementation of the system in areas of this state with high numbers of children who reside in institutions.

(g) Each affected health and human services agency shall cooperate with the contractor and any subcontractors and take all action necessary to implement the system and comply with the requirements of this section. The commission has final authority to make any decisions and resolve any disputes regarding the system.

(h) The system may be administered in cooperation with public and private entities.

(i) The system must provide for:

(1) recruiting and training alternative families to provide services for children;

(2) comprehensively assessing each child in need of services and each alternative family available to provide services, as necessary to identify the most appropriate alternative family for placement of the child;

(3) providing to a child's parents or guardian information regarding the availability of a family-based alternative;

(4) identifying each child residing in an institution and offering support services, including waiver services, that would enable the child to return to the child's birth family or be placed in a family-based alternative; and

(5) determining through a child's permanency plan other circumstances in which the child must be offered waiver services, including circumstances in which changes in an institution's status affect the child's placement or the quality of services received by the child.

(j) In complying with the requirement imposed by Subsection (i)(3), the commission shall ensure that the procedures for providing information to parents or a guardian permit and encourage the participation of an individual who is not affiliated with the institution in which the child resides or with an institution in which the child could be placed.

(k) In placing a child in a family-based alternative, the system may use a variety of placement options, including an arrangement in which shared parenting occurs between the alternative family and the child's birth family.



Regardless of the option used, a family-based alternative placement must be designed to be a long-term arrangement, except in cases in which the child's birth family chooses to return the child to their home. In cases in which the birth family's parental rights have been terminated, adoption of the child by the child's alternative family is an available option.

(l) The commission or the contractor may solicit and accept gifts, grants, and donations to support the system's functions under this section.

(m) In designing the system, the commission shall consider and, when appropriate, incorporate current research and recommendations developed by other public and private entities involved in analyzing public policy relating to children residing in institutions.

(n) As necessary to implement this section, the commission shall:

(1) ensure that an appropriate number of openings for waiver services that become available as a result of funding for the purpose of transferring persons with disabilities into community-based services are made available to both children and adults;

(2) ensure that service definitions applicable to waiver services are modified as necessary to permit the provision of waiver services through family-based alternatives;

(3) ensure that procedures are implemented for making a level of care determination for each child and identifying the most appropriate waiver service for the child, including procedures under which the director of long-term care for the commission, after considering any preference of the child's birth family or alternative family, resolves disputes among agencies about the most appropriate waiver service; and

(4) require that the health and human services agency responsible for providing a specific waiver service to a child also assume responsibility for identifying any necessary transition activities or services.

(o) Not later than January 1 of each year, the commission shall report to the legislature on the implementation of the system. The report must include a statement of:

(1) the number of children currently receiving care in an institution;

(2) the number of children placed in a family-based alternative under the system during the preceding year;

(3) the number of children who left an institution during the preceding year under an arrangement other than a family-based alternative

under the system or for another reason unrelated to the availability of a family-based alternative under the system;

(4) the number of children waiting for an available placement in a family-based alternative under the system; and

(5) the number of alternative families trained and available to accept placement of a child under the system.

Added by Acts 2001, 77th Leg., ch. 590, Sec. 2, eff. Sept. 1, 2001.

Renumbered from Government Code Sec. 531.055 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(69), eff. Sept. 1, 2003.

#### 40 TEXAS ADMINISTRATIVE CODE

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##### Chapter 19, Nursing Facility Requirements for Licensure and Medicaid Certification, Subchapter I, Resident Assessment

##### [RULE §19.805 Permanency Planning for a Resident Under 22 Years of Age](#)

(b) Facility responsibilities regarding permanency planning.

(1) A facility must request a Preadmission Screening and Resident Review (PASARR) on every child who is a potential admission to a facility, as well as on all children currently residing in a facility who have not had a previous PASARR completed. Documentation regarding the request for or completion of a PASARR must be kept in the chart.

(2) A facility must notify the following entities of the child's admission not later than the third day after a child is initially placed in a facility:

(A) DADS via fax, using DADS Form 2437, Notification of Nursing Facility Admission of Individual Under Age 22;

(B) the CRCG in the county where the LAR resides (see [www.hhsc.state.tx.us/crcg/crcg.htm](http://www.hhsc.state.tx.us/crcg/crcg.htm) for a listing of CRCG chairpersons by county);

(C) the local office of the Early Childhood Intervention (ECI) Program of the Texas Department of Assistive and Rehabilitative Services, if a child is less than three years of age (see [www.dars.state.tx.us/ecis/index.shtml](http://www.dars.state.tx.us/ecis/index.shtml) or call 1-800-628-5115 for a listing of ECI programs by county); and

(D) the local school district, if a child is 3 to 22 years of age, with which the facility must coordinate educational opportunities (See §19.1934 of this title (relating to Educational Requirements for Persons under Age 22)).

(3) A facility must keep in a separate section at the front of each child's records:

(A) documentation regarding the notifications required in paragraph (2) of this subsection;

- (B) a copy of all PASARR documents; and
- (C) a copy of the current permanency plan.

(4) A facility must:

(A) cooperate with the permanency planner by:

(i) allowing access to a child's records or providing other information in a timely manner as requested by the permanency planner or the Health and Human Services Commission;

(ii) participating in meetings to review the child's permanency plan; and

(iii) identifying, in coordination with the permanency planner, activities, supports, and services that can be provided by the family, LAR, facility, or the permanency planner to prepare the child for an alternative living arrangement;

(B) encourage regular contact between the child and LAR and, if desired by the child and LAR, between the child and advocates and friends in the community to continue supportive and nurturing relationships;

(C) encourage participation in the comprehensive care plan meetings by the LAR, and, if desired by the child or LAR, by family members, advocates, and friends in the community;

(D) make reasonable accommodations to promote the participation of the LAR in all planning and decision-making regarding the child's care, including participating in:

(i) the initial development and annual review of the child's comprehensive care plan;

(ii) decision-making regarding the child's medical care;

(iii) routine interdisciplinary team meetings; and

(iv) decision-making and other activities involving the child's health and safety;

(E) ensure that reasonable accommodations include:

(i) conducting a meeting in person or by telephone, as mutually agreed upon by the facility and the LAR;

(ii) conducting a meeting at a time and, if the meeting is in person, at a location that is mutually agreed upon by the facility and the LAR;

(iii) if the LAR has a disability, providing reasonable accommodations in accordance with the Americans with Disabilities Act, including providing an accessible meeting location or a sign language interpreter, if appropriate; and

(iv) providing a language interpreter, if appropriate;

(F) upon admission and annually thereafter:

(i) request from and encourage an LAR to provide the following information for a child during the annual comprehensive care plan meeting and, for an applicant, upon admission:

(I) the LAR's:

(-a-) name;

(-b-) address;  
(-c-) telephone number;  
(-d-) driver license number and state of issuance or personal identification card number issued by the Department of Public Safety; and  
(-e-) place of employment and the employer's address and telephone number;

(II) the name, address, and telephone number of a relative of the child or other person whom DADS or the facility may contact in an emergency situation, a statement indicating the relation between that person and the child, and at the LAR's option:

(-a-) that person's driver license number and state of issuance or personal identification card number issued by the Department of Public Safety; and

(-b-) the name, address, and telephone number of that person's employer; and

(III) a signed acknowledgement of responsibility stating that the LAR agrees to:

(-a-) notify the facility of any changes to the contact information submitted; and

(-b-) make reasonable efforts to participate in the child's life and in planning activities for the child; and

(ii) inform the LAR that if the information described in clause (i) of this subparagraph is not provided or is not accurate and the facility and DADS are unable to locate the LAR as described in subparagraph (J) of this paragraph, DADS refers the case to the Department of Family and Protective Services, in accordance with subsection (c) of this section;

(G) refrain from providing the LAR with inaccurate or misleading information regarding the risks of moving the child to another facility or community setting;

(H) if an emergency situation occurs, attempt to notify the LAR as soon as the emergency situation allows and request a response from the LAR;

(I) if an LAR does not respond to a notice of the child's annual comprehensive care plan meeting, a request for the LAR's consent, or an emergency situation, attempt to locate the LAR by contacting a person identified by the LAR in the contact information described in subparagraph (F) if this paragraph;

(J) no later than 30 days after the date the facility determines that it is unable to locate the LAR, notify DADS at 1-800-458-9858 of that determination and request that DADS initiate a search for the LAR;

(K) before a child who is under 18 years of age, or who is 18-22 years of age and for whom an LAR has been appointed, is transferred to another facility operated by the transferring facility, attempt to obtain consent for

the transfer from the LAR, unless the transfer is made because of a serious risk to the health and safety of the child or another person; and

(L) document compliance with the requirements of this paragraph in the child's records.

(5) The facility administrator must ensure that the social worker or other appropriate staff, as needed, will contribute to the development of the permanency plan.

(6) Paragraphs (3) - (5) of this subsection do not apply to short-stay care of less than 14 days; however, the facility must notify DADS, the CRCG, ECI, and the local school district as required in paragraph (2)(A) - (D) of this subsection.

(c) If, within one year of the date DADS receives the notification described in subsection (b)(4)(J) of this section, DADS is unable to locate the LAR, DADS refers the case to:

(1) the Child Protective Services Division of the Department of Family and Protective Services if the child is under 18 years of age; or

(2) the Adult Protective Services Division of the Department of Family and Protective Services if the child is 18-22 years of age.

#### Chapter 9, Subchapter E, ICF/IID – Contracting

#### [RULE §9.222 Permanency Planning and LAR Participation for Individuals Under 22 Years of Age:](#)

a) As required by Texas Government Code, §531.153, a program provider must incorporate permanency planning as an integral part of the IPP for each individual under 22 years of age residing in the facility. In order to accomplish the permanency planning goal in accordance with §9.244(f) of this subchapter (relating to Applicant Enrollment in the ICF/MR Program), the program provider must identify in the IPP, as appropriate to the individual's needs:

(1) for an individual under 18 years of age, the activities, supports, and services that, when provided or facilitated by the program provider or MRA, will enable the individual to live with a family; or

(2) for an individual age 18 to 22 years of age, the activities, supports, and services that, when provided or facilitated by the program provider or MRA, will result in the individual having a consistent and nurturing environment in the least restrictive setting, as defined by the individual and LAR.

(b) A program provider must take the following actions to assist an MRA in conducting permanency planning for an individual under 22 years of age:

(1) cooperate with the MRA responsible for conducting permanency planning by:

(A) allowing access to an individual's records or providing other information in a timely manner as requested by the MRA or the Health and Human Services Commission;

(B) participating in meetings to review the individual's permanency plan; and

(C) identifying, in coordination with the individual's MRA, activities, supports, and services that can be provided by the family, LAR, program provider, or the MRA to prepare the individual for an alternative living arrangement;

(2) encourage regular contact between the individual and LAR and, if desired by the individual and LAR, between the individual and advocates and friends in the community to continue supportive and nurturing relationships;

(3) encourage participation in IDT meetings by the LAR, and, if desired by the individual or LAR, by family members, advocates, and friends in the community;

(4) provide the IPP summary to the individual's MRA;

(5) keep a copy of the individual's current permanency plan in the individual's record; and

(6) refrain from providing the LAR with inaccurate or misleading information regarding the risks of moving the individual to another facility or community setting.

(c) Within three days after the admission of an individual under 22 years of age, a program provider must notify the following entities of such admission and provide information in accordance with subsection (d) of this section:

(1) the MRA in whose local service area the facility is located (see [www.dads.state.tx.us/contact/mra/index.cfm](http://www.dads.state.tx.us/contact/mra/index.cfm) for a listing of MRAs by county or city);

(2) the CRCG for the county in which the LAR lives (see [www.hhsc.state.tx.us/crcg/crcg.htm](http://www.hhsc.state.tx.us/crcg/crcg.htm) for a listing of CRCG chairpersons by county); and

(3) the local school district for the area in which the facility is located, if the individual is at least three years of age, or the early childhood intervention (ECI) program for the county in which the facility is located, if the individual is less than three years of age (see [www.dars.state.tx.us/ecis/index.shtml](http://www.dars.state.tx.us/ecis/index.shtml) or call 1-800-250-2246 for a listing of ECI programs by county).

(d) The program provider's notification given by the program provider in accordance with subsection (c) of this section must include the following information about an individual:

(1) full name;

(2) gender;

(3) ethnicity;

(4) birth date;

- (5) Social Security number;
- (6) LAR's name, address and county of residence;
- (7) date of admission to the facility;
- (8) name and address of the facility;
- (9) name and phone number of person submitting the notification;
- (10) those services from the following listing that will facilitate the individual's permanency planning outcomes:

- (A) personal and family support services provided in the individual's home;

- (B) residential services provided outside the individual's family or own home;

- (C) vocational services; and

- (D) training services provided outside of the individual's family or own home, including specialized professional services.

(e) A program provider must:

- (1) request from and encourage an LAR to provide the following information for an individual during the annual IPP meeting and, for an applicant, upon admission:

- (A) the LAR's:

- (i) name;

- (ii) address;

- (iii) telephone number;

- (iv) driver license number and state of issuance or personal identification card number issued by the Department of Public Safety; and

- (v) place of employment and the employer's address and telephone number;

- (B) the name, address, and telephone number of a relative of the individual or other person whom DADS or the program provider may contact in an emergency situation, a statement indicating the relationship between that person and the individual, and at the LAR's option:

- (i) that person's driver license number and state of issuance or personal identification card number issued by the Department of Public Safety; and

- (ii) the name, address, and telephone number of that person's employer; and

- (C) a signed acknowledgement of responsibility stating that the LAR agrees to:

- (i) notify the program provider of any changes to the contact information submitted; and

- (ii) make reasonable efforts to participate in the individual's life and in planning activities for the individual; and

(2) inform the LAR that if the information described in paragraph (1) of this subsection is not provided or is not accurate and the program provider and DADS are unable to locate the LAR as described in subsections (j) and (k) of this section, DADS refers the case to the Department of Family and Protective Services.

(f) For an individual under 22 years of age, a program provider must:

(1) make reasonable accommodations to promote the participation of the LAR in all planning and decision-making regarding the individual's care, including participating in:

(A) the initial development and annual review of the individual's IPP;

(B) decision-making regarding the individual's medical care;

(C) routine IDT meetings; and

(D) decision-making and other activities involving the individual's health and safety; and

(2) ensure that reasonable accommodations include:

(A) conducting a meeting in person or by telephone, as mutually agreed upon by the program provider and the LAR;

(B) conducting a meeting at a time and, if the meeting is in person, at a location that is mutually agreed upon by the program provider and the LAR;

(C) if the LAR has a disability, providing reasonable accommodations in accordance with the Americans with Disabilities Act, including providing an accessible meeting location or a sign language interpreter, if appropriate; and

(D) providing a language interpreter, if appropriate.

(g) For an individual under 22 years of age, a program provider must provide written notice to the LAR of a meeting to conduct an annual review of the individual's IPP no later than 21 days before the meeting date and request a response from the LAR.

(h) If an emergency situation occurs, a program provider must attempt to notify the LAR as soon as the emergency situation allows and request a response from the LAR.

(i) If an LAR does not respond to a notice of the individual's IPP review meeting, a request for the LAR's consent, or an emergency situation, the program provider must attempt to locate the LAR by contacting a person identified by the LAR in the contact information described in subsection (e) of this section.

(j) No later than 30 days after the date a program provider determines that it is unable to locate the LAR, the program provider must notify DADS of that determination and request that DADS initiate a search for the LAR.



(k) If, within one year of the date DADS receives the notification described in subsection (j) of this section, DADS is unable to locate the LAR, DADS refers the case to:

(1) the Child Protective Services Division of the Department of Family and Protective Services if the individual is under 18 years of age; or

(2) the Adult Protective Services Division of the Department of Family and Protective Services if the individual is 18-22 years of age.

(l) Before an individual who is under 18 years of age, or who is 18-22 years of age and for whom an LAR has been appointed, is transferred to another facility operated by the transferring program provider, the program provider must attempt to obtain consent for the transfer from the LAR unless the transfer is made because of a serious risk to the health and safety of the individual or another person.

(m) A program provider must document compliance with the requirements of this section in the individual's record.

#### [Rule §9.244 Applicant Enrollment in the ICF/MR Program](#)

(f) Upon notification of a request for enrollment of an applicant under 22 years of age, an MRA must take or ensure that the following actions are taken to conduct permanency planning:

(1) The MRA must convene a permanency planning meeting with the LAR and, if possible, the applicant before admission or, if notified of a request for enrollment after the applicant's admission, not later than the 14th working day after the date the MRA is notified of the request.

(2) Before the permanency planning meeting, the MRA staff must review the applicant's records and, if possible, meet the applicant.

(3) During the permanency planning meeting, the meeting participants must discuss and choose one of the following goals:

(A) for an applicant under 18 years of age:

(i) to live in the applicant's family home where the natural supports and strengths of the applicant's family are supplemented, as needed, by activities and supports provided or facilitated by the MRA or program provider; or

(ii) to live in a family-based alternative in which a family other than the applicant's family:

(I) has received specialized training in the provision of support and in-home care for an individual under 18 years of age with mental retardation;

(II) will provide a consistent and nurturing environment in a family home that supports a continued relationship with the applicant's family to the extent possible; and

(III) if necessary, will provide an enduring, positive relationship with a specific adult who will be an advocate for the applicant; or

(B) for an applicant 18-22 years of age, to live in a setting chosen by the applicant or LAR in which the applicant's natural supports and strengths are supplemented by activities and supports provided or facilitated by the MRA or program provider, and to achieve a consistent and nurturing environment in the least restrictive setting, as defined by the applicant and LAR.

(4) To accomplish the goal chosen in accordance with paragraph (3) of this subsection, the meeting participants must discuss and identify:

(A) the problems or issues that led the applicant or LAR to request admission to a facility;

(B) the applicant's daily support needs;

(C) for an applicant under 18 years of age:

(i) barriers to having the applicant reside in the family home;

(ii) supports that would be necessary for the applicant to remain in the family home; and

(iii) actions that must be taken to overcome the barriers and provide the necessary supports;

(D) for an applicant 18-22 years of age, the barriers to the applicant moving to a consistent and nurturing environment as defined by the applicant and LAR;

(E) the importance for the applicant to live in a long-term nurturing relationship with a family;

(F) alternatives to the applicant living in an institutional setting;

(G) the applicant's and LAR's need for information and preferences regarding those alternatives;

(H) how, after admission to the facility, to facilitate regular contact between the applicant and the applicant's family, and, if desired by the applicant and family, between the applicant and advocates and friends in the community to continue supportive and nurturing relationships;

(I) natural supports and family strengths that will assist in accomplishing the identified permanency planning goal;

(J) activities and supports that can be provided by the family, MRA, or program provider to achieve the permanency planning goal;

(K) assistance needed by the applicant's family:

(i) in maintaining a nurturing relationship with the applicant; and

(ii) preparing the family for the applicant's eventual return to the family home or move to a family-based alternative; and

(L) action steps, both immediate and long term, for achieving the permanency plan goal.

(5) The MRA must make reasonable accommodations to promote the participation of the LAR in a permanency planning meeting, including:

(A) conducting a meeting in person or by telephone, as mutually agreed upon by the MRA and LAR;

(B) conducting a meeting at a time and, if the meeting is in person, at a location that is mutually agreed upon by the MRA and LAR;

(C) if the LAR has a disability, providing reasonable accommodations in accordance with the Americans with Disabilities Act, including providing an accessible meeting location or a sign language interpreter, if appropriate; and

(D) providing a language interpreter, if appropriate.

(6) The MRA must develop a permanency plan using, as appropriate:

(A) the Permanency Planning Instrument for Children Under 18 Years of Age; or

(B) the Permanency Planning Instrument for Individuals 18-22 Years of Age.

(7) The MRA must:

(A) complete the Permanency Planning Review Screen in CARE before an applicant is admitted to a facility unless the MRA is not given prior notice of the admission;

(B) keep a copy of the Permanency Planning Review Approval Status View Screen from CARE in the applicant's record; and

(C) provide a copy of the permanency plan to the program provider, the applicant, and the LAR.

#### [Rule §9.250 Permanency Planning Reviews](#)

An MRA must, within six months after the initial permanency planning meeting and every six months thereafter until an individual either turns 22 years of age or leaves the facility to live in a family setting:

(1) provide written notice to the LAR of a meeting to conduct a review of the individual's permanency plan no later than 21 days before the meeting date and include a request for a response from the LAR;

(2) convene a meeting to review the individual's permanency plan in accordance with §9.244(f)(2) - (5) of this subchapter (relating to Applicant Enrollment in the ICF/MR Program), with an emphasis on changes or additional information gathered since the last permanency plan was developed;

(3) develop a permanency plan in accordance with §9.244(f)(6) of this subchapter;

(4) perform actions regarding a volunteer advocate as described in §9.244(g) - (i) of this subchapter;

(5) complete the Permanency Planning Review Screen in CARE within 10 days after the meeting;

(6) ensure that approval for the individual to continue to reside in the facility is obtained every six months from the DADS commissioner and the Health and Human Services Commission executive commissioner;

- (7) keep a copy of the Permanency Planning Review Approval Status View Screen from CARE in the individual's record; and
- (8) provide a copy of the permanency plan to the program provider, the individual, and the LAR.

Chapter 9, Subchapter D Home and Community-based Services (HCS)  
[RULE §9.167 Permanency Planning](#)

(a) Permanency planning at enrollment. The provisions contained in this subsection apply to an applicant under 22 years of age moving from a family setting and requesting supervised living or residential support.

(1) Information. The MRA must, before enrollment, inform the applicant and LAR:

- (A) of the benefits of living in a family or community setting;
- (B) that the placement of the applicant is considered temporary; and
- (C) that an ongoing permanency planning process is required.

(2) Permanency planning activities.

(A) The MRA must convene a permanency planning meeting with the LAR and, if possible, the applicant, before enrollment.

(B) Before the permanency planning meeting, the MRA must review the applicant's records, and, if possible, meet the applicant.

(C) During the permanency planning meeting, the meeting participants must discuss and choose one of the following goals:

(i) for an applicant under 18 years of age:

(I) to live in the applicant's family home where the natural supports and strengths of the applicant's family are supplemented, as needed, by activities and supports provided or facilitated by the MRA or program provider; or

(II) to live in a family-based alternative in which a family other than the applicant's family:

(-a-) has received specialized training in the provision of support and in-home care for an individual under 18 years of age with mental retardation or a related condition;

(-b-) will provide a consistent and nurturing environment in a family home that supports a continued relationship with the applicant's family to the extent possible; and

(-c-) will provide an enduring, positive relationship with a specific adult who will be an advocate for the applicant; or

(ii) for an applicant 18-22 years of age to live in a setting chosen by the applicant or LAR in which the applicant's natural supports and strengths are supplemented by activities and supports provided or facilitated by the MRA or program provider, and to achieve a consistent and nurturing environment in the least restrictive setting, as defined by the applicant and LAR.

(D) To accomplish the goal chosen in accordance with subparagraph (C) of this paragraph, the meeting participants must discuss and identify:

- (i) the problems or issues that led the applicant or LAR to request supervised living or residential support;
- (ii) the applicant's daily support needs;
- (iii) for the applicant under 18 years of age:
  - (I) barriers to having the applicant reside in the family home;
  - (II) supports that would be necessary for the applicant to remain in the family home; and
  - (III) actions that must be taken to overcome the barriers and provide the necessary supports;
- (iv) for an applicant 18-22 years of age, the barriers to moving to a consistent and nurturing environment as defined by the applicant and LAR;
- (v) the importance for the applicant to live in a long-term nurturing relationship with a family;
- (vi) alternatives to the applicant living in an institutional setting;
- (vii) the applicant's and LAR's need for information and preferences regarding those alternatives;
- (viii) how, after the applicant's enrollment, to facilitate regular contact between the applicant and the applicant's family, and, if desired by the applicant and family, between the applicant and advocates and friends in the community to continue supportive and nurturing relationships;
- (ix) natural supports and family strengths that will assist in accomplishing the identified permanency planning goal;
- (x) activities and supports that can be provided by the family, MRA, or program provider to achieve the permanency planning goal;
- (xi) assistance needed by the applicant's family:
  - (I) in maintaining a nurturing relationship with the applicant; and
  - (II) preparing the family for the applicant's eventual return to the family home or move to a family-based alternative; and
- (xii) action steps, both immediate and long term, for achieving the permanency plan goal.

(E) The MRA must make reasonable accommodations to promote the participation of the LAR in a permanency planning meeting, including:

- (i) conducting a meeting in person or by telephone, as mutually agreed upon by the MRA and LAR;
- (ii) conducting a meeting at a time and, if the meeting is in person, at a location that is mutually agreed upon by the MRA and LAR;
- (iii) if the LAR has a disability, providing reasonable accommodations in accordance with the Americans with Disabilities Act, including providing an accessible meeting location or a sign language interpreter, if appropriate; and
- (iv) providing a language interpreter, if appropriate.

(F) The MRA must develop a permanency plan using, as appropriate:

(i) the Permanency Planning Instrument for Children Under 18 Years of Age, found at [www.dads.state.tx.us](http://www.dads.state.tx.us); or

(ii) the Permanency Planning Instrument for Individuals 18-22 Years of Age, found at [www.dads.state.tx.us](http://www.dads.state.tx.us).

(G) The MRA must:

(i) complete the Permanency Planning Review Screen in CARE before enrollment;

(ii) keep a copy of the Permanency Planning Review Approval Status View Screen from CARE in the applicant's record; and

(iii) provide a copy of the permanency plan to the program provider, the applicant, and the LAR.

(3) Volunteer advocate.

(A) The MRA must inform the applicant and LAR that they may request a volunteer advocate to assist in permanency planning. The applicant or LAR may:

(i) select a person who is not employed by or under contract with the MRA or a program provider; or

(ii) request the MRA to designate a volunteer advocate.

(B) If an applicant or LAR requests that the MRA designate a volunteer advocate or the MRA cannot locate the applicant's LAR, the MRA must attempt to designate a volunteer advocate to assist in permanency planning who is, in order of preference:

(i) an adult relative who is actively involved with the applicant;

(ii) a person who:

(I) is part of the applicant's natural supports; and

(II) is not employed by or under contract with the MRA or a provider;

or

(iii) a person or a child advocacy organization representative who:

(I) is knowledgeable about community services and supports;

(II) is familiar with the permanency planning philosophy and

processes; and

(III) is not employed by or under contract with the MRA or a provider.

(C) If the MRA is unable to locate a volunteer advocate locally, the MRA must request assistance from a statewide advocacy organization in identifying an available volunteer advocate who meets the requirements described in subparagraph (B)(iii) of this paragraph. If the statewide advocacy organization is unable to assist the MRA in identifying a volunteer advocate, the MRA must document all efforts to designate a volunteer advocate in accordance with subparagraph (B) of this paragraph.

(b) Permanency planning reviews. An MRA must, within six months after the initial permanency planning meeting and every six months thereafter until

an individual either turns 22 years of age or is no longer receiving supervised living or residential support:

(1) provide written notice to the LAR of a meeting to conduct a review of the individual's permanency plan no later than 21 calendar days before the meeting date and include a request for a response from the LAR;

(2) convene a meeting to review the individual's current permanency plan in accordance with subsection (a)(2)(C) - (E) of this section, with an emphasis on changes or additional information gathered since the last permanency plan was developed;

(3) develop a permanency plan in accordance with subsection (a)(2)(F) of this section;

(4) perform actions regarding a volunteer advocate as described in subsection (a)(3) of this section;

(5) complete the Permanency Planning Review Screen in CARE within 10 calendar days after the meeting;

(6) ensure that approval for the individual to continue to reside in an institution is obtained every six months from the DADS commissioner and the HHSC executive commissioner;

(7) keep a copy of the Permanency Planning Review Approval Status View Screen from CARE in the individual's record;

(8) provide a copy of the permanency plan to the program provider, the individual, and the LAR; and

(9) if the MRA determines it is unable to locate the parent or LAR, notify the service coordinator of such determination.

(c) Provision of supervised living or residential support after enrollment. If an MRA receives information that an individual under 22 years of age who has been enrolled in the HCS Program moved from a family setting and started receiving supervised living or residential support, the MRA must, within the timeframes described in the performance contract between DADS and the MRA:

(1) provide an explanation of services and supports and other information in accordance with §9.158(e)(1) of this subchapter (relating to Process for Enrollment of Applicants); and

(2) take actions to conduct permanency planning as described in subsection (a) of this section.

§9.190. LIDDA Requirements for Providing Service Coordination in the HCS Program.

(e) A service coordinator must:

(38) within three business days after initiating supervised living or residential support to an individual under 22 years of age:

(A) provide the information listed in subparagraph (B) of this paragraph to the following:

(i) the CRCG for the county in which the individual's LAR lives (see [www.hhsc.state.tx.us](http://www.hhsc.state.tx.us) for a listing of CRCG chairpersons by county); and

(ii) the local school district for the area in which the three- or four-person residence is located, if the individual is at least three years of age, or the early childhood intervention (ECI) program for the county in which the residence is located, if the individual is less than three years of age (see <http://www.dars.state.tx.us/ecis/searchprogram.asp> to search for an ECI program by zip code or by county); and

(B) as required by subparagraph (A) of this paragraph, provide the following information to the entities described in subparagraph (A) of this paragraph:

- (i) the individual's full name;
- (ii) the individual's gender;
- (iii) the individual's ethnicity;
- (iv) the individual's birth date;
- (v) the individual's social security number;
- (vi) the LAR's name, address, and county of residence;
- (vii) the date of initiation of supervised living or residential support;
- (viii) the address where supervised living or residential support is provided; and
- (ix) the name and phone number of the person providing the information;

#### Chapter 2, Subchapter F, Continuity of Services – State Facilities

#### [RULE §2.257 Criteria for Commitment of a Minor to a State MR Facility Under the PMRA](#)

a) In accordance with THSC, §§593.003, 593.052, and 593.041, a minor may be committed to a state MR facility for residential services only if:

(1) the minor is determined to have mental retardation in accordance with §415.155 of this title (relating to Determination of Mental Retardation (DMR));

(2) the minor, because of mental retardation:

(A) represents a substantial risk of physical impairment or injury to self or others; or

(B) is unable to provide for and is not providing for the minor's most basic personal physical needs;

(3) the minor cannot be adequately and appropriately habilitated in an available, less restrictive setting;

(4) the state MR facility provides habilitative services, care, training, and treatment appropriate to the minor's needs; and

(5) a report by an MRA's IDT recommending the placement has been completed in accordance with §412.264 of this title (relating to IDT



Recommendation Concerning the Commitment of an Adult or a Minor or the Regular Voluntary Admission of an Adult to a State MR Facility Under the PMRA) during the six months preceding the date of the commitment hearing.

(b) A minor represents a substantial risk of physical impairment or injury to self or others or is unable to provide for and is not providing for the minor's most basic personal physical needs, as referenced in subsection (a)(2) of this section, if:

(1) the minor's IQ is four or more standard deviations below the mean, (i.e., in the severe or profound range of mental retardation);

(2) the minor's ICAP service level equals:

(A) 1, 2, 3, or 4; or

(B) 5 or 6 and the minor:

(i) has extraordinary medical needs that would require direct nursing treatment for at least 180 minutes per week if the minor's caregiver were not providing such treatment; or

(ii) exhibits incidents of dangerous behavior that would require intensive staff intervention and resources to prevent serious physical injury to the minor or others if the minor's caregiver were not managing such incidents; or

(3) the minor meets other objective measures as determined by the department.

(c) A determination that a minor cannot be adequately and appropriately habilitated in an available, less restrictive setting, as referenced in subsection (a)(3) of this section, may not be made unless:

(1) a CRCG held a staffing concerning the minor and provided information to the minor's family about available community supports that could serve as an alternative to admission of the minor to a state MR facility;

(2) available community supports that could serve as an alternative to admission of the minor to a state MR facility were attempted; and

(3) if there are indications that the minor may have a serious emotional disturbance, the minor was assessed by a children's mental health professional to determine if a serious emotional disturbance exists and services to address the serious emotional disturbance were attempted.

#### [RULE §2.283 MRA and State MR Facility Responsibilities](#)

(a) MRA responsibilities.

(1) Except for a request for admission for respite care, when admission to a state MR facility is requested for an individual under 22 years of age, the designated MRA must:

(A) before the individual is admitted to the facility, inform the LAR:

(i) of the benefits of living in a family or community setting;

(ii) that the individual's stay in the facility is considered temporary; and

(iii) that an ongoing permanency planning process is required;

(B) take or ensure that the actions described in §9.244(f) of this title (relating to Applicant Enrollment in the ICF/MR Program) are taken to conduct permanency planning; and

(C) take the actions described in §9.244(g)-(i) of this title regarding a volunteer advocate.

(2) An MRA does not have to comply with paragraph (1)(A) of this subsection if the individual has been committed to a state MR facility under Chapter 46B, Code of Criminal Procedure, or Chapter 55, Family Code.

(3) For an individual under 22 years of age who resides in a state MR facility, the designated MRA must conduct a permanency planning review in accordance with §9.250 of this title (relating to Permanency Planning Reviews).

b) State MR facility responsibilities.

(1) Upon the admission of an individual under 22 years of age to a state MR facility, a state MR facility:

(A) requests from and encourages the LAR to provide the information described in §9.222(e) of this title (relating to Permanency Planning and LAR Participation for Individuals Under 22 Years of Age);

(B) makes notifications as described in §9.222(c) and (d) of this title; and

(C) incorporates permanency planning as an integral part of the individual's initial individual program plan (IPP) and identifies information in the IPP as described in §9.222(a) of this title.

(2) For an individual under 22 years of age who resides in a state MR facility, a state MR facility:

(A) incorporates permanency planning as an integral part of the individual's IPP and identifies information in the IPP as described in §9.222(a) of this title;

(B) takes the actions described in §9.222(b) of this title to assist the individual's designated MRA in conducting permanency planning;

(C) requests from and encourages the LAR to provide the information described in §9.222(e) of this title;

(D) provides notice to the individual and LAR of a meeting to conduct the annual review of the individual's IPP as described in §9.222(g) of this title;

(E) attempts to notify the LAR of an emergency situation as described in §9.222(h) of this title;

(F) attempts to locate the LAR as described in §9.222(i) of this title, if the LAR does not respond to a notification by the state MR facility; and

(G) notifies DADS as described in §9.222(j) of this title if the LAR cannot be located.

(3) A state MR facility makes reasonable accommodations to promote the participation of the LAR as described in §9.222(f) of this title.

(4) A state MR facility documents compliance with the requirements of this subsection in the individual's record.

(c) DADS referral. If, within one year of the date DADS receives the notification described in subsection (b)(2)(G) of this section, DADS is unable to locate the LAR, DADS refers the case to:

(1) the Child Protective Services Division of the Department of Family and Protective Services if the individual is under 18 years of age; or

(2) the Adult Protective Services Division of the Department of Family and Protective Services if the individual is 18-22 years of age.

40 TAC, Chapter 2, Local Authority Responsibilities, Subchapter G, Role and Responsibilities of a Local Authority

#### [RULE §2.305 LIDDA's Role and Responsibilities](#)

(b) As the single point of access, a LIDDA's responsibilities include: (8) conducting permanency planning for certain individuals under 22 years of age

#### [RULE §2.307 Access, Intake, and Enrollment Related Responsibilities](#)

(b) Screening.

(2) If the individual or LAR is seeking residential services, the LIDDA must develop and implement policies and procedures that address: (B) if an individual is under 22 years of age, providing to the LAR an explanation of permanency planning.

(f) Enrollment activities for the ICF/IID, HCS, and TxHmL programs.

(2) A LIDDA must conduct permanency planning for an individual under 22 years of age who is enrolling in an HCS Program residential setting or an ICF/IID in accordance with the performance contract and DADS rules relating to those programs.

(h) Commitment or admission to a state supported living center (SSLC).

(2) A LIDDA must conduct permanency planning for an individual under 22 years of age who resides in an SSLC in accordance with §2.283 of this chapter (relating to MRA and State MR Facility Responsibilities) contained in Subchapter F (relating to Continuity of Services--State Facilities), and the performance contract.

#### [RULE §2.309 LIDDA Responsibilities for Institutional Residents](#)

(c) Permanency planning.

(1) A LIDDA must conduct permanency planning for an individual under 22 years of age who is: (A) enrolled in the ICF/IID Program, including an SSLC; or (B) receiving residential support or supervised living from an HCS Program provider in the LIDDA local service area.

(2) A LIDDA must conduct permanency planning in accordance with the performance contract and the following rules:

(A) Section 2.283 of this chapter (relating to MRA and State MR Facility Responsibilities) contained in Subchapter F (relating to Continuity of Services--State Facilities);

(B) Section 9.167 of this title (relating to Permanency Planning Reviews) contained in Chapter 9, Subchapter D (relating to Home and Community-based Services (HCS) Program); and

(C) Section 9.250 of this title (relating to Permanency Planning Reviews) contained in Chapter 9, Subchapter E (relating to ICF/IID Program--Contracting).

#### [RULE §2.315 LIDDA Administrative Functions](#)

(a) Local planning.

(2) A LIDDA must participate in the local CRCG when an individual has complex needs and requires multiagency services.

#### HHSC LIDDA Performance Contract

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Attachment H: Authority Functions, III. Coordination:

D. Participate in the Community Resource Coordination Group for Children and Adolescents (CRCG) and the Community Resource Coordination Group for Adults (CRCA) in the LSA, in accordance with the memorandum of understanding, described in the CRCG - MOU, required by the Texas Government Code (TGC) §531.055, by providing one or more representatives to each group with authority and expertise in IDD services;

E. Notify the CRCG in the county of residence of the parent or guardian of a person younger than 22 years of age with a developmental disability if such a person will be placed by the LA in a group home or other residential facility, as required by TGC §531.154(a)(3)

Attachment S: Permanency Planning Requirements / ICF-IID and HCS Residential Settings:

The LIDDA shall conduct and document permanency planning for consumers under age 22 years enrolling in or currently residing in an ICF/IID or HCS residential setting in accordance with DADS rules 40 TAC, Chapter 9, Subchapter D (Home and Community-Based Services (HCS) Program) and 40 TAC, Chapter 9, Subchapter E (ICF/IID Programs – Contracting) and as follows.

A. For consumers who are enrolling from a family-based setting into an ICF/IID, including a state supported living center (SSLC), or an HCS residential setting, the LIDDA shall conduct initial permanency planning at the time of the consumer's enrollment.

B. For consumers who currently reside in an ICF/IID, including an SSLC, or an HCS residential setting, the LIDDA shall conduct a review of the permanency plan six (6) months after the initial permanency plan was conducted and every six (6) months after the review until the consumer reaches age 22 years or the consumer leaves the ICF/IID or HCS residential setting to live in a family-based setting. The LIDDA shall provide to and review with the consumer and family or LAR the A Message for Families ... document (referenced in the Table of Contents).

DADS rules governing ICF/IID Programs – Contracting, specifically §9.250(1), and Home and Community-Based Services (HCS) Program, specifically §9.167(b)(1) both of which relate to permanency planning reviews, state that the LIDDA must provide written notice to the LAR of a meeting to conduct a review of the individual’s permanency plan no later than 21 days before the meeting date and include a request for a response from the LAR.

C. The LIDDA shall use the following CARE XPTR reports to identify the consumers in need of permanency planning and the timeframes for conducting permanency planning:

1. HC021395 (Permanency Plan Reviews Needed); and
2. HC021393 (PPRS Status By Consumer).

These CARE XPTR reports indicate consumers newly identified as needing permanency planning. The LIDDA has 20 days to conduct permanency planning starting the first business day a consumer’s name first appears on either report.

D. The LIDDA shall submit a copy of the permanency plan to the ICF/IID or HCS provider and LAR or family by the plan of care implementation date.

For a copy of the current performance contract please visit [www.hhsc.state.tx.us](http://www.hhsc.state.tx.us)

## HCS Waiver Application Reserve Capacity

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HHSC maintains an HCS interest list and makes offers of waiver services (1) based on a first-come, first-served basis; and (2) to persons for whom “reserve capacity” has been created (commonly referred to as “target groups”) in accordance with appropriations and subject to approval by the Centers for Medicare and Medicaid Services (CMS).

As of 10/20/2015, target groups in approved Appendix B included:

- Individuals under age 22 leaving a nursing facility (MFP)
- Individuals under age 22 leaving a medium or small intermediate care facility (MFP)
- Individuals currently residing in an institution scheduled for closure, or an out-of-state intermediate care facility losing funding (MFP)
- Individuals leaving state conservatorship
- Individuals at risk of institutionalization in a state supported living center
- Individuals leaving a state hospital
- Individuals with level of care I or VIII residing in a nursing facility (MFP)
- Individuals leaving a large intermediate care facility, including a state supported living center (MFP)
- Children in conservatorship leaving a general residential option
- Individuals at risk of imminent institutionalization

For a copy of the current waiver application please visit [www.hhsc.state.tx.us](http://www.hhsc.state.tx.us)