

INSTRUCTIONS

Affidavit in Support of Order to Participate in Services

August 2021

What is the purpose of this affidavit?

The purpose is to show the court the necessity for court ordered participation in services. This requires evidence that the child has been a victim of abuse or neglect or is at substantial risk of abuse or neglect **and** evidence that shows a continuing danger to the physical health or safety of the child caused by an act or failure to act of the parent, managing conservator, guardian, or other member of the child's household unless that person participates in services requested by the department... TEX. FAM. CODE § 264.203. It is *not* necessary to have an RTB finding before requesting an Order to Participate in Services. Only services that the department makes a referral for, provides or purchases can be ordered.

Who can be ordered to participate? A parent, managing conservator, guardian or other member of the child's household can be ordered to participate in services.

Does it matter if the child is in the home or not? No, the court render an Order to Participate whether or not the child is in the home.

Indian Child Status

If a case is subject to the Indian Child Welfare Act ("ICWA"), the sooner this is identified, the better. If ICWA applies, CPS must make "active efforts" to provide remedial services and rehabilitative programs to prevent the breakup of the Indian family and must show that these efforts were unsuccessful. Efforts to obtain participation in services would be relevant to the issue of whether "active efforts" were made.

Format

This is *one possible* format or template for an affidavit in support of an Order to Participate in Services. If your local court requires a different format, use that format. The use of subheadings is recommended, if your court approves, simply to make it easier for the reader to locate information quickly.

First person/third person

Writing in the first person ("I interviewed Mrs. Smith") allows a more streamlined and natural style than third person ("the undersigned caseworker interviewed Mrs. Smith"), but either one is legally correct. Follow the direction of the local court or CPS management on this issue. With either style, the most important thing is to make sure that the source of any information that is not obtained first hand is clearly identified. In other words, if you are reporting on your own interview of a doctor, you can say, "Dr. Baines reported that the child had a fractured rib." However, if another caseworker interviewed a family member or witness, your affidavit can include that information, but the source of the information must be clear. For example, "the case notes indicate that caseworker Edith Ramsey interviewed Dr. Lindsey Baines, who reported the child has a fractured rib."

CAUSE NO: _____

TEXAS DEPARTMENT OF
FAMILY & PROTECTIVE
SERVICES

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IN THE DISTRICT COURT OF

V.

_____ COUNTY, TEXAS

____ JUDICIAL DISTRICT

AFFIDAVIT IN SUPPORT OF ORDER TO PARTICIPATE IN SERVICES

STATE OF TEXAS

§

COUNTY OF _____

§

BEFORE ME, the undersigned authority, personally appeared CASEWORKER, who was sworn by me and deposed as follows:

“My name is _____. I am over the age of 18, of sound mind and capable of making this affidavit. I am an authorized representative of the Texas Department of Family and Protective Services, and the facts and allegations stated in this affidavit are within my personal knowledge and are true and correct.

“The following facts show the necessity for an order requiring _____ (insert party(s) to be ordered) to participate in the services specified below:

1. CHILD(REN)

Name:

DOB:

Repeat as needed for each child. If a child's date of birth is not available, provide an estimated age but indicate the age is an estimate.

**2. PARENTS - MANAGING
CONSERVATOR-MEMBER
OF THE HOUSEHOLD**

Mother

Name:

DOB:

Current address:

Father (indicate which children he is father of if not all of the above)

Name:

DOB:

Current Address:

Managing Conservator

Name:

DOB:

Address:

Member of the Household

Name:

Relationship to child/parent _____

DOB:

Relationship - indicate how the person is connected to the household (by marriage, relative, stepparent, friend or other) and which parent or child this relationship is with (i.e. married to Susan Giles (mother) or stepfather to Thomas Giles (child)).

3. INDIAN CHILD STATUS

Mother

Denies tribal connection

Unavailable/unable to answer.

Describes tribal connection as follows: _____

Father

Denies tribal connection

Unavailable/unable to answer.

Describes tribal connection as follows: _____

Child _____

Denies tribal connection

Unavailable/unable to answer.

Describes tribal connection as follows: _____

_____ **(Extended family/other)**

Denies tribal connection

Unavailable/unable to answer.

Describes tribal connection as follows: _____

4. CPS HISTORY

Always include date of referral, allegation, findings & brief explanation of relevant CPS history.

For example: On July 3, 2008, the department received a referral alleging neglectful supervision of 3 year old Stephen Jones by his mother, Mary Smith. Ms. Smith was arrested for DUI and Stephen was found alone and crying in the house six hours after Ms. Smith reported leaving the home. Neglectful Supervision was validated, and the case was opened in Family Based Services.

5. CRIMINAL HISTORY

Only crimes with convictions can be used as evidence. If the local court requires that all arrest history be listed, even if the charges were dismissed, for example, that information can be included but should not be relied on to demonstrate why an Order for Participation in Services is necessary.

6. ASSESSMENT

*List the facts showing the child has been a victim of abuse or neglect **or** is at substantial risk of abuse or neglect, **and** there is a continuing danger to the physical health or safety of the child caused by an act or failure to act of the parent, managing conservator, guardian, or other member of the child's household unless that person participates in services requested by the department.*

If there is an existing service plan, describe what services parents or household members have not participated in. If a plan of service has not yet been created, state the basis for seeking a court order for services, including specific child safety concerns and how the services will assist the family and reduce the likelihood that the child will be abused or neglected in the immediate or foreseeable future. Show the link between the necessary services and the evidence of child safety concerns identified above.

6. CONCLUSION

Based on the foregoing facts, DFPS requests that the court order:

Tell the court what services need to be ordered for each specific person who will be subject to the order. If there is a specific quantity the order should include (drug tests, therapy, classes), specify the amount, frequency or duration. The specific services need to be narrowly tailored for that person. Note that DFPS can only seek orders for services provided or purchased by the department.

_to participate in the following services for which the Department makes a referral, provides or purchases:

Repeat as necessary.

DFSP further requests that the Court schedule a hearing 90 days after rendering an order pursuant to § 264.203, Texas Family Code, to review the status of each person required to participate in the services and the child and the services provided, purchased, or referred.

Caseworker’s signature

Name & title

Affiant

SWORN TO AND SUBSCRIBED before me, the undersigned Notary Public on this the ___ day of _____ 20__.

NOTARY PUBLIC in and for the
STATE OF TEXAS
Commission Expires: