



## Legal Risk Guide

We believe all children should be provided a family environment that encourages them to develop to their full potential. We work with families that provide safe, stable and nurturing homes and who can embrace and be supportive of reunification, and of siblings staying together. There are two types of placements families can consider when seeking to adopt children through foster care; foster-to-adopt and legal-risk placements. At times these placements are made on short notice. Other times there may be several days/weeks notice. The more time allowed by each specific placement usually contributes to the amount of information available to the social workers and prospective foster/adopt parents. The foster to adopt process is for families willing to accommodate and embrace the possibility of a child returning home or being placed with extended family. When children in foster care can not return to their family of origin then an adoptive home will be selected. If the foster family has expressed a desire to adopt the child, they are usually determined to be the lead family. In legal risk placements, the child has a circumstance in the case history that indicated they may not return to the birth parents or extended family. With Legal Risk children will likely need an adoptive home. The children are placed into the home for foster care with the intention of the home moving forward with the adoption when the child's case is ready.

When time permits, CPS can go through the selection and presentation process to provide a full disclosure of the case history prior to placement and ask the prospective adoptive parent to sign a Legal Risk Placement form. In this case CPS has little reassurance the child will return to birth parents or relatives and at times the parent's rights have already been terminated. In legal risk placements the children are placed into a foster/adopt home as a foster placement. CPS moves forward to either complete the final order to terminate parental rights, meet the 90-day appeal window, or resolve the appellate process. This allows the child/children to begin bonding with the adoptive parent prior to the adoptive placement being made and can reduce the time children spend in CPS's care.

Pathways staff will advise the prospective foster/adopt parent regarding the risk level associated with each specific case.

### **Children who would be appropriate for legal-risk placements could include the following:**

- Abandoned Infants.
- If one or both parents have relinquished their parental rights.
- If DFPS has filed a petition to terminate the parental rights and the DFPS attorney advises that the probability of termination on both parents is probable.
- If termination of parental rights has been achieved, but the parents have filed an appeal.
- If termination is dependent upon selection of an adoptive family.
- If the child's siblings have been placed in adoption and for whom the permanent plan is adoption.
- If parents have consistently abandoned the child who has been in CPS care for more than 6 months.

The prospective family must consider the level of risk they are comfortable with based on the amount of information available specific to each case. There are other factors a prospective adoptive family must consider. For example, the child might have visitation with the birth parents or extended family until termination issues can be resolved. In addition, the prospective adoptive family will not be able to tell the child that they are their adoptive home until the adoptive placement has been made.

It can take anywhere from 30 days to a year or more for a legal risk placement to move to an adoptive placement. Each case will come with its own determining or extenuating factors. Many cases go fairly quickly, however if a case gets overturned during the appeal process it can easily be a year or more until a resolution is met. Cases that are overturned must be re-tried or the child could be returned to the parent or extended family. If a case gets re-tried, there is still a possibility termination might not be granted again and the child could return home or to a relative.

- **Adoption Assistance application and negotiation:** CPS may provide additional support services to adoptive children that meet “special needs” criteria. Children who meet these criteria can receive adoption subsidy payments, Medicaid, and non-reoccurring legal fee reimbursement. Children that receive subsidy payments can also receive tuition waivers for state colleges and technical schools in Texas.  
Adoption subsidy payments begin accruing on the first day of the next month following the signing of the adoptive placement agreement. (For example, if the Adoptive placement agreement is signed on April 10<sup>th</sup>, the payment would begin accruing on May 1<sup>st</sup>). Generally there is a 30-60 day delay in receiving the initial adoption subsidy payment. Please see the Adoption Assistance Program handout for more detailed information.
- **Presentation and Placement:** CPS and Pathways are required to provide a full disclosure of information to adoptive parents. In many areas, CPS will conduct a presentation staffing, which includes a verbal case history report about the child or sibling group based on all the information known to them. In turn Pathways staff and the family will have the opportunity to ask questions or get clarification.  
Usually, CPS will have the foster parent sign the Adoptive Placement Agreement at or soon after this presentation. The day the parents sign the Adoptive Placement Agreement foster care reimbursement stops and adoption placement supervision begins. Children that do not qualify for Adoption Assistance will continue to be covered by Medicaid until the adoption is approved by the court. At that time the adoptive parents are required to provide insurance coverage for the child. Around the time of adoptive placement the parent will need to select an attorney to have their adoption approved in the court. Selecting the right attorney for your adoption is important. We recommend you consult with your Pathways staff for a list of experienced attorneys in your area. After the family selects an attorney they will forward the attorney's contact information to their Pathways staff.
- **Post placement process:** Adoptive placements are supervised for six months prior to the adoption becoming finalized by the court. Normally the time the child spent in the home as a foster placement will be counted towards the six-month supervision requirement. The time in foster care will be calculated equally towards the six-month requirement. If the child has been in the home three months the adoption will require an additional three months of supervision as an adoptive placement. Pathways will monitor the placement and help coordinate activities by providing an Adoptive Plan of Services, scheduling adoptive family

counseling, and other support services as needed. It is Pathways full desire and intent to provide families the best opportunity for success before and after their adoption.

- **Finalization process:** After the adoptive placement is made and the six-month criteria are met, the family can request to have their adoption approved in court. The family is required to select independent counsel (an adoption attorney) to have their adoption presented in Court. The family is responsible for payment of the attorney fees and any associated filing fees. The Attorney will schedule a hearing to have the Court approve and make the adoption permanent. At the hearing the family, Attorney, Pathways staff, (and any friends and family) will go before the Court and make the adoption permanent. Once the court approves the adoption, the adoptive parent receives the full legal rights and responsibilities of their adopted child/children just as if they were birth children. Following this adoption hearing, the family is free to go about their life raising their children. Pathways can continue to offer adoptive counseling services through Medicaid, private insurance, or on a fee for service basis, at your discretion.
  
- **Post Adoption Services:** Pathways makes a long-term commitment to all the adoptions we have the pleasure of working with. We welcome the opportunity to assist our adoptive homes long after the courts dismiss us. "Post Adoption Services" are available to support adoptive families after finalization, with case management services, support groups, counseling, respite, residential placement services and 24-hour crisis intervention. Adoptive parents are encouraged to use Post Adoption Services early on if they are experiencing difficulties. These services are designed to help smooth out more difficult times and to ensure the stability of your adoption. Because children exposed to abuse and neglect can have a wide range of characteristics ranging from emotional disturbances, medical complications and/or developmental issues their needs can be demanding and seem overwhelming at times. Utilizing Pathways, Post Adoption Services and various community resources will ensure the best opportunity for a rich and enjoyable adoption experience