

2012 Kansas Statutes

38-1664. Juvenile offenders placed in custody of commissioner, considerations by court; notification of court; reports by commissioner and foster parents; permanency hearing. (a) Prior to placing a juvenile offender in the custody of the commissioner and recommending out-of-home placement, the court shall consider and determine that, where consistent with the need for protection of the community:

- (1) Reasonable efforts have been made to maintain the family unit and prevent unnecessary removal of a juvenile offender from the juvenile offender's home, as long as the juvenile offender's safety is assured, or an emergency exists which threatens the safety of the juvenile offender. If the juvenile offender is in the custody of the secretary of social and rehabilitation services under the Kansas code for the care of children, the secretary shall prepare a report for the court documenting such reasonable efforts. If the juvenile offender is in the custody of the commissioner, the commissioner shall prepare a report for the court documenting such reasonable efforts. Otherwise, the predisposition investigation writer shall prepare a report to the court documenting such reasonable efforts. Reasonable efforts are not required prior to removal if the court finds:
 - (A) A court of competent jurisdiction has determined that the parent has subjected the juvenile offender to aggravated circumstances;
 - (B) a court of competent jurisdiction has determined that the parent has been convicted of a murder of another child of the parent; voluntary manslaughter of another child of the parent; aiding or abetting, attempting, conspiring or soliciting to commit such a murder of such a voluntary manslaughter; or a felony assault that results in serious bodily injury to the juvenile offender or another child of the parent; or
 - (C) the parental rights of the parent with respect to a sibling have been terminated involuntarily.Such findings must be included in the court's order.
- (2) The juvenile offender's removal from the home must be the result of a judicial determination to the effect that continuation of residence in the home would be contrary to the welfare, or that placement would be in the best interests, of the juvenile offender. The contrary to the welfare determination must be made in the first court ruling that sanctions the removal of a juvenile offender from the home.
- (3) A permanency plan must be presented at disposition or within 30 days thereafter. If a permanency plan is in place under a child in need of care proceeding, the court may adopt the plan under the present proceeding. If the juvenile offender is placed in the custody of the commissioner, the commissioner shall prepare the plan. The plan must comply with the requirements of K.S.A. 2012 Supp. 38-2263, and amendments thereto. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan.
- (4) The court must determine that reasonable efforts have been made and what progress has been made to finalize the permanency plan that is in effect within 12 months of the date the juvenile offender is considered to have entered foster care and at least once every 12 months thereafter while the juvenile offender is in foster care.
- (5) The court must reflect reasonable efforts and contrary to the welfare findings in orders awarding custody to the commissioner temporarily, at sentencing and at modification hearings. If the juvenile offender is placed in the custody of the commissioner, the court shall provide the commissioner with a written copy of any orders entered upon making the order for the purpose of documenting the orders.
- (6) If the juvenile offender is placed in the commissioner's custody, the commissioner shall document in writing the reasonable efforts that have been made and the progress made to finalize the permanency plan, before each hearing reviewing the plan.
 - (b) When a juvenile offender has been placed in the custody of the commissioner, the commissioner shall notify the court in writing of the initial placement of the juvenile offender as soon as the placement has been accomplished. The court shall have no power to direct a specific placement by the commissioner, but may make recommendations to the commissioner. The commissioner may place the juvenile offender in an institution operated by the commissioner, a youth residential facility or a community mental health center. If the court has recommended an out-of-home placement, the commissioner may not return the juvenile offender to the home from which removed without first notifying the court of the plan.
 - (c) During the time a juvenile offender remains in the custody of the commissioner, the commissioner shall report to the court at least each six months as to the current living arrangement and social and mental development of the juvenile offender and document in writing the reasonable efforts that have been made and the progress made to finalize the permanency plan.
 - (d) If the juvenile offender is placed outside the juvenile offender's home, a permanency hearing shall be held not more than 12 months after the juvenile offender is placed outside the juvenile offender's home and, if reintegration is a viable alternative, every 12 months thereafter. The court may appoint a guardian ad litem to represent the juvenile offender at the permanency hearing. Juvenile offenders who have been in extended out of home placement shall be provided a permanency hearing within 30 days of a request from the commissioner. If reintegration is not a viable alternative and either adoption or permanent guardianship might be in the best interests of the juvenile offender the county or district attorney shall file a petition alleging the juvenile is a child in need of care and requesting termination of parental rights or the appointment of a permanent custodian pursuant to the revised Kansas code for care of children. If the juvenile offender is placed in foster care, the foster parent or parents shall submit to the court, at least every six months, a report in regard to the juvenile offender's adjustment, progress and condition. The juvenile justice authority shall notify the foster parent or parents of the foster parents' or parent's duty to submit such report, on a form provided by the juvenile justice authority, at least two weeks prior to the date when the report is due, and the name of the judge and the address of the court to which the report is to be submitted. Such report shall be confidential and shall only be reviewed by the court and the child's attorney.
 - (e) The report made by foster parents and provided by the commissioner of juvenile justice, pursuant to this section, shall be in substantially the following form:

REPORT FROM FOSTER PARENTS CONFIDENTIAL

Child's Name	Current Address
Parent' Name	Foster Parents
Primary Social Worker	

Please circle the word which best describes the child's progress 1. Child's adjustment in the home excellent good satisfactory needs improvement 2. Child's interaction with foster parents and family members excellent good satisfactory needs improvement 3. Child's interaction with others excellent good satisfactory needs improvement 4. Child's respect for property excellent good satisfactory needs improvement 5. Physical and

emotional condition of the child excellent good satisfactory needs improvement 6. Social worker's interaction with the child and foster family excellent good satisfactory needs improvement 7. School status of child:

School _____ Grade _____

Grade Good _____ Fair _____ Poor _____ Attendance Good _____ Fair _____ Poor _____ Behavior Good _____ Fair _____ Poor _____

8. If visitation with parents has occurred, describe the frequency of visits, with whom, supervised or unsupervised, and any significant events which have occurred.

9. Your opinion regarding the overall adjustment, progress and condition of the child:

10. Do you have any special concerns or comments with regard to the child not addressed by this form? Please specify.

History: L. 1982, ch. 182, § 103; L. 1989, ch. 122, § 2; L. 1990, ch. 150, § 8; L. 1994, ch. 324, § 1; L. 1996, ch. 229, § 82; L. 1999, ch. 156, § 17; L. 2000, ch. 150, § 25; L. 2006, ch. 200, § 95; Jan. 1, 2007.