

23-3219. Modification of final order; specify factual allegations. (a) A party filing a motion to modify a final order pertaining to child custody or residential placement pursuant to article 22, 27 or 32 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, shall include with specificity in the verified motion, or in an accompanying affidavit, all known factual allegations which constitute the basis for the change of custody or residential placement. If the court finds that the allegations set forth in the motion or the accompanying affidavit fail to establish a prima facie case, the court shall deny the motion. If the court finds that the motion establishes a prima facie case, the matter may be tried on factual issues.

(b) In the event the court is asked to issue an ex parte order modifying a final child custody or residential placement order based on alleged emergency circumstances, the court shall:

- (1) Attempt to have the nonmoving party's counsel, if any, present before taking up the matter.
- (2) Set the matter for review hearing at the earliest possible court setting after issuance of the ex parte order, but in no case later than 15 days after issuance.
- (3) Require personal service of the order and notice of review hearing on the nonmoving party.

No ex parte order modifying a final custody or residential placement order shall be entered without sworn testimony to support a showing of the alleged emergency.

History: L. 2000, ch. 171, § 30; L. 2012, ch. 162, § 51; May 31.