

38-2248. Stipulations and no contest statements. (a) In any proceedings under this code, parents, persons with whom the child has been residing pursuant to subsection (d) of K.S.A. 2016 Supp. 38-2241, and amendments thereto, and guardians ad litem may stipulate or enter no contest statements to all or part of the allegations in the petition.

(b) Prior to the acceptance of any stipulation or no contest statement, other than to names, ages, parentage or other preliminary matters, the court shall ask each of the persons listed in subsection (a) the following questions:

(1) Do you understand that you have a right to a hearing on the allegations contained in the petition?

(2) Do you understand that you may be represented by an attorney and, if you are a parent and financially unable to employ an attorney, the court will appoint an attorney for you, if you so request?

(3) One of the following: (A) Do you understand that a stipulation is an admission that the statements in the petition are true or (B) Do you understand that a no contest statement neither admits nor denies the statement in the petition but allows the court to find that the statements in the petition are true?

(4) Do you understand that, if the court accepts your stipulation or no contest statement, you will not be able to appeal that finding, the court may find the child to be a child in need of care and the court will then make further orders as to the care, custody and supervision of the child?

(5) Do you understand that, if the court finds the child to be a child in need of care, the court is not bound by any agreement or recommendation of the parties as to disposition and placement of the child?

(c) Before accepting a stipulation the court shall find that there is a factual basis for the stipulation.

(d) Before an adjudication based on a no contest statement, the court shall find from a proffer of evidence that there is a factual basis.

(e) In proceedings other than termination of parental rights proceedings under this code if all persons listed in subsection (a) do not stipulate or enter no contest statements, the court shall hear evidence as to those persons, if they are present. The case may proceed by proffer as to persons not present, unless they appear by counsel and have instructed counsel to object.

(f) In evidentiary hearings for termination of parental rights under this code, the case may proceed by proffer as to parties not present, unless they appear by counsel and have instructed counsel to object.

History: L. 2006, ch. 200, § 43; L. 2008, ch. 169, § 10; July 1.