

## 2021 Kansas Statutes

- 38-2264. Permanency hearing; purpose; procedure and requirements; time for hearing; authorized orders.** (a) A permanency hearing is a proceeding conducted by the court or by a citizen review board for the purpose of determining progress toward accomplishment of a permanency plan as established by K.S.A. 38-2263, and amendments thereto.
- (b) The court or a citizen review board shall hear and the court shall determine whether and, if applicable, when the child will be:
- (1) Reintegrated with the child's parents;
  - (2) placed for adoption;
  - (3) placed with a permanent custodian; or
  - (4) if the child is 16 years of age or older and the secretary has documented compelling reasons why it would not be in the child's best interests for a placement in one of the placements pursuant to paragraphs (1), (2) or (3), placed in another planned permanent living arrangement.
- (c) At each permanency hearing, the court shall:
- (1) Enter a finding as to whether reasonable efforts have been made by appropriate public or private agencies to rehabilitate the family and achieve the permanency goal in place at the time of the hearing;
  - (2) enter a finding as to whether the reasonable and prudent parenting standard has been met and whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities. The secretary shall report to the court the steps the secretary is taking to ensure that the child's foster family home or child care institution is following the reasonable and prudent parenting standard and that the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consultation with the child in an age-appropriate manner about the opportunities of the child to participate in the activities;
  - (3) if the child is 14 years of age or older, document the efforts made by the secretary to help the child prepare for the transition from custody to a successful adulthood. The secretary shall report to the court the programs and services that are being provided to the child that will help the child prepare for the transition from custody to a successful adulthood.
- (d) The requirements of this subsection shall apply only if the permanency goal in place at the time of the hearing is another planned permanent living arrangement as described in subsection (b)(4). At each permanency hearing held with respect to the child, in addition to the requirements of subsection (c), the court shall:
- (1) Ask the child, if the child is able, by attendance at the hearing or by report to the court, about the desired permanency outcome for the child;
  - (2) document the intensive, ongoing and, as of the date of the hearing, unsuccessful permanency efforts made by the secretary to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian or an adoptive parent. The secretary shall report to the court the intensive, ongoing and, as of the date of the hearing, unsuccessful efforts made by the secretary to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian or an adoptive parent, including efforts that utilize search technology, including social media, to find biological family members of the children; and
  - (3) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to

return home, be placed for adoption, be placed with a legal guardian or be placed with a fit and willing relative.

(e) The requirements of this subsection shall apply only if the child is placed in a qualified residential treatment program at the time of the permanency hearing. At each permanency hearing held with respect to the child, in addition to the requirements of subsection (c), the court shall document:

(1) That the ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child;

(2) the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and

(3) the efforts made by the secretary to prepare the child to return home or to be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home.

(f) A permanency hearing shall be held within 12 months of the date the court authorized the child's removal from the home and not less frequently than every 12 months thereafter. If the court makes a finding that the requirements of subsection (c)(1) or (2) have not been met, a subsequent permanency hearing shall be held no later than 60 days following the finding.

(g) If the court determines at any time other than during a permanency hearing that reintegration may not be a viable alternative for the child, a permanency hearing shall be held no later than 30 days following that determination.

(h) When the court finds that reintegration continues to be a viable alternative, the court shall determine whether and, if applicable, when the child will be returned to the parent. The court may rescind any of its prior dispositional orders and enter any dispositional order authorized by this code or may order that a new plan for the reintegration be prepared and submitted to the court. If reintegration cannot be accomplished as approved by the court, the court shall be informed and shall schedule a hearing pursuant to this section. No such hearing is required when the parents voluntarily relinquish parental rights or consent to appointment of a permanent custodian.

(i) If the court finds reintegration is no longer a viable alternative, the court shall consider whether: (1) The child is in a stable placement with a relative; (2) services set out in the case plan necessary for the safe return of the child have been made available to the parent with whom reintegration is planned; or (3) compelling reasons are documented in the case plan to support a finding that neither adoption nor appointment of a permanent custodian are in the child's best interest. If reintegration is not a viable alternative and either adoption or appointment of a permanent custodian might be in the best interests of the child, the county or district attorney or the county or district attorney's designee shall file a motion to terminate parental rights or a motion to appoint a permanent custodian within 30 days and the court shall set a hearing on such motion within 90 days of the filing of such motion.

(j) If the court enters an order terminating parental rights to a child, or an agency has accepted a relinquishment pursuant to K.S.A. 59-2124, and amendments thereto, the requirements for permanency hearings shall continue until an adoption or appointment of a permanent custodian has been accomplished. If the court determines that reasonable efforts or progress have not been made toward finding an adoptive placement or appointment of a permanent custodian or placement with a fit and willing relative, the court may rescind its prior orders and make others regarding custody and adoption that are

appropriate under the circumstances. Reports of a proposed adoptive placement need not contain the identity of the proposed adoptive parents.

(k) If permanency with one parent has been achieved without the termination of the other parent's rights, the court may, prior to dismissing the case, enter child custody orders, including residency and parenting time that the court determines to be in the best interests of the child. The court shall complete a parenting plan pursuant to K.S.A. 2021 Supp. 23-3213, and amendments thereto.

(1) Before entering a custody order under this subsection, the court shall inquire whether a custody order has been entered or is pending in a civil custody case by a court of competent jurisdiction within the state of Kansas.

(2) If a civil custody case has been filed or is pending, a certified copy of the custody, residency and parenting time orders shall be filed in the civil custody case. The court in the civil custody case may, after consultation with the court in the child in need of care case, enter an order declaring that the custody order in the child in need of care case shall become the custody order in the civil custody case.

(3) A district court, on its own motion or upon the motion of any party, may order the consolidation of the child in need of care case with any open civil custody case involving the child and both of the child's parents. Custody, residency and parenting time orders entered in consolidated child in need of care and civil custody cases take precedence over any previous orders affecting both parents and the child that were entered in the civil custody case regarding the same or related issues. Following entry of a custody order in a consolidated case, the court shall dismiss the child in need of care case and, if necessary, return the civil custody case to the original court having jurisdiction over it.

(4) If no civil custody case has been filed, the court may direct the parties to file a civil custody case and to file the custody orders from the child in need of care case in that case. Costs of the civil custody case may be assessed to the parties.

(5) Nothing in this subsection shall operate to expand access to information that is confidential under K.S.A. 38-2209, and amendments thereto, and the confidentiality of such information shall be preserved in all filings in a civil custody case.

(l) When permanency has been achieved to the satisfaction of the court, the court shall enter an order closing the case.

**History:** L. 2006, ch. 200, § 59; L. 2008, ch. 169, § 16; L. 2010, ch. 75, § 14; L. 2012, ch. 162, § 66; L. 2016, ch. 102, § 14; L. 2019, ch. 43, § 5; May 2.