

38-2335. Same; custody of commissioner or secretary for children and families; reasonable efforts to maintain family unit; foster care. (a) The court shall not issue the first warrant or enter an order removing a juvenile from the custody of a parent pursuant to this section unless the court first finds probable cause that: (1) (A) The juvenile is likely to sustain harm if not immediately removed from the home; (B) allowing the juvenile to remain in home is contrary to the welfare of the juvenile; or (C) immediate placement of the juvenile is in the juvenile's best interest; and (2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile. The court shall enter its determination in the warrant or order.

(3) If the juvenile is in the custody of the commissioner, the commissioner shall prepare a report for the court documenting such reasonable efforts.

(4) If the juvenile is in the custody of the secretary for children and families under the Kansas code for the care of children, the secretary shall prepare a report for the court documenting such reasonable efforts.

(5) In all other cases, the person preparing the predisposition report shall include documentation of such reasonable efforts in the report.

(b) If the court determines that reasonable efforts to maintain the family unit and prevent unnecessary removal of a juvenile were not made, the court shall determine whether such reasonable efforts were unnecessary because:

(1) A court of competent jurisdiction has determined that the parent has subjected the juvenile to aggravated circumstances;

(2) 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 or such a voluntary manslaughter; or a felony assault that results in serious bodily injury to the juvenile or another child of the parent;

(3) the parental rights of the parent with respect to a sibling have been terminated involuntarily; or

(4) an emergency exists requiring protection of the juvenile and efforts to maintain the family unit and prevent unnecessary removal of the juvenile from the home were not possible.

(c) Nothing in this section shall be construed to prohibit the court from issuing a warrant or entering an order authorizing or requiring removal of the juvenile from the home if the juvenile presents a risk to public safety.

(d) When the juvenile has been in foster care and has been placed at home or allowed a trial home visit for a period of six months or more and is again removed from the home, the court shall again make a determination pursuant to subsections (a) and (b).

History: L. 2006, ch. 169, § 35; L. 2014, ch. 115, § 71; July 1.