

38-2258. Change of placement; notice; opportunity for hearing; removal from home of parent, findings by court. (a) Except as provided in K.S.A. 2016 Supp. 38-2255(d)(2) and 38-2259, and amendments thereto, if a child has been in the same foster home or shelter facility for six months or longer, or has been placed by the secretary in the home of a parent or relative, the secretary shall give written notice of any plan to move the child to a different placement unless the move is to the selected preadoptive family for the purpose of facilitating adoption. The notice shall be given to: (1) The court having jurisdiction over the child; (2) the petitioner; (3) the attorney for the parents, if any; (4) each parent whose address is available; (5) the foster parent or custodian from whose home or shelter facility it is proposed to remove the child; (6) the child, if 12 or more years of age; (7) the child's guardian ad litem; (8) any other party or interested party; and (9) the child's court appointed special advocate.

(b) The notice shall state the placement to which the secretary plans to transfer the child and the reason for the proposed action. The notice shall be mailed by first class mail 30 days in advance of the planned transfer, except that the secretary shall not be required to wait 30 days to transfer the child if all persons enumerated in subsection (a)(2) through (8) consent in writing to the transfer.

(c) Within 14 days after receipt of the notice, any person enumerated in subsection (a)(2) through (8) receiving notice as provided above may request, either orally or in writing, that the court conduct a hearing to determine whether or not the change in placement is in the best interests of the child concerned. When the request has been received, the court shall schedule a hearing and immediately notify the secretary of the request and the time and date the matter will be heard. The court shall give notice of the hearing to persons enumerated in subsection (a)(2) through (9). If the court does not receive a request for hearing within the specified time, the change in placement may occur prior to the expiration of the 30 days. The secretary shall not change the placement of the child, except for the purpose of adoption, unless the change is approved by the court.

(d) When, after the notice set out above, a child in the custody of the secretary is removed from the home of a parent after having been placed in the home of a parent for a period of six months or longer, the secretary shall request a finding that: (1) (A) The child is likely to sustain harm if not immediately removed from the home;

(B) allowing the child to remain in home is contrary to the welfare of the child; or

(C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(e) The secretary shall present to the court in writing the efforts to maintain the family unit and prevent the unnecessary removal of the child from the child's home. In making the findings, the court may rely on documentation submitted by the secretary or may set the date for a hearing on the matter. If the secretary requests such finding, the court, not more than 45 days from the date of the request, shall provide the secretary with a written copy of the findings by the court for the purpose of documenting these orders.

History: L. 2006, ch. 200, § 53; L. 2008, ch. 169, § 13; L. 2010, ch. 75, § 13; L. 2011, ch. 91, § 20; July 1.

Revisor's Note:

Section was amended twice in the 2010 session, see also 38-2258a.