



## PERMANENCY

- K.S.A. 38-2202 (w) "Permanency goal" means the outcome of the permanency planning process which may be:
  - reintegration,
  - adoption,
  - appointment of a permanent custodian or
  - another planned permanent living arrangement (APPLA).



## DISPOSITIONAL HEARING

- **Permanency Planning at disposition-** If a child is placed outside of the child's home at the dispositional hearing and no permanency plan is made a part of the record of the hearing, a **written permanency plan shall be prepared pursuant to K.S.A. 2016 Sup. 38-2263, and amendments thereto.**



## PERMANENCY PLANNING

- **K.S.A. 38-2263. Permanency planning.**  
“(a) The goal of the permanency planning is to assure, in so far as is possible, that children have permanency and stability in their living situations and that the continuity of family relationships and connections is preserved. In planning for permanency, the safety, and well-being of the children shall be paramount.”



## PERMANENCY PLANNING (CONT.)

- The initial permanency planning (**also referred to as the case plan**) “shall be developed for the child and submitted to the court **within 30 days of the initial order of the court.**” Prepared by the secretary, agency, or person having custody.
- Typically adopted by the court at either the adjudication or dispositional hearings, there is a place on both JE forms to mark accepting the permanency plan.
- If the **child is 14 years of age or older** it must be prepared in consultation with the child (and the child is able)

## PERMANENCY PLANNING (CONT.)

- Permanency Plans should include the following:
  - describe the permanency plan (permanent safe living arrangement)
  - describes the child’s level of physical, mental, and emotional health and educational functioning
  - provides an assessment of the needs of the child and family
  - describes the services to be provided the child, the child's parents and the child's foster parents, if appropriate
  - includes a description of the tasks and responsibilities designed to achieve the plan and to whom assigned
  - includes measurable objectives and time schedules for achieving the plan

## PERMANENCY PLANNING (CONT.)

- If child(ren) is in OOH placement PP must include a plan for reintegration (or a viable alternative). If not reintegration, the court must find on the record a basis for an alternative plan.
- Other alternatives include adoption, permanent custodianship, APPLA.
- If there is a lack of agreement among persons necessary for the success of the permanency plan, the person or **entity having custody of the child shall notify the court which shall set a hearing on the plan.**
- A permanency plan may be amended at any time upon agreement of the plan participants. If a permanency plan requires amendment which changes the permanency goal, the person or entity having custody of the child shall notify the court which shall set a permanency hearing pursuant to K.S.A. 2016 Supp. 38-2264 and 38-2265, and amendments thereto.

## WHO SHOULD BE AT THE PERMANENCY PLANNING CONFERENCE?

- If child(ren) are in the custody of the Secretary:
- DCF staff assigned
- 3<sup>rd</sup> party participant not directly involved in providing services to the child & family
- GAL
- Resource family, including relative and non-related kin providers, for child in out of home placement
- CASA
- Tribal representative for children when ICWA applies
- DCF Regional Independent Living Coordinator or designee for all youth in out of home placement with a case plan goal of OPPLA

## WHO SHOULD BE AT THE PERMANENCY PLANNING CONFERENCE? (IF APPLICABLE)

- Persons who should be invited to attend:
- Residential or institutional setting treatment staff
- Prospective custodian
- Prospective adoption parent(s)
- Teachers
- Education advocate assigned to the child,
- Youth's positive supportive adult(s)
- Any other individuals important to the family or the child who can contribute to the case planning process
- Child's Home and Community Based Services (HCBS) waiver case manager
- Case Manager of a parent with a disability, either physically or cognitively, who is involved with a Center for Independent Living (CIL) or a Community Developmental Disability Organizations (CDDO)
- Corrections Counselor for an incarcerated parent or parole officer for a paroled parent
- Child Placing Agency staff responsible for support to the foster family where the child is placed



## NOTIFICATION REQUIREMENTS UNDER THE POLICY AND PROCEDURE MANUAL

- The **10 day notice** shall be provided by email, fax or letter.



## PERMANENCY HEARINGS

- Proceeding conducted by:
  - Court
  - Citizen Review Board (CRB)
- Types of permanency determinations:
  - reintegration
  - adoption
  - permanent custodian; or
  - another planned permanent living arrangement (APPLA)
    - child 16 years of age or older and
    - document compelling reasons



## PERMANENCY HEARINGS (CONT.)

- The court shall:
  - make a finding that 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
  - make a finding that reasonable and prudent parenting standard has been met and whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities
  - document the efforts made by the secretary to help the child prepare for the transition from custody to a successful adulthood (if the child is 14 years of age or older)
  - make a determination explaining why, as of the date of the hearing, APPLA 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

## PERMANENCY HEARINGS (CONT.)

- The court shall:
  - ask the child about the desired permanency outcome for the child;
  - 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;
  - 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.



## PERMANENCY HEARINGS (CONT.)

- Held within 12 months of the date the court authorized the child's removal from home and not less frequently than every 12 months thereafter
- Reintegration Viable/ Not viable finding
  - Not viable, must set a hold a permanency hearing within 30 days of determination



## PERMANENCY HEARINGS (CONT.)

- If reintegration is no longer viable (the court will consider):
  - a stable placement with a relative
  - 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
  - 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 custodian within 30 days and the court shall motion to terminate parental rights or a motion to appoint a permanent set a hearing on such motion within 90 days of the filing of such motion.

## PERMANENCY HEARING NOTICE REQUIREMENTS

- The court shall require notice and the right to be heard:
  - child is 14 years of age or older
  - child's foster parent or parents or permanent custodian providing care for the child
  - preadoptive parents for the child, if any
  - child's grandparents at their last known addresses or, if no grandparent is living or if no living grandparent's address is known, to the closest relative of each of the child's parents whose address is known
  - person having custody of the child
  - upon request, by any person having close emotional ties with the child and who is deemed by the court to be essential to the deliberations before the court

## PERMANENCY HEARING NOTICE REQUIREMENTS (CONT.)

- Notices required by subsection (b) shall be given by first class mail, **not less than 10 business days before the hearing**
  
- Provisions of this section shall not require additional notice to any person otherwise receiving notice of the hearing pursuant to K.S.A. 2016 Supp. 38-2239, and amendments thereto
  - Notice by mail is not required if the court orally notifies a party or interested party of the time and place of the hearing.

## PERMANENCY HEARINGS AND TERMINATION OF PARENTAL RIGHTS

- 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.

## TERMINATION OF PARENTAL RIGHT

### Reasons for findings of unfitness:

- emotional illness, mental illness, mental deficiency or physical disability of the parent, of such duration or nature as to render the parent unable to care for the ongoing physical, mental and emotional needs of the child
- conduct toward a child of a physically, emotionally or sexually cruel or abusive nature
- the use of intoxicating liquors or narcotic or dangerous drugs of such duration or nature as to render the parent unable to care for the ongoing physical, mental or emotional needs of the child
- physical, mental or emotional abuse or neglect or sexual abuse of a child
- conviction of a felony and imprisonment
- unexplained injury or death of another child or stepchild of the parent or any child in the care of the parent at the time of injury or death
- failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family
- lack of effort on the part of the parent to adjust the parent's circumstances, conduct or conditions to meet the needs of the child
- whether the child has been in **extended out of home placement** as a result of actions or inactions attributable to the parent and one or more of the factors listed in subsection (c) apply

## EXTENDED OUT OF HOME PLACEMENT

A child has been in the custody of the secretary and placed with neither parent for **15 of the last 22 months** beginning 60 days after the date at which the child in the custody of the secretary was removed from the home. K.S.A. 38-2202 (i).

## CASES ON APPEAL

While a case is on appeal from the **district court**, the district court or magistrate court shall continue to have jurisdiction over all issues not specifically appealed and **shall conduct timely permanency hearings**



## RESOURCES

- *"Making it Permanent,"* Cecilia Fiermonte and Jennifer Renne, ABA
- *"Achieving Permanency for Adolescents: A Guide for Legal Professionals,"* ABA
- *"Learning Curves: Education Advocacy for Children in Foster Care,"* Kathleen M. McNaught, ABA



## SUPREME COURT RULE 174 FORMS

- o Permanency Hearing Forms
  - Series 170- Permanency Hearings
  - Series 188- Post-Termination Permanency Hearings
  - Series 219- ICWA Permanency Hearings
  - Series 221- ICWA Post-Termination Permanency Hearings

[www.kansasjudicialcouncil.org/Forms/ChildInNeedOfCare\\_Forms.shtml](http://www.kansasjudicialcouncil.org/Forms/ChildInNeedOfCare_Forms.shtml)

