

immediately from the placement. However, SRS is still required to show the Court that the removal was in the child's best interest.

Permanency Hearings

Permanency Hearings shall be held within 12 months of the date the child entered out of home placement and at least every 12 months thereafter. 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.

At the permanency hearing, a grandparent with whom a child is placed should be prepared to report the child's adjustment, progress, special needs or accomplishments and condition. The grandparent may offer their opinion and state their position concerning adoption, continued placement and their opinion regarding any changes in placement. The Court will make a decision concerning permanent placement for the child. This could be to continue the reintegration plan, move forward with terminating parental rights, placement with a permanent custodian or some other permanency plan. The court may continue the current placement while the proposed changes take place.

Permanent Custodians

The Court may determine that the child would best be served by appointing a permanent custodian. A hearing is held before the court makes a decision. Permanent custodianship may occur whether or not the parents' rights are terminated.

The grandparents may be considered a possible Permanent Custodian. Custodianship usually requires the grandparents to have an attorney who can file the proper motions and prepare custodianship papers for them. In some cases SRS and the County Attorney may assist with this process but it is best for the grandparents to have their own attorney to best protect their interests.

The Juvenile Court may continue to have jurisdiction over the child once the guardian is appointed, and the custodian cannot change placement or return the child to his or her natural parents without further orders of the Court.

Termination of Parental Rights

Termination of parental rights frees the child to be adopted by another family member or a new family. A termination motion can be filed by any party to the case when the court determines that the natural parents have been unable to comply with the reintegration plan, follow the court's orders or when the abuse or harm to the child is so egregious that no reintegration plan is required. A full trial is held on the motion unless the parent relinquishes their rights to SRS or defaults by failing to appear for the trial.

After termination, a disposition hearing is held to determine the custody of the child. The court may award custody to SRS for adoption placement or permanent custodianship, or the court may place the child with a relative or foster parent for adoption or permanent custodianship.

After the child is adopted, the new parents alone determine whether the child can continue contact with the grandparents or other relatives. However many adoptive parents see the value to the child in allowing the child to maintain contact with the biological family.



Childrens Advocacy Resource Center

"Providing legal and support services for Kansas children."

The Children's Advocacy Resource Center brings together the children's advocacy projects of Kansas Legal Services.

Foster Care Questions?

1-877-298-2674

Call the Foster Care Helpline for free legal advice, or any foster care questions you may have.

Kansas Legal Services

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712 S. Kansas Avenue, Suite 200
Topeka, KS 66603
(785) 233-2068
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IV. GRANDPARENT RIGHTS: WHEN YOUR GRANDCHILD BECOMES A CHILD IN NEED OF CARE IN KANSAS



Prepared by the Children's
Advocacy Resource Center
as the fourth in a series on foster care rights and
resources

At any given time, there are from 5,000 to 6,000 children in the Kansas foster care system. At the same time, more than 35,000 Kansas children live in households headed by grandparents. *2000 U.S. Census; Kansas Department on Aging*. Grandparents clearly play a crucial role in preventing the foster care system from being overwhelmed.

Kansas statutes indicate preferences for placing children with relatives. KSA 38-2270(b) provides the placement options available after parental rights have been terminated, and states in an order for adoption or permanent custodian a court "shall give preference, to the extent that the court finds it in the best interests of the child, first to granting such custody to a relative of the child and second to granting such custody to a person with whom the child has close emotional ties."

The best advice for a grandparent to follow is to become involved in the case as soon as possible, obtain an attorney, maintain contact with the child, cooperate with SRS and the foster care providers, follow court orders and comply with the case plan. A stated purpose of the system is to keep families together. The grandparent's interest in the case will go far to provide an alternative to foster care and may assist in maintaining a family connection to the grandchild.

How A Child Enters Foster Care

The case begins when a family is investigated by the Kansas Department of Social and Rehabilitation Services (SRS), when law enforcement takes a child into custody, or when a judge issues an order for protective custody. If the child is found to be in danger under any of these scenarios, the child is removed and placed in a safe and suitable environment. SRS should seek out relatives for placement at this time, but SRS may not know who to notify. A petition alleging the child to be in need of care is filed.

A temporary custody hearing is held within 72 hours of the child's removal. At this time parents should provide information to SRS concerning names and location of relatives; however, this often does not occur.

Grandparents who are interested in visitation or placement of a grandchild should contact SRS immediately in order to be considered for inclusion in the grandchild's case. The grandparent should also notify the Court that the grandparent would like to become an interested party. Notification may be in writing, orally, or by appearance at the initial hearing or any subsequent hearing. The longer a grandparent remains uninvolved in a grandchild's case

the more difficult it will be to establish a role while the child is in State custody.

Court Hearings

Grandparents, that the child does not reside with, are entitled to receive a copy of the petition and notice of proceedings through the mail under K.S.A. 38-2236.

At the temporary custody hearing, parents are informed of their right to court appointed counsel and the Court appoints a Guardian ad Litem (GAL) to represent the best interest of the child. (For more information about GAL responsibilities please refer to the third brochure in this series of Foster Care Rights and Resources.) If the grandparents are not at the temporary custody hearing, they are to be served with the petition.

An adjudication hearing is scheduled following the temporary custody hearing. The case will either be dismissed or the child will be declared a Child In Need of Care (CINC). To preserve rights to visit or to be considered as a source for placement grandparents will want to appear at the hearing or contact SRS and ask for consideration.

A first review will be held not longer than six months after the child's removal from the home. Grandparents should always come to court prepared to testify. If required by the court, the child or children should attend the hearing. Often the court will excuse the appearance of the children but this should be verified with the judge or the judge's secretary. Judges can become upset if they feel the children are being kept out of view.

Interested Party Status

Grandparents are "interested parties" to the child's case by statute. K.S.A. 38-2241(c). Interested party status permits grandparents to be represented by an attorney, attend case plan conferences, receive notice of hearings and receive information from SRS, the foster care providers and the GAL. The Court may restrict these rights if it finds that it would be in the best interests of the child to do so.

Attorneys

Attorneys involved in a CINC case include the prosecuting attorney (often the county attorney or district attorney), attorneys appointed to represent the parents and a Guardian ad Litem appointed to represent the child's best interest. Most courts require grandparents to

hire an attorney to represent their interests in the CINC proceedings.

Grandparents as Foster Parent

The primary goal for SRS is to maintain the family unit, whether prior to removal or reintegration back into the family following removal. Grandparents can and do play an important role in placement of grandchildren and in setting up plans for children while in foster care. SRS and the Court prefer relative placements whenever possible.

Grandparents are often best suited to provide caring homes for children in familiar environments. It is important that grandparents comply with SRS requirements and all court orders. This can be challenging when the child's parent is also the grandparents' child. Court orders may prevent the natural parent from contact with the child except in supervised settings. Violations of court orders or failure to comply with SRS plans can result in the removal of the child.

Prior to an approved placement between child and grandparent, SRS or the contracted foster care agency may conduct a background check that will include a criminal and child abuse background investigation for anyone who wishes to visit with the child or who would be living in the house with the child. The agencies may also conduct a home study and evaluate the suitability of the placement. Upon placement, grandparents may receive financial assistance for caring for related children. The Kansas Department of Health and Environment may approve the grandparent home for Title IV-E reimbursable payments, or the grandparent may choose to receive a Temporary Assistance for Families (TAF) grant from SRS in lieu of becoming licensed or approved by KDHE.

Change of Placement

K.S.A. 38-2258 states, "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." The notice should be received 30 days prior to the scheduled removal of the child and should state the reasons for removal. If any person receiving notice of the request for change of placement disagrees, a hearing will be conducted to determine what is in the child's best interest. **The request for the hearing must be made to the court within 10 days after receiving the notice of removal.** The exception to the notice of change of placement is when "an emergency exists requiring immediate action to assure the safety and protection of the child." The child may then be removed