

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE INTEREST OF

Name _____

Case No. _____

Year of Birth _____ A ☐ male ☐ female

***ORDER FOR CONTINUANCE AND INFORMAL SUPERVISION**

Pursuant to K.S.A. 38-2244 and 42 U.S.C. § 671 *et seq.*

(Orders pertaining to more than one child must include findings specific to each child listed in the caption.)

NOW, on this _____ day of _____, _____, this matter comes on for orders of continuance and informal supervision.

The Court finds ☐ the Indian Child Welfare Act (ICWA) is not applicable. ☐ ICWA is applicable, the tribe has been given notice.

☐ The petitioner appears by _____ ☐ County/District Attorney or designee ☐ other _____.

☐ The child appears ☐ in person and ☐ not in person, but by the child guardian *ad litem*, _____.

☐ _____ *Name of Mother*, the mother ☐ appears in person *pro se* ☐ appears in person, and through her attorney, _____ ☐ appears not in person, but by and through her attorney _____ ☐ does not appear.

☐ _____ *Name of Father*, the ☐ father ☐ putative father of _____ *Name of child*, ☐ appears in person *pro se* ☐ appears in person, and through his attorney, _____ ☐ appears not in person, but by and through his attorney, _____ ☐ does not appear.

- ☐ (Other parent appearances) _____

- ☐ Interested parties appearing are: _____

- ☐ The Secretary is present through: _____

- ☐ Also present: _____

The Court finds that no party or interested party objects to entry of orders for continuance and informal supervision by the Court. The Court finds that the captioned matter should be continued for a period no longer than six (6) months, subject to the following terms and conditions:

- 1.
- 2.
- 3.

THE COURT THEREFORE ORDERS:

*(If this is the first order removing a child from parental custody,
 complete and attach Form 107.)*

- ☐ A grandparent has requested custody and, in evaluating what custody, visitation and residency arrangements are in the best interests of the child, substantial consideration is given to (1) the wishes of the parents, child, and grandparent; (2) the extent that the grandparent has cared for the child; the intent and circumstances under which the child is placed; and (3) the physical and mental health of all involved individuals.

The above named child ☐ **shall be** ☐ **shall remain** placed in the custody of:

- ☐ _____, a parent.
☐ _____, a relative.
☐ _____, an unlicensed person with
 close emotional ties to the child.
☐ _____, a youth residential facility.
☐ _____, a shelter facility.

- ☐ The Secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

and

- ☐ A child support order shall issue.
- ☐ Each parent shall submit information to the child support office for a child support order to be prepared, or present documentation of a current child support order within ____ days.

THE COURT ORDERS all providers of services, treatment or care of the child and family, even if not specifically referred to herein, to provide information to the Secretary, any entity providing services to the child and family, counsel for the parties including the county or district attorney, appointed CASA, Citizen Review Board members, the court, and each other to the extent needed to ensure the safety of the child, prevent further abuse or neglect, and to provide appropriate treatment to the child and family. This order encompasses the provisions of the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 C.F.R. 164.512(e)(1).

- ☐ A restraining order shall be filed against _____.
- ☐ ☐ The Secretary ☐ Court Services ☐ _____ shall complete reports and submit them to the Court by _____.

THE COURT FURTHER ORDERS this matter continued to the ____ day of _____, _____, at _____ ☐ **a.m.** ☐ **p.m.**, a period of no longer than six months.

IT IS SO ORDERED THIS ____ day of _____, _____.

Judge of the District Court

Approved:

Petitioner, S.Ct.# _____

Guardian *ad Litem*, S.Ct.# _____

Agreeing to the terms and conditions:

Mother

Counsel for Mother, S.Ct.#

Father

Counsel for Father, S.Ct.#

Other

Authority

K.S.A. 38-2244 and 42 U.S.C. § 671 *et seq.*

Notes on Use

The court may enter an order of informal supervision if no party or interested party objects. It may be entered at any time after the petition is filed in a case, but prior to adjudication. An order continuing further proceedings is incorporated into this form. The period of informal supervision may not exceed six months without a hearing, and shall not exceed a total of one year if the child is not in the custody of the child's parent. Informal supervision may be in effect for up to two years, with reviews by the court at least every six months, if the child is in the custody of a parent.

If the informal supervision order removes the child from the home, Supreme Court Rule 174 requires the use of this form or another form approved by the Supreme Court as meeting ASFA requirements. Failure to make and properly document the findings required by ASFA will result in the loss of federal funding. Federal funding is not available when the court finds reasonable efforts have not been made to achieve the permanency goal. The loss of federal funding continues until the court finds reasonable efforts have been made and the court's findings are properly documented. **If this is the first order relieving a parent of custody and authorizing out of home placement** or the first order of removal after a previously removed child has been home for six months or longer, **Form 107 must be used**. Failure to make and properly document the findings required by ASFA in the initial order authorizing out of home placement will result in the loss of federal funding for the placement, or any subsequent placement, of the child in the present case.

Finding that reasonable efforts were not made does not bar the court from removing the child and failure to make these findings does not bar the court from removing the child.

If a grandparent requests custody, the form facilitates documentation required by L 2012, SB 262, which specified requirements concerning grandparents as potential custodians. If the court does not award custody of the child to a parent and, if a grandparent requests custody, the court shall give substantial consideration when evaluating what custody, visitation or residency arrangements are in the best interests of the child. Relevant factors to be considered include wishes of the parents, child and grandparent; the extent to which the grandparent has cared for, nurtured and supported the child; the intent and circumstances under which the child is placed with the grandparent, including whether domestic violence is a factor and whether the child is placed to allow the parent to seek work or attend school; and the physical and mental health of all individuals involved.

If the informal supervision order relieves the parents of custody and removes the child from the home the court must determine if the Indian Child Welfare Act (ICWA), 25 U.S.C. 1901 *et seq.*, applies; notice requirements, findings and procedure are dictated by ICWA, and the ICWA forms (Forms 209 – 223) must be used. The court should inquire about possible Indian

heritage of the child. The circumstances under which a court has reason to believe a child is an Indian child as defined by 25 U.S.C. 1903(5) include, but are not limited to, the following: any party to the case, Indian tribe, or agency informs the court that the child is an Indian child; any agency involved in child protection services or family support has discovered information suggesting that the child is an Indian child; the child gives the court reason to believe he or she is an Indian child; the residence of the child, parent(s), or custodian is known to be a predominantly Indian community; a parent of the child is enrolled in a tribe; or an officer of the court has knowledge that the child may be an Indian child. Removal of an Indian child from the home is prohibited without the specific findings required by ICWA either entered with the order of removal, or within 90 days if the removal was due to an emergency. Compliance with ICWA is jurisdictional. Failure to comply with ICWA may render orders devoid of authority.

The court may enter a restraining order (Form 134) against any alleged perpetrator of physical, sexual, mental or emotional abuse of the child. There is a provision in this form directing that a restraining order issue pursuant to K.S.A. 38-2244(e).

Once the period of informal supervision is completed, if those persons subject to the order have successfully completed the terms, the court shall dismiss the case and no further proceedings shall be initiated against those persons based solely upon the allegations in the original petition. If the period of informal supervision is not completed or a term of the informal supervision order is not fulfilled, a motion requesting modification or revocation of the order may be filed by any party, and the court shall set the matter for hearing and give notice. The court may modify the informal supervision order or revoke the informal supervision order and resume proceedings in the case upon finding either that the person(s) subject to the order have substantially failed to comply with the terms or that it is in the child's best interest.

Although a parent has not been served or received notice of the proceedings, an order of informal supervision may be entered. However, if the terms of the informal supervision change custody of the child, any parent not served may request reconsideration of the order of informal supervision, unless that parent has consented to the informal supervision. The request for reconsideration shall be heard without unnecessary delay. If the informal supervision order does change custody of the child, efforts to serve the parent shall continue.

The court may enter an order for one or both parents to pay child support if the child is placed with a person other than a parent, and shall enter a child support order if the secretary is granted custody of the child. The court shall issue an income withholding order, regardless of whether a payor/employer has been identified. The parent shall be given notice that the order may be registered pursuant to K.S.A. 38-2279, that the withholding order may be served on the parent's employer without further notice, and the child support order may be enforced by any method allowed by law. K.S.A. 38-2256 provides that a child support order that has been registered under K.S.A. 38-2279 may only be modified pursuant to that statute.

If the court awards custody of the child to the secretary, K.S.A. 38-2255(d)(1) provides the secretary shall have the authority to place the child, and the court may make placement

recommendations. If the court awards custody to the secretary, then the court shall provide the secretary with a copy of any orders entered.

When the term “or” stands alone between optional findings/orders, more than one choice may be checked. Each choice checked must be justified as instructed, *e.g. specify basis for finding*.