

IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY, KANSAS

IN THE INTEREST OF:

Name \_\_\_\_\_

Case No. \_\_\_\_\_

Year of Birth \_\_\_\_\_ A  male  female

**ORDER AUTHORIZING SECURE PLACEMENT FOR VIOLATION OF VALID COURT ORDER TO REMAIN IN PLACEMENT**

Pursuant to K.S.A. 38-2260

NOW on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the Court considers the application for authorization of secure placement.

The petitioner appears by \_\_\_\_\_  County/District Attorney or designee  other \_\_\_\_\_.

The child appears  in person and  not in person, but by the child's guardian *ad litem*, \_\_\_\_\_.

\_\_\_\_\_, 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.

\_\_\_\_\_, the  father  putative father of \_\_\_\_\_,  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 is/are: \_\_\_\_\_  
\_\_\_\_\_

THE COURT FINDS:

- 1. A valid court order to remain in placement was issued in the captioned matter on \_\_\_\_\_;
- 2. The child named above and the guardian *ad litem* were present on that date and informed orally of the order and the consequences of a violation of the order to remain in placement. A copy of the order was provided to the child and guardian *ad litem*;

3. The child named above was adjudicated as a child in need of care on \_\_\_\_\_ pursuant to K.S.A. 38-2202 subsection  (d)(6)  (d)(7)  (d)(8)  (d)(9)  (d)(10)  (d)(12);
4.  a. Upon a preliminary hearing, there is clear and convincing evidence that the child has been provided with the rights set out in K.S.A. 38-2260(d)(2); probable cause to believe that the child named above has violated the order to remain in placement without good cause and placement in a secure facility is necessary for the protection of the child or to assure the presence of the child at the evidentiary hearing, which is scheduled for \_\_\_\_\_ (Date and time, within 72 hours);

**OR**

b. Upon evidentiary hearing, there is clear and convincing evidence that the child has been provided with the rights set out in K.S.A. 38-2260 (e)(3), and that the child has violated the order to remain in placement without good cause, as follows : \_\_\_\_\_ ;

**OR**

c. Upon hearing of the request for extension of authorization, the child was previously found to have violated the order to remain in placement and has already been placed in a secure facility for  **sixty days** or  **120 days**;

5. Based on a written report submitted to the Court, all other placement options have been exhausted or are inappropriate to the needs of the child.

THE COURT THEREFORE ORDERS:

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

The above named child  **shall be**  **shall continue to be** placed in the custody of:

- a parent or other legal custodian.
- an unlicensed person other than a parent or legal custodian.
- a youth residential facility.
- the Secretary.

IT IS FURTHER ORDERED that the legal custodian of the child is authorized to place the child in a secure facility. Any order issued upon finding paragraph 4B or 4C shall expire sixty days from today's date. It is further ordered that a copy of this order shall be given to the child named above, the guardian *ad litem*, the child's parents, and the child's legal custodian.

IT IS SO ORDERED.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Order was served on the following persons as indicated below: *(List name, manner of service, and date.)*

\_\_\_\_\_  
Clerk of the Court/Deputy

## Authority

K.S.A. 38-2260.

## Notes on Use

This form may be used for the preliminary probable cause hearing (see paragraph 4a), the evidentiary hearing (see paragraph 4b), the placement hearing, and review hearings at 60 and 120 days (see paragraph 4c).

The court may enter an *ex parte* order directing that a child be held in a secure facility (Form 174.1) if the court finds probable cause to believe that the child violated a valid court order to remain in placement without good cause. The court shall hold a preliminary probable cause hearing within 24 hours, not including Saturdays, Sundays, or legal holidays, of the child being taken into custody under the *ex parte* order. Notice of the hearing shall be given orally or in writing to the child's parents, legal custodian and guardian *ad litem*. K.S.A. 38-2260.

At the preliminary probable cause hearing, if the court finds probable cause to believe that the child violated a valid court order to remain in placement without good cause and that placement in a secure facility is necessary either for the protection of the child or to assure the presence of the child, the court may order the child held in a secure facility pending the evidentiary hearing. If the child admits to the allegations in the application, or enters a no contest statement, the court shall proceed immediately to a placement hearing.

The court shall hold an evidentiary hearing on the application within 72 hours, not including Saturdays, Sundays, or legal holidays, of the child's being taken into custody. Notice of the hearing shall be given orally or in writing to the child's parents, legal custodian and guardian *ad litem*. The child shall be provided with the following rights at the evidentiary hearing: to have a guardian *ad litem*, to have a copy of the application, to be informed of the nature and consequences of the proceeding, to confront and cross-examine witnesses, to present evidence, to have a transcript or recording of the proceedings, and to appeal. If the court finds, by clear and convincing evidence, that the child violated a valid court order to remain in placement without good cause and that the foregoing rights have been provided, the court shall proceed immediately to a placement hearing. K.S.A. 38-2260.

During the placement hearing the court may enter a custody order and authorize placement in a secure facility if the court finds that all other placement options have been exhausted or are inappropriate, based upon a written report submitted by the secretary (if the child is in the secretary's custody) or by a public agency independent of the court and law enforcement (if the child is not in the secretary's custody). The authority for secure placement granted by the court shall expire 60 days, including weekends and legal holidays, after it is issued. The court may grant an extension of the authority for two additional periods, each not to exceed 60 days, upon rehearing. Authority to place in a secure facility is not authority to place in a juvenile detention facility, an adult jail or lockup. K.S.A. 38-2260.