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IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE INTEREST OF

Name _____

Case No. _____

Year of Birth _____ A ☐ male ☐ female

MOTION FOR FINDING OF UNFITNESS
AND TERMINATION OF PARENTAL RIGHTS
OR APPOINTMENT OF PERMANENT CUSTODIAN

Pursuant to K.S.A. 38-2266

Comes now ☐ the County/District Attorney or designee ☐ other _____
 and requests that the Court find the ☐ **mother** ☐ **father** ☐ **putative father** of each child named
 above to be unfit and that parental rights be terminated or a permanent custodian be appointed.

In support thereof movant informs the Court:

1. The name and address of the natural mother of the child is:

2. The name and address of the natural father of the child is:

3. The name and address of the putative father of the child is:

4. The parental rights of said parents should be terminated because they are unfit by reason
 of conduct or condition which renders the parents unable to care properly for the child
 and the conduct or condition is unlikely to change in the foreseeable future.
5. The specific allegations are:

Whereupon, Movant requests the Court find the ☐ **mother** ☐ **father** ☐ **putative father** of
 each child named above to be unfit and terminate parental rights, to appoint a permanent
 custodian, and to enter such orders as the Court deems appropriate and just.

 Movant
 Name
 [Supreme Court Number]
 Address
 Telephone Number
 [Fax Number]
 [E-mail Address]

Authority

K.S.A. 38-2266.

Notes on Use

Any party or interested party may request that either or both parents be found unfit and that the parental rights of either or both parents be terminated or a permanent custodian be appointed. The specific factual allegations supporting the motion shall be included, at paragraph 5 in the form, including dates, times and locations, to the extent known. K.S.A. 38-2267 requires that the court, upon receipt of the motion, set the time and place for hearing, which shall be held within 90 days. A continuance shall be granted only if the court finds it is in the best interest of the child. The matter may be reassigned from a district magistrate judge to a district judge, upon the motion of a party. K.S.A. 38-2267. In any case in which a parent cannot be located by the exercise of due diligence, service by publication shall be ordered upon the parent, see K.S.A. 38-2237 as amended by 2007 SB 269 (Forms 259-261). See Notes on Use for Form 259 for a discussion of due diligence.

Prior to hearing a motion requesting termination of parental rights or a motion for appointment of a permanent custodian, the court shall appoint an attorney to represent any parent who fails to appear.

Comments

A request for termination of parental rights may be included in the initial child in need of care petition. *In re J.G.*, 12 Kan. App. 2d 44, 734 P.2d 1195 (1987).

A parent must be afforded an opportunity to be present at a severance hearing. *In re S.M.*, 12 Kan. App. 2d 255, 738 P.2d 883 (1987).

Where parental rights are severed, the natural parent no longer has rights in child to support *habeas corpus* action. *Cosgrove v. Kansas Dept. of S.R.S.*, 14 Kan. App. 2d 217, 786 P.2d 636 (1990).

Due process requires service on the nearest blood relative when the parent cannot be located with due diligence. *In re L.S.*, 14 Kan. App. 2d 261, 788 P.2d 875 (1990).

This case examines parental conduct. *In re D.V.*, 17 Kan. App. 2d 788, 844 P.2d 752 (1993).

A denial of a motion to terminate parental rights is appealable as an order of disposition. *In re T.D.W.*, 18 Kan. App. 2d 286, 850 P.2d 947 (1993).

A parent may institute proceedings to terminate the other parent's parental rights. *In re N.D.G.*, 20 Kan. App. 2d 17, 883 P.2d 89 (1994).

Narrowly interpreting "parent" to include only admitted, proven or presumptive fathers would undermine the purpose of the code by unduly limiting the State's power when dealing with children with unknown or uncertain paternity. *In re A.N.P.*, 23 Kan. App. 2d 686, 934 P.2d 995 (1997).

Parents are denied due process by notice defects surrounding a motion to terminate parental rights. *In re H.C.*, 23 Kan. App. 2d 955, 939 P.2d 937 (1997).

Short notice to mother by publication service prior to the hearing did not prejudice mother under these specific facts. *In re J.H.*, 25 Kan. App. 2d 372, 962 P.2d 1127 (1998).

Exceptions may be made to the 30 day time limit to file an appeal for fundamental fairness when the appellant was not advised of the time limit. *In re T.M.C.*, 26 Kan. App. 2d 297, 988 P.2d 241 (1999).