

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE INTEREST OF:

Name _____

Case No. _____

Year of Birth _____ A ☐ male ☐ female**ORDER FOR SERVICE BY PUBLICATION**

Pursuant to K.S.A. 38-2237

NOW, on this _____ day of _____, _____, the Court considers the Request for Service by Publication and Affidavit filed herein. There are no appearances.

The Court finds that _____ shall be given notice of the proceedings by publishing a Notice of Hearing once a week for two consecutive weeks in the newspaper authorized to publish legal notice in the captioned county ☐ **and in the newspaper authorized to publish legal notice in the locality where there is substantial certainty that the parent is currently residing, to wit:** _____. Report of service shall be made by affidavit with a copy of the published notice attached.

It is so ordered.

Judge of the District Court

Authority

K.S.A. 38-2237 as amended by 2007 SB 269.

Notes on Use

Due diligence is required to protect the rights of the parties and provide timely proceedings for permanency for the child. Failure to exert due diligence in locating parties for service and notice of a hearing may void the findings and orders made at that hearing, and require rehearing. Due diligence varies from case to case and examples of information sources are: the party's attorney, the phone numbers and contact numbers the party previously provided, directory information at 1-411, area phone directories, the last known address and the current occupant and neighbors, the utility companies for that address, mailing a letter marked "Address Correction Requested" to the last known address, family members and friends or known contacts, DCF child support parent locator, internet search, and the Kansas corrections website.

Upon the filing of an affidavit stating that the affiant has attempted, with due diligence shown, to ascertain the name or residence of a parent, but was unsuccessful, the court may order service by publication. Publication shall be in the county where the petition is filed. If the court finds that there is a substantial certainty that a parent resides in a particular locality, then publication shall also be in that locality.

Comments

Due diligence is explored in this case. *In re L.S.*, 14 Kan. App. 2d 261, 788 P.2d 875 (1990).

The statute does not provide for service on counsel of record in lieu of parent. Parents are denied due process rights by notice defects. *In re H.C.*, 23 Kan. App. 2d 955, 939 P.2d 937 (1997).

Given the facts of this case, short notice prior to hearing when mother is served by publication does not prejudice mother. *In re J.H.*, 25 Kan. App. 2d 372, 962 P.2d 1127 (1998).

This case discusses the requirements of due process in a termination case, including a discussion of due diligence. *In re S.R.*, 34 Kan. App. 2d 202, 116 P.3d 43 (2005).