



Kansas Judicial Branch

Parent Ally Orientation Manual

Office of Judicial Administration
Kansas Judicial Center
301 SW 10th Avenue
Topeka, Kansas 66612

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Introduction

The Office of Judicial Administration, an office of the Kansas Supreme Court, set up the Parent Ally Orientation project. In Child in Need of Care Cases, this project allows each of the child's parents to pick up to two people each to be present with them in court. These people would be called "parent allies." This will allow a parent's friend, neighbor, or other person to come to court and give them support.

By law, the parent allies must take part in a parent ally orientation program approved by the Office of Judicial Administration. The program must include:

- Information concerning the confidentiality of the proceedings;
- Child and parent's right to counsel;
- Definitions and jurisdiction pursuant to the Kansas Code for Care of Children;
- Types and purposes of the hearings;
- Options for informal supervision and dispositions;
- Parents' obligation to financially support the child while the child is in the state's custody;
- Obligations of the Secretary of the Department for Children and Families;
- Obligations of entities that contract with the Department for Children and Families for family preservation, foster care, and adoption;
- Termination of parental rights;
- Procedures for appeals; and
- Basic rules regarding court procedure.

This manual contains information about the Kansas Child in Need of Care (CINC) court process. It is intended to be a very basic overview of the CINC process. This is a difficult area of the law and attorneys should represent parents with involved children. The Parent Ally manual should not replace legal advice. However, it should help family and friends get an improved understanding of the court process. Knowing the process will help family and friends to provide support when support is needed.

For more information about this program, please call (785) 296-2256 or write to:

Parent Ally Orientation Program
Office of Judicial Administration
Kansas Judicial Center
301 SW 10th Street
Topeka, Kansas 66612

SECTION I

Parent Ally Role

The Kansas law dealing with children is called the Kansas Code for the Care of Children. Persons who work in this area of the law refer to it as the CINC Code. Children who may be Children in Need of Care, or CINC, fall into the following categories:

- Children who have been injured by a parent.
- Children who have been neglected.
- Children who have been abandoned.
- Children who are supposed to be in school but are not in school.
- Children who have run away from home.
- Children under 10 years old who may have committed a crime.

The CINC Code is a difficult area of the law. It can also be very emotional for a family caught up in the process. Lawyers are needed to help parents with legal issues. Family or friends can also play an important role. By becoming familiar with the court process, family and friends can provide support when support is needed.

A parent can choose up to two people to serve as parent allies. They can be friends, neighbors, or some other support person. The law reads that parent allies must have taken part in a parent ally orientation program approved by the Office of Judicial Administration. The orientation program consists of the Parent Ally Manual and a CD presentation. The manual is intended to be a helpful resource in understanding the court process, but it should not and does not take the place of legal advice.

What can a Parent Ally do?

- Attend court hearings with the parent even if another party to the case does not want the parent ally there.
- Support the parent in court by following the procedure closely, listening to the participants, and taking notes.
- Keep a check list for the parent including:
 - Judges' orders.
 - Hearing dates, times, and locations.
 - Attorney's name, address, telephone number, and e-mail address.
 - Caseworker's name, address, telephone number, and e-mail address.
- Use the handbook materials as a guide during the court process.
- Discuss the case with the parents outside the courtroom.

What can't a Parent Ally do?

- Share confidential information.
- Receive notices of hearings or copies of reports delivered to the court.
- Be disruptive in the courtroom.
- Replace an attorney.
- Provide legal advice.
- Be present during attorney and client private discussions.
- Talk to the judge or ask the judge questions, even outside the courtroom.

A log sheet is available at the end of your manual. Make copies of this log sheet to take notes on so you can remember what happened at the hearing.

Kansas Code for the Care of Children

SECTION II

Overview

Parties:

Only certain people are considered to be parties to a case, including:

- the child or children,
- the parent or parents,
- the petitioner, and
- the grandparents.

The judge may designate additional people as “interested parties” if the judge finds they have importance in the child’s life. Other people may also be involved and present at hearings, but they are not considered to be parties to the case. This is discussed further in a later section.

Notice:

Parties must be informed of hearings, except for the protective custody hearing. A police officer can do this in person or by mail. In some cases, the notice is printed in a newspaper. A notice must describe the date, time, and place of the hearing and must have a copy of the petition attached. Copies of the notice must be placed in the court file as proof of service.

Evidence:

Judges must make decisions on information given them during court hearings. There are several forms of evidence the judge will be given:

- Physical evidence, such as video tapes, weapons, and pictures;
- Reports from social workers, psychologists, and doctors; or
- Testimony from individuals.

Standard of Proof:

The “Standard of Proof” is how strong the evidence must be to prove a case to a judge. There are at least four standards of proof: (1) probable cause; (2) preponderance of the evidence; (3) clear and convincing evidence; and (4) beyond a reasonable doubt

(the highest standard of proof). There are no hard and fast definitions of each standard of proof. In criminal cases, the jury must decide if the evidence meets the required standard of proof. In CINC cases, the judge must decide if the evidence meets the required standard of proof for a particular hearing. In CINC hearings, the required standard of proof changes as the case progresses through the system. For instance, probable cause is enough for a protective custody hearing, but an adjudicatory hearing requires clear and convincing proof.

Confidentiality:

A Child in Need of Care (CINC) case is confidential. The word “confidential” means private and not to be talked about or made public. All of the hearings are closed to the general community. Two files are kept. One is the court file; the other is the social file. The court file contains all of the paperwork required by Kansas statutes such as the petition, notices of hearing, and journal entries. The social file contains all of the reports about the child and family, including, but not limited to, medical, psychological, educational, investigative, and agency reports. Both files are kept in a special place and only the judge and the attorneys are allowed to see the files without a specific judicial order.

Right To Counsel:

In Kansas, a guardian *ad litem* is required for children, and a hearing cannot proceed without the child’s guardian *ad litem*. A guardian *ad litem* (GAL) is an attorney automatically appointed by the court. The GAL’s duty is to protect the interests of the child. Each parent also has a right to counsel, but this right is not automatic. A parent must hire a lawyer or request the court to appoint one. Once the court is aware that the parent has an attorney, the hearings must include that attorney. Other individuals may also have the right to be represented by an attorney in these hearings.

Talks between the child and GAL are private or privileged when no one else is present or can hear. This is true of a parent and his attorney, or any interested party and her attorney. A GAL or attorney cannot repeat these private or privileged conversations without the person’s permission. If the person gives permission, this is called “waiving” the privilege.

What to wear and other unwritten rules of conduct:

What you wear and how you look in court are up to you. People wear all kinds of clothing to court. However, how we look when we go to court sends a message to the children about the importance of being in court. Dress clothes are appropriate, but judges will not make decisions based on how you look. Hats are not worn in court.

When people take part in the court process, they are expected to act in certain ways. While in court, people should be quiet, attentive, and polite, speaking only when asked a direct question. Conversations, even quiet whispers, are distracting and should

not take place during the hearing. Everyone should stand when the judge enters and leaves the courtroom. Otherwise, they should remain seated unless told to stand.

Attendance:

Parents and their attorneys should attend all hearings unless the judge says they do not need to. It is important to arrive 15 to 20 minutes prior to the planned court time. You should be prepared for delays should the court run behind schedule. While everyone wants to hold hearings on time, delays do happen. Important appointments should not be planned immediately following a court hearing in case your case is delayed.

People who are often present during hearings are:

- the judge;
- the County/District Attorney, or other petitioner;
- the guardian *ad litem*;
- the child, unless the court decides it is not in the child's best interest;
- the grandparents or other relatives;
- the foster parents;
- an DCF representative;
- a private contractor; and
- the witnesses.

Continuances:

Calling off and resetting a hearing for a later date is called a continuance. If a party is not able to attend a hearing, the party should ask that the hearing be continued. Only the judge may approve or grant a continuance. Continuances are discouraged because courts are always very busy. If the hearing has to be continued, it is not unusual for the next hearing date to be weeks, if not months, away. Continuances create delays in making plans for children and their families. These delays almost always have a harmful effect on children and families.

Hearing procedures:

All persons attending the hearing should be present before the judge enters the courtroom. The attorneys will be seated at tables in the front of the room, facing the judge's bench or table. The judge's bench is usually raised slightly above floor level. The petitioner will usually be seated alone. The child, if present, may be seated with the guardian *ad litem*. Parents are seated with their attorney, but may sit in the general seating area. There may be a court clerk or a court reporter present. These individuals will usually sit to the front and to one side of the judge's bench. Anyone else will be expected to find a seat in the courtroom's general seating area. If people are to be witnesses in the hearing, they may be ordered by the court to find a seat outside the courtroom. When it is their turn, they are asked to come into the courtroom to offer their information.

SECTION III

Court Process

A case usually begins when someone calls DCF to report a child in danger. The DCF employee talks to the family and goes to the child's home. The employee is looking for activities or conditions within the home that may endanger the child. The employee is also looking for ways to protect the child while allowing the family to keep the child at home. Cases also may begin when a law enforcement officer finds a child who needs protection. Information is given to the judge. The judge may issue an order of protective custody. If the child is found to be in danger in any of these instances, the child is removed from the home and placed in a safe and suitable location. If there doesn't seem to be any immediate risk to the child, the child may stay with the family.

Reports written by DCF or the police are given to the county or district attorney. The county or district attorney reviews all of the information. After the review, a decision is made as to whether a **petition** should be filed. This "petition" is the legal document that says that the child is a Child in Need of Care. The county or district attorney's office is in charge of writing the petition and other related paperwork. That office also gets notices ready to be sent to involved individuals. The originals of all paperwork are filed with the court.

Within 72 hours of the child's removal from the home, a **temporary custody hearing** is held. At this hearing, the child is represented by a guardian *ad litem*. The parents may be represented by their attorney. If the parents cannot pay for an attorney, they may ask the court to appoint one to represent them. Parents may choose to have one attorney represent both of them or they may each request an attorney.

Everyone involved with the case must be given the place, date, and time for the hearing. This information may be provided by a notice or summons to appear. If a summons is received, the person must attend the hearing or contact the court and explain why attendance is not possible. If a person does not call and ask to be excused, or fails to appear, the person can be arrested.

At the temporary custody hearing the judge will decide if the child should be sent home with the parents. To help make a decision, the judge will read the paperwork and hear statements from witnesses. If the judge orders the child removed from the home, the judge may give custody of the child to DCF or to a suitable person. If DCF is responsible for the child's care, the judge may only suggest a place for the child to stay. It is up to DCF to make the final decision where the child should live until there are more orders from the court. In addition, the judge may place conditions on the child's and family's activities.

Some families may be eligible for **informal supervision**. If so, the judge may order the child and family to be placed on informal supervision. During informal supervision, the child may live at home or in another place. To make certain the child is safe, the family develops goals and activities to reach those goals. The family's progress is checked by a court services officer or by a DCF social worker. Reports describing these activities are filed with the court after six months, or earlier. The judge and attorneys review these reports and decide if anything else needs to be done. If the goals are reached and the safety of the child is no longer a concern, the case is dismissed. If not, the informal supervision may continue for another six-month period for a total of one year. If there is not enough progress, the case may be set for an **adjudicatory hearing**. All of the parties to the case must agree to informal supervision.

Most court proceedings, including child in need of care cases, follow a very formal process. In CINC proceedings, no one is found guilty. Instead, if there is sufficient evidence, the judge adjudicates or finds the child to be a child in need of care. This finding by the judge follows a formal process where evidence is presented and witnesses are called to testify. The attorneys can question all witnesses. Once all evidence has been presented, the judge decides if the evidence is sufficient to find the child to be a child in need of care. If there is not enough evidence, the case is dismissed and the child either remains with or is returned to the parents.

The adjudicatory hearing is the first hearing at which the question is whether the child should officially be called a child in need of care (CINC). Everyone involved with the case must be given the place, date, and time for this hearing. This time, however, the notice must be in writing. The notice may be delivered by a police officer or by mail. When a parent cannot be found, the notice of a hearing may be printed in a newspaper. A summons to appear may be issued for this type of hearing. The court or attorneys will determine who should receive a summons to appear.

If the judge decides that the child is a CINC, the next step is the **dispositional hearing**. There are many choices available to the court. The judge makes the choice based on the best interest of the child. This kind of hearing can be less formal than the adjudicatory hearing. Interested parties in the case may offer suggestions for disposition. All of this information will help the judge decide where and with whom the child should live. Often, after a child is found to be a CINC, the child lives for a time with someone other than the parent. If a long term (permanency) plan for the child's care has not been prepared, one is written. It is given to the judge, attorneys, parents or guardians, and others for approval. **Permanency plans** may include:

- returning the child to the parents' home,
- ending the parent/child relationship,
- placing the child for adoption by a relative or unrelated party,
- appointing a permanent guardianship, or,
- making independent living arrangements for older children.

The most important part of any plan for the child is safety. Federal law requires all plans to use safety as the first priority for all plans. Returning the child to the parents'

home, also called reintegration, is the first choice. Each plan should list very detailed things for the parents to do before the child is allowed to return home. These steps are usually ways to help the parents:

- provide a safer place for the child to live;
- improve their parenting skills;
- provide proper health care for the child;
- see that the child attends school regularly; and
- take part in other activities the court decides will insure the child's safety.

The tasks set out in the plan are monitored and assistance is provided to the parents. Usually, this assistance and supervision is provided by DCF, a service provider for DCF, or by court services. Reports are sent on a regular basis, at least every six months, to the court. These reports are reviewed by the judge and attorneys. This kind of review may be held in the judge's office, or in court at a hearing. If changes are needed, the case is set for a full hearing.

Kansas and federal laws require that a **permanency hearing** be held when the child has been out of the home for 12 months. Permanency means a safe, lasting, final outcome for the child. A permanency hearing is a full hearing involving all interested parties. Written notice of the hearing is required. Depending on what the specific plan is for the child and the progress made toward completing the planned goals, the judge may determine that a different plan is needed. For example: The family has had a year to make the home safer and the parents have not tried to do anything. The court may decide that a hearing should happen to consider ending the parent/child legal ties. (Parental Termination)

SECTION IV

Parties and Other Participants

Parties

Only certain people are allowed to be involved in a case. These people have different titles such as parties, interested parties, or “persons with standing.” Parties or persons with standing include:

- parents or guardians;
- children; or
- the child’s grandparents.

Other people present in the courtroom are:

- the judge;
- prosecutor;
- guardian *ad litem* (GAL);
- parents’ attorneys; and
- sometimes a court reporter.

There may also be a DCF social worker, a contract provider, foster parents, a court services officer (CSO), a court appointed special advocate (CASA), a bailiff, or other court staff.

Parents or guardians:

A parent is the father or mother of a child by birth or by adoption. A guardian is a person named by the court to take care of the child or to manage the child’s property and rights.

Children:

Those individuals actually named in the case file. Even then, the children may not be allowed in the courtroom if the judge decides it is harmful to the child or not in the child’s “best interests.”

Grandparents:

The grandparents of the child are known as “interested parties” by Kansas law. This means that the grandparents:

- may be represented in hearings by an attorney;
- may attend case plan conferences;
- will receive notice of hearings;
- will be able to attend hearings; and
- will receive information from DCF, the foster care providers, and the GAL.

Other Participants

Judge:

The judge is a public officer who decides what is fact, interprets the law, and makes sure the law is applied fairly to all parties. The judge:

- directs the action in the case;
- hears the facts of the case; and
- is responsible for making decisions on questions of law.

Prosecutor/Petitioner:

This is the attorney who takes charge of the case in the name of the government. The prosecutor drafts the original petition, files it with the court, and presents the facts of the case to the judge.

Guardian *ad litem* (GAL):

This is the attorney appointed by the judge to represent the best interests of the child. The term “*ad litem*” is Latin meaning “for this case.” The guardian *ad litem* represents the child only during the court proceedings. The guardian *ad litem* does not serve as a legal guardian.

The Kansas Supreme Court Administrative Order No. 100 says that the guardian *ad litem* should:

- (1) conduct an independent investigation to review all relevant documents and records;
- (2) determine the best interests of the child;
- (3) file appropriate pleadings on behalf of the child;
- (4) appear for and represent the child at all hearings;
- (5) provide reports at every hearing; (These reports may be written or oral, depending on the order of the judge.)
- (6) explain the court proceedings and the role of the guardian *ad litem* in terms the child can understand;
- (7) recommend specific appropriate services for the child and the child’s family; and
- (7) monitor the implementation of service plans and court orders.

The GAL must participate in special training before being appointed as a GAL. The GAL must also participate in continuing education classes after being appointed. The GAL must follow special rules if the GAL and the child disagree on what is best for the child.

To get the name of the GAL in a child in need of care case, contact the clerk of the court in the county where the child was determined to be a CINC. When seeking this information, you need to provide the name of the child, the name of the child’s parents, and/or the court case number.

Parents' attorney or attorneys:

According to Kansas law, parents may have their own attorney in a CINC case. Parents cannot always afford an attorney. If this is the case, the judge may appoint one to represent them. The parents' attorney presents information about the parents in court.

The parents and attorney may have private discussions about the case. These discussions are considered privileged. This is a legal right. The private discussions cannot be revealed in court, unless the parents first give permission.

Parent Allies:

A parent ally is a person chosen by the parent to support the parent in court. One or two parent allies may attend court hearings with the parent. To be a parent ally, a person must first complete an orientation program. The orientation program teaches the parent ally about the court process in child in need of care (CINC) hearings. The parent ally can then attend hearings with the parent and help the parent understand the court process. A parent ally may not be removed from the courtroom unless that person becomes disruptive. Parent allies are not interested parties. This means they will not receive notices of hearings or copies of reports delivered to the court.

DCF:

DCF is a short way of saying the Kansas Department for Children and Families. DCF may have custody of the child and be responsible for the care, control, and maintenance of the child. DCF is responsible for where the child lives and for making sure the orders of the court are followed. The court may recommend where the child lives but may not order a specific placement for the child. The court may, however, make specific orders about treatment or programs for the child or the parents.

Foster Parents:

Sometimes DCF and the judge feel that a child is in danger or in need of temporary shelter. Foster parents provide a safe and suitable environment for a child. Foster parents' homes must be licensed.

Foster parents are entitled to notice of hearings no less than 10 days before any hearing. The foster parents may be asked to testify in any proceeding. They should come to court prepared to testify and, if required, bring the child or children. Often the judge will excuse the appearance of very young children. Foster parents should make certain of this before appearing without the child.

Every six months the foster parents must give the judge a **written** report on the child's adjustment, progress, and condition. These reports are part of the court file and are reviewed before the hearing. The judge may want to discuss the report with foster parents when they appear in court.

Foster parents have the right to be heard at a permanency hearing for the child. They report on the child's adjustment, progress, special needs, and condition. Foster

parents may also give their opinions about adoption of the child, continued placement, and changes in placement for the child.

DCF must give foster parents the following information before it can place a child in the foster home:

- the strengths, needs, and general behavior of the child;
- why the child was removed from the home;
- the child's family and the child's relationship with the family;
- the child's life experiences and relationships that may affect the child's feelings, behavior, or attitudes;
- the child's medical history, including health insurance coverage; and
- the child's education history, including present grade and special strengths and weaknesses.

Foster parents do not make choices about special education. The parents continue to make these decisions as long as the parents are available or the parents' rights have not been terminated. If a parent is unknown or cannot be found, the court appoints someone to make educational choices. If the child's school conducts a court ordered educational needs assessment, there may be a meeting involving many parties. A foster parent may be one of these parties.

Court Reporter:

This is the person who writes down everything that is said or that happens during a hearing. If a judge's decision is appealed, the court reporter prepares a written report from this record. The written report is called an official transcript.

Court Services Officer (CSO):

A court services officer is responsible for performing a variety of duties for the court. Many of these duties are required by Kansas law, but other duties may be assigned by the chief judge of a judicial district. These duties vary from one judicial district to another. The CSO reports to the court and may or may not supervise cases or individuals for the court. The role of court services is that of an aide to the judge.

CASA, Court Appointed Special Advocate:

A CASA is a trained volunteer appointed by the court to investigate, facilitate, advocate, and monitor a child's case. The CASA works in the best interests of the child.

Investigate: The CASA will research the child's situation. The CASA will examine the family history, relationships, and needs of the child.

Facilitate: The CASA identifies resources and services for the child. The CASA creates a situation in which all parties work together for the best interests of the child.

Advocate: The CASA speaks up for and pleads the case of the child for whom the CASA is appointed.

Monitor: The CASA keeps track of whether the orders of the court and the DCF plans are carried out. The CASA reports to the court or collaborates with child protective services when those orders and plans are not followed by any of the parties.

Bailiff:

This is the court officer or attendant who helps the judge keep order during court hearings. There may or may not be a bailiff present at the hearing, depending on the judge's preference and the court's finances.

SECTION V

CINC Hearings, Custody Orders and Conferences

Protective Custody Orders:

DCF or a law enforcement officer may remove a child from any location if the child does not appear to be safe. If this happens, a paper must be written telling what facts made it necessary to remove the child. This paper is called a “verified application.” The application must describe what efforts were made to keep the family together, or if an emergency existed, what the emergency was and how the child would be threatened by the emergency. This verified application is then brought to the judge for review. If the judge believes the child should remain out of the home, the judge may issue a protective custody order. This order makes DCF or another suitable person temporarily responsible for the child.

The judge may sign the protective custody order only after deciding the application is probably more true than not. This is called a probable cause finding. The order may remain in effect for 72 hours, excluding Saturdays, Sundays, and holidays. Choices for caregiver may be a parent or other relative, a foster parent, a youth residential facility, or the Secretary of DCF.

Temporary Custody Hearing:

If the child was not left in the child’s home, a temporary custody hearing must be held within 72 hours. Weekends and legal holidays do not count as part of the 72 hours. At a temporary custody hearing, the guardian *ad litem* (GAL) is present to represent the child. Parents are informed of their right to an attorney and that this attorney could be court appointed. The judge hears evidence, reviews the child’s current living arrangements, and makes a decision as to placement or returning the child to the child’s home. The case is dismissed or set for further hearings.

Informal supervision:

The judge may order informal supervision. If none of the interested parties object, informal supervision may occur any time before adjudication. Informal supervision may allow the child to stay at home with the parents. It gives the family a way to satisfy the orders of the court. It also allows DCF or an officer of the court to check on the family. An informal supervision order may remain in effect for up to six months. After a hearing, the supervision may last for an additional six months. The total time for informal supervision is one year.

While this type of order is in place, the judge receives and reviews reports on the family's progress. If the judge's orders have been successfully completed, the case is dismissed. If the order has not been followed, the case resumes and the child may be adjudicated a child in need of care.

Adjudicatory Hearing:

An adjudicatory hearing is a full court hearing. All interested parties must receive formal notice of the date, time and place of the hearing. Formal rules of evidence apply and the standard of proof needed before a child can be adjudicated as a child in need of care is that of "clear and convincing."

At the end of an adjudicatory hearing, the judge may dismiss the case and return the child to the parents, or may find that the child is a child in need of care (CINC) and set a date for a dispositional hearing.

Kinship Conference:

As an alternative to adjudication or prior to disposition, the court may order that a kinship conference be held. At a kinship conference, relatives of the child decide if there is a family member who might care for the child. This meeting is outside the presence of others. After the meeting, the relatives make a recommendation to the court. The child will be placed with that family member unless there is a clear reason not to make this placement.

Dispositional Hearing:

The purpose of a dispositional hearing is to determine where the child will live. Also, the judge issues orders to be followed by the child, family, and support agencies. This type of hearing must be held within 30 days following adjudication.

Before issuing the dispositional orders, the court looks at the following issues involving the child:

- physical, mental, and emotional condition;
- need for assistance;
- responsibility of parents for the child's CINC position;
- relevant information from the intake and assessment process; and
- evidence presented at the dispositional hearing.

In deciding if the child will be able to return to the family, the court will also consider if the parent has been found by a court to have:

- committed murder, capital murder, or voluntary manslaughter;
- aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of a child;
- committed a felony battery that resulted in bodily injury to a child;

- committed abandonment, torture, chronic abuse, sexual abuse, or chronic life-threatening neglect of a child;
- had parental rights to another child terminated involuntarily; or
- had a child put in extended out of home placement.

If the child is to remain out of the home, a permanency plan should be a part of the file. If it is not, DCF must write a plan and give it to the court. DCF has 30 days after the dispositional order is entered to prepare the plan.

Review Hearings:

Often, review hearings are not formal hearings, although they may be. Sometimes only the judge or the judge and the attorneys in the case are involved in a review hearing. The permanency plan goals and related reports are reviewed and discussed. A decision is made about whether or not the goals are being met.

Groups providing support help the family complete the plan. Some of these groups are DCF, Court Services, foster parents, and CASA. Agency reports must be filed at least every six months. The judge may determine that other action should be taken and set the case for a formal hearing. If the family has reached the goals in the plan, the case can be dismissed and the child returned home. The judge may order that these review hearings be held before a citizen review board (CRB). This board reviews reports, talks to parties, and makes recommendations for further orders. These recommendations may be approved or modified by the judge.

Permanency Hearings:

The goal for each child is to have a permanent family. A lasting family is very important to a child. The first choice for a permanent family is the child's parents. The progress toward the plan is reviewed every 12 months in a formal hearing. The point of this hearing is to get the child into a permanent family situation. Information may be offered at permanency hearings by:

- parents,
- grandparents,
- DCF,
- CASA volunteers,
- foster parents,
- and others.

At a permanency hearing, the judge decides how much progress has been made toward the case plan permanency goal. To help decide this, the judge reviews the evidence and listens to testimony. The judge also decides if the child can be returned to the family. Returning a child to the family is called reintegration. The judge may decide that there has not been enough progress toward the case plan goal and reintegration with the parents is not possible. If the judge makes this finding, a permanent guardian may be

appointed, or the case will be referred to the county or district attorney for the filing of a petition to end parental rights.

Termination of Parent Rights:

This is a formal hearing calling for the filing of a specific motion or separate petition. The Petition asks that parents permanently lose all rights to their children. Written notice of the hearing place, date, and time must be sent to all the parties involved. This kind of hearing allows all the parties to give their information. They can state why they believe custody should or should not remain with the child's parents. A hearing for termination of parental rights may be ordered at any stage in the court process. This hearing takes place when the facts of the case show that ending the parent/child relationship would be in the best interest of the child.

To start this process, petitioner must file a paper that says clearly that its purpose is to end the parents' rights to care for the child. The rules of evidence apply. The state must prove, by clear and convincing evidence, that the parent is unfit by conduct or condition to care for the child and is unlikely to change in the foreseeable future. The court shall consider, but not be limited to, the following:

- the natural parents have been unable or unwilling to comply with the reintegration plan;
- the natural parents have not followed the court's orders; or
- the abuse or harm to the child is so obvious that no reintegration plan is required.

Following the hearing, the judge may:

- terminate the parents' rights;
- order that the family continue to work on the goals of the permanency plan and set a review hearing date; or
- order that a new plan be written and set a review hearing date.

Appeal:

Appeal is a term used to describe a type of hearing. Because the courts in Kansas have different types of judges, appeals may follow different paths. If a district magistrate judge listened to the original hearing, then a district judge could hear the appeal. If the ruling by the district judge is appealed, the case will go to the Court of Appeals. If it is an important question of law, it may be appealed directly to the Supreme Court.

Any person or agency that receives notices of hearings may request an appeal hearing if they believe that the judge's decision or order is not correct. There is a time limit for requesting an appeal. The person's attorney helps in the appeal process.

SECTION VI

Dispositional Options

The court has many options at the time of disposition. Dispositions are decisions the court makes after finding that the child is a child in need of care. The first major decision is who has custody of the child and where the child resides. The court may:

- leave custody with the parents;
- place the child in the custody of the state; or
- place the child with another individual.

If custody is with the state, the judge may recommend placement with the parents. If safety is a concern, placement out of the home may be recommended. It is ultimately up to DCF where the child is placed. The court may also order the child and parents to participate in counseling and treatment or that the parent have no contact with the child unless the visit is supervised.

When custody is with the parent and the child is left in the home, the parent must follow the court orders or the approved case plan, or the child may be removed from the home.

SECTION VII

Support Obligations

Kansas law states that the person who is responsible for a child must pay for the expenses relating to that child. Usually the parent or parents are responsible to maintain, care for, or support the child. The judge may order child support at the dispositional hearing. Sometimes a separate hearing is scheduled. The Kansas Child Support Guidelines are used to determine how much child support each parent must pay each month. Child support is often deducted automatically from a person's paycheck. This process is called income withholding. Any child support that is paid goes to the State of Kansas to help pay for the expenses of having a child in custody.

SECTION VIII

Responsibilities of the Kansas Department for Children and Families (DCF)

The Kansas Department for Children and Families (DCF) always focuses on the safety of the child. DCF provides special services to the family to try to keep the family unit together. If the child has been removed from the home, DCF also works with the family to return the child home as soon as possible. DCF prepares and presents to the judge two types of plans for the child:

1. a plan for returning the child home; and
2. a plan for a permanent place for the child to live.

These plans are prepared with the needs of the child and family as the first priority.

DCF and the judge try to place the child in the home of a relative when the child cannot return home. A person may present the names and locations of relatives who could care for the child to DCF at any time during the process. Relatives who would like to care for the child should contact DCF immediately. It is important that the child be placed in a safe and comfortable home. DCF or the contracted foster care agency may conduct a criminal and child abuse background investigation on anyone who may come in contact with the child. Individuals who provide care for a child may receive financial assistance from DCF.

DCF should provide the following information to foster parents prior to placement of the child:

- strengths, needs, and general behavior of the child;
- reason the child was removed from the home;
- child's family and the child's relationship with the family that may affect the placement;
- child's experiences and relationships (these may affect how the child acts);
- child's health history, including health insurance coverage, for the child; and
- child's education history, including the child's present grade placement and the child's strengths and weaknesses.

DCF should provide a report to the court no less than once every six months. Reports may be provided more often if ordered by the judge.

Sometimes the DCF licensed social worker will be asked to give evidence in court about a case. The social worker may give evidence concerning:

- adoption;
- child abuse;
- child neglect; or
- other matters pertaining to the welfare of children.

The DCF social worker may also consult with other social workers or supervisors, or both.

SECTION IX

Private Provider Contract Responsibilities

DCF uses private, not for profit corporations to provide many services to children and families in Kansas. Three major contracts are currently in effect throughout the state. They are for:

1. family preservation;
2. foster care; and
3. adoption.

Different agencies have these contracts in different parts of the state. All contracts require the providers to provide the needed services to families. Most of the social workers and caseworkers working directly with families are actually employed by a private agency.

The family preservation contractor does many things, including:

1. Making contact with the family within 24 hours of referral.
2. Making face-to-face contact within 48 hours.
3. Helping the family develop a case plan to keep their child at home.
4. Arranging for services to help the family meet the case plan goals.
5. Completing and submitting required paperwork to DCF.
6. Testifying in court.

The foster care provider does many things, including:

1. Assessing the physical, emotional, developmental, and educational needs of the child.
2. Developing and helping the child and family meet the case plan.
3. Providing services to the child and family to help the child return home.
4. Arranging for annual health screenings for the child and any related follow-up services.

The adoption provider does many things, including:

1. Recruit, train, and support families who are willing to adopt children in custody.
2. Accepting all adoption referrals from DCF.
3. Providing services to the adoptive family.
4. Developing a statewide system to recruit adoptive families.
5. Making sure that all information about the child and family is confidential.
6. Completing the required paperwork.

DCF is ultimately responsible for the care of each child in the state's custody and monitors these contractors in several ways:

- DCF staff may participate in case planning meetings.
- DCF staff may attend some court hearings.

- DCF staff gathers and review case data.
- DCF staff conducts periodic reviews or inspections.

Complaints about the work of a contractor should be made to the contractor directly. If the contractor does not take care of the problem, complaints should be made to an DCF administrator or directly to the court.

GLOSSARY

COMMONLY USED MEDICAL, PSYCHOLOGICAL, SOCIOLOGICAL, LEGAL, AND EDUCATIONAL TERMS AND DEFINITIONS

Note: The following information is not intended to provide legal definitions, but is an attempt at general everyday statements of the meanings. The information has been gathered from a variety of sources, some of which are the Kansas Statutes, The Court Services Manual, Black's Legal Dictionary, National CASA Volunteer Manual, and an earlier juvenile training manual.

Abandonment: Act of a parent or caretaker leaving a child without adequate supervision or provision for the child's needs for an excessive period of time. Your state statute may define a certain period of time as constituting legal abandonment.

Abscond: To remove oneself from the jurisdiction of a court to evade legal process.

Abused Juvenile: Generally, any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by a person responsible for his or her care, custody, and control

Accomplice: A person who helps another person to commit a crime.

Accused Delinquent: A juvenile charged with an act which, if done by an adult, would constitute the commission of a felony or a misdemeanor.

Acquittal: Finding of "not guilty" by a judge or jury.

Ad litem: From Latin meaning "for the case."

Adjudication: A judicial determination resulting in a finding that a child is a juvenile offender or child in need of care. A determination of guilt or innocence is not made in juvenile cases. The complaint or petition alleging that a child is a juvenile offender or child in need of care is found to be either valid or not valid.

Adjudicatory Hearing: A full court proceeding in which it is determined whether the allegations of the petition are supported by legally admissible evidence.

Adoption: The social, emotional, and legal process through which children who will not be raised by their birth parents become full and permanent legal members of another family while maintaining genetic and psychological connections to their birth family.

Affidavit: A statement of facts, the accuracy of which is sworn to (or affirmed) before an officer who has authority to administer an oath (*e.g.* a notary public). A statement in which a person takes an oath that the contents of the signed statement are, to the best of his or her knowledge, true. The affidavit must be signed by a notary public or some other judicial officer who is legally authorized to administer oaths; the notary or judicial officer's signature attests to the fact that the

person signing the affidavit was under oath when doing so. These documents carry great weight in courts to the extent that judges frequently accept an affidavit instead of the testimony of the witness and are used in place of live testimony in many circumstances.

Aggravated Circumstances: Any factor involved in the commission of an act of abuse or neglect which increases its enormity or adds to its injurious consequences, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse.

Allegation: An assertion or statement of a party to a legal action which sets out what he or she expects to prove.

Appeal: The attempt to have a final order of a trial court changed by seeking review of a higher court. Usually appeals are made and decided on questions of law only; issues of fact (*e.g.*, did the minor suffer an accident, or was he intentionally injured?) are left to the trial judge or jury, and are seldom decided in an appeal.

Arrest: Taking a person into custody so that the person may appear to answer for the commission of a crime. Giving a notice to appear or a summons are not arrests.

Assault: Intentional or reckless threat of physical injury or actual physical injury to a person. Aggravated assault is committed with the intention of carrying out a threat of other crimes. Simple assault is committed without the intention of carrying out the threat of other crimes or if the attempt at injury is not complete.

Attachment: The psychological connection between people that permits them to have significance to each other. This can also be described as an affectionate bond between two individuals, enduring through space and time, and serving to join them emotionally, or as a strong and enduring bond of love that develops between the child and the person the child interacts with most frequently.

Bailiff: A law enforcement officer, usually a deputy sheriff, assigned to a courtroom to keep peace and assist the judge, courtroom clerks, witnesses, and jury. The bailiff is a court attendant whose actual duties vary according to jurisdiction and judge but often include maintaining order in the courtroom.

Battered Child Syndrome: A medical condition, primarily seen in infants and young children. Evidence of the syndrome includes repeated non-accidental injury to the nerves, skin or skeletal system. Frequently, the history given by the caretaker does not explain the nature of occurrence of the injuries. Also called Parent-Infant-Trauma Syndrome (PITS) or Maltreatment Syndrome.

Battered Women: Women who are victims of non-accidental physical and psychological injury inflicted by a partner. There is often a relationship between battered women and child abuse, with both occurring in the same family.

Best Interest of the Child: The standard for the court to use in deciding the disposition of a case following an adjudication of abuse, neglect, or dependency, and termination of parental

rights' proceeding. This is the standard that the CASA or GAL volunteer uses in choosing a course for advocacy for every child.

Bias: An inclination of temperament, values, or outlook; especially a personal and sometimes unreasoned judgment.

Bind-Over: An act by a court, after a finding of probable cause, to believe that a defendant committed a crime requiring a person to appear for further hearings. The individual also may be required to furnish bail.

Burden of Proof: The duty to prove allegations of a petition in a court hearing. It is the petitioner's responsibility to prove the case. Neither the child nor the parents have the duty to explain unproven allegations.

Calendar: The court calendar is the list of cases to be called for hearing before a particular judge.

Caretaker: Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility.

Child Advocacy: A strategy for intervention in which a helping person assumes an active role in assisting or supporting a specific child, family, or cause on behalf of children or families. This could involve finding and facilitating services for specific cases or developing new services or promoting program coordination. The advocate uses his or her power to meet client's needs or to promote causes.

Child-Custody Determination: A judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes an initial, temporary, permanent, or modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

Child-Custody Proceeding: A proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under K.S.A. 38-1358 through 38-1374 and amendments thereto.

Child in Need of Care (CINC): A person less than 18 years of age who is without adequate parental care, who is placed for adoption in violation of law, who is left without proper care or control, who is abused physically, mentally, sexually or emotionally, or who is abandoned. The term also includes a child under the age of 10 who commits a criminal act, and truancy cases.

Child Protective Services (CPS): -The agency with the exclusive power to file abuse, neglect, or dependency petitions in court.

Citizen Review Board (CRB): A group of local citizens, appointed by a judge, with the duty, authority, and power to review a child in need of care or juvenile offender case, determine the progress made to acquire a permanent home for the child or rehabilitation for a juvenile offender, and suggest alternative case goals or make recommendations to the judge regarding further actions.

Civil Proceeding: Also called a "civil action." This includes all lawsuits other than criminal prosecutions. Juvenile and Family Court cases are civil proceedings. See "Standard of Proof."

Clear, Cogent, and Convincing: The level of proof sometimes required in a civil case for the plaintiff to prevail. It means that the judge (or jury in some court settings) must be persuaded by the evidence that it is highly probable that the claim or affirmative defense is true. The clear and convincing evidence standard is a heavier burden than the preponderance of the evidence standard but less than beyond a reasonable doubt. This is the level of proof needed to grant emergency custody or to terminate parental rights (except in ICWA cases).

Clerk of Court: An officer appointed by the court to work with the chief judge in overseeing the court's administration, especially to assist in managing the flow of cases through the court and to maintain court records.

Community –Based Program: a program providing nonresidential or residential treatment to a juvenile in the community where his or her family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.

Competency: The legal fitness or ability of a witness to be heard on the trial of a cause. All persons are presumed to be competent witnesses including very young children. To challenge a witness's competency, one must show either that the witness cannot communicate information to the judge or jury or doesn't comprehend the difference between right and wrong.

Concurrent Planning: A Permanency planning strategy for assuring an expedient permanent placement for a child. Planning for reunification occurs simultaneously with the development of alternative permanency plans, including adoption, to be used in the event that it is not possible for the child to return to his or her family of origin.

Confidentiality: Protection from public scrutiny of information that must be kept confidential. In child abuse and neglect matters, the CASA/GAL volunteer has access to all records pertaining to the child (unless federally protected), but may release such information to other parties only by court order or as designated by law.

Conflict Resolution: The capacity to resolve conflicts without having to resort to aggression. The process of conflict resolution may be done with the assistance of a neutral third party.

Consent Order: An official agreement by all parties to settle the case upon certain specified terms and submit it to the judge for approval.

Contempt: The punishable act of showing disrespect or disregard for the authority of the court. Direct contempt is committed in the presence of a judge. Indirect contempts are instances in which authority of a court is denied. Respondents are given a hearing before being punished.

Continued or Continuance: If a case is continued, it means that the trial, hearing or other court appearance has been postponed to a later date. This is done by order of the court or upon agreement by the parties' attorneys and approved by the court. In most cases, the new hearing date is set at the time of the continuance.

Corporal Punishment: Physical punishment inflicted directly upon the body.

Court-Appointed Special Advocate (CASA): A responsible adult, other than an attorney, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-1606a, and amendments thereto, in a proceeding pursuant to this code.

Court Order/ Judgment: Directive issued by the court having the authority of the court and enforceable by law.

Court Report: A written document presented to the court by the CASA/GAL volunteer stating the needs of the child and recommendations for disposition that would meet those needs.

Credibility: Believability of a person, especially a witness.

Criminal Prosecution: The process involving the filing of charges of a crime, followed by arraignment and trial of the defendant. Criminal prosecution may result in fines, imprisonment and/or probation. Criminal defendants are entitled to acquittal unless charges against them are proven beyond a reasonable doubt. Technical rules of evidence exclude many kinds of proof in criminal trials, even though that proof might be admissible in civil proceedings.

Cross Examination: The questioning of an opposing party's witness about matters brought up during direct examination.

Custodian: The person or agency that has been awarded legal custody of a juvenile by a court. This may also be a person, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a court.

Custody: Whether temporary, protective or legal, the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court. Also, the right to a child's care and control, carrying with it the duty of providing food, shelter, medical care, education and discipline.

Delinquent Juvenile: Any minor who has been found by a court of law to have committed an act that would be a crime or infraction under state law or under an ordinance of local government, including violation of the motor vehicle laws, if committed by an adult.

Dependent Juvenile: A juvenile in need of assistance or placement because the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or whose parent, guardian, or custodian is unable to provide for the care or supervision and lacks an appropriate alternative child care arrangement.

Detention: Term used in juvenile offender and child in need of care cases to mean that a person is being held in lawful custody apart from the community either for the person's protection or for the protection of the community.

Direct Examination: The process by which an attorney questions his own witness in order to present information to the court necessary for that attorney's case. The questions are usually open ended: "Tell the court about" "Describe the condition of the home"

Dismissal: Action by the judge that removes a given cause from the court.

Disposition: In juvenile court, the order that determines a treatment plan for a child, already proven to be abused, neglected and dependent. It is the equivalent of a sentence in criminal court.

Dispositional Hearing: The juvenile court hearing in which evidence is presented and arguments made to design the most appropriate treatment and choose the most appropriate placement for the child. In many courts, the dispositional hearing immediately follows the adjudicatory hearing. This type of hearing is not bound by the strict rules of evidence required in adjudication.

District Court: The name of one of the courts of the United States. State authority has established several courts under the same name.

Diversion: A contract between the respondent and the county/district attorney's office in which the respondent is required to successfully complete conditions to have the charges dismissed. A diversion agreement usually requires a stipulation to the facts of the case.

Due Process: The rights of persons involved in court proceedings to be treated with fundamental fairness. These rights include the right to adequate notice in advance of hearings, notice of allegations of misconduct, assistance of a lawyer and the right to confront and cross-examine witnesses.

Emancipation: When a minor achieves legal independence from his or her parents by court order or by getting married before reaching the age of majority.

Emergency Custody: Residential placement of a child alleged to be abused, neglected or dependent in licensed foster home, facility operated by Child Protective Services, or other home or facility approved by the court. The court, pending the adjudicatory hearing, may order such placement if the judge finds that placement with the parents is unsafe.

Emergency Custody Hearing: A hearing to determine if the child's immediate welfare demands continued placement out of the home.

Evaluation: Staff shall provide the court with pertinent information that may be used to assist judges in determining appropriate interventions and special conditions for offenders.

Evidence: Any sort of legally presented proof submitted to the court for the purpose of influencing the court's decision. Witnesses, records, documents, exhibits, concrete objects, etc may provide this information.

Evidentiary Hearing: A hearing held to decide whether or not evidence is admissible in a trial.

Exhibit: Physical evidence used in court. In a child abuse case, an exhibit may consist of x-rays, photographs of the child's injuries, or the actual materials presumably used to inflict the injuries (also see evidence).

Ex Parte: Refers to situations in which only one party (and not the adversary) appears before a judge. Although a judge is normally required to meet with all parties in a case and not with just one, there are circumstances where this rule does not apply and the judge is allowed to meet with just one side (ex parte) such as where a plaintiff requests an order (for example, to extend time for service of a summons) or dismissal before the answer or appearance of the defendant(s). In addition, sometimes judges will issue temporary orders ex parte (that is, based on one party's request without hearing from the other side) when time is limited or it would do no apparent good to hear the other side of the dispute. For example, if a wife claims domestic violence, a court may immediately issue an ex parte order telling her husband to stay away. Once he is out of the house, the court holds a hearing, where he can tell his side and the court can decide whether the ex parte order should be made permanent.

Expert Witness: When knowledge of a technical subject matter might be helpful to a judge or jury, a person having special training or experience in that technical field is permitted to state his or her opinion concerning those technical matters even though he or she was not present at the event. This person is called an expert witness. The expert witness is entitled to express his or her opinion on the meaning of the facts of the case. For example, child psychologists or development specialists may be invited to testify about the best interests of the child when custody or visitation is in dispute. Non-expert witnesses however are only permitted to testify about facts they observed and not their opinions about these facts.

Expungement: A procedure available to suppress a criminal or juvenile offender record, under certain conditions and certain circumstances.

Extended Jurisdiction Juvenile Prosecution (EJJP): At the request of the county/district attorney, the court may designate the proceedings as an extended jurisdiction matter. The youth must be at least 14 years of age at the time of the offense and meet specific criteria with regard to charges filed or previous adjudications. If the proceedings result in a guilty plea or a finding of guilt, the court shall impose one or more juvenile sentences under K.S.A. 38-1663 and shall also impose an adult sentence. The adult sentence only becomes effective if the juvenile violates the provisions of the juvenile sentence(s) or commits a new offense.

Extended Out of Home Placement: This is the term for when a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

Family Preservation Services: Intensive, short-term service delivery programs which provide family therapy and skills education/training; and help families obtain basic services, such as food and housing to prevent removal of the children from their home and keep the family together.

Family Risk Assessment: A written evaluation, often in a checklist format, completed after an investigative report is substantiated and at various other times throughout the case. This assessment is completed to determine the present risk to the child of remaining with or being returned to his or her family.

Felony: One of several grave crimes, such as murder, rape, or burglary, punishable by a more severe sentence than that given for a misdemeanor; an offense punishable by a maximum term of imprisonment of more than one year.

First appearance: An appearance before a court where charges are reviewed and explained. This is the first opportunity an individual has to enter a plea or request an attorney. In juvenile cases, this hearing is sometimes called a pretrial hearing.

Foster Care: A form of substitute care, usually in a home licensed by a public agency, for children whose welfare and protection requires that they be removed from their own homes.

Group home: Residential placement in a non-family living arrangement for children with special needs.

Guardian Ad Litem: A Guardian ad litem (GAL) is an attorney appointed by the court to look out for the best interests of the child(ren). In Kansas, a GAL is required for children and a hearing cannot proceed without the child's guardian ad litem. In child in need of care cases, the court automatically appoints the child a guardian *ad litem*. The term comes from the Latin meaning "guardian for the case."

Hearing: Sometimes used as a synonym with "trial," the term is used in general for any proceeding before a court in which evidence is heard, but also used for argument of a motion or other legal matter before a court where no evidence is heard.

Home State: The state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

Immediate Intervention Program: A program developed locally, either by the court or the county/district attorney, which allows the juvenile to avoid prosecution. In order to qualify for such a program, the juvenile must meet certain conditions and certain circumstances.

Immunity, legal: Legal protection from civil or criminal liability. Some states have reporting statutes that confer qualified immunity upon persons mandated to report, if the report was made

in good faith, giving them a defense against libel, slander, invasion of privacy, false arrest and other lawsuits which the person accused of the act might file.

In camera: Literally, "in chambers". A hearing or judicial proceeding conducted in a judge's chambers or a private place where the public is not present.

Individualized Education Plan (IEP): A written, legal document mandated by federal law, to be developed for all students identified as needing special education services. It is developed in a team meeting in which parents, teachers, specialists, and the student, if appropriate, participate. The main goal of the IEP meeting is to discuss and review the educational needs of the student and to write a program that identifies goals and objectives for the year.

Informal Supervision: Supervision provided by a court services officer in a case in which there has been no formal adjudication.

In loco parentis: A person, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by the court. This term is often used to refer to the court itself taking over what should be parental responsibilities.

Intake and Assessment: A history of the youth's past including; criminal history, abuse history, substance abuse history, history of prior community services used or treatments provided, educational history, medical history, family history, and other information.

Intensive Supervision Program (ISP): Provides community control of felony offenders through frequent face to face and collateral contacts, employment visits, substance abuse testing, individualized case plans, high levels of surveillance, and rehabilitative interventions.

Interstate Compact: Agreement between all 50 states and the District of Columbia that has been passed as law by the states and been approved by Congress, governing out- of-state placements of children. It defines financial and supervisory responsibilities and guarantees constitutional protections. It requires that a court secure a home study from the local child welfare agency in any out-of-state jurisdiction where placement is being considered.

Issuing Court: The court that makes a child-custody determination for which enforcement is sought.

Joint Custody: Preferred method of custodial arrangement in Kansas for children involved in a divorce. In joint custody, parents have equal rights to make decisions in the best interest of the children. Residency of the children is decided separately from custody.

Jurisdiction: The general field of action which a particular court has, as authorized by law; also used to mean the power of a judge to do or not to do a particular act; sometimes also used to mean the geographical area within which a particular governmental body or agency may act.

Juvenile: Any person who has not reached his or her eighteenth birthday and is not married, emancipated, or a member of the armed services of the United States.

Juvenile Offender (JO): A person 10 or more years of age but less than 18 who commits an act while a juvenile which, if done by an adult, would constitute the commission of a felony or misdemeanor. This category also includes certain offenses which only a juvenile can commit.

Juvenile Correctional Facility: Any secure, public or private facility (usually a state youth center), which is used for the temporary or long term, lawful custody of accused or adjudicated juvenile offenders and which must not be a jail.

Juvenile Detention Facility: Any secure, public or private facility which is used for the temporary, lawful custody of juveniles - and which must not be a jail.

Juvenile Justice Agency: Any county or district attorney, law enforcement agency of this state or of any political subdivision of this state, court of this state or of a

Least Restrictive Alternative: The principle which supports family autonomy, with in-home services provided by the child welfare agency only where necessary and then in the form which least intrudes on family autonomy. Consideration of placement outside the home should start at the least restrictive level: other family members, foster home, and then institutional placement, as most restrictive.

Legal Risk Placement: The placing of a child who is not yet legally free for adoption (but likely to be at some future time) with a family who agrees to serve as a foster placement for the time being and an adoptive family should that possibility occur.

Maintenance: A court's award to one party in a divorce action to be paid by the other party. This does not involve child support.

Mediation: Mediation is the intervention of an impartial and neutral third party, who has no decision-making power, into a dispute or negotiation to assist contending parties in reaching a mutually acceptable settlement of issues in dispute.

Misdemeanant: An individual who has committed a crime less serious than a felony, where the punishment might be a fine or prison for less than one year.

Motion for Review: A legal action filed by any party in a court proceeding requesting the court to hear evidence on the current status of the child.

Neglected Juvenile: Defined by state statutes. Usually arises from a parent's passive indifference to a child's well-being, such as failing to feed a child or leaving a child alone for an extended time.

No Contest---Nolo Contendere: Respondent is not admitting guilt, but does not wish to fight the charges.

Non-offender: A juvenile who is not charged with an offense, that is, a child in need of care (CINC), and/or an abused or neglected child.

Non-secure Facility: A facility not characterized by the use of physically restricting construction, hardware, and procedures, and which provides the residents access to the surrounding community with minimal supervision.

NANN: Non Abuse Non Neglect

Notice: Formal notification to the parents, the CASA/GAL volunteer, or other parties to the case, about the specific allegations of the case. Notice must be made sufficiently in advance of court proceedings to allow all parties reasonable opportunity to prepare.

Objection: A lawyer's protest about the legal propriety of a question.

Order: In legal practice, an order is a written directive of a court judge.

Overrule: If an objection is overruled by the judge, the judge has rejected an attorney's objection to a question to a witness (i.e., the question is legally proper). By overruling the objection, the trial judge allows the question to be answered or the evidence to be considered.

Parent: When used in relation to a juvenile or a juvenile offender, includes a guardian, conservator and every person who is by law liable to maintain, care for, or support the juvenile.

Party (or parties): A person making or responding to a claim in a court or other adversarial proceeding. A person who sues or defends a lawsuit or any person joined in a lawsuit; such as a pension plan administrator is called a party. A party has the right to conduct discovery and receive notice of all proceedings connected with the lawsuit.

Perception: The process by which sensory stimulation is converted into organized experiences. What appears to you; what you believe to be true.

Permanency Planning Hearing: A hearing that takes place one year after the child is removed from the home, or 30 days after a judge orders reasonable efforts have been made. This hearing is designed to look at the child's placement options, amount of time in care, the current plan and further resources for the child.

Petition: A civil pleading filed to initiate a matter in juvenile court, setting forth specifically the alleged grounds for the court to take jurisdiction of the case and asking the court to do so and intervene.

Petitioner: The individual who initiates court action, whether by the filing of a petition or of a motion for review alleging the matter for adjudication. For child abuse, neglect, or dependency cases, the petitioner is generally the Child Protective Services caseworker acting on behalf of the agency.

Plaintiff: The person who initiates a lawsuit by filing a complaint is called the plaintiff. When the document that initiates a lawsuit is called a petition rather than a complaint, the initiating person is usually referred to as the petitioner rather than the plaintiff.

Predisposition Investigation: An investigation ordered by the court prior to holding a dispositional hearing in a juvenile offender case. The report of the investigation may include the circumstances of the offense; the attitudes of the complainant, victim, or the victim's family; record of juvenile offenses, social history, and the present condition of the adjudicated juvenile offender.

Prejudice: Preconceived judgment or opinion.

Preliminary Hearing: A hearing held to determine if sufficient evidence exists to bind an individual over for a full trial.

Presumption: An assumption of fact resulting from a rule of law. A presumption is not evidence and may be disproved by other evidence.

Prima Facie: A Latin term approximately meaning "on the first appearance" or "on the face of it." In law, this term is used in the context of a "*prima facie* case." This is the presentation of evidence at a trial, which has been sufficiently strong to prove the allegations unless contradicted and overcome by other evidence.

Privileged Communications: Confidential communication that is protected by statutes and need not or cannot be disclosed in court over the objections of the holder of the privilege. Lawyers are almost always able to refuse to disclose what a client has told them in confidence. Priests, ministers, rabbis, doctors, psychotherapists, and spouses are all covered by privilege statutes, but their testimony can be compelled in many cases involving child abuse or neglect.

Probable Cause: A legal standard used in a number of contexts, which indicates reasonable grounds for suspicion of or belief in the existence of certain facts or allegations.

Probation: In criminal or delinquent cases, a disposition which allows the convicted criminal-defendant or the juvenile found to be delinquent to remain at liberty, under a suspended sentence of imprisonment, generally under the supervision of a probation officer, and usually under certain conditions. Violation of a condition is grounds for revocation of the probation.

Pro Bono: Attorney's services rendered at no charge.

Pro Se (or Pro per): To act as one's own legal counsel.

Prosecution as an Adult: The district attorney may file a motion requesting that the court authorize prosecution of the respondent as an adult under the applicable criminal statute. The respondent shall be presumed to be a juvenile unless good cause is shown to prosecute the respondent as an adult. See K.S.A. 38-1636 for more information.

Protective Services Division: The division of the local Child Protective Services agency responsible for investigating reports of child abuse, neglect and dependency, preserving the family life of the parties involved where possible by enhancing parental capacity for good child care, and petitioning to court if necessary services are refused in serious situations.

Reasonable Efforts: The diligent use of preventive or reunification services by Child Protective Services when a juvenile's remaining at home or returning home is consistent with achieving a safe, permanent home for the juvenile within a reasonable period of time. If a court of competent jurisdiction determines that the juvenile is not to be returned home, then reasonable efforts means the diligent and timely use of permanency planning services by Child Protective Services to develop and implement a permanent plan for the juvenile. It is the judge who determines whether the agency has made "reasonable efforts" to prevent the child's placement and reunify the family. The two factors central to this determination are the quality of the efforts and the nature of the services offered. Quality of effort refers to a reasonable level of diligence and good judgment and the absence of negligence. Nature of services refers to the availability of services to meet the needs of the child/family.

Rebuttal: The process of introducing evidence to contradict or offset an opposing party's evidence.

Recross-Examination: After redirect or rebuttal is completed, the opposing counsel are permitted to ask the witness questions covering the issues addressed in the redirect or rebuttal examination.

Recognizance: The defendant's own assurance for his release in a criminal action is posted without collateral, but contains a written monetary amount, which can be forfeited and collected if the defendant fails to appear.

Redirect Examination or Rebuttal: Upon conclusion of all cross-examination, the attorneys are permitted to ask more the witness more questions. These questions are called "redirect" or "rebuttal" questions and they are designed to undo any damage to the attorney's case resulting from the cross-examination.

Reporting Laws: State law that requires specified persons to notify public authorities of cases of suspected child abuse and neglect. All 50 states now have reporting statutes, but they differ widely in what must be reported, persons who must report, manner of reporting (written, oral, or both), and the degree of immunity conferred upon reporters.

Respondent: The defendant in certain cases such as a juvenile offense or domestic relation case.

Review Hearing: A hearing conducted by a judge, within certain time frames, to review the status of a child's case.

Revocation: A hearing in which a defendant is to show cause that probation or parole should not be revoked and sentence executed.

Sentence: The judgment formally pronounced by a judge upon the defendant after conviction in a criminal prosecution.

Show Cause: An order of a court to a person to appear before the court at a stated time to inform the court of that person's side of a case so that the court may decide whether or not to do something; usually used in an indirect contempt, injunction, etc.

Social History: Also called social study, social report or pre-hearing report. Information compiled by a caseworker about a child and/or family's functioning. This material may be presented for the juvenile court's consideration at the disposition hearing. Social studies often contain material that is hearsay.

Sole Custody: Occurs when custody of a child or children is awarded to only one parent in a divorce action. (See joint custody)

Stand: The stand is where the witness sits while he or she is testifying. It is usually a chair beside the judge's bench, usually with a low modesty screen. When called to testify, the witness "takes the stand."

Standard of Proof: In different judicial proceedings there are varying requirements of proof. Three of the most commonly used standards are:

- 1. Beyond a Reasonable Doubt** -Evidence that is entirely convincing or satisfying to a moral certainty. This is the strictest standard of all and applies to all criminal proceedings. It is the standard applied to termination of parental rights that come under to provisions of the Indian Child Welfare Act (PL 95-608).
- 2. Clear, Cogent and Convincing Evidence** -Less evidence than is required to prove a case beyond a reasonable doubt, but still an amount, which would make one confident of the truth of the allegations. This is the standard applied to TPR cases (unless ICWA applies).
- 3. Preponderance of Evidence** -Merely presenting a greater weight of credible evidence than that presented by the opposing party. This is the lowest standard of proof; used in most civil court proceedings.

Statute: A law passed by the legislature.

Status Offender: A juvenile who has been accused or adjudicated for an act that would not be a crime if committed by an adult. Status offenses include truancy, runaway, minor in possession of alcohol or tobacco, and curfew violations.

Stereotype: Something conforming to a fixed or general pattern, especially a standardized mental picture that is held in common by members of a group and that represents an over-simplified opinion, prejudice, attitude, or uncritical judgment.

Stipulation: An agreement, oral or written depending on the jurisdiction and nature of the proceeding, between the parties in a case that allows a certain fact to be established in evidence

without further proof. (For example, the lawyers in a child abuse case may stipulate that the x-rays show a fracture so that the radiologist will not have to be subpoenaed to testify).

Stipulation of Evidence: A written stipulation in which all parties agree to certain facts.

Subpoena: A subpoena is an order of the court for a witness to appear at a particular time and place to testify and/or produce documents in their control. A subpoena is used to obtain testimony from a witness at depositions (where testimony under oath is given outside of court) and at trial. Failure to appear as ordered by the subpoena can be punished as contempt of court if it appears the absence was intentional or without cause.

Subpoena Duces Tecum: A subpoena requiring the person subpoenaed to bring records to court.

Substantiation: A decision by the Child Protective Services agency to confirm a report of abuse or neglect after an investigation. It is then the agency's responsibility to determine if a petition should be filed or if the situation can be corrected with voluntary acceptance of protective services.

Summons: A legal document issued by a court clerk or other court officer, usually handed in person by the sheriff to the person summoned, notifying the named person that a lawsuit or legal cause has been filed against or involves him/her, and notifying that person of any dates set for hearings and deadlines for responding to the complaint or petition. Failure to appear may result in a warrant being issued by the court.

Supervised Visitation: Visits between parent and child that are overseen by another person who is present at all times. Usually, supervised visitation is recommended when there is reason to believe a parent may seek information about the foster placement or influence a child to recant allegations or try to leave the area with the child. Supervision may be provided by the caseworker, a relative who is caring for the child, or by another responsible adult.

Sustain: If an objection is sustained by the judge, this means that the judge agrees with the attorney's objection (i.e., the question is not legally proper). By sustaining the objection, the judge does not allow the question to be answered or the evidence to be considered.

Sworn or Swear: To declare under oath that one will tell the truth (sometimes "the truth, the whole truth and nothing but the truth"). Failure to tell the truth and do so knowingly is the crime of perjury. A witness is given the option of swearing to tell the truth or affirming to tell the truth.

Temporary Aid to Needy Families (TANF): Welfare payments to families in need (formerly known as AFDC), now subject to two-year limits. Several million dollars of federal funding are used to implement reforms within the social services system for such things as sexual assault prevention, domestic violence grants, sex offender registry, and several other direct service projects.

Temporary Custody: Taking physical custody from the parent and providing personal care and supervision by the state until a court order for emergency custody can be obtained. State law

defines how many hours a child may be held in temporary custody without an emergency custody order entered by a judge.

Title IV-D: Federal government program for child support enforcement.

Title IV-E: Federal government funding program, where the main focus is to insure that children, removed from their homes by the court, have a written plan in place to insure safe, permanent living arrangements. Examples of a permanent plan include reintegration with parents, placement with relative, adoption, permanent guardianship, or independent living arrangements.

Truant: A minor who is absent from school regularly without parental permission. The child has not violated any adult criminal law.

TSSD Hearing: Trial setting / stipulation / diversion.

Unsubstantiated: This is the term applied to a finding after an investigation by Child Protective Services or law enforcement that no abuse or neglect is occurring.

Unsupervised Visitation: A visitation between parents and child that does not require the family to stay in one place and be watched by a creditable observer, usually a family member or caseworker.

Venue: Juvenile court venue refers to the county or counties within which a lawsuit may be initiated based on such factors as where the parents reside, where the child resides, or where the child is found.

Visitation: The means by which a court allows a non-custodial parent, a relative, or other individual with substantial interest to maintain contact with the children involved in a divorce under such conditions as the court deems appropriate.

Voluntary Placement: Act of a parent to relinquish custody of his or her child to a child protective services agency.

Waiver: The understanding and voluntary relinquishment of a known right, or privilege, such as the right to counsel, the right to remain silent during police questioning, or the right to a separate hearing.

Warrant: A written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

Witness: A person who testifies under oath in legal proceeding.

Youth Residential Facility: Any home, foster home or structure which provides twenty-four-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.