

### **232.1 Rules of construction.**

This chapter shall be liberally construed to the end that each child under the jurisdiction of the court shall receive, preferably in the child's own home, the care, guidance and control that will best serve the child's welfare and the best interest of the state. When a child is removed from the control of the child's parents, the court shall secure for the child care as nearly as possible equivalent to that which should have been given by the parents

#### **232.1A Foster care placement - annual goal.**

The annual state goal for children placed in foster care that is funded under the federal Social Security Act, Title IV-E, is that not more than fifteen percent of the children will be in a foster care placement for a period of more than twenty-four months.

2005 Acts, ch 175, §101

### **232.2 Definitions.**

As used in this chapter unless the context otherwise requires:

1. *"Abandonment of a child"* means the relinquishment or surrender, without reference to any particular person, of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of abandonment must include both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.

2. *"Adjudicatory hearing"* means a hearing to determine if the allegations of a petition are true.

3. *"Adult"* means a person other than a child.

4. *"Case permanency plan"* means the plan, mandated by Pub. L. No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C. § 622(b)(10), 671(a)(16), and 675(1),(5), which is designed to achieve placement in the most appropriate, least restrictive, and most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. The plan shall specifically include all of the following:

a. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.

b. The type and appropriateness of the placement and services to be provided to the child.

c. The care and services that will be provided to the child, biological parents, and foster parents.

d. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.

e. To the extent the records are available and accessible, a summary of the child's health and education records, including the date the records were supplied to the agency or individual who is the child's foster care provider.

f. (1) When a child is sixteen years of age or older, a written transition plan of services which, based upon an assessment of the child's needs, would assist the child in preparing

for the transition from foster care to adulthood. The written plan of services and needs assessment shall be developed with any person who may reasonably be expected to be a service provider for the child when the child becomes an adult or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the central point of coordination process implemented under section 331.440 . If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2 .

(2) If the needs assessment indicates the child is reasonably likely to need or be eligible for services or other support from the adult service system upon reaching age eighteen, the transition plan shall be reviewed and approved by the transition committee for the area in which the child resides, in accordance with section 235.7 , before the child reaches age seventeen and one-half. The transition committee's review and approval shall be indicated in the case permanency plan.

g. The actions expected of the parent, guardian, or custodian in order for the department or agency to recommend that the court terminate a dispositional order for the child's out-of-home placement and for the department or agency to end its involvement with the child and the child's family.

h. If reasonable efforts to place a child for adoption or with a guardian are made concurrently with reasonable efforts as defined in section 232.102 , the concurrent goals and timelines may be identified. Concurrent case permanency plan goals for reunification, and for adoption or for other permanent out-of-home placement of a child shall not be considered inconsistent in that the goals reflect divergent possible outcomes for a child in an out-of-home placement.

i. A provision that a designee of the department or other person responsible for placement of a child out of state shall visit the child at least once every twelve months.

j. If it has been determined that the child cannot return to the child's home, documentation of the steps taken to make and finalize an adoption or other permanent placement.

k. If it is part of the child's records or it is otherwise known that the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, that information shall be addressed in the plan and shall be provided to the child's parent, guardian, or foster parent or other person with custody of the child. The information shall be provided whether the child's placement is voluntary or made pursuant to a court determination. The information shall be provided at the time it is learned by the department or agency developing the plan and, if possible, at the time of the child's placement. The information shall only be withheld if ordered by the court or it is determined by the department or agency developing the plan that providing the information would be detrimental to the child or to the family with whom the child is living. In determining whether providing the information would be detrimental, the court, department, or agency shall consider any history of abuse within the child's family or toward the child.

5. "*Child*" means a person under eighteen years of age.

6. "*Child in need of assistance*" means an unmarried child:

- a.* Whose parent, guardian or other custodian has abandoned or deserted the child.
- b.* Whose parent, guardian, other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.
- c.* Who has suffered or is imminently likely to suffer harmful effects as a result of either of the following:
  - (1) Mental injury caused by the acts of the child's parent, guardian, or custodian.
  - (2) The failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.
- d.* Who has been, or is imminently likely to be, sexually abused by the child's parent, guardian, custodian or other member of the household in which the child resides.
- e.* Who is in need of medical treatment to cure, alleviate, or prevent serious physical injury or illness and whose parent, guardian or custodian is unwilling or unable to provide such treatment.
- f.* Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling to provide such treatment.
- g.* Whose parent, guardian, or custodian fails to exercise a minimal degree of care in supplying the child with adequate food, clothing or shelter and refuses other means made available to provide such essentials.
- h.* Who has committed a delinquent act as a result of pressure, guidance, or approval from a parent, guardian, custodian, or other member of the household in which the child resides.
- i.* Who has been the subject of or a party to sexual activities for hire or who poses for live display or for photographic or other means of pictorial reproduction or display which is designed to appeal to the prurient interest and is patently offensive; and taken as a whole, lacks serious literary, scientific, political or artistic value.
- j.* Who is without a parent, guardian or other custodian.
- k.* Whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody.
- l.* Who for good cause desires to have the child's parents relieved of the child's care and custody.
- m.* Who is in need of treatment to cure or alleviate chemical dependency and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.
- n.* Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.
- o.* In whose body there is an illegal drug present as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian. The presence of the drug shall be determined in accordance with a medically relevant test as defined in section [232.73](#) .
- p.* Whose parent, guardian, or custodian does any of the following: unlawfully manufactures a dangerous substance in the presence of a child, knowingly allows such manufacture by another person in the presence of a child, or in the presence of a child possesses a product containing ephedrine, its salts, optical isomers, salts of optical

isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

(1) For the purposes of this paragraph, "*in the presence of a child*" means the physical presence of a child during the manufacture or possession, the manufacture or possession occurred in a child's home, on the premises, or in a motor vehicle located on the premises, or the manufacture or possession occurred under other circumstances in which a reasonably prudent person would know that the manufacture or possession may be seen, smelled, or heard by a child.

(2) For the purposes of this paragraph, "*dangerous substance*" means any of the following:

(a) Amphetamine, its salts, isomers, or salts of its isomers.

(b) Methamphetamine, its salts, isomers, or salts of its isomers.

(c) A chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire, or other danger to the life or health of persons who are in the vicinity while the chemical or combination of chemicals is used or is intended to be used in any of the following:

(i) The process of manufacturing an illegal or controlled substance.

(ii) As a precursor in the manufacturing of an illegal or controlled substance.

(iii) As an intermediary in the manufacturing of an illegal or controlled substance.

q. Who is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233 .

6A. "*Chronic runaway*" means a child who is reported to law enforcement as a runaway more than once in any thirty-day period or three or more times in any year.

7. "*Complaint*" means an oral or written report which is made to the juvenile court by any person and alleges that a child is within the jurisdiction of the court.

8. "*Court*" means the juvenile court established under section 602.7101 .

9. "*Court appointed special advocate*" means a person duly certified by the child advocacy board created in section 237.16 for participation in the court appointed special advocate program and appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from such proceeding.

10. "*Criminal or juvenile justice agency*" means any agency which has as its primary responsibility the enforcement of the state's criminal laws or of local ordinances made pursuant to state law.

11. "*Custodian*" means a stepparent or a relative within the fourth degree of consanguinity to a child who has assumed responsibility for that child, a person who has accepted a release of custody pursuant to division IV, or a person appointed by a court or juvenile court having jurisdiction over a child. The rights and duties of a custodian with respect to a child are as follows:

a. To maintain or transfer to another the physical possession of that child.

b. To protect, train, and discipline that child.

c. To provide food, clothing, housing, and medical care for that child.

d. To consent to emergency medical care, including surgery.

e. To sign a release of medical information to a health professional.

All rights and duties of a custodian shall be subject to any residual rights and duties remaining in a parent or guardian.

12. *"Delinquent act"* means:

a. The violation of any state law or local ordinance which would constitute a public offense if committed by an adult except any offense which by law is exempted from the jurisdiction of this chapter.

b. The violation of a federal law or a law of another state which violation constitutes a criminal offense if the case involving that act has been referred to the juvenile court.

c. The violation of section 123.47 which is committed by a child.

13. *"Department"* means the department of human services and includes the local, county, and service area officers of the department.

14. *"Desertion"* means the relinquishment or surrender for a period in excess of six months of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of desertion need not include the intention to desert, but is evidenced by the lack of attempted contact with the child or by only incidental contact with the child.

15. *"Detention"* means the temporary care of a child in a physically restricting facility designed to ensure the continued custody of the child at any point between the child's initial contact with the juvenile authorities and the final disposition of the child's case.

16. *"Detention hearing"* means a hearing at which the court determines whether it is necessary to place or retain a child in detention.

17. *"Director"* means the director of the department of human services or that person's designee.

18. *"Dismissal of complaint"* means the termination of all proceedings against a child.

19. *"Dispositional hearing"* means a hearing held after an adjudication to determine what dispositional order should be made.

20. *"Family in need of assistance"* means a family in which there has been a breakdown in the relationship between a child and the child's parent, guardian or custodian.

21. *"Guardian"* means a person who is not the parent of a child, but who has been appointed by a court or juvenile court having jurisdiction over the child, to have a permanent self-sustaining relationship with the child and to make important decisions which have a permanent effect on the life and development of that child and to promote the general welfare of that child. A guardian may be a court or a juvenile court. Guardian does not mean conservator, as defined in section 633.3, although a person who is appointed to be a guardian may also be appointed to be a conservator.

Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the rights and duties of a guardian with respect to a child shall be as follows:

a. To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.

b. To serve as guardian ad litem, unless the interests of the guardian conflict with the interests of the child or unless another person has been appointed guardian ad litem.

c. To serve as custodian, unless another person has been appointed custodian.

d. To make periodic visitations if the guardian does not have physical possession or custody of the child.

e. To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.

f. To make other decisions involving protection, education, and care and control of the child.

22. a. "*Guardian ad litem*" means a person appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party, and includes a court appointed special advocate, except that a court appointed special advocate shall not file motions or petitions pursuant to section 232.54 , subsections 1 and 4, section 232.103 , subsection 2, paragraph "c" , and section 232.111 .

b. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:

(1) Conducting in-person interviews with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel.

(2) Conducting interviews with the child, if the child's age is appropriate for the interview, prior to any court-ordered hearing.

(3) Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.

(4) Interviewing any person providing medical, mental health, social, educational, or other services to the child, before any hearing referred to in subparagraph (2).

(5) Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

(6) Attending any hearings in the matter in which the person is appointed as the guardian ad litem.

(7) If the child is required to have a transition plan developed in accordance with the child's case permanency plan and subject to review and approval of a transition committee under section 235.7 , assisting the transition committee in development of the transition plan.

c. The order appointing the guardian ad litem shall grant authorization to the guardian ad litem to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order shall specify that the guardian ad litem may interview any person providing medical, mental health, social, educational, or other services to the child, may attend any departmental staff meeting, case conference, or meeting with medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem, and may inspect and copy any records relevant to the proceedings.

d. If authorized by the court, a guardian ad litem may continue a relationship with and provide advice to a child for a period of time beyond the child's eighteenth birthday.

23. "*Health practitioner*" means a licensed physician or surgeon, osteopath, osteopathic physician or surgeon, dentist, optometrist, podiatric physician, or chiropractor, a resident or intern of any such profession, and any registered nurse or licensed practical nurse.

24. "*Informal adjustment*" means the disposition of a complaint without the filing of a petition and may include but is not limited to the following:

a. Placement of the child on nonjudicial probation.

b. Provision of intake services.

c. Referral of the child to a public or private agency other than the court for services.

25. *"Informal adjustment agreement"* means an agreement between an intake officer, a child who is the subject of a complaint, and the child's parent, guardian or custodian providing for the informal adjustment of the complaint.

26. *"Intake"* means the preliminary screening of complaints by an intake officer to determine whether the court should take some action and if so, what action.

27. *"Intake officer"* means a juvenile court officer or other officer appointed by the court to perform the intake function.

28. *"Judge"* means the judge of a juvenile court.

29. *"Juvenile"* means the same as *"child"*. However, in the interstate compact on juveniles, sections 232.171 and 232.172, *"juvenile"* means a person defined as a juvenile in the law of a state which is a party to the compact.

30. *"Juvenile court officer"* means a person appointed as a juvenile court officer under section 602.7202 and a chief juvenile court officer appointed under section 602.1217.

31. *"Juvenile court social records"* or *"social records"* means all records made with respect to a child in connection with proceedings over which the court has jurisdiction under this chapter other than official records and includes but is not limited to the records made and compiled by intake officers, predisposition reports, and reports of physical and mental examinations.

32. *"Juvenile detention home"* means a physically restricting facility used only for the detention of children.

33. *"Juvenile parole officer"* means a person representing an agency which retains jurisdiction over the case of a child adjudicated to have committed a delinquent act, placed in a secure facility and subsequently released, who supervises the activities of the child until the case is dismissed.

34. *"Juvenile shelter care home"* means a physically unrestricting facility used only for the shelter care of children.

35. *"Mental injury"* means a nonorganic injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, considering the child's cultural origin.

36. *"Nonjudicial probation"* means the informal adjustment of a complaint which involves the supervision of the child who is the subject of the complaint by an intake officer or juvenile court officer for a period during which the child may be required to comply with specified conditions concerning the child's conduct and activities.

37. *"Nonsecure facility"* means a physically unrestricting facility in which children may be placed pursuant to a dispositional order of the court made in accordance with the provisions of this chapter.

38. *"Official juvenile court records"* or *"official records"* means official records of the court of proceedings over which the court has jurisdiction under this chapter which includes but is not limited to the following:

- a. The docket of the court and entries therein.
- b. Complaints, petitions, other pleadings, motions, and applications filed with a court.
- c. Any summons, notice, subpoena, or other process and proofs of publication.
- d. Transcripts of proceedings before the court.
- e. Findings, judgments, decrees and orders of the court.

39. *"Parent"* means a biological or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

40. *"Peace officer"* means a law enforcement officer or a person designated as a peace officer by a provision of the Code.

41. *"Petition"* means a pleading the filing of which initiates formal judicial proceedings in the juvenile court.

42. *"Physical abuse or neglect"* or *"abuse or neglect"* means any nonaccidental physical injury suffered by a child as the result of the acts or omissions of the child's parent, guardian or custodian or other person legally responsible for the child.

42A. *"Preadoptive care"* means the provision of parental nurturing on a full-time basis to a child in foster care by a person who has signed a preadoptive placement agreement with the department for the purposes of proceeding with a legal adoption of the child. Parental nurturing includes but is not limited to furnishing of food, lodging, training, education, treatment, and other care.

43. *"Predisposition investigation"* means an investigation conducted for the purpose of collecting information relevant to the court's fashioning of an appropriate disposition of a delinquency case over which the court has jurisdiction.

44. *"Predisposition report"* is a report furnished to the court which contains the information collected during a predisposition investigation.

45. *"Probation"* means a legal status which is created by a dispositional order of the court in a case where a child has been adjudicated to have committed a delinquent act, which exists for a specified period of time, and which places the child under the supervision of a juvenile court officer or other person or agency designated by the court. The probation order may require a child to comply with specified conditions imposed by the court concerning conduct and activities, subject to being returned to the court for violation of those conditions.

46. *"Registry"* means the central registry for child abuse information as established under chapter [235A](#).

47. *"Residual parental rights and responsibilities"* means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person of the child. These include but are not limited to the right of visitation, the right to consent to adoption, and the responsibility for support.

48. *"Secure facility"* means a physically restricting facility in which children adjudicated to have committed a delinquent act may be placed pursuant to a dispositional order of the court.

49. *"Sexual abuse"* means the commission of a sex offense as defined by the penal law.

50. *"Shelter care"* means the temporary care of a child in a physically unrestricting facility at any time between a child's initial contact with juvenile authorities and the final judicial disposition of the child's case.

51. *"Shelter care hearing"* means a hearing at which the court determines whether it is necessary to place or retain a child in shelter care.

52. *"Social investigation"* means an investigation conducted for the purpose of collecting information relevant to the court's fashioning of an appropriate disposition of a child in need of assistance case over which the court has jurisdiction.

53. *"Social report"* means a report furnished to the court which contains the information collected during a social investigation.

54. *"Taking into custody"* means an act which would be governed by the laws of arrest under the criminal code if the subject of the act were an adult. The taking into custody of a child is subject to all constitutional and statutory protections which are afforded an adult upon arrest.

55. *"Termination hearing"* means a hearing held to determine whether the court should terminate a parent-child relationship.

56. *"Termination of the parent-child relationship"* means the divestment by the court of the parent's and child's privileges, duties and powers with respect to each other.

57. *"Voluntary placement"* means a foster care placement in which the department provides foster care services to a child according to a signed placement agreement between the department and the child's parent or guardian.

58. *"Waiver hearing"* means a hearing at which the court determines whether it shall waive its jurisdiction over a child alleged to have committed a delinquent act so that the state may prosecute the child as if the child were an adult.

[S13, §254-a14, -a21; C24, 27, 31, 35, 39, § **3618, 3619, 3620, 3638**; C46, 50, 54, 58, 62, §232.2, 232.3, 232.4, 232.22; C66, 71, 73, 75, 77, 79, 81, §232.2; 82 Acts, ch 1209, §1]

83 Acts, ch 96, §157, 159; 83 Acts, ch 186, §10054, 10055, 10201; 84 Acts, ch 1279, §1, 2; 87 Acts, ch 121, §1, 2; 88 Acts, ch 1134, §46, 47; 89 Acts, ch 169, §1; 89 Acts, ch 229, §1 - 4; 89 Acts, ch 230, §1, 2; 90 Acts, ch 1251, §22; 91 Acts, ch 232, §1; 92 Acts, ch 1231, §10; 93 Acts, ch 93, §1; 94 Acts, ch 1046, §1, 2; 94 Acts, ch 1172, §12; 95 Acts, ch 108, §16; 95 Acts, ch 147, §3; 95 Acts, ch 182, §1, 2, 6; 95 Acts, ch 191, §7; 96 Acts, ch 1092, §1; 97 Acts, ch 90, §1; 97 Acts, ch 126, §10; 97 Acts, ch 164, §1; 98 Acts, ch 1019, §1; 98 Acts, ch 1047, §21; 98 Acts, ch 1190, §1 - 3; 99 Acts, ch 164, §1; 99 Acts, ch 208, §33, 34; 2000 Acts, ch 1067, §4, 5; 2000 Acts, ch 1232, §56; 2001 Acts, ch 46, §1; 2001 Acts, ch 67, §7, 13; 2002 Acts, ch 1081, §1; 2002 Acts, ch 1162, §16; 2003 Acts, ch 117, §1 - 3; 2004 Acts, ch **1090, §33** ; 2004 Acts, ch **1116, §3** ; 2005 Acts, ch **117, §2, 4** ; 2005 Acts, ch **124, §1**

### **232.78 Temporary custody of a child pursuant to ex parte court order.**

1. The juvenile court may enter an ex parte order directing a peace officer or a juvenile court officer to take custody of a child before or after the filing of a petition under this chapter provided all of the following apply:

*a.* The person responsible for the care of the child is absent, or though present, was asked and refused to consent to the removal of the child and was informed of an intent to apply for an order under this section, or there is reasonable cause to believe that a request for consent would further endanger the child, or there is reasonable cause to believe that a request for consent will cause the parent, guardian, or legal custodian to take flight with the child.

*b.* It appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health. The circumstances or conditions indicating the presence of such imminent danger shall include but are not limited to any of the following:

(1) The refusal or failure of the person responsible for the care of the child to comply with the request of a peace officer, juvenile court officer, or child protection worker for such person to obtain and provide to the requester the results of a physical or mental examination of the child. The request for a physical examination of the child may specify the performance of a medically relevant test.

(2) The refusal or failure of the person responsible for the care of the child or a person present in the person's home to comply with a request of a peace officer, juvenile court officer, or child protection worker for such a person to submit to and provide to the requester the results of a medically relevant test of the person.

- c. There is not enough time to file a petition and hold a hearing under section [232.95](#) .
  - d. The application for the order includes a statement of the facts to support the findings specified in paragraphs "a" , "b" , and "c" .
- 2. The person making the application for an order shall assert facts showing there is reasonable cause to believe that the child cannot either be returned to the place where the child was residing or placed with the parent who does not have physical care of the child.
- 3. Except for good cause shown or unless the child is sooner returned to the place where the child was residing or permitted to return to the child care facility, a petition shall be filed under this chapter within three days of the issuance of the order.
- 4. The juvenile court may enter an order authorizing a physician or hospital to provide emergency medical or surgical procedures before the filing of a petition under this chapter provided:
  - a. Such procedures are necessary to safeguard the life and health of the child; and
  - b. There is not enough time to file a petition under this chapter and hold a hearing as provided in section [232.95](#) .
- 5. The juvenile court, before or after the filing of a petition under this chapter, may enter an ex parte order authorizing a physician or hospital to conduct an outpatient physical examination or authorizing a physician, a psychologist certified under section [154B.7](#) , or a community mental health center accredited pursuant to chapter [230A](#) to conduct an outpatient mental examination of a child if necessary to identify the nature, extent, and cause of injuries to the child as required by section [232.71B](#) , provided all of the following apply:
  - a. The parent, guardian, or legal custodian is absent, or though present, was asked and refused to provide written consent to the examination.
  - b. The juvenile court has entered an ex parte order directing the removal of the child from the child's home or a child care facility under this section.
  - c. There is not enough time to file a petition and to hold a hearing as provided in section [232.98](#) .
- 6. Any person who may file a petition under this chapter may apply for, or the court on its own motion may issue, an order for temporary removal under this section. An appropriate person designated by the court shall confer with a person seeking the removal order, shall make every reasonable effort to inform the parent or other person legally responsible for the child's care of the application, and shall make such inquiries as will aid the court in disposing of such application. The person designated by the court shall file with the court a complete written report providing all details of the designee's conference with the person seeking the removal order, the designee's efforts to inform the parents or other person legally responsible for the child's care of the application, any inquiries made by the designee to aid the court in disposing of the application, and all information the designee communicated to the court. The report shall be filed within five days of the date of the removal order. If the court does not designate an appropriate person who performs the required duties, notwithstanding section [234.39](#) or any other provision of law, the child's parent shall not be responsible for paying the cost of care and services for the duration of the removal order.
- 7. Any order entered under this section authorizing temporary removal of a child must include both of the following:

*a.* A determination made by the court that continuation of the child in the child's home would be contrary to the welfare of the child. Such a determination must be made on a case-by-case basis. The grounds for the court's determination must be explicitly documented and stated in the order. However, preserving the safety of the child must be the court's paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determination shall not be a prerequisite to the removal of the child.

*b.* A statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

[C79, 81, §232.78]

84 Acts, ch 1279, §9; 85 Acts, ch 173, §10, 11; 89 Acts, ch 230, §14; 94 Acts, ch 1172, §23; 97 Acts, ch 35, §11, 25; 98 Acts, ch 1190, §4 - 6; 99 Acts, ch 192, §33; 2000 Acts, ch 1067, §6, 7; 2001 Acts, ch 135, §12, 13

### **232.21 Placement in shelter care.**

1. No child shall be placed in shelter care unless one of the following circumstances applies:

*a.* The child has no parent, guardian, custodian, responsible adult relative or other adult approved by the court who will provide proper shelter, care and supervision.

*b.* The child desires to be placed in shelter care.

*c.* It is necessary to hold the child until the child's parent, guardian, or custodian has been contacted and has taken custody of the child.

*d.* It is necessary to hold the child for transfer to another jurisdiction.

*e.* The child is being placed pursuant to an order of the court.

2. A child may be placed in shelter care as provided in this section only in one of the following facilities:

*a.* A juvenile shelter care home.

*b.* A licensed foster home.

*c.* An institution or other facility operated by the department of human services, or one which is licensed or otherwise authorized by law to receive and provide care for the child.

*d.* Any other suitable place designated by the court provided that no place used for the detention of a child may be so designated.

Placement shall be made in the least restrictive facility available consistent with the best interests and special needs of the child. Foster family care shall be used for a child unless the child has problems requiring specialized service or supervision which cannot be provided in a family living arrangement.

3. When there is reason to believe that a child placed in shelter care pursuant to section [232.19](#), subsection 1, paragraph "c" would not voluntarily remain in the shelter care facility, the shelter care facility shall impose reasonable restrictions necessary to ensure the child's continued custody.

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without an oral or written court order authorizing the shelter care. When the action is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. A child placed in shelter care pursuant to section [232.19](#), subsection 1, paragraph "c", shall not be held in excess of seventy-two hours in any event. If deemed appropriate by the court, an order authorizing shelter care placement

may include a determination that continuation of the child in the child's home is contrary to the child's welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may be used by the department to assist in obtaining federal funding for the child's placement.

5. If no satisfactory provision is made for uniting a child placed in shelter care pursuant to section 232.19 , subsection 1, paragraph "c" with the child's family, a child in need of assistance complaint may be filed pursuant to section 232.81 . Nothing in this subsection shall limit the right of a child to file a family in need of assistance petition under section 232.125 .

6. A child twelve years of age or younger shall not be placed in a group shelter care home, unless there have been reasonable but unsuccessful efforts to place the child in an emergency foster family home which is able to meet the needs of the child. The efforts shall be documented at the shelter care hearing.

[S13, §254-a24; SS15, §254-a16; C24, 27, 31, 35, 39, § 3633; C46, 50, 54, 58, 62, §232.17; C66, 71, 73, 75, 77, §232.17, 232.18; C79, 81, §232.21; 82 Acts, ch 1209, §3]

83 Acts, ch 96, §157, 159; 88 Acts, ch 1249, §10, 11; 2001 Acts, ch 135, §5; 2001 Acts, ch 176, §64; 2002 Acts, ch 1050, §22

### **232.125 Petition.**

1. A family in need of assistance proceeding shall be initiated by the filing of a petition alleging that a child and the child's parent, guardian or custodian are a family in need of assistance.

2. Such a petition may be filed by the child's parent, guardian or custodian or by the child. The judge, county attorney, or juvenile court officer may authorize such parent, guardian, custodian, or child to file a petition with the clerk of the court without the payment of a filing fee.

3. The petition and subsequent court documents shall be entitled "In re the family of . . . . ."

4. The petition shall state the names and residences of the child, and the child's living parents, guardian, custodian and guardian ad litem, if any and the age of the child.

5. The petition shall allege that there has been a breakdown in the familial relationship and that the petitioner has sought services from public or private agencies to maintain and improve the familial relationship.

[C79, 81, §232.125]

83 Acts, ch 186, §10055, 10201

### **232.126 Appointment of counsel and guardian ad litem.**

The court shall appoint counsel or a guardian ad litem to represent the interests of the child at the hearing to determine whether the family is a family in need of assistance unless the child already has such counsel or guardian. The court shall appoint counsel for the parent, guardian or custodian if that person desires but is financially unable to employ counsel.

The court may appoint a court appointed special advocate to act as guardian ad litem. The court appointed special advocate shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the

protection of the child. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit reports to the court and the parties to the proceedings containing the information required in reports submitted by a court appointed special advocate under section [232.89](#) , subsection 5. In addition, the court appointed special advocate shall file other reports to the court as required by the court.

[C79, 81, §232.126]

87 Acts, ch 121, §5; 2002 Acts, ch 1162, §18

### **232.127 Hearing - adjudication - disposition.**

1. Upon the filing of a petition, the court shall fix a time for a hearing and give notice thereof to the child and the child's parent, guardian or custodian.

2. A parent without custody may petition the court to be made a party to proceedings under this division.

3. The court shall exclude the general public from such hearing except the court in its discretion may admit persons having a legitimate interest in the case or the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. The court may adjudicate the family to be a family in need of assistance and enter an appropriate dispositional order if the court finds:

a. There has been a breakdown in the relationship between the child and the child's parent, guardian or custodian; and

b. The child or the child's parent, guardian or custodian has sought services from public or private agencies to maintain and improve the familial relationship; and

c. The court has at its disposal services for this purpose which can be made available to the family.

6. If the court makes such a finding the court may order any or all of the parties to accept counseling and to comply with any other reasonable orders designed to maintain and improve the familial relationship. At the conclusion of any counseling ordered by the court, or at any other time deemed necessary, the parties shall be required to meet together and be apprised of the findings and recommendations of such counseling. Such an order shall remain in force for a period not to exceed one year unless the court otherwise specifies or sooner terminates the order.

7. The court may not order the child placed on probation, in a foster home or in a nonsecure facility unless the child requests and agrees to such supervision or placement. In no event shall the court order the child placed in the state training school or other secure facility.

8. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group foster care established pursuant to section [232.143](#) for the departmental service area in which the court is located.

9. A child found in contempt of court because of violation of conditions imposed under this section shall not be considered delinquent. Such a contempt may be punished by imposition of a work assignment or assignments to benefit the state or a governmental subdivision of the state. In addition to or in lieu of such an assignment or assignments, the court may impose one of the dispositions set out in sections [232.100](#) to [232.102](#) .

10. If the child is sixteen years of age or older and an order for an out-of-home placement is entered, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the written transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

[C79, 81, §232.127; 82 Acts, ch 1260, §24]

92 Acts, ch 1229, §7; 2003 Acts, ch 117, §7; 2004 Acts, ch [1116](#), §12

### **232.100 Suspended judgment.**

After the dispositional hearing the court may enter an order suspending judgment and continuing the proceedings subject to terms and conditions imposed to assure the proper care and protection of the child. Such terms and conditions may include the supervision of the child and of the parent, guardian or custodian by the department of human services, juvenile court office or other appropriate agency designated by the court. The maximum duration of any term or condition of a suspended judgment shall be twelve months unless the court finds at a hearing held during the last month of that period that exceptional circumstances require an extension of the term or condition for an additional six months.

[C79, 81, §232.100]

83 Acts, ch 96, §157, 159

### **232.102 Transfer of legal custody of child and placement.**

1. After a dispositional hearing the court may enter an order transferring the legal custody of the child to one of the following for purposes of placement:

- a. A parent who does not have physical care of the child, other relative, or other suitable person.
- b. A child-placing agency or other suitable private agency, facility, or institution which is licensed or otherwise authorized by law to receive and provide care for the child.
- c. The department of human services.

If the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the child has a case permanency plan, the court shall consider the written transition plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the transition plan and needs assessment at the time the order is entered, the written transition plan and needs assessment shall be developed and submitted for the court's consideration no later than six months from the date of the transfer order. The court shall modify the initial transfer order as necessary to specify the services needed to assist the child in preparing for the transition from foster care to adulthood. If the transition plan identifies services or other

support needed to assist the child when the child becomes an adult and the court deems it to be beneficial to the child, the court may authorize the individual who is the child's guardian ad litem or court appointed special advocate to continue a relationship with and provide advice to the child for a period of time beyond the child's eighteenth birthday.

1A. The court shall not order group foster care placement of the child which is a charge upon the state if that placement is not in accordance with the service area plan for group foster care established pursuant to section 232.143 for the departmental service area in which the court is located.

2. After a dispositional hearing and upon the request of the department, the court may enter an order appointing the department as the guardian of an unaccompanied refugee child or of a child without parent or guardian.

3. After a dispositional hearing and upon written findings of fact based upon evidence in the record that an alternative placement set forth in subsection 1, paragraph "b", has previously been made and is not appropriate the court may enter an order transferring the guardianship of the child for the purposes of subsection 8, to the director of human services for the purposes of placement in the Iowa juvenile home at Toledo.

4. a. Upon receipt of an application from the director of the department of human services, the court shall enter an order to temporarily transfer a child who has been placed in the Iowa juvenile home at Toledo pursuant to subsection 3, to a facility which has been designated to be an alternative placement site for the juvenile home, provided the court finds that all of the following conditions exist:

(1) There is insufficient time to file a motion and hold a hearing for a new dispositional order under section 232.103 .

(2) Immediate removal of the child from the juvenile home is necessary to safeguard the child's physical or emotional health.

(3) That reasonable attempts to notify the parents, guardian ad litem, and attorney for the child have been made.

b. If the court finds the conditions in paragraph "a" exist and there is insufficient time to provide notice as required under rule of juvenile procedure 8.12 , the court may enter an ex parte order temporarily transferring the child to the alternative placement site.

c. Within three days of the child's transfer, the director shall file a motion for a new dispositional order under section 232.103 and the court shall hold a hearing concerning the motion within fourteen days of the child's transfer.

5. a. Whenever possible the court should permit the child to remain at home with the child's parent, guardian, or custodian. Custody of the child should not be transferred unless the court finds there is clear and convincing evidence that:

(1) The child cannot be protected from physical abuse without transfer of custody; or

(2) The child cannot be protected from some harm which would justify the adjudication of the child as a child in need of assistance and an adequate placement is available.

b. In order to transfer custody of the child under this subsection, the court must make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and shall identify the reasonable efforts that have been made. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds

for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for removal of the child.

6. The child shall not be placed in the state training school.

7. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit a case permanency plan to the court and shall make every reasonable effort to return the child to the child's home as quickly as possible consistent with the best interests of the child. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency shall consider placing the child in the same licensed foster care facility. If the court orders the transfer of custody to a parent who does not have physical care of the child, other relative, or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian, or custodian in order to enable them to resume custody of the child. If the court orders the transfer of custody to the department of human services or to another agency for placement in group foster care, the department or agency shall make every reasonable effort to place the child in the least restrictive, most family-like, and most appropriate setting available, and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

8. Any order transferring custody to the department or an agency shall include a statement informing the child's parent that the consequences of a permanent removal may include the termination of the parent's rights with respect to the child.

9. An agency, facility, institution, or person to whom custody of the child has been transferred pursuant to this section shall file a written report with the court at least every six months concerning the status and progress of the child. The court shall hold a periodic dispositional review hearing for each child in placement pursuant to this section in order to determine whether the child should be returned home, an extension of the placement should be made, a permanency hearing should be held, or a termination of the parent-child relationship proceeding should be instituted. The placement shall be terminated and the child returned to the child's home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner specified in section [232.2](#), subsection 6. If the placement is extended, the court shall determine whether additional services are necessary to facilitate the return of the child to the child's home, and if the court determines such services are needed, the court shall order the provision of such services. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency responsible for the placement of the child shall consider placing the child in the same licensed foster care facility.

a. The initial dispositional review hearing shall not be waived or continued beyond six months after the date of the dispositional hearing.

b. Subsequent dispositional review hearings shall not be waived or continued beyond twelve months after the date of the most recent dispositional review hearing.

c. For purposes of this subsection, a hearing held pursuant to section 232.103 satisfies the requirements for initial dispositional review or subsequent permanency hearing.

10. a. As used in this division, "*reasonable efforts*" means the efforts made to preserve and unify a family prior to the out-of-home placement of a child in foster care or to eliminate the need for removal of the child or make it possible for the child to safely return to the family's home. If returning the child to the family's home is not appropriate or not possible, reasonable efforts shall include the efforts made in a timely manner to finalize a permanency plan for the child. A child's health and safety shall be the paramount concern in making reasonable efforts. Reasonable efforts may include intensive family preservation services or family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:

(1) The type, duration, and intensity of services or support offered or provided to the child and the child's family. If intensive family preservation services were not provided, the court record shall enumerate the reasons the services were not provided, including but not limited to whether the services were not available, not accepted by the child's family, judged to be unable to protect the child and the child's family during the time the services would have been provided, judged to be unlikely to be successful in resolving the problems which would lead to removal of the child, or other services were found to be more appropriate.

(2) The relative risk to the child of remaining in the child's home versus removal of the child.

b. As used in this section:

(1) "*Family-centered services*" means services which utilize a comprehensive approach to addressing the problems of individual family members, whether or not the problems are integrally related to the family, within the context of the family. Family-centered services are adapted to the individual needs of a family in the intensity and duration of service delivery and are intended to improve overall family functioning.

(2) "*Intensive family preservation services*" means services provided to a family with a child who is at imminent risk of out-of-home placement. The services are designed to address any problem creating the need for out-of-home placement and have the following characteristics: are persistently offered but provided at the family's option; are provided in the family's home; are available twenty-four hours per day; provide a response within twenty-four hours of the initial contact for assistance; have worker caseloads of not more than two through four families per worker at any one time; are provided for a period of four to six weeks; and provide funding in order to meet the special needs of a family.

11. The performance of reasonable efforts to place a child for adoption or with a guardian may be made concurrently with making reasonable efforts as defined in this section.

12. If the court determines by clear and convincing evidence that aggravated circumstances exist, with written findings of fact based upon evidence in the record, the

court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

- a. The parent has abandoned the child.
- b. The court finds the circumstances described in section [232.116](#) , subsection 1, paragraph "i" , are applicable to the child.
- c. The parent's parental rights have been terminated under section [232.116](#) with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child's removal.
- d. The parent has been convicted of the murder of another child of the parent.
- e. The parent has been convicted of the voluntary manslaughter of another child of the parent.
- f. The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.
- g. The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

13. Unless prohibited by the court order transferring custody of the child for placement or other court order or the department or agency that received the custody transfer finds that allowing the visitation would not be in the child's best interest, the department or agency may authorize reasonable visitation with the child by the child's grandparent, great-grandparent, or other adult relative who has established a substantial relationship with the child.

[S13, §254-a20, -a23, 2708, 2709; C24, 27, 31, 35, 39, § [3637](#), [3646](#), [3647](#); C46, 50, 54, 58, 62, §232.21, 232.27, 232.28; C66, 71, 73, 75, 77, §232.33; C79, 81, §232.102; 81 Acts, ch 11, §17; 82 Acts, ch 1260, §23]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1279, §16 - 18; 85 Acts, ch 173, §13; 87 Acts, ch 159, §3; 88 Acts, ch 1134, §52; 88 Acts, ch 1249, §14; 90 Acts, ch 1239, §10, 11; 91 Acts, ch 232, §7, 8; 92 Acts, ch 1229, §5; 92 Acts, 1st Ex, ch 1004, §2; 95 Acts, ch 67, §16; 97 Acts, ch 99, §5; 98 Acts, ch 1190, §11 - 17; 2000 Acts, ch 1067, §10; 2001 Acts, ch 24, §40; 2001 Acts, ch 135, §17 - 19; 2002 Acts, ch 1081, §3; 2003 Acts, ch 117, §5; 2004 Acts, ch [1116](#), [§8 - 10](#)

Copy of dispositional order under subsection 9 to be submitted to foster care review boards; 84 Acts, ch 1279, §42

Limitation on placing child in mental health institute; 86 Acts, ch 1246, §305

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### **232.133 Appeal.**

1. An interested party aggrieved by an order or decree of the juvenile court may appeal from the court for review of questions of law or fact. However, an order adjudicating a child to have committed a delinquent act, entered pursuant to section [232.47](#) , shall not be appealed until the court enters a corresponding dispositional order pursuant to section [232.52](#) . An appeal that affects the custody of a child shall be heard at the earliest practicable time.

2. Except for appeals from orders entered in child in need of assistance proceedings or orders entered pursuant to section [232.117](#) , appellate procedures shall be governed by the same provisions applicable to appeals from the district court. The supreme court may prescribe rules to expedite the resolution of appeals from final \* orders entered in child in need of assistance proceedings or orders entered pursuant to section [232.117](#) .

3. The pendency of an appeal or application therefor shall not suspend the order of the juvenile court regarding a child and shall not discharge the child from the custody of the court or the agency, association, facility, institution or person to whom the court has transferred legal custody unless the appellate court otherwise orders on application of an appellant.

4. If the appellate court does not dismiss the proceedings and discharge the child, the appellate court shall affirm or modify the order of the juvenile court and remand the child to the jurisdiction of the juvenile court for disposition not inconsistent with the appellate court's finding on the appeal.

[C66, 71, 73, 75, 77, §232.58; C79, 81, §232.133]

86 Acts, ch 1186, §12; 2001 Acts, ch 117, §1; 2003 Acts, ch 25, §1; 2006 Acts, ch [1129](#), §1

\*The word "final" may not be intended; corrective legislation is pending

Subsection 2 amended

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