



KANSAS CHILD IN NEED OF CARE PROCESS IN PRACTICE:

Presentation to the Joint Committee
on Child Welfare System Oversight

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Overview

Phases of a CINC Case

Players

Parental Rights

Interested Party Status

Reasonable Efforts

Direct Placement

Sibling Split

CINC Appeals

Phases of a CINC Case

Temporary
Custody

1

—

2

—

3

—

4

—

5

Disposition

Placement

Adjudication

Parental Rights:

Reintegration

or

Termination of Parental
Rights

Players in a CINC Case



Judge

Court Services Officer



Attorneys

District or County Attorney
Guardian ad Litem
Parents' Attorneys

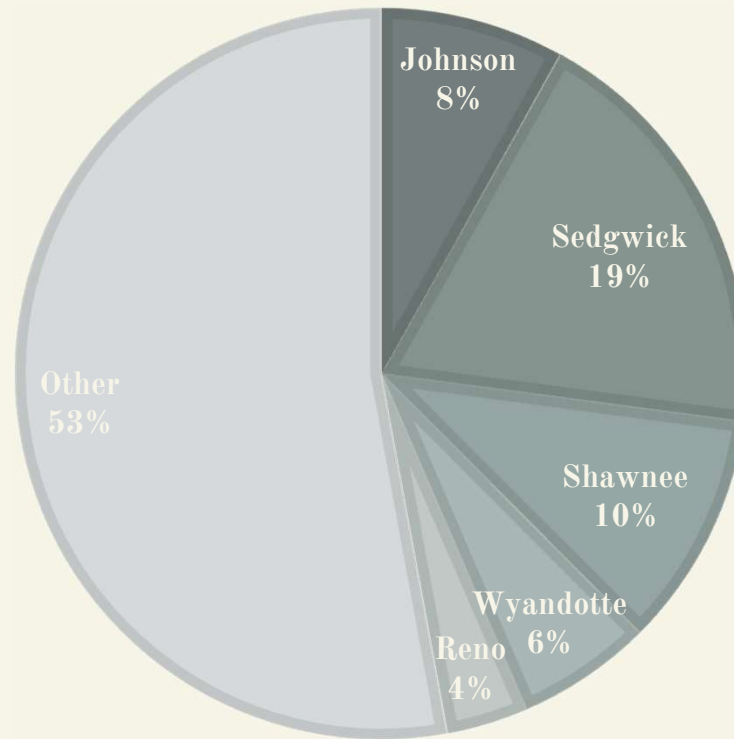


DCF

Agency Contractor:
Saint Francis
TFI
Cornerstone
Youthville

CINC Cases by County

Almost 50% of the State's CINC Cases are in one of five counties.



Parental Rights

Agency must make reasonable efforts to rehabilitate the family and achieve the permanency goal in place.
K.S.A. 38-2264

Reintegration

Parent is unfit by reason of conduct or condition and it is unlikely to change in the foreseeable future. When a child is not in the parent's physical custody and they aren't working their case.
Abandonment.
Felony in which sexual intercourse occurred.
K.S.A. 38-2269

Termination of Parental Rights



Interested Party Status

Interested party status allows an individual to be involved in the case in a meaningful way.

Foster parents, even if they have been the placement for years, are not guaranteed this status.

K.S.A. 38-2241

Interested Party Status

01

Grandparent

Grandparents **SHALL** automatically receive IP status.
K.S.A. 38-2241(c)

02

Lived for 6 mos

Most interpret this statute to mean those who lived with the child 6 months prior to the date of the CINC Petition **SHALL** receive IP status.
K.S.A. 38-2241(d)

03

4th Degree Relative

Any person the child has lived with who is within the 4th degree of relationship **MAY** receive IP status upon motion.
K.S.A. 38-2241(e)

04

Close Emotional Ties

Any person the child has close emotional ties with the child **MAY** receive IP status upon motion.
K.S.A. 38-2241(e)

Reasonable Efforts

DCF is required by statute to make reasonable efforts based on the permanency goal.

At each permanency hearing, the court shall:

(1) Enter a finding as to whether reasonable efforts have been made by appropriate public or private agencies to rehabilitate the family and achieve the permanency goal in place at the time of the hearing...
K.S.A. 38-2264(c)

Reintegration

If the court enters an order terminating parental rights to a child, or an agency has accepted a relinquishment pursuant to K.S.A. 59-2124, and amendments thereto, the requirements for permanency hearings shall continue until an adoption or appointment of a permanent custodian has been accomplished. If the court determines that reasonable efforts or progress have not been made toward finding an adoptive placement or appointment of a permanent custodian or placement with a fit and willing relative, the court may rescind its prior orders and make others regarding custody and adoption that are appropriate under the circumstances.
K.S.A. 38-2264(j)

Adoption

Direct Placement

(a) When parental rights have been terminated and it appears that adoption is a viable alternative, the court shall enter one of the following orders:

(1) An order granting custody of the child, for adoption proceedings, to the secretary or a corporation organized under the laws of the state of Kansas authorized to care for and surrender children for adoption as provided in K.S.A. 38-112 et seq., and amendments thereto. The person, secretary or corporation shall have authority to place the child in a family home, and give consent for the legal adoption of the child which shall be the only consent required to authorize the entry of an order or decree of adoption.

(2) An order granting custody of the child to proposed adoptive parents and consenting to the adoption of the child by the proposed adoptive parents.

(b) In making an order under subsection (a), the court shall give preference, to the extent that the court finds it is in the best interests of the child, **first to granting such custody for adoption to a relative of the child and second to granting such custody to a person with whom the child has close emotional ties.**

K.S.A. 38-2270

Direct Placement

Direct Placement is a two- part decision:

01

The Court makes a finding that DCF has not made reasonable efforts toward finding an adoptive placement.
K.S.A. 38-2264(j)

02

The Court rescinds its prior order placing the child in DCF custody and instead places directly with the foster family.
K.S.A. 38-2270(a)(2)



Direct Placement



An option of last resort for foster families.



No guaranteed subsidy.



Typically not the best for the child or the family, but it is often the only option.

Sibling Splits

DCF policy states that the permanency team must “make every effort to place siblings together when possible.”

PPM 5237

DCF defines a “sibling split” as “a decision not in the best interest of siblings to be placed together.”

PPM 0160

Without an approved sibling split, children in different foster homes must be adopted together by one family.





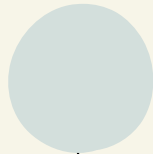
Factors in a Sibling Split

1. Birth family information, including why the children were brought into care and the siblings' relationship in the birth family;
2. Shared trauma history of the sibling group;
3. History of out of home placement – when and why siblings were separated, attempts to place them together, sibling interactions and behavior management efforts when placed together;
4. Therapeutic attempts (and their results) to address behaviors or needs which prevent siblings from being together;
5. Short and long term impacts of siblings staying together or separated;
6. Current sibling visitation/contact plans, and specific plans for maintain contact if separated; and
7. Resource family information.

PPM Appendix 5I

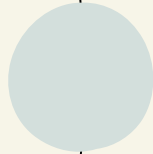


Sibling Split Authority



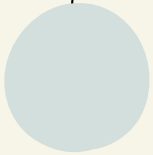
Judge

The Court has the authority to make determinations in the best interest of the child.



Contracting Agency

Contracting agency convenes a review team to determine if the sibling split is in the children's best interest, and if it is anticipated siblings will not attain permanency together.



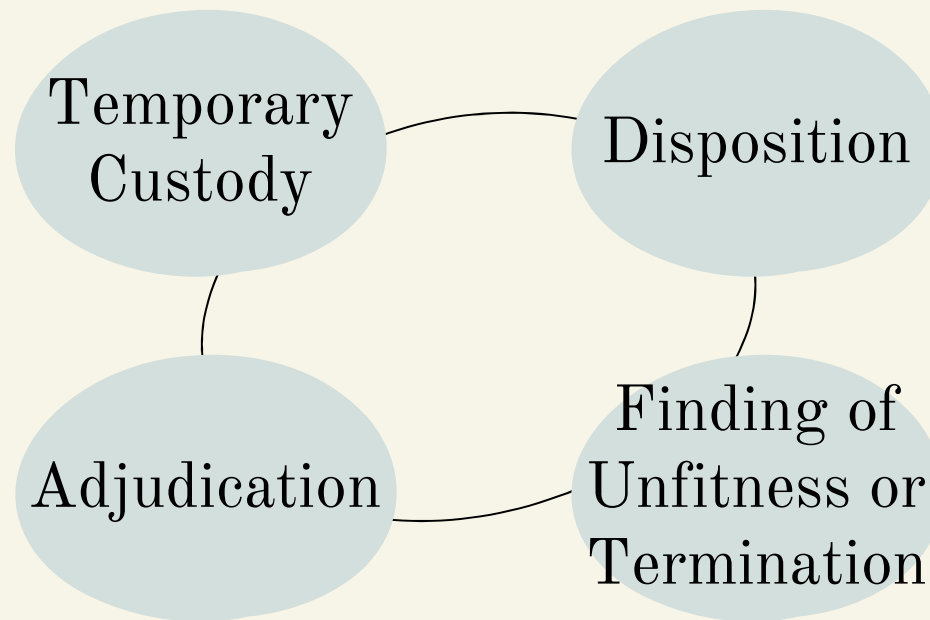
DCF

DCF shall provide support/consultation as needed/requested.

PPM 5237

CINC Appeals

An appeal may be taken by any party or interested party from any order of:



K.S.A. 38-2273(a)

In re N.A.C. (2014)

Holdings:

- Appealable orders in a CINC case are specifically limited to the orders listed in 38-2273(a)
- A post-termination finding that the state agency has not made reasonable efforts is not appealable
- A post-termination order granting direct placement is not appealable
- Order terminating parental rights is the last appealable order in a CINC case

Reasoning:

Legislature clearly intended to limit the types of appealable issues so there is timely closure in these cases

Interest of N.E. (2022)

Holdings:

- Declines to overrule holding of *In re N.A.C.* concerning appellate review of post-termination orders in CINC proceedings
- Orders that address the *custody* of a child are dispositional orders and appealable
- Orders that address the *placement* of a child are not appealable



CASE EXAMPLES

Questions