

232.182 Initial determination.

1. Upon the filing of a petition, the court shall fix a time for an initial determination hearing and give notice of the hearing to the child's parent, guardian, or custodian, counsel or guardian ad litem, and the department.

2. A parent who does not have custody of the child may petition the court to be made a party to proceedings under this division.

3. An initial determination hearing is open to the public unless the court, on the motion of any of the parties or upon the court's own motion, excludes the public. The court shall exclude the public from a hearing only if the court determines that the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

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

5. After the hearing is concluded, the court shall make and file written findings as to whether reasonable efforts, as defined in section 232.102, subsection 10, have been made and whether the voluntary foster family care placement is in the child's best interests.

a. The court shall order foster family care placement in the child's best interests if the court finds that all of the following conditions exist:

(1) The child has an emotional, physical, or intellectual disability which requires care and treatment.

(2) The child's parent, guardian, or custodian has demonstrated a willingness or ability to fulfill the responsibilities defined in the case permanency plan.

(3) Reasonable efforts have been made and the placement is in the child's best interests.

(4) A determination that services or support provided to the family of a child with an intellectual disability, other developmental disability, or organic mental illness will not enable the family to continue to care for the child in the child's home.

b. If the court finds that reasonable efforts have not been made and that services or support are available to prevent the placement, the court may order the services or support to be provided to the child and the child's family.

c. If the court finds that the foster care placement is necessary and the child's parent, guardian, or custodian has not demonstrated a commitment to fulfill the responsibilities defined in the child's case permanency plan, the court shall cause a child in need of assistance petition to be filed.

5A. If the court orders placement of the child into foster care, the court or the department shall establish a support obligation for the costs of the placement pursuant to section 234.39.

6. The hearing may be waived and the court may issue the findings and order required under subsection 5 on the basis of the department's written report if all parties agree to the hearing's waiver and the department's written report.

89 Acts, ch 169, §9; 92 Acts, ch 1229, §14, 15; 93 Acts, ch 78, §1; 99 Acts, ch 111, §3, 4, 7; 2009 Acts, ch 41, §240; 2012 Acts, ch 1019, §89

Referred to in §232.183, 234.35

[T] Subsection 5, paragraph a, subparagraph (4) amended