

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

1. *a.* After a dispositional hearing, the court may enter an order transferring the legal custody of the child to a parent of the child. If the court finds that custody with either of the child's parents is not in the child's best interests, the child's custody shall be transferred to the department for placement of the child in any of the following categories in the following order of priority:

(1) An adult relative of the child including but not limited to adult siblings and parents of siblings.

(2) A fictive kin.

(3) Any other suitable placement identified by the child's relatives.

(4) An individual licensed to provide foster care pursuant to [chapter 237](#). If the child is placed with a licensed foster care provider, the department shall assign decision-making authority to the foster care provider for the purpose of applying the reasonable and prudent parent standard during the child's placement.

(5) A group care facility, shelter care facility, or other residential treatment facility.

*b.* (1) If the court places custody of the child with the department pursuant to paragraph "a", the court may identify a category listed in paragraph "a" for placement of the child, but the department shall have the authority to select the specific person or facility within that category for placement, subject to court review at the request of an interested party.

(2) The court shall give deference to the department's decision for placement of a child. A party opposed to the department's placement of a child shall have the burden to prove the department failed to act in the child's best interests by unreasonably or irresponsibly failing to discharge its duties in selecting a suitable placement for the child.

*c.* A court shall not order placement of a child in a category identified in paragraph "a", subparagraph (2), (3), (4), or (5) without a specific finding that placement with an adult relative is not in the child's best interests and providing reasons for the court's finding.

*d.* If the child is fourteen 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.

2. The court shall not order group foster care placement of the child which is a charge upon the state unless the group foster care meets the requirements established by the department by rule.

3. 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.

4. *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 of any of the following:

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

(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. If the court transfers custody of the child, unless the court waives the requirement for making reasonable efforts or otherwise makes a determination that reasonable efforts are not required, reasonable efforts shall be made to make it possible for the child to safely return to the family's home.

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

6. 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 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 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.

7. 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.

8. 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 232.96A](#). 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.

9. Unless prohibited by court order or the department or juvenile court services finds that allowing the visitation would not be in the child's best interests, the department or juvenile court services may authorize reasonable visitation between the child and the child's adult relative or a fictive kin.

10. Notwithstanding any provision to the contrary, transfer of legal custody and placement of a newborn infant for whom physical custody was relinquished pursuant to [section 233.2](#) shall be determined in accordance with [chapter 233](#).

[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; 2007 Acts, ch 172, §6, 9; 2007 Acts, ch 218, §114; 2008 Acts, ch 1098, §1; 2009 Acts, ch 41, §263; 2014 Acts, ch 1092, §52; 2016 Acts, ch 1063, §14, 15; 2017 Acts, ch 54, §31; 2019 Acts, ch 100, §4; 2020 Acts, ch 1062, §94; 2022 Acts, ch 1098, §45 – 48, 80; 2023 Acts, ch 19, §622; 2023 Acts, ch 46, §4; 2023 Acts, ch 140, §4

Referred to in §225C.49, 232.2, 232.99, 232.101A, 232.103, 232.104, 232.116, 232.117, 232.127, 232B.5, 233.2, 234.35

Copy of dispositional order under subsection 8 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

Subsections 4 and 6 amended

Former subsection 10 stricken

NEW subsection 10