

232.95 Hearing concerning temporary removal.

1. At any time after the petition is filed, any person who may file a petition under [section 232.87](#) may apply for, or the court on its own motion may order, a hearing to determine whether the child should be temporarily removed from home. If the child is in the custody of a person other than the child's parent, guardian, or custodian as the result of action taken pursuant to [section 232.78](#) or [232.79](#), the court shall hold a hearing within ten days of the date of temporary removal to determine whether the temporary removal should be continued.

2. Upon such hearing, the court may do any of the following:

a. Return the child to a person with legal custody of the child pending a final order of disposition.

b. Remove the child from home and place the child with a parent of the child pending a final order of disposition.

c. Remove the child from home and place custody of the child with the department for placement of the child, pending a final order of disposition, 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.

d. Authorize a physician, physician assistant, or hospital to provide medical or surgical procedures if such procedures are necessary to safeguard the child's life or health.

3. Notwithstanding any provision to the contrary including placement of custody of a child pursuant to [subsection 2](#), if the hearing under [this section](#) is the result of a request for an ex parte order from the court pursuant to [section 232.78](#) for a newborn infant for whom physical custody was relinquished pursuant to [section 233.2](#), the court shall place custody of the child as provided in [section 232.78](#), [subsection 9](#), and proceed in accordance with [chapter 233](#).

4. The court shall make and file written findings as to the grounds for granting or denying an application under [this section](#).

5. If the court orders the child removed from the home pursuant to [subsection 2](#), paragraph "b" or "c", the court shall hold a hearing to review the removal order within six months unless a dispositional hearing pursuant to [section 232.99](#) has been held.

6. a. If the court orders a removal pursuant to [subsection 2](#), paragraph "b" or "c", the court shall, in addition, make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home. The court shall also make a finding that substantial evidence exists to demonstrate that the need for removal due to an imminent risk to the child's life or health is greater than the potential harm including but not limited to any physical, emotional, social, or mental trauma the removal may cause the child.

b. 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 specifically documented and stated in the court 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 determinations otherwise required under this paragraph shall not be a prerequisite for an order for temporary removal of the child.

7. a. (1) If the court places custody of the child with the department pursuant to [subsection 2](#), paragraph "c", the court may identify a category listed in [subsection 2](#),

paragraph “c”, 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.

b. The court shall not order placement of a child in a category identified in [subsection 2](#), paragraph “c”, 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 finding.

c. If the court orders the removal of a child pursuant to [subsection 2](#), paragraph “b” or “c”, the order shall also include 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, §232.95]

[84 Acts, ch 1279, §13](#); [86 Acts, ch 1186, §8](#); [87 Acts, ch 159, §2](#); [98 Acts, ch 1190, §8](#); [2000 Acts, ch 1067, §8](#); [2001 Acts, ch 135, §15](#)

[Subsection 2, paragraphs b and c, were inadvertently omitted in the 2001 Code Supplement and 2003 Code]

[2004 Acts, ch 1101, §28](#); [2022 Acts, ch 1066, §36](#); [2022 Acts, ch 1098, §39, 40](#); [2023 Acts, ch 46, §3](#); [2023 Acts, ch 140, §3](#)

Referred to in [§232.44](#), [232.78](#), [232.96](#), [232.104](#), [232B.6](#), [600A.7](#)

NEW subsection 3 and former subsection 3 renumbered as 4

Former subsection 4 amended and renumbered as 5

Former subsections 5 and 6 renumbered as 6 and 7