

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on January 12, 2005 in Room 313-S of the Capitol.

Committee members absent: Michael Peterson- excused

Committee staff present: Jerry Ann Donaldson, Kansas Legislative Research  
Jill Wolters, Office of Revisor of Statutes  
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

District Court Judge Nancy Parish, Shawnee County  
District Court Judge Tom Foster, Johnson County  
District Court Judge Meryl Wilson, Riley County  
Mark Gleeson - Family & Children Coordinator, Office of Judicial Administration

Chairman O'Neal introduced committee staff and committee members. Committee Rules for the House Judiciary Committee were distributed as were rules for conferees who wish to appear before the committee.

Chairman O'Neal turned the committees attention to receive informative news from the District Court Judges.

District Court Judge Nancy Parish, Shawnee County, reported that while there has been an overall increase in caseload filings the hiring of full time employee (FTE) have been minimal. She provided a spreadsheet with the types of cases filed and the number of FTE positions (Attachment 1).

District Court Judge Tom Foster, Johnson County, stated that there has been an increase in population in Johnson County and it is estimated that this year the population will increase 19% over last year.

Tort cases are down but most other types of cases are up, such as, a doubling in DUI cases. While the number of divorce cases remain stable, the docket is being taken up with more conflict issues between parents who are divorced. A new six session program called Higher Ground helps divorced parents learn how to deal with conflicts.

District Court Judge Meryl Wilson, Riley County, informed the committee of the Parent Support Pilot Program which was designed to include parents at all stages of court proceedings. He provided a handbook which explained the process (Attachment 2). In their county last year they had:

68 CINC cases, of which 34 didn't need emergency placement or hearing  
of the 34 cases left, 18% of them had no parent available  
6% were already in state custody  
2% requested a "parent supporter"

Mark Gleeson - Family & Children Coordinator, Office of Judicial Administration, commented that the courts are in the process of having forms translated into Spanish.

Committee meeting adjourned at 5:00 p.m. The next meeting is scheduled for January 18, 2005, at 3:30 p.m. in room 313-S.

Judge Nancy Parrish

House Judiciary  
1-12-05  
Attachment 1

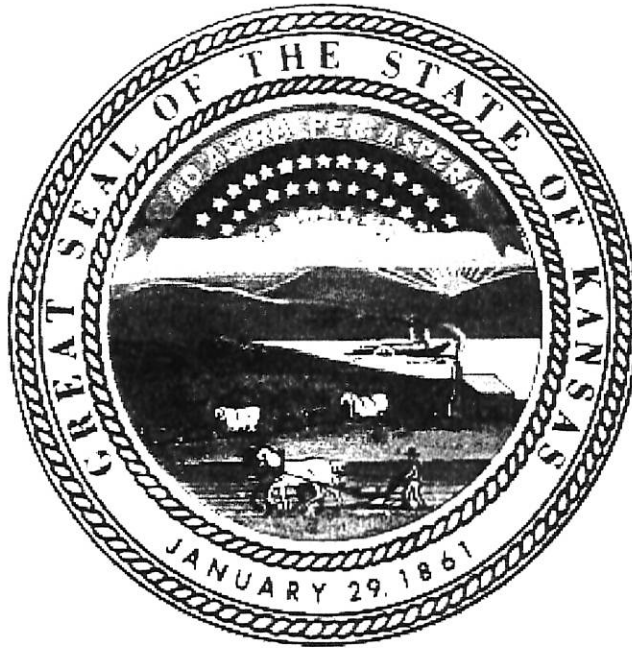
### STATEWIDE SUMMARY OF CASELOAD FILINGS AND FTE POSITIONS

|  | <u>FY 87</u>   | <u>FY 88</u>   | <u>FY 89</u>   | <u>FY 90</u>   | <u>FY 91</u>   | <u>FY 92</u>    | <u>FY 93</u>    | <u>FY 94</u>   | <u>FY 95</u>   | <u>FY 96</u>   | <u>87 to 96</u><br>% CHANGE | <u>FY 97</u>   | <u>FY 98</u>   | <u>FY 99</u>   | <u>FY 00</u>   | <u>FY 01</u>   | <u>FY 02</u>   | <u>FY 03</u>   | <u>FY 04</u>   | <u>87 to 04</u><br>% CHANGE |  |
|--|----------------|----------------|----------------|----------------|----------------|-----------------|-----------------|----------------|----------------|----------------|-----------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|-----------------------------|--|
| <b>CIVIL CASES</b>                                 |                |                |                |                |                |                 |                 |                |                |                |                             |                |                |                |                |                |                |                |                |                             |  |
| Regular Actions                                    | 26,385         | 25,237         | 24,041         | 25,733         | 23,751         | 23,735          | 22,347          | 23,287         | 21,831         | 20,539         | (22.2)                      | 21,192         | 21,427         | 22,554         | 22,199         | 21,167         | 23,522         | 24,265         | 25,684         | (2.7)                       |  |
| Domestic Relations                                 | 23,497         | 25,351         | 26,404         | 29,486         | 30,210         | 30,717          | 33,124          | 36,469         | 38,099         | 38,588         | 64.2                        | 38,105         | 39,321         | 38,002         | 34,989         | 33,188         | 35,114         | 37,785         | 37,222         | 58.4                        |  |
| Limited Actions                                    | 54,526         | 57,070         | 62,051         | 68,525         | 77,480         | 84,514          | 80,404          | 90,044         | 99,030         | 104,752        | 92.1                        | 115,764        | 121,463        | 124,820        | 125,995        | 120,391        | 149,553        | 155,080        | 152,878        | 180.4                       |  |
| <b>TOTAL, CIVIL</b>                                | <b>104,408</b> | <b>107,658</b> | <b>112,496</b> | <b>123,744</b> | <b>131,441</b> | <b>138,966</b>  | <b>135,875</b>  | <b>149,800</b> | <b>158,960</b> | <b>163,879</b> | <b>57.0</b>                 | <b>175,061</b> | <b>182,211</b> | <b>185,376</b> | <b>183,183</b> | <b>174,746</b> | <b>208,189</b> | <b>217,130</b> | <b>215,784</b> | <b>106.7</b>                |  |
| <b>CRIMINAL CASES</b>                              |                |                |                |                |                |                 |                 |                |                |                |                             |                |                |                |                |                |                |                |                |                             |  |
| Felonies   | 11,500         | 12,188         | 12,631         | 12,197         | 11,436         | 13,412          | 13,229          | 14,423         | 15,267         | 17,150         | 49.1                        | 17,832         | 17,653         | 19,007         | 17,234         | 16,876         | 17,437         | 18,527         | 19,308         | 67.9                        |  |
| Misdemeanors                                       | 13,369         | 13,234         | 14,171         | 15,362         | 16,919         | 16,986          | 16,386          | 17,762         | 18,850         | 18,523         | 38.6                        | 18,395         | 18,553         | 19,977         | 21,259         | 20,947         | 19,854         | 18,914         | 19,386         | 45.0                        |  |
| <b>TOTAL, CRIMINAL</b>                             | <b>24,869</b>  | <b>25,422</b>  | <b>26,802</b>  | <b>27,559</b>  | <b>28,355</b>  | <b>30,398</b>   | <b>29,615</b>   | <b>32,185</b>  | <b>34,117</b>  | <b>35,673</b>  | <b>43.4</b>                 | <b>36,227</b>  | <b>36,206</b>  | <b>38,984</b>  | <b>38,493</b>  | <b>37,820</b>  | <b>37,291</b>  | <b>37,441</b>  | <b>38,694</b>  | <b>55.6</b>                 |  |
| <b>TOTAL CIVIL AND<br/>CRIMINAL CASES</b>          | <b>129,277</b> | <b>133,080</b> | <b>139,298</b> | <b>151,303</b> | <b>159,796</b> | <b>169,364</b>  | <b>165,490</b>  | <b>181,985</b> | <b>193,077</b> | <b>199,552</b> | <b>54.4</b>                 | <b>211,288</b> | <b>218,417</b> | <b>224,360</b> | <b>221,676</b> | <b>212,566</b> | <b>245,480</b> | <b>254,571</b> | <b>254,478</b> | <b>96.8</b>                 |  |
| <b>LESSER<br/>JURISDICTION<br/>Without Traffic</b> | <b>54,143</b>  | <b>54,632</b>  | <b>54,807</b>  | <b>56,808</b>  | <b>56,647</b>  | <b>57,224</b>   | <b>53,186</b>   | <b>54,285</b>  | <b>56,317</b>  | <b>56,539</b>  | <b>4.4</b>                  | <b>57,361</b>  | <b>58,470</b>  | <b>59,252</b>  | <b>56,945</b>  | <b>54,707</b>  | <b>51,580</b>  | <b>48,601</b>  | <b>47,588</b>  | <b>(12.1)</b>               |  |
| <b>GRAND TOTAL<br/>WITHOUT<br/>TRAFFIC</b>         | <b>183,420</b> | <b>187,712</b> | <b>194,105</b> | <b>208,111</b> | <b>216,443</b> | <b>226,588</b>  | <b>218,676</b>  | <b>236,270</b> | <b>249,394</b> | <b>256,091</b> | <b>39.6</b>                 | <b>268,649</b> | <b>276,887</b> | <b>283,612</b> | <b>278,621</b> | <b>267,273</b> | <b>297,060</b> | <b>303,172</b> | <b>302,066</b> | <b>64.7</b>                 |  |
| <b>DISTRICT COURT<br/>JUDGES (FTE)</b>             | <b>216</b>     | <b>216</b>     | <b>217</b>     | <b>218</b>     | <b>218</b>     | <b>218</b>      | <b>218</b>      | <b>218</b>     | <b>221</b>     | <b>225</b>     | <b>4.2</b>                  | <b>225</b>     | <b>225</b>     | <b>228</b>     | <b>233</b>     | <b>234</b>     | <b>234</b>     | <b>234</b>     | <b>234</b>     | <b>8.3</b>                  |  |
| <b>DISTRICT<br/>NONJUDICIAL FTE</b>                | <b>1,301</b>   | <b>1,341</b>   | <b>1,395</b>   | <b>1,402</b>   | <b>1,404</b>   | <b>1,349.50</b> | <b>1,348.50</b> | <b>1,367</b>   | <b>1,380</b>   | <b>1,387</b>   | <b>6.6</b>                  | <b>1,389</b>   | <b>1,404</b>   | <b>1,419</b>   | <b>1,434</b>   | <b>1,433</b>   | <b>1,433</b>   | <b>1,433</b>   | <b>1,433</b>   | <b>10.1</b>                 |  |

"87 to 96" column reflects the statistics used in the 1997 Legislative Post Audit report, "Reviewing the Kansas Court System's Allocation of Staff Resources to the District Courts."

Meryl  
Judge Meryl Wilson

# PARENT SUPPORT PROGRAM



## TWENTY-FIRST JUDICIAL DISTRICT

### STATE OF KANSAS

Pilot Project Version 1.0  
March 23, 2004

**Office of Judicial Administration  
Kansas Judicial Center  
301 SW 10th Avenue  
Topeka, Kansas**

House Judiciary  
1-12-05  
Attachment 2

## Children in Need of Care:

### *Information for Parents and Designated Parent Supporters*

#### What is a Child in Need of Care Case?

Normally, parents raise their children at home without involvement from state agencies or the court. Sometimes, however, things happen that lead to the filing of a case with the court that claims that a child, or children, are in need of care. Most often the County Attorney files these cases, based on information that comes to him from one or more sources, including law enforcement, schools, social service agencies, health care providers, or individuals.

A petition identifies the person who is filing it with the court, the child involved, the parents, and the information that supports the belief that the child is in need of care. The petition asks that the court hear evidence from the parties and decide that the child is in need of care. If the court eventually agrees, the court will take control of the children and make decisions about the child's care, including whether, and when, the child may return home. **What Happens in a Child in Need of Care Case?**

- *Protective Custody*

In many cases, either law enforcement officers or social services personnel may remove children from the home before the court holds a hearing. This is permitted if a judge reviews the petition that was filed, along with the reasons for removing the children. The judge has to find probable cause to believe that the child is likely to be harmed in some way if not put in protective custody. If the child is taken into custody, all of the parties will be summoned to court for a **temporary custody hearing**.

- *Temporary Custody*

A temporary custody hearing will be held within 72 hours (excluding weekends and holidays) after the time the child is placed into custody. The court can order temporary custody out of the home for the child, or can return the child to the home while the case is pending. Attorneys will be present to represent the parents, and the best interests of the child. The attorney for the child's interest is called a guardian ad litem, meaning a guardian appointed for this court case. If the child is placed outside the home of the parents, the parents will be required to provide financial support for the child. They will

submit financial information through their attorney, which will be considered by the court in setting the amount that they must pay. The parties will next come to court for a **pretrial hearing**.

- ***Pretrial hearing***

The purpose of a pretrial hearing is to see what the parties agree about and what is disputed. If the parties agree that the child is a child in need of care, they will tell the court and judge will ask them questions to make sure they understand their right to have a hearing on that question. If the parties do not want to formally agree that the child is in need of care, but agree that some goals should be set and, if it would be helpful, some services should be arranged to help meet the goals, the parties may propose to the judge that the case be handled by **informal supervision**. If the parties do not agree the child is in need of care, and do not agree to handle the case through informal supervision, the court will set a date for the **adjudication hearing**.

- ***Informal supervision***

Informal supervision means that the case remains on the court docket, but does not have regular hearings and there is no decision by the court that the child is in need of care. In other words, the parties work together to propose a way to deal with the problems that led to the case without having the court's full participation and review. If the parties propose informal supervision, and the court agrees, an order will be prepared that sets the goals, services and responsibilities. The period of informal supervision can last up to 6 months. After 6 months, the court must approve extending the informal supervision for 6 more months, or order the case to go back into the formal process, or order the case to be dismissed. After two 6 month periods of informal supervision, the case must either end and be dismissed from the court's docket, or it must go into formal proceedings, with the scheduling of an adjudication hearing.

- ***Adjudication Hearing***

The adjudication hearing is the hearing at which evidence is presented for and against the petition to find the child to be in need of care. The court will hear the evidence and argument from the attorneys on behalf of their clients. It is rare that the court will speak with the child. Because of the obvious emotions that would be felt by a child, and the harmful effects, it is even rarer that a child would be called upon to testify in court. In certain, limited circumstances, where abuse or neglect is alleged, testimony from young children may be presented by video link using a strictly controlled method. In general, the court will not allow a child to be present in the courtroom during hearings. In that way, all parties are free to express their positions and present evidence without fear of adverse effect on the child. At the end of the hearing, the judge will decide whether the

petitioner has shown the child to be a child in need of care. If so, the case will continue by setting a date for a **disposition hearing**. If not, the case is over.

- ***Disposition hearing***

The disposition hearing normally is set within 30 days after the adjudication hearing, although that may vary if there is a good reason. At that hearing, the court will hear from witnesses, if any, review reports, and hear recommendations from the parties on what course of action should be followed for the benefit of the child. Notice of the hearing must be given to the parties, as well as to the grandparents of the child. After considering all the evidence and recommendations from the parties, the court will order placement of the child at home with parents, or outside the home, with SRS or with relatives or others who may be recommended to the court. If the court finds that return of the child to the parents remains a possibility, the court will order preparation of a permanency plan. A reintegration plan outlines the specific steps needed to move toward the time when the child could appropriately be returned home. The court will then set a date for the next hearing, which will normally be a **review hearing**.

- ***Review hearings***

A review hearing is held for the court and parties to follow up on the progress in the case. Although the date for the next review hearing is usually set at the end of the most recent hearing, the judge may order a review hearing sooner, or delay the hearing, at the request of one of the parties, or on his own. As one would expect, a review hearing is held to review the status of a case, and what progress has, or has not, been made. The judge and the lawyers will usually have the benefit of some written reports, and the judge will hear the reports and recommendations from the lawyers, who may also want to present witnesses. After considering all that evidence, the court may, or may not, make changes to the previous orders. The court will order a **permanency hearing** when a child has been out of the parents' home for a year.

- ***Permanency hearing***

A permanency hearing is different from a review hearing in that the judge is required to make some specific decisions concerning the progress of the case toward its goal, whether that is reintegration of the child with the parents, or some other goal. If reintegrating the child with the parents was the goal for the case, and because of the lack of adequate progress the judge decides that goal is no longer a workable option, he will consider whether the parents have had services made available to them that would have reasonably helped them to move toward having the child returned to their home. If so, and if the judge finds that either adoption or permanent guardianship might be in the child's best

interest, the county attorney is required to file a motion, within 30 days, to **terminate parental rights** or establish a **permanent guardianship** for the child outside the home. When that motion is filed, the court will set it for hearing within 90 days. If the judge finds that reintegrating the child with one or both of the parents should still be considered as the goal, he can change the previous orders or leave them the same, and will set another hearing date for another review of progress.

- *Termination or Permanent Guardianship hearing*

In some cases, after a variety of services, counseling and other assistance have been offered and tried, the judge may decide that it is not only in the child's best interest to be out of the home temporarily, but permanently. That decision is one of the most serious and important that a judge is called upon to make. Because of that, it is only made after one of the parties files a motion asking either that the right of the parents be terminated, or that the child be placed with another party, who will be named the permanent guardian for the child, with all the rights and responsibilities of a parent. All of the parties to the case will have notice of the hearing on that motion, and will have the opportunity to present evidence and state their positions at the hearing. All parties are best served if they work closely with their attorneys to become well-informed about all relevant facts and legal issues. Parents have a right to a hearing on a motion to terminate their parental rights, and have a right to have their attorney represent their interests at that hearing. Sometimes, however, parents choose to relinquish, or give up, their parental rights so the child may be moved toward a permanent placement in another home. In other cases, parents may agree on another person, or another couple, who they propose as permanent guardians for the child. Permanent guardians must be approved by the court. If the court terminates parental rights, the court will hold later hearings on placement of the child for adoption or permanent guardianship. If the court grants a motion for permanent guardianship, the court must review a report on the proposed permanent guardian and, after hearing recommendations, must approve the particular guardian or guardians. If the court denies the motion to terminate parental rights or to appoint a permanent guardian, a new permanency plan will be prepared and the court will continue to supervise the case.

### **Supporting Agencies**

In many cases, three agencies or organizations play important roles. They are usually referred to by their initials: SRS, KCSL, and CASA. These are the Kansas Department of Social and Rehabilitation Services (SRS), the Kansas Children's Service League (KCSL), and Court Appointed Special Advocates (CASA).

- **SRS**

When children are removed from their parents' home, they may be placed with a relative or some other appropriate person with whom the child has a good relationship. In most cases, however, when a child is removed from his or her home, the child is placed in the custody of the Kansas state agency responsible for caring for children, SRS. When a child goes into custody with SRS, many health care, counseling and other services are made available, as well as placement in a foster home, or group home. The foster homes, group homes, and services are provided through a contract that SRS has with KCSL. When a child is placed outside the home, parents have an obligation to provide financial support in an amount set by the court. The court requires attorneys for the parents to ask for financial information the judge will need to decide on the required amount.

- **KCSL**

KCSL is a social services organization that has entered into a contract with SRS to provide services related to the care of children placed by the court into SRS custody. Social workers from KCSL are in direct contact with the children and their families as they supervise care of the children and work with the family toward the possibility of the return of the child to the parental home. Social workers from KCSL report to SRS and the court and make recommendations for the benefit of the children.

- **CASA**

Court appointed special advocates, or CASAs, are volunteers trained to gather information and make recommendations for the benefit of the children. Although the child has an attorney, the guardian *ad litem*, appointed to represent the child's best interest in court, a CASA usually has no more than two or three cases, and can devote more time and individual attention to the child's needs than the guardian *ad litem*. To do their job effectively, CASAs are authorized to talk to the parties and attorneys, and to other information sources such as health care providers and schools, and meet often with the children who they are working to help. They often work closely with SRS and KCSL in helping determine a child's and family's needs, and assist in a variety of other ways to benefit the children.

**To the Parents:**

The 2003 Kansas Legislature established a pilot project to allow parents in child in need of care proceedings to designate up to two people to be in court with them during hearings in the case involving their children. The 21<sup>st</sup> Judicial District, in Riley and Clay Counties, is one of two areas selected for that pilot



project. The new law requires that these parent supporters be provided with information on the child in need of care process. While that law does not require that parents get the same information, the court feels it is important that they also have the opportunity to learn about the process in which they and their children are involved.

It is important that you cooperate fully with your attorney and respond to your attorney's requests for information or meetings. Experience has shown that these cases are most likely to reach a satisfactory conclusion for the children when all the parties and the supporting agencies work together to resolve the problems that brought the case to the court. If you have problems completing any court orders, those problems should be discussed with your attorney as soon as they are known.

### **To Designated Parent Supporters:**

If you are to be helpful in your role as a parent supporter, you should also be knowledgeable about how these cases come to the court, what happens when they do, and what can move the case to a conclusion that is beneficial to the children involved.

### **The Role of a Parent Supporter**

#### *You may:*

- be present in the gallery in court during hearings. Child in need of care cases involve emotional issues concerning children and their families. You should attempt to assist the parent who has designated you by carefully paying attention to what is said, and what is not said, in court or in other meetings in the case. The parent may benefit from the "second set of ears" to clarify or fill gaps in the parent's recollection.
- be informed about how child in need of care cases are conducted, about the purposes of the hearings, and the roles of the various parties.

#### *You may not:*

- sit at counsel table in front of the bar
- "represent" the parent who designated you; the parent has an attorney
- present your opinion to the court

***You need to:***

- observe appropriate courtroom decorum
- maintain the confidentiality of the proceedings

**To Parents and Designated Supporters:**

**Communications**

Communication between a party and his or her attorney that relates to the attorney's representation is confidential. A client may lose that protection if he or she reveals that information to some other person.

You should also know that the judge is not permitted to speak to you about the case, or to hear from you, other than in court, with the other parties present. If you have something you feel the judge needs to know, you should make that known to your attorney. If you telephone the judge, or go to his office to ask to see him, he is not allowed to speak with you. If you write to the judge, he is required to provide a copy of that to the attorneys for the other parties to the case. This protects all parties by making sure that no person is allowed to privately "lobby" the judge with one point of view, placing other points of view at a disadvantage.

**Confidentiality**

Finally, the important subject of confidentiality needs to be mentioned. Child in need of care cases are confidential, meaning they are private and may not be disclosed or made public. This includes not only the details of what happens in court, but the fact that the case exists and the identity of the parents and children involved.

All those involved in a case, including parents and parent supporters, must understand the role of confidentiality, and obey this requirement. All hearings are closed to the public. The court file is not available to the public. Only the judge and the attorneys may see the file, unless there is a specific court order. The case is kept confidential to protect the interest of the child and the family. This lets them work through very difficult and sensitive problems without those problems being known by neighbors, co-workers, students in school with the children, or other members of the public. If, at any time during your case, you have a question about what may be disclosed to whom, you need to ask your attorney or make the question known to the court.

# 21<sup>st</sup> Judicial District Child in Need of Care Case



## *Parent Supporter Acceptance and Acknowledgement*

I, \_\_\_\_\_, having been designated by \_\_\_\_\_ as a parent supporter in case involving \_\_\_\_\_ (child or children), accept that designation, as outlined in K.S.A. 38-1552.

- I have read and understand the material contained in “*Information for Parents and Designated Parent Supporters.*”
- I understand that if I have any questions about the information in that pamphlet, I should ask them now.
- I understand that if I need help reading that pamphlet, I may ask, and assistance will be provided.
- I understand that I will be bound by the confidentiality that applies to the case and must comply with the Court’s rules for behavior. If I do not do so, the Court may revoke this designation.

Signed:

Date:

\_\_\_\_\_

\_\_\_\_\_

Printed name:

\_\_\_\_\_



**21<sup>st</sup> Judicial District  
Child in Need of Care Case**

*Information for Parents and  
Parent Supporter Designation*

**Information**

Your child or children are the subject of a petition for the court to find that they are “in need of care.” We understand this is a difficult time, and want you to understand what is involved in this process, so that you may make well-informed decisions. For that purpose, we are providing you with an information pamphlet to help get you oriented.

Please sign to show you have received this information:

\_\_\_\_\_ (signature)

\_\_\_\_\_ (name printed)

**Parent Supporter Designation**

The 2003 Kansas Legislature established a pilot project to allow parents in child in need of care proceedings to designate up to two people to be in court with them during hearings in the case involving their children, as outlined in K.S.A. 38-1552. The 21<sup>st</sup> Judicial District, in Riley and Clay Counties, is one of two areas selected for that pilot project. A parent supporter is just that, a person you may choose to be present in the courtroom during hearings. The role of a parent supporter is explained on page 6 of the information pamphlet you have been given. Parents and grandparents are entitled to be present during child in need of care hearings, so you do not need to designate them for them to be allowed into the courtroom.

If you want to designate a parent supporter, or supporters, at this time, please provide the information on the attached form. If you choose not to designate a parent supporter at this time, you may do so later.

**I do/do not (circle one) want to designate a parent supporter at this time.**

\_\_\_\_\_ (signature)

\_\_\_\_\_ (name printed)



**21st Judicial District  
Child in Need of Care Case**

*Parent Supporter Designation*

I, \_\_\_\_\_, designate the person named below to be a parent supporter in the case involving my child or children:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

I understand that the person I have designated will not be permitted to be present as a parent supporter until he or she receives a copy of the "Information for Parents and Designated Parent Supporters" prepared by the 21<sup>st</sup> Judicial District, and acknowledges by signature that he or she has read and understood that information and agrees to abide by the requirements for parent supporters. Parent Supporters are allowed as outlined in K.S.A. 38-1552.

Signed:

\_\_\_\_\_