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**IN THE DISTRICT COURT OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, KANSAS**

IN THE INTEREST OF

Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_

**Year of Birth** **\_\_\_\_\_\_\_\_\_\_\_\_ A minor child**

# **ORDER APPOINTING SOUL FAMILY LEGAL PERMANENCY**

Pursuant to K.S.A. 38-2272a

 On this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_, the Court enters an order appointing SOUL family legal permanency.

THE COURT FINDS:

1. The child, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, is 16 years of age or older and agrees to the appointment of SOUL family legal permanency.
2. ☐ The following parents have consented and agreed to the appointment of SOUL family legal permanency: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**OR**

☐ Parental consent is not required because the parents were found unfit on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**OR**

☐ Parental consent is not required because the parental rights of the parents were terminated on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. The court has reviewed and considered the report submitted by the Secretary that contains all information required by K.S.A. 38-2272a(c), and information provided by the Secretary related to benefits, including but not limited to, financial support, medical coverage and educational support.
2. The court has considered, to the extent it is in the child's best interest, appointing a relative or person with whom the child has close emotional ties.
3. The Court finds it is in the best interest of the child to appoint SOUL family legal permanency.
4. The court finds that the child has access to the maximum allowable benefits available under other permanency options pursuant to K.S.A. 38-2264.
5. The Court further finds:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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IT IS THEREFORE ORDERED:

1. The following individuals are the SOUL family legal permanency custodians of the child named above and have executed a sworn affidavit to confirm their willingness to serve in such capacity:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

All SOUL family legal permanency custodians shall stand in loco parentis to the child, except they shall not consent to the adoption of the child or be subject to court-ordered child support or medical support for the child. Their appointment shall also be subject to any limitations set out in paragraph 2 below.

1. The SOUL family legal permanency is subject to the following limitations or conditions on the rights and responsibilities of the SOUL family legal permanency as determined by the court to be in the best interest of the child:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. If there is more than one SOUL family legal permanency custodian, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_is designated as the primary custodian. The child has approved the appointment of this person as primary custodian and the person has agreed to serve in such capacity.

If a dispute arises between the child and the SOUL family legal permanency custodian or between custodians, the primary custodian shall consider information provided by the child and other SOUL family legal permanency custodians for possible resolution of a dispute. If a dispute remains unresolved prior to the child reaching 18 years of age, or June 1 of the school year during which the child became 18 years of age if the child is still attending high school, subsequent to the filing of a motion by the child or SOUL family legal permanency custodian, the court may consider such motion and may order alternative dispute resolution. If the court has previously terminated jurisdiction pursuant to K.S.A. 38-2203, and amendments thereto, or this section, the court may reinstate the child’s case to consider such motion.

1. The Court recognizes the following other individual(s) who have testified to the court, with request and approval by the child, that the individual(s) will provide support as requested by and agreed upon with the child and the SOUL family legal permanency custodian(s):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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These other individuals shall have no legal obligations or rights related to the child pursuant to the court's recognition.

1. The Secretary’s custody of the child shall cease.
2. ☐ The appointment of the Court Appointed Special Advocate (CASA) is hereby rescinded.
3. ☐ The Court shall retain jurisdiction and a permanency/review hearing shall be held on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**OR**

☐ The Court’s jurisdiction is terminated by separate order. (Form 175)

THE COURT FURTHER ORDERS:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 IT IS SO ORDERED.

Authority

K.S.A. 38-2272a

Notes on Use

 “SOUL” stands for Support, Opportunity, Unity, and Legal Relationships. To appoint a SOUL family legal permanency custodian, the child must be 16 years of age or older, the child must agree and approve of the appointment of the SOUL family legal permanency custodian, the child’s parents must agree and consent to the appointment unless there has been a finding of unfitness or a termination of parental rights, and the court must approve of the appointment. The court may appoint a SOUL family legal permanency custodian after making a finding of unfitness, whether or not the parental rights are terminated. A SOUL family legal permanency custodian may also be appointed with the written consent of the parents. If a parent consents to the appointment of a SOUL family legal permanency custodian based on a belief that the child’s other parent would so consent or be found unfit, and such other parent does not consent, the consent shall be null and void.

Before ordering SOUL family legal permanency, the secretary shall:

1. Observe the child in the home of the potential SOUL family legal permanency custodian with whom the child will reside and determine the ability and suitability of the potential custodian to care for the child;

(2) determine whether the names of any potential SOUL family legal permanency custodians appear on the Kansas department for children and families child abuse and neglect registry and whether any potential custodians have been convicted of crimes specified in K.S.A. 59-2132(e), and amendments thereto;

(3) consider, to the extent the secretary determines the appointment to be in the best interests of the child, appointing a relative or an individual with whom the child has close emotional ties; and

(4) submit a report to the court containing determinations required by this subsection.

K.S.A. 38-2272a(c)

 Before ordering SOUL family legal permanency, the court must review and consider the report submitted by the secretary pursuant to K.S.A. 38-2272a(c), and information provided by the secretary related to benefits, including but not limited to, financial support, medical coverage and educational support. The court shall ensure the child has access to the maximum allowable benefits variable under other permanency options pursuant to K.S.A. 38-2264.

 When appointing a SOUL family legal permanency custodian, to the extent the court finds it is in the child’s best interest, the court shall consider appointing a relative or an individual with whom the child as close emotional ties. A SOUL family legal permanency custodian is not required to be related to the child. The court may appoint more than one individual as a SOUL family legal permanency custodian. If there are multiple SOUL family legal permanency custodians, it is not required that the custodians are married or related to each other or related to the child. If there are multiple SOUL family legal permanency custodians, the court, with the approval of the child, must designate one custodian as the primary custodian. If SOUL family legal permanency custodians are married to each other and, after the appointment, are divorced, the marriage is annulled, or the court orders separate maintenance, the court shall make custody determinations between the SOUL family legal permanency custodian.

 All SOUL family legal permanency custodians must execute sworn documents related to the appointment confirming the custodian’s willingness to serve as a SOUL family legal permanency custodian (Form 190) and be appointed by an order of the court. The documents shall be filed with the court.

 A SOUL family legal permanency custodian shall stand in loco parentis to the child and exercise all of the rights and responsibilities of a parent, except that such custodian shall not (1) consent to an adoption of the child; or (2) be subject to court-ordered child support or medical support for the child. In addition, if a SOUL family legal permanency custodian is appointed after a judicial finding of unfitness without a termination of parental rights the custodian does not have the right to inherit from the child. The court may impose limitations or conditions on the rights and responsibilities of the SOUL family legal permanency custodian as determined by the court to be in the best interest of the child.

 Absent a judicial finding of unfitness of a parent or court-ordered limitations on the SOUL family legal permanency, a SOUL family legal permanency custodian may share parental responsibilities with a parent of the child is the custodian determines sharing of parental responsibilities is in the best interest of the child. Sharing parental responsibilities does not relieve the SOUL family legal permanency custodian of legal responsibility.

 The court’s jurisdiction over the child will continue unless the court enters and order terminating jurisdiction pursuant to K.S.A. 38-2203. The court must use Form 175 to terminate jurisdiction. SOUL family legal permanency is not yet recognized by federal law, permanency hearings continue to be required at least every 12 months. When a SOUL family legal permanency custodian is appointed, the secretary’s custody of the child shall cease.

 A SOUL family legal permanency custodian shall consider whether the custodian will provide any rights of inheritance to the child and medical power of attorney for the child for whom they were appointed a SOUL family legal permanency custodian and separately execute such agreements.