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IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE MATTER OF

Name _____, Juvenile Case No. _____
DOB xx /xx / ____ A male female

PRESUMPTIVE
MOTION REQUESTING DESIGNATION AS
EXTENDED JURISDICTION JUVENILE PROSECUTION

Pursuant to K.S.A. 38-2347

Comes now the State of Kansas through the District/County Attorney or designee and moves the Court for an order designating the proceedings herein as an extended juvenile jurisdiction prosecution. The following is offered in support of the motion:

The age of the juvenile at the time of the offense was at least 14 years of age and the offense alleged in the complaint, if committed by an adult, would constitute an off-grid crime, a person felony, a nondrug severity level 1 through 6 felony or drug severity level 1, 2, or 3 felony and the burden is on the juvenile to rebut the designation of an extended jurisdiction juvenile prosecution.

or

The age of the juvenile at the time of the offense was at least 14 years of age and the offense alleged in the complaint was committed while the juvenile was in possession of a firearm and the burden is on the juvenile to rebut the designation of an extended jurisdiction juvenile prosecution.

or

The juvenile is charged in the present action with an offense which would constitute a felony if committed by an adult and was adjudicated in a separate juvenile proceeding, in _____ (*court name and case number*) _____ and found therein to have committed an offense which would constitute a felony if committed by an adult, which adjudication occurred on _____, which is prior to the date of the commission of the felony charged in the present action, and the burden is on the juvenile to rebut the designation of an extended jurisdiction juvenile prosecution.

or

The offense charged in the complaint, the characteristics of the juvenile and the circumstances of the alleged offense which justify designation as an extended jurisdiction juvenile prosecution are: (*Enumerate bases for request.*)

The State will present evidence of the offense(s) alleged in the complaint and hereby requests the court make such findings as required in a preliminary examination, pursuant to K.S.A. 22-2902, and bind the juvenile over for trial.

Wherefore the State requests the Court set the matter for hearing and thereafter designate the proceedings as an extended jurisdiction juvenile prosecution and make the findings required in a preliminary examination and bind the juvenile over for trial.

County/District Attorney or designee

Authority

K.S.A. 38-2347.

Notes on Use

K.S.A. 38-2347(a)(3) provides that the prosecutor may file a motion requesting that the court designate the proceedings as an extended jurisdiction juvenile prosecution. The motion may be made at any time after the commencement of proceedings, but prior to the beginning of the trial. The statute provides a presumption in specific circumstances, set out in the second through fourth paragraphs in the form. The presumption places the burden on the juvenile to rebut the presumption, by a preponderance of the evidence. K.S.A. 38-2347(a)(4). If the juvenile fails to rebut the presumption alleged during the hearing, or the court finds after the hearing by a preponderance of the evidence that the proceedings should be designated as an extended jurisdiction juvenile prosecution, then the court may make that designation. K.S.A. 38-2347(f)(2). Once the case is designated as an extended jurisdiction juvenile prosecution all of the rights of a defendant pursuant to the Kansas code of criminal procedure and the Constitution attach. The court shall adopt local rules to establish the basic procedures for extended jurisdiction juvenile prosecution in its jurisdiction. K.S.A. 38-2347(f)(4).

Comments

The failure of the district court to adopt local rules for extended juvenile proceedings is not reversible error absent a showing of prejudice by the absence of such rules. *In re S.M.D.*, 26 Kan.App.2d 165, 980 P.2d 1028 (1999).