

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

IN THE MATTER OF

Name \_\_\_\_\_, Juvenile Case No. \_\_\_\_\_
DOB xx /xx / \_\_\_ A [ ] male [ ] female

[ ] PRESUMPTIVE
JOURNAL ENTRY OF HEARING ON MOTION TO DESIGNATE PROCEEDINGS AS
EXTENDED JURISDICTION JUVENILE PROSECUTION

Pursuant to K.S.A. 38-2347

Now, on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the Court considers the Motion
Requesting Designation as Extended Jurisdiction Juvenile Prosecution, Judge \_\_\_\_\_
presiding.

The Court finds jurisdiction and venue are proper. Notice to parties and those required to
receive notice has been given as required by law.

- [ ] The State appears by \_\_\_\_\_ County/District Attorney or
designee.
[ ] The juvenile appears [ ] in person and [ ] not in person, but by the juvenile's attorney,
\_\_\_\_\_
[ ] The mother [ ] is present [ ] is not present.
[ ] The father [ ] is present [ ] is not present.
[ ] The CSO is present through \_\_\_\_\_
[ ] The Commissioner is present through \_\_\_\_\_
[ ] Also present is/are: \_\_\_\_\_

The Court informs the juvenile of the nature of the charge(s) in the complaint, the right to
be presumed innocent of each charge, the right to trial without unnecessary delay, the right to
confront and cross-examine witnesses appearing in support of the allegations of the complaint, the
right to subpoena witnesses, the right to testify or to decline to testify, and the sentencing
alternatives the Court may select should the motion be granted.

The Court, having reviewed the file, received the evidence, heard statements of counsel, and
made the considerations required by K.S.A. 38-2347(e), makes the following findings, and enters
the following orders:

- [ ] 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. The juvenile has failed to rebut the presumptive designation as an extended jurisdiction juvenile prosecution. The proceedings shall be designated as 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. The juvenile has failed to rebut the presumptive designation as an extended jurisdiction juvenile prosecution. The proceedings shall be designated as 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 prior to the date of the commission of the felony charged herein. The juvenile has failed to rebut the presumptive designation as an extended jurisdiction juvenile prosecution. The proceedings shall be designated as an extended jurisdiction juvenile prosecution.

or

There is a preponderance of evidence that the proceedings shall be designated as an extended jurisdiction juvenile prosecution.

or

The evidence is insufficient to designate the proceedings as an extended jurisdiction juvenile prosecution. The motion is denied.

The Court further finds from the evidence that it appears a felony has been committed and there is probable cause to believe the felony has been committed by the juvenile, such findings were requested by the prosecution. There is no necessity for further preliminary examination as provided for in K.S.A. 22-2902, and the juvenile is bound over to the court having jurisdiction to try the case.

IT IS SO ORDERED.

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Judge of the District Court

## Authority

K.S.A. 38-2347.

## Notes on Use

K.S.A. 38-2347( c)(1) provides that the court hear the motion to designate proceedings as an extended jurisdiction juvenile prosecution prior to any further proceedings on the complaint. At the hearing the court shall inform the juvenile of rights, listed in the first full paragraph of the form. K.S.A. 38-2347( c)(2). If a juvenile who has been served and given notice of the hearing fails to appear, the motion may be heard and determined in the absence of the juvenile. If the juvenile has not been served and given notice of the hearing, then the court may hear and determine the motion in the absence of the juvenile if notice of the hearing has been published in the official county newspaper of the county where the hearing will be held at least once a week for two consecutive weeks. K.S.A. 38-2347(d).

K.S.A. 38-2347(e) lists 8 factors that the court must consider in determining whether or not the proceedings should be designated as an extended jurisdiction juvenile prosecution. Subject to K.S.A. 38-2354, reports and information relating to the juvenile's mental and physical status, educational and social history may be considered. K.S.A. 38-2347(e)(8), last paragraph. The motion may be granted if the juvenile has failed to rebut the presumption alleged or upon a finding by a preponderance of the evidence that the proceedings should be designated as an extended jurisdiction juvenile prosecution. 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).

The prosecutor may choose to present evidence that would be presented at a preliminary examination. K.S.A. 38-2347(b). If the court designates the proceedings as an extended jurisdiction juvenile prosecution, and if the juvenile is present during the hearing, and if the court finds that it appears a felony has been committed and there is probable cause to believe the felony has been committed by the juvenile, then the court may find that there is no necessity for further preliminary examination as provided for in K.S.A. 22-2902, and the juvenile shall be bound over for trial. K.S.A. 38-2347(g).

If a proceeding has been designated an extended jurisdiction juvenile prosecution, and if the prosecution results in a guilty plea or finding of guilt then the court shall enter a juvenile sentence (Form 350), pursuant to K.S.A. 38-2361, and an adult criminal sentence (Form 351). K.S.A. 38-2364.

## 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. The court is not required to consider the factors if the respondent stipulates that the presumption applies and the

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respondent cannot overcome the presumption. *In re S.M.D.*, 26 Kan.App.2d 165, 980 P.2d 1028 (1999).