

325

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

IN THE MATTER OF

Name \_\_\_\_\_, Juvenile Case No. \_\_\_\_\_
Year of Birth \_\_\_\_\_ A [ ] male [ ] female

JOURNAL ENTRY OF COMPETENCY HEARING

Pursuant to K.S.A. 38-2348, 38-2349 and 38-2350

Now, on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the Court considers the Motion to Determine Competency, Judge \_\_\_\_\_ presiding.

- [ ] The State appears by \_\_\_\_\_ County/District Attorney or designee.
[ ] The juvenile appears [ ] in person and [ ] not in person, but by the juvenile's attorney,
[ ] Attending the proceedings relating to this motion would be injurious to the juvenile's health, and the presence of the juvenile is waived.
[ ] 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, having reviewed the file, received the evidence, and heard statements of counsel, makes the following findings, and enters the following orders:

[ ] The juvenile is competent, the suspension of proceedings should be lifted and prosecution reinstated.

or

[ ] The juvenile is [ ] unable to understand the nature and purpose of the proceedings
[ ] unable to make or assist in making a defense and is incompetent and shall be committed for evaluation and treatment to \_\_\_\_\_ for a period not to exceed 90 days.
(An Order Authorizing Removal, Form 312, must be filed if this is the first order removing the juvenile from the home.)

It is so ordered, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Judge of the District Court

## Authority

K.S.A. 38-2348; 38-2349 and 38-2350.

## Notes on Use

If the court finds the juvenile competent, then proceedings shall be resumed (Form 325). K.S.A. 38-2349 provides that if the court finds the juvenile incompetent, then the juvenile shall be committed for evaluation and treatment for up to 90 days (Form 325). At the end of that period the chief medical officer shall report to the court whether there is a substantial probability of the juvenile attaining competency. If the chief medical officer certifies that a probability of attaining competency does not exist, the court shall order the state to commence chapter 59 mental illness proceedings. If the chief medical officer certifies that there is a probability of attaining competency, then the juvenile shall remain for further treatment for up to 6 months (Form 326). If at the end of that treatment period competency appears to have been attained, then the court shall conduct a hearing to determine if competency has been attained, and lift the suspension of proceedings if that is so determined (Form 326). If at the end of that treatment period competency has not been attained, then the court shall order the state to file Chapter 59 mental illness proceedings on the juvenile (Form 326). K.S.A. 38-2350 provides that if the juvenile is competent, but determined not to be mentally ill subject to involuntary commitment, then the charges must be dismissed and the juvenile discharged within 5 days of receiving notice of the determination from the secretary of SRS, unless the court finds that the juvenile has attained competency (Form 327). A restatement of the statute as a flowchart which may assist in understanding the process is included in the Notes on Use accompanying Form 322.