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

IN THE MATTER OF

Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Juvenile Case No. \_\_\_\_\_\_\_\_\_\_\_\_\_

**Year of Birth** **\_\_\_\_\_\_\_\_\_\_\_\_ A □ male □ female**

**JOURNAL ENTRY OF HEARING**

**REGARDING COMPETENCY UPON DCF REPORT**

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

 Now, on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_, the Court considers the report from the Secretary of DCF, 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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**□** Also present is/are:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 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 named above was previously determined to be incompetent and proceedings pursuant to K.S.A. 59-2901 *et seq.*, were initiated, case number \_\_\_\_\_\_\_\_\_\_\_\_\_\_. The Secretary of DCF has notified the Court that the juvenile is not a mentally ill person. The juvenile is competent, the suspension of proceedings shall be lifted and prosecution resumed.

or

**□** The juvenile named above was previously determined to be incompetent and proceedings pursuant to K.S.A. 59-2901 *et seq*., were initiated, case number \_\_\_\_\_\_\_\_\_\_\_\_. The Secretary of DCF has notified the Court that the juvenile is not a mentally ill person subject to involuntary commitment. However, the juvenile remains incompetent and shall be discharged from commitment and the charges filed herein shall be dismissed without prejudice.

or

**□** The juvenile named above was previously determined to be incompetent and mentally ill, and was committed to a facility for treatment pursuant to K.S.A. 59-2901 *et seq.*, case number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The treatment facility has notified the Court that the juvenile is no longer a mentally ill person subject to involuntary commitment and that the juvenile is going to be released from the treatment facility. However, the juvenile remains incompetent and shall be discharged from commitment and the charges filed herein shall be dismissed without prejudice.

 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 chief medical officer certified that a probability of attaining competency does not exist, the court must order the state to commence chapter 59 mental illness proceedings. (Form 326). K.S.A. 38-2350 provides that if the incompetent juvenile is determined to not be mentally ill subject to involuntary commitment, then the Secretary of DCF or the treatment facility will report that determination to the court. The Secretary of DCF makes the report if the court in the chapter 59 proceedings determined the juvenile to not be mentally ill subject to involuntary commitment, and the juvenile was not committed to a treatment facility. The treatment facility makes the report if the court in the chapter 59 proceedings determined the juvenile to be mentally ill and committed the juvenile to a state psychiatric hospital for evaluation and treatment. Within 5 days of receiving the report that the juvenile is not mentally ill subject to involuntary commitment, the court shall dismiss the charges and discharge the juvenile, 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.