

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

IN THE MATTER OF

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

**MOTION ALLEGING VIOLATION OF PROBATION  
OR COURT-ORDERED PLACEMENT**

**AND REQUEST FOR SUMMONS OR WARRANT AND DETENTION**

Pursuant to K.S.A. 38-2368 and 38-2392

Comes now \_\_\_\_\_ (*Name and Title*) and alleges that the juvenile offender named above has

committed three or more technical violations of the conditions of probation or court-ordered placement, prior failed responses are documented in the juvenile’s case plan, and graduated responses to the violation will not suffice.

**OR**

violated a condition of probation or of a court-ordered placement other than a technical violation.

The movant requests that the Court issue

a summons of the juvenile named above.

**OR**

a warrant and order for the detention of the juvenile named above.

In support thereof movant informs the Court: (*The court cannot issue a warrant based on technical violations unless the juvenile poses a significant risk of physical harm to another or damage to property, and the basis for ASFA findings is provided.*)

Movant requests that the Court set the matter for hearing and issue a  **summons**  **warrant (Form 311)** and an Order Authorizing Removal (*Form 312*). (*An Order Authorizing Removal must be filed if this is the first order removing the juvenile from the home.*)

\_\_\_\_\_  
Movant  
Name [Supreme Court Number]  
Address  
Telephone Number  
[Fax Number]  
[E-mail Address]

## Authority

K.S.A. 38-2368 and 38-2392.

## Notes on Use

The statute provides that the state, the victim of the offense committed by the juvenile offender, the court services officer supervising the juvenile offender, or the current custodian and placement of the juvenile offender may file a report with the court alleging violation of probation or of a court-ordered placement, and describing the violation. K.S.A. 38-2368(a). A motion for hearing on the allegation may be made by the court, the secretary, or any party. K.S.A. 38-2368(a). A technical violation, as defined in K.S.A. 38-2302(bb), shall only be considered by the court for revocation of probation if “(1) it is a third or subsequent technical violation; (2) prior failed responses are documented in the juvenile’s case plan; and (3) the community supervision officer has determined and documented that graduated responses to the violation will not suffice.” K.S.A. 38-2392(b).

The court cannot issue a warrant based on technical violations removing a juvenile from the home without making the finding that the juvenile poses a significant risk of physical harm to another or damage to property per K.S.A. 38-2392, and the findings required by K.S.A. 38-2334. The motion must provide the basis for those findings.

The Committee recommends that although K.S.A. 38-2392(b) specifies that a community supervision officer may issue a summons, the best practice would be to request a summons from the court so as to ensure proper calendaring.

## Comments

A juvenile is subject to the jurisdiction of the court until completion of the community based program. *In re Habeas Corpus Petition of S.J.K.*, 32 Kan.App.2d 1067, 94 P.3d 734 (2004).