322

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

IN THE MATTER OF

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

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

**MOTION TO DETERMINE COMPETENCY**

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

 COMES NOW □ the State of Kansas □ counsel for the juvenile and moves the Court for a determination of the competency of the juvenile named above.

**□** Attending the proceedings relating to this motion would be injurious to the juvenile’s health, and the waiver of the presence of the juvenile is requested.

 Dated this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Movant

 Name

 Supreme Court Number

 Address

 Telephone Number

 [Fax Number]

 [E-mail Address]

Authority

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

Notes on Use

 K.S.A. 38-2348 provides that a motion to determine competency (Form 322) may be made by any party, or by the court. Upon the filing of the motion, proceedings shall be suspended (Form 323) and a hearing conducted (Form 325). Prior to hearing, the court may order an evaluation (Form 323). Below is a restatement of the statute as a flowchart which may assist in understanding the process.

**Revised Juvenile Offender Code**

**Competency Hearing Flow Chart**

**Step 1:** Motion filed by any party or court (Form 322)

**Step 2:** Court suspends proceedings and sets a hearing (Form 323)

**Step 3:** Hearing on competency motion (Form 325)

Court may order commitment for further examination 60 + 60 days (Form 324)

Court may order an examination (Form 323)

Court finds incompetent; commits for eval./treatment < 90 days (Form 325)

Court finds juvenile competent, proceedings resume (Form 325)

**Step 4:** CMO reports to court

CMO reports “probability” of attaining competency

DCF/treatment facility reports juvenile not mentally ill, court finds competent or dismisses charges (Form 327)

DCF/treatment facility reports juvenile mentally ill, suspension continues

Court orders ch 59 metal illness case (Form 326)

Competency not attained

Competency attained, proceedings resume (Form 326)

Court orders juvenile to remain for treatment < 6 mos. (Form 326)

CMO reports “no probability” of attaining competency