

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 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 Secretary of Corrections 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(d), makes the following findings, and enters the following orders:

- [] The juvenile is charged with an offense that if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony and 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.

IT IS SO ORDERED.

Judge of the District Court

Authority

K.S.A. 38-2347.

Notes on Use

K.S.A. 38-2347(b)(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(b)(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(c).

K.S.A. 38-2347(d) 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(d)(8), last paragraph. The motion may be granted 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(e)(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, the right to trial by jury, and the right to effective assistance of counsel 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(e)(4).

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