

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

\_\_\_\_\_, juvenile

Case No. \_\_\_\_\_

Year of Birth: \_\_\_\_\_ A  male  female

**SENTENCING ORDER**

Pursuant to K.S.A. 38-2361

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, this matter comes before the Court for sentencing, the Honorable \_\_\_\_\_, presiding.

**THE COURT FINDS** the juvenile named above was previously adjudicated a juvenile offender in this case. Notice to parties and those required to receive notice has been given as required by law.  The victim has been given notice as required.

The State appears by \_\_\_\_\_, assistant county/district attorney or designee.

The juvenile appears  in person and  not in person, but by the juvenile's attorney, \_\_\_\_\_.

The mother  is  is not present.

The father  is  is not present.

The Court Services Office (CSO) is present through \_\_\_\_\_

The Secretary is present through \_\_\_\_\_

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

A risk and needs assessment has been conducted and reviewed by the Court. Based on the adjudicated offense(s) and the results of the risk and needs assessment, the Court finds  **the overall case length limit to be \_\_\_\_\_ months** OR  **there is no overall case length limit.**

The Court, having reviewed the file, received the evidence, and heard statements of counsel, makes the following findings and enters the following orders:

(Select any that apply – If committed to the custody of the Secretary, except for restitution payable by the juvenile offender and requirements specifically mandated by statute, any other orders related to the care and treatment of the juvenile are recommendations only.)

**CUSTODY (Choose ONE)**

The juvenile shall be placed in or continue in the custody of:

A.  A parent, \_\_\_\_\_, subject to the following terms and conditions:

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- (Before house arrest is ordered, the court shall administer a risk and needs assessment, as described in K.S.A. 38-2360, or review a risk and needs assessment that was administered within the past 6 months to the juvenile.)

**OR**

B.  The following suitable individual, \_\_\_\_\_ (but not the Secretary, a juvenile correctional facility, a group home, or other facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated), subject to the following terms and conditions:

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*(The Initial Order Removing Juvenile from Custody of Parent and Authorizing Out of Home Placement, Form 309, must be filed if this is the first order removing the juvenile from the home in the present case.)*

- (Before house arrest is ordered, the court shall administer a risk and needs assessment, as described in K.S.A. 38-2360, or review a risk and needs assessment that was administered within the past 6 months to the juvenile.)
- (If a short-term alternative placement is ordered, a reintegration plan must be made part of the record pursuant to K.S.A. 38-2396.)

**OR**

C.  The Secretary of the Department for Children and Families under the Kansas code for care of children. (This option is only available if the juvenile is already in the custody of DCF.)

- (The Initial Order Removing Juvenile from Custody of Parent and Authorizing Out of Home Placement, Form 309, must be entered if this is the first order removing the juvenile from the home in the present case.)
- (Before a placement order with the Secretary, the court shall administer a risk and needs assessment, as described in K.S.A. 38-2360, or review a risk and needs assessment that was administered within the past 6 months to the juvenile.)

**OR**

D.  The Secretary of the Department of Corrections because: (select only one)

1. A firearm was used in the commission of the offense by the defendant which, if committed by an adult, would constitute a felony; therefore, the juvenile shall be placed in a  juvenile correctional facility or  youth residential facility for \_\_\_\_\_(minimum of 6 months up to a maximum of 18 months) months.
- After the period of confinement, there shall be a period of conditional release for \_\_\_\_\_(maximum of 6 months) months.

**OR**

2. The juvenile poses a significant risk of harm to another or damage to property and meets placement criteria as a (check the **one** relevant Matrix category box, then specify: (1) the length of confinement, (2) calculate the sentence begins date after crediting time served, and (3) the period of aftercare, if ordered):

- Violent Offender I<sup>+</sup>
- Violent Offender II<sup>+</sup>
- Serious Offender I
- Serious Offender II
- Serious Offender III\*
- Chronic Offender I\*

and shall be confined in a  juvenile correctional facility or  youth residential facility for a period of \_\_\_\_\_ months.

The **sentence begins date** is determined to be \_\_\_\_/\_\_\_\_/20\_\_\_\_ **after crediting** the juvenile with \_\_\_\_\_ **days** of time served.

After the period of confinement, there shall be a period of conditional release for \_\_\_\_\_ months (maximum of 6 months).

- (The Initial Order Removing Juvenile from Custody of Parent and Authorizing Out of Home Placement, Form 309, must be entered if this is the first order removing the juvenile from the home in the present case.)
- (Before a placement order with the Secretary, the court shall administer a risk and needs assessment, as described in K.S.A. 38-2360, or review a risk and needs assessment that was administered within the past 6 months to the juvenile. However, because a firearm was used in the commission of the offense, the juvenile may be placed in a juvenile correctional facility or a youth residential facility for a minimum of 6 months and for a maximum of 18 months, regardless of the risk level of such juvenile as determined by a risk and needs assessment.)
- (+If the court imposes a departure sentence pursuant to K.S.A. 38-2371, Form 355 should be used to issue findings of fact and conclusions of law for departure.)
- (\*These categories require that the juvenile was assessed as high-risk on a risk and needs assessment.)

**PROGRAM PARTICIPATION/SUPERVISION (if applicable)**

The juvenile shall be placed on  **probation** OR  **Intensive Supervision Probation (ISP)** for a period of \_\_\_\_\_ pursuant to the terms and conditions and subject to any earned discharge credit awarded pursuant to K.S.A. 38-2398 and Kansas Supreme Court Rule 1801  **as recommended in the pre-sentence report AND/OR**  **as follows:** \_\_\_\_\_

\_\_\_\_\_

The juvenile shall be placed **in a community based program** to be supervised by  **court services**  **community corrections**  **other** \_\_\_\_\_.

The terms and conditions of the order of assignment shall be  **those recommended in the pre-sentence report AND/OR**  **as follows:**

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

**SERVICES/EVALUATIONS/ TASKS (choose all that apply)**

The juvenile shall attend or participate in:

- counseling
- mediation
- the following education program: \_\_\_\_\_
- other: \_\_\_\_\_

The court finds that:

the juvenile offender shall pay a fee for the services ordered in this section in the amount of \$ \_\_\_\_\_

**OR**

the juvenile offender and those legally liable for the juvenile's support are indigent and the court waives the fee for the services ordered in this section.

A drug and alcohol evaluation:

is **not** mandated but **is** ordered.

**is** mandated by statute (specifically K.S.A. \_\_\_\_ - \_\_\_\_\_) (*insert relevant statutory provision*) and is ordered.

**is** mandated by statute (specifically K.S.A. \_\_\_\_ - \_\_\_\_\_) (*insert relevant statutory provision*) but is **not** ordered because the juvenile has completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within the last 12 months.

The drug and alcohol evaluation will be provided as follows: \_\_\_\_\_

\_\_\_\_\_

and the recommendations of the evaluation will be followed.

The court finds that  the juvenile offender shall pay a fee for the services ordered in this section in the amount of \$\_\_\_\_\_ **OR**  the juvenile offender and those legally liable for the juvenile's support are indigent and the court waives the fee for the services ordered in this section.

The juvenile must perform charitable or community service work as follows:

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

**RESTRICTIONS/FINES/RESTITUTION** (*choose all that apply*)

The juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state is suspended or restricted pursuant to the attached order.

(*Form 356 must be completed specifying all orders of the Court pursuant to K.S.A. 38-2361(a)(5) and (c).*)

The juvenile shall pay a fine of \$\_\_\_\_\_ (*amount must not exceed \$1,000*).

- (*The amount of the fine should be related to the seriousness of the offense and the juvenile's ability to pay.*)

Reparation or Restitution (*Choose one*)

The juvenile shall complete the following reparation or restitution to the following individuals or entities: \_\_\_\_\_

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

**OR**

The juvenile is **not** ordered to complete reparation or restitution because the court finds the following compelling circumstances that would render a plan of reparation or restitution unworkable: \_\_\_\_\_

\_\_\_\_\_

**OR**

Instead of reparation or restitution, the juvenile must perform charitable or social service for organizations performing services for the community as follows: \_\_\_\_\_

\_\_\_\_\_

THE COURT FURTHER FINDS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

THE COURT FURTHER ORDERS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

THE COURT FURTHER FINDS AND ORDERS:

*(This section must be completed if the juvenile is presently or, as a result of this order, will be removed from parental custody.)*

The juvenile has been removed from the custody of a parent and the approved permanency plan goal(s) is/are: \_\_\_\_\_

A permanency plan  **is on file**  **shall be submitted** to the court within 30 days by:

The custodian /  Court Services /  other \_\_\_\_\_ .

THE COURT FURTHER ORDERS this matter set for a \_\_\_\_\_ hearing before  the Court  the Citizens Review Board on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ at \_\_\_\_\_:\_\_\_\_ a.m. / p.m.

IT IS SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_.

Prepared by:

Acknowledged by:

\_\_\_\_\_  
Assistant County/District Attorney

\_\_\_\_\_  
Attorney for Juvenile

Name \_\_\_\_\_

Name \_\_\_\_\_

Supreme Court # \_\_\_\_\_

Supreme Court # \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

Telephone # \_\_\_\_\_

Telephone # \_\_\_\_\_

Email \_\_\_\_\_

Email \_\_\_\_\_

## Authority

K.S.A. 38-2361, 38-2365, 38-2369, and 38-2391.

## Notes on Use

This form includes all of the specific placements and probationary supervision options that the statute and current state-wide programs provide. Before sentencing, the court must administer a risk and needs assessment tool or review a risk and needs assessment tool administered within the last six months before determining the case length limit, pursuant to K.S.A. 38-2391, and sentencing the juvenile. K.S.A. 38-2361(f).

If, in the course of sentencing, the court removes the juvenile from the home, and if it is the first order removing the juvenile from the home or if the juvenile is removed after having been back in the home for 6 months or longer, Supreme Court Rule 174 and ASFA apply and Form 309, or another ASFA form approved by the Supreme Court, must be completed and attached to Form 350 for filing.

If the trier of fact found a firearm was used in the commission of an offense which, if committed by an adult, would constitute a felony, the court may commit the juvenile directly to the custody of the secretary of corrections for a minimum term of 6 months and up to a maximum term of 18 months, regardless of the risk level of the juvenile as determined by the risk and needs assessment. K.S.A. 38-2361(a)(13). Nonetheless, a risk and needs assessment is required. If the juvenile is committed to the custody of the secretary, the court may order a period of conditional release (aftercare) pursuant to K.S.A. 38-2369. K.S.A. 38-2361(a)(13).

At the time of sentencing, if the juvenile is in an out of home placement in the custody of the secretary for children and families under the Kansas code for care of children, the court may order the continued placement of the juvenile as a child in need of care. K.S.A. 38-2304(g)(1).

**As of January 1, 2018**, K.S.A. 38-2361(a)(10) is no longer in effect. The statute does not allow the juvenile to be placed in the custody of the secretary of corrections as provided in K.S.A. 38-2365.

If the judge finds the juvenile poses a significant risk of harm to another or damage to property, and the juvenile is otherwise eligible for commitment pursuant to K.S.A. 38-2369, the court may commit the juvenile to the custody of the secretary of corrections for placement in a juvenile correctional facility or a youth residential facility. K.S.A. 38-2361(a)(12). K.S.A. 38-2369(a) provides the categories of offenders and the related minimum and maximum terms the juvenile may be sentenced to detention with or without conditional release (aftercare). The term of commitment and conditional release (aftercare), if applicable, established by the court shall not exceed the overall case length limit. K.S.A. 8-2369(a). If the juvenile is sentenced to a juvenile correctional facility as a violent offender pursuant to K.S.A. 38-2369(a)(1), the court may on its own motion, or shall upon a motion by the state, consider imposition of a departure sentence pursuant to K.S.A. 38-2369 and subject to the overall case length limit. K.S.A. 38-2371(a)(1). If a departure sentence is being considered, the court shall comply with the requirements of K.S.A. 38-2371 and use Form 355 to issue findings of fact and conclusions of law for departure.



There is a rebuttable presumption that all offenders in the chronic offender category and offenders at least 10 years of age but less than 14 years of age in the serious offender II, and III category, shall be placed in the custody of the secretary of corrections for placement in a youth residential facility in lieu of placement in the juvenile correctional facility. This presumption may be rebutted by findings on the record that the juvenile offender poses a significant risk of physical harm to another. K.S.A. 38-2369(e).

The Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601, prohibits detention of status offenders or non-criminal traffic or fish and game offenders in any secure facility, except for a minimal period (6 hours under K.S.A. 38-2332) for investigation or identification, but always sight and sound separate from adult prisoners if the site is an adult jail.

Permanency hearings must be held every twelve (12) months thereafter as required by K.S.A. 38-2365(e) until the juvenile is discharged from custody pursuant to K.S.A. 38-2376(a). If held immediately before release and the juvenile is placed in an eligible placement after release, this will permit the state to immediately draw down Title IV funding, thus avoiding a loss of funding for communities.

Although the court may order a drug and alcohol evaluation pursuant to K.S.A. 38-2361(a)(4) and (b)(2), the fee is payable by the juvenile offender in an amount not to exceed the fee established by the relevant statute providing for such evaluation. The court may waive the evaluation under certain circumstances described in K.S.A. 38-2361(b)(2). If the juvenile offender and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the secretary or department of corrections, or the secretary or department for children and families if the juvenile is in the secretary's care custody and control.

Although proceedings under the juvenile justice code are considered civil proceedings, an adjudication as a juvenile offender may be a consideration in the imposition of an adult sentence for a subsequent conviction under the criminal code. See *In re Gault*, 387 U.S. 1, 18 L. Ed. 2d 527, 87 S. Ct. 1428 (1967); *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000); *State v. Limon*, 280 Kan. 275, 283, 122 P.3d 22 (2005).

If this form is being used in conjunction with a violation of sentence and detention is ordered, the court should also use Form 370 – Sentence Violation Hearing Order.

Any of the parenthetical instructions contained in this form may be deleted for the sake of brevity before the form is filed.