

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.

OR

the juvenile violated a condition of probation and is demonstrating escalating use of physical violence, aggression, weapons, damage to property, or life-threatening substances.

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)

Movant
Name & Supreme Court Number:

Address 1: _____

Address 2: _____

City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

Email: _____

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).

Whether a violation of probation is or is not a technical violation, the court may commit the juvenile to detention due to the violation of probation and for contempt of court if the court finds that the juvenile is demonstrating escalating use of physical violence, aggression, weapons, damage to property, or life-threatening substances. K.S.A. 38-2392(b)(4).

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. 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.