

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

IN THE MATTER OF:

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

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

**MODIFICATION OF SENTENCE ORDER**

Pursuant to K.S.A. 38-2367

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, this matter comes before the Court to consider the motion for sentence modification.

THE COURT FINDS that the juvenile named above was previously adjudicated a juvenile offender in this proceeding and 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 \_\_\_\_\_, 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 of Corrections is present through \_\_\_\_\_
- Also present is/are: \_\_\_\_\_

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

- The sentence previously imposed in this matter continues to be in the best interests of the juvenile offender, and the motion is denied.

**OR**

- The sentence previously imposed in this matter is not in the best interests of the juvenile offender and the Court rescinds and sets aside that sentence and enters the following sentence:

**OR**

- The sentence previously imposed in this matter is not in the best interests of the juvenile offender and the Court rescinds and sets aside that sentence and enters the following sentence extending the term of probation in order to complete an evidenced-based program as determined necessary based on the results of a validated risk and needs assessment.

The Court finds the juvenile failed to complete the evidence-based program due to a repeated, intentional effort to delay by the juvenile, as reported by the evidence-based services provider. The Court extends the overall case length limit as follows due to the extension of the term of probation.

**OR**

- The Court entered a sentence on \_\_\_\_\_ (less than 60 days before this modification) committing the juvenile to the custody of the Secretary of Corrections for commitment to a juvenile correctional facility and the sentence should be modified. The Court rescinds and sets aside that sentence and enters the following sentence: *(Form 350 may be used)*

**OR**

- The Court entered a sentence committing the juvenile to the custody of the Secretary of Corrections for commitment to a juvenile correctional facility. Upon motion of the Secretary of Corrections, the Court finds that  the medical condition of the juvenile justifies a reduction in sentence **OR**  the juvenile's exceptional adjustment and rehabilitation merit a reduction in sentence. The Court rescinds and sets aside that sentence and enters the following sentence: *(Form 350 may be used)*

- THE COURT FURTHER FINDS:

THE COURT FURTHER ORDERS:

IT IS SO ORDERED.

\_\_\_\_\_  
Judge of the District Court

Prepared by:

Acknowledged by:

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

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

Name \_\_\_\_\_

Name \_\_\_\_\_

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

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

Address \_\_\_\_\_

Address \_\_\_\_\_

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

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

Email \_\_\_\_\_

Email \_\_\_\_\_

Fax # \_\_\_\_\_

Fax # \_\_\_\_\_

## Authority

K.S.A. 38-2367.

## Notes on Use

The statute provides for modification of an order of custody or placement issued as part of the sentence after a hearing on a motion for modification. If the court finds the sentence previously imposed is not in the best interest of the juvenile offender, the court may rescind and set aside the sentence, and enter any sentence pursuant to K.S.A. 38-2361 and the overall case length limit. K.S.A. 38-2367(a).

If the court extends the term of probation because the juvenile needs time to complete an evidence-based program as determined to be necessary based on the results of a validated risk and needs assessment, then, if necessary, the court may extend the overall case length limit to allow for completion of such program when failure to complete such program is due to a repeated, intentional effort to delay by the juvenile as reported by the evidence-based services provider. Extensions of probation and the overall case length limit shall only be granted incrementally. K.S.A. 38-2391(g)(2).

If the court determines it is in the best interest of the juvenile offender to be returned to the custody of the parent or parents, the court shall so order. K.S.A. 38-2367(b). During the proceedings, if the court finds that the juvenile offender needs a place to live and the court does not have probable cause to believe the juvenile is a child in need of care or if the juvenile is emancipated or over the age of 17, the court may authorize participation in a community integration program. K.S.A. 38-2367(d).

An order of commitment to a juvenile correctional facility may be modified any time within 60 days of the order of commitment. Upon the motion of the Secretary of Corrections, the court may modify an order of commitment to a juvenile correctional facility at any time if the medical condition of the juvenile justifies a reduction in sentence or where the juvenile's exceptional adjustment and habilitation merit a reduction in sentence. K.S.A. 38-2367(f). Sentencing Form 350 may accompany this form.

If, during the proceedings, the court determines there is probable cause to believe that the juvenile is a child in need of care, the court may refer the matter to the county or district attorney who shall file a child in need of care petition and refer the family to the Kansas department for children and families for services. K.S.A. 38-2367(c).

Although proceedings under the revised juvenile justice code are considered civil proceedings, adjudication as a juvenile offender may be a consideration in the imposition of an adult sentence for a subsequent conviction under the criminal code. For this reason, *Apprendi v. New Jersey*, 530 U.S. 466 (2000), may be a consideration. The Supreme Court found that it is unconstitutional to remove from a jury the assessment of facts that serve to increase the prescribed range of penalties to which the defendant is exposed.