

FORM SUMMARY

Name of Form: Order Concerning Competency or Mental Responsibility Determination

Form Number: JD-1733

Statutory Reference: §§938.30(5), Wisconsin Statute

Benchbook Reference: JV 6 & 7

Purpose of Form: Court order entered following a determination of either incompetency or not responsible by reason of mental disease or defect

Who Completes It: Judge.

Who Signs It: **BY THE COURT:** Circuit Court Judge/Circuit Court Commissioner.

Distribution of Form: Court; copies to juvenile/attorney/guardian ad litem, parents/attorney, district attorney/corporation counsel, social services agency, custodial facility (if ordered)

Accompanying Forms: Generally none.

New Form/Modification: Modifications, previous update 11/99.

Modifications: Added #1 - Competent to Proceed language and checkbox for Medications needed to maintain competency.

Comments: This form covers three categories of situations in competency and mental responsibility. The first two concern possible actions on competency:

- Not competent
- Competent now but medications needed to continue competency

The third category concerns a determination that the juvenile is not responsible by reason of mental disease or defect.

COMPETENCY:

Not Competent: If a juvenile is determined to be not competent to proceed, the juvenile proceedings are suspended and either a JIPS or ch. 51 proceeding is commenced. Such juveniles may either be released from custody or held in custody. However, if held in custody the maximum period of the custody is twelve months or the maximum sentence that could be imposed on an adult *for the most serious delinquent act* with which the juvenile is charged. Quarterly court reports on the status of the juvenile are required to

be filed with the court.

Competent but medications needed: If a juvenile is determined to be competent at this time, but such competency is maintained only by the administration of medications, the court can order a continuation of the medications while the proceedings are pending. In order to continue the administration of psychotropic medications, the juvenile must have been receiving the medications prior to the court's determination.

NOT RESPONSIBLE BY REASON OF MENTAL DISEASE OR DEFECT:

If a juvenile is found to be not responsible by reason of mental disease or defect, the court must dismiss the proceedings. The court must order the petitioner to file either:

- a JIPS petition, or
- a ch. 51 petition.

Although the court is ordering a petition to be filed, RMC does not consider doing so as creating a mandatory recusal. The requirement to file a petition is statutory and not the exercise of judicial discretion. RMC included the order requirements in the form in order to provide guidance to the court and practitioners as to what is to happen next.

About this Form:

This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference.

If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.