

2012 Kansas Statutes

22-3305. Procedure when defendant not civilly committed or to be discharged; order of discharge; request for hearing on competency; charges dismissed; statute of limitations not to run; victim notification. (1) Whenever involuntary commitment proceedings have been commenced by the secretary of social and rehabilitation services as required by K.S.A. 22-3303, and amendments thereto, and the defendant is not committed to a treatment facility as a patient, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303, and amendments thereto. The secretary of social and rehabilitation services shall promptly notify the court, the county or district attorney of the county in which the criminal proceedings are pending and the secretary of corrections for the purpose of providing victim notification, of the result of the involuntary commitment proceeding.

(2) Whenever involuntary commitment proceedings have been commenced by the secretary of social and rehabilitation services as required by K.S.A. 22-3303, and amendments thereto, and the defendant is committed to a treatment facility as a patient but thereafter is to be discharged pursuant to the care and treatment act for mentally ill persons, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303, and amendments thereto, and the head of the treatment facility shall promptly notify the court, the county or district attorney of the county in which the criminal proceedings are pending and the secretary of corrections for the purpose of providing victim notification, that the defendant is to be discharged.

When giving notification to the court, the county or district attorney and the secretary of corrections pursuant to subsection (1) or (2), the treatment facility shall include in such notification an opinion from the head of the treatment facility as to whether or not the defendant is now competent to stand trial. Upon request of the county or district attorney, the court may set a hearing on the issue of whether or not the defendant has been restored to competency. If such hearing request is granted, the court shall notify the secretary of corrections of the hearing date for the purpose of victim notification. If no such request is made within 14 days after receipt of notice pursuant to subsection (1) or (2), the court shall order the defendant to be discharged from commitment and shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A. 22-3302, and amendments thereto. The court shall notify the secretary of corrections of the discharge order for the purpose of providing victim notification.

History: L. 1977, ch. 121, § 3; L. 1987, ch. 116, § 1; L. 1996, ch. 167, § 44; L. 2010, ch. 61, § 3; L. 2011, ch. 91, § 16; July 1.

Revisor's Note:

Section was amended twice in the 2010 session, see also 22-3305a.