**IN THE CIRCUIT COURT OF \_\_\_\_\_\_\_\_\_ COUNTY, WEST VIRGINIA  
 SITTING AS A JUVENILE COURT JUDGE \_\_\_\_\_\_\_\_\_\_\_\_\_**

**IN RE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, *Child, et.al***

**DELINQUENCY CASE NO.**

Order For An Evaluation To Determine Competency

This matter comes on before the Court this 16th day of August 2021, upon the “Motion For An Evaluation To Determine Competency” from the Child’s Counsel, \_\_\_\_\_\_\_\_\_\_ Esq., of the Public Defender Corporation. The Motion requested that this Honorable Court order a forensic evaluation of the Child by a psychologist to determine if he is competent to stand trial, pursuant to Rule 26 of the West Virginia Rules of Juvenile Procedure and West Virginia Code § 27-6A-2 and 4, with costs for this evaluation to be paid for by the West Virginia Department of Health and Human Resources. If he is determined to be competent, the Child’s Counsel asks for the evaluator to also complete treatment recommendations usually found in a Pre-Adjudicatory Evaluation.

This Court, in accordance with W. Va. Code § 27-6A-2(a), having reviewed the Child’s Counsel’s Motion does hereby **ORDER** that the Child, \_\_\_\_\_\_\_\_\_\_\_, undergo an initial forensic examination to determine the Child’s competency to stand trial and, only if the Child is determined competent, to determine whether Child is not guilty by reason of mental illness for the crimes charged. If it is determined that the Child is incompetent to stand trial, there shall be further determinations as to whether the Child is likely to regain competency, and whether the Child requires impatient management at a mental health facility in order to regain competency. Further if he is deemed competent, the evaluator shall also complete treatment recommendations usually found in a Pre-Adjudicatory Evaluation.

The Court further **ORDERS** that this initial forensic examination shall be conducted pursuant to W. Va. Code § 27-6A-2(a), by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_., a Qualified Forensic evaluator.

The Court further **ORDERS** the Qualified Forensic Evaluator listed above to provide a written and signed report of the examination and findings to be filed with the Clerk of the Circuit Court for distribution to this Court and the attorneys of record within ten business days of the completion of the evaluation, unless the parties agree that an oral report may suffice.

This Court further **ORDERS** that the party making the motion or other party shall ensure that any information relevant to the evaluations be sent to the Qualified Forensic Evaluator listed above within ten days of this order, including:

(1) A copy of the petition;

(2) Information pertaining to the alleged crime, including statements by the Juvenile made to the police, investigative reports and transcripts of preliminary hearings, if any;

(3) Any available psychiatric, psychological, medical or social records that are considered relevant;

(4) A copy of the Child's criminal record; and

(5) If the evaluations are to include a diminished capacity assessment, the nature of any lesser included criminal offenses.

This Court further **ORDERS** that an Adult respondent for the Child prepare a list of mental health facilities and professionals from which the Child has received treatment and forward that list to the Qualified Forensic Evaluator listed above prior to the scheduled examinations.

This Court finds that the Qualified Forensic Evaluator may release this order to other mental health facilities and professionals for the purpose of obtaining Child’s mental health records. This Court finds any mental health records requested by the Qualified Forensic Evaluator are sufficiently relevant to the proceeding before the Court to outweigh the importance of maintaining the confidentiality established by W. Va. Code § 27-3-1. This Court further finds that good cause exists such that the public interest and the need for disclosure outweighs the injury to the patient, to the patient-physician relationship and to the treatment services pursuant to 42 U.S.C.A. § 290dd-2 and 42 C.F.R. Part 2. Therefore, this Court ORDERS all facilities presented with this order to release the Child’s mental health records to the Qualified Forensic Evaluator listed above who shall use them specifically for completing the examination ordered herein.

The Court further **ORDERS** that, upon receipt of an original invoice and a court order, the West Virginia Department of Health and Human Resources’ Office of Health Facilities shall pay for the initial examination pursuant to W. Va. Trial Court Rules, Rule 35.05 up to the maximum rates established in accordance with W. Va. Code §27-6A-11.

The Court **ORDERS** the Clerk of the Court to forward copies of this Order to the counsel of record and the Qualified Forensic Evaluator listed above.

The Clerk shall enter this Order for the date above appearing and forward attested copies to counsel of record, WVDHHR, by \_\_\_\_\_\_\_\_\_\_\_ of Psychological Consulting Inc., the Child, and Adult Respondents.

Prepared by:

/s/, Esq.

Counsel for the Child

WV Bar No.