

Revocation of Deferred Status

The procedure with respect to the revocation of a deferred status depends in large part on the specific language of each of the deferred statutes. Unfortunately, there is not one uniform procedure.

| Type of deferred status | What the statute says | How to revoke the status |
|--|--|---|
| <p>Controlled Substance (MCL 333.7411)</p> <p>Minor In Possession (MCL 436.1703)</p> <p>Domestic Violence (MCL 769.4a)</p> <p>Human Trafficking Victim (MCL 750.451c)</p> <p>Practicing Under the Influence (MCL 750.430)</p> | <p>The statutes allow the court to defer further proceedings and place the individual on probation upon terms and conditions and states that upon a violation of a term or condition the court may enter an adjudication of guilt.</p> | <p>The court would first need to determine if a probation violation occurred by conducting a probation violation hearing. Until such time as the probation violation can be determined, the deferred status should remain intact.</p> |

| | | |
|---|--|--|
| <p>HYTA (MCL 762.11)</p> | <p>The statute allows the court, with consent of the individual¹, to consider and assign that individual to the status of youthful trainee without entering a judgment of conviction.</p> <p>The court may, at any time, terminate its consideration of the individual as a youthful trainee.</p> | <p>While the court can revoke a defendant’s HYTA status at its discretion and at any time before the defendant’s final release, a defendant has a constitutional right to a hearing prior to the termination of his or her HYTA status and “in the absence of a hearing, the criminal case against him cannot be reinstated.” See <i>People v. Webb</i>, 89 Mich. App. 50, 54, 279 N.W.2d 573, 575 (1979) quoting <i>People v. Roberson</i>, 22 Mich.App. 664, 177 N.W.2d 712 (1970).</p> <p>Courts must follow the same termination procedures akin to those in the probation revocation process.</p> |
| <p>Drug/Sobriety (MCL 600.1070)</p> <p>Mental Health (MCL 600.1095)</p> <p>Veterans (MCL 600.1206)</p> | <p>The statutes allow the court to defer further proceedings and place the individual on probation or other court supervision in the drug/sobriety, mental health, or veterans treatment court program with terms and conditions. It requires the court to find on the record or place a written statement in the court file as to whether the participant completed the program successfully or whether the individual’s participation in the program was terminated and, if it was terminated, the reason for the termination.</p> | <p>By reference to the fact that the court can place a written statement in the court file as to whether the individual’s participation in the program was terminated and the reasons for it, a hearing on the record is not required before the deferred status can be revoked. However, in order to eliminate uncertainty and the appearance of unfairness (or potential due process concerns); we encourage courts to follow the same termination procedures akin to those in the probation revocation process.</p> |

¹ Or with the consent of the prosecutor if the defendant is between the ages of 21 and 24. MCL 762.11(1)