

**Michigan Supreme Court**

**MICHIGAN JUDICIAL INSTITUTE**

**JUVENILE PROBATION OFFICER**  
**AND**  
**CASEWORKER**

**SELF-INSTRUCTIONAL**  
**MANUAL**



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## Introduction

Michigan Supreme Court Administrative Order 1985-5 requires a Juvenile [Court] Probation Officer/Caseworker to complete the Michigan Judicial Institute (MJl) Certification Training within two years of employment.

MJl, in conjunction with juvenile [court] judges, administrators, probation officers, and caseworkers developed this self-instructional manual to address core competencies. The manual is updated annually. Substantive and procedural changes that occurred during the previous year are included.

The information presented in the following chapters, along with the review questions at the end of each chapter, will prepare you for the mandatory certification examination.

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**MICHIGAN JUDICIAL INSTITUTE**  
**JUVENILE PROBATION OFFICER/CASEWORKER**  
**SELF-INSTRUCTIONAL MANUAL**  
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## **HISTORY AND PHILOSOPHY OF THE JUVENILE DIVISION**

### **History**

#### **Sixteenth and Seventeenth Century Europe**

Children were recognized only when they could contribute to the economic good of the family or village. Youth offenders were treated as harshly as adults. Severe penalties were given for even minor offenses. For example, in seventeenth century England, capital punishment was the penalty for over 200 crimes.

#### **Eighteenth and Nineteenth Century**

Little distinction was made in the criminal culpability of children versus adults. Juveniles as young as age seven could be tried and sentenced in criminal courts.

In 1825, the Society for the Prevention of Juvenile Delinquency founded the New York House of Refuge, the first institution designed to accommodate juvenile delinquents. Many cities and states soon followed this example and set up similar institutions. Progressive era reformers believed the roots of juvenile delinquency were a lack of moral education and standards, and advocated that juvenile institutions include a significant educational and rehabilitative component. For their efforts, the earliest juvenile justice reformers were known as "child savers."

#### **Early Twentieth Century**

The child savers' advocacy resulted in the establishment of the first juvenile court in Cook County (Chicago) Illinois. Founded in 1899, and formally recognized in 1909, the juvenile court was formed for the purpose of "presiding over neglected, dependent, and delinquent children." By 1910, 32 states had established juvenile courts and/or probation services. By 1925, all but two states had followed suit. Rather than merely punishing youth for their crimes, juvenile courts sought to turn these wayward youth into productive citizens — through rehabilitation and treatment. The mission to help children in trouble was stated clearly in the laws that established juvenile courts. This mission led to procedural and substantive differences between the juvenile and criminal justice systems.

Michigan established a juvenile court by statute in 1907 (1907 PA 323), but it was not implemented until 1919.

The juvenile court was empowered to intervene for a wide variety of transgressions, from adult crimes to juvenile status offenses. However, the need for legal representation and other rights were not recognized.

Up through the 1920s, various theories guided approaches to delinquency. Delinquent behavior was simply an indicator of a personality disorder. Once the "illness" was discovered, it could be "treated," and the person could then be made "healthy." These schools of thought gave rise to an array of treatment interventions, many of which are still used today.

## Mid-Twentieth Century

From the early 1930s to the 1960s, experts insisted that delinquency could only be understood by examining both individual and external factors; that delinquency is a response to poverty, discrimination, inequality, and social demoralization. Peer groups and youth subcultures (gangs) encouraged delinquency because they made sense, either as a means of gaining status or pursuing success.

So, the appropriate response to delinquency under this model was to address social (external) causes as well as personal (internal) causes. The result was increased emphasis on education and recreation programs, housing, family counseling, and economic development.

## Late Twentieth Century

From the 1960s through the 1980s, a series of dramatic changes occurred.

In the 1960s, the juvenile court came under attack for failing to meet public expectations. It was argued that the juvenile court offered youth offenders the worst of both worlds: procedural inequalities and harsh treatment. It was also during this time that procedural due process, formerly granted only to adult criminal defendants, was applied to juveniles.

In a series of decisions beginning in the 1960s, the U.S. Supreme Court changed the juvenile court process. Formal hearings were now required if the juvenile court was going to waive its jurisdiction, and youth facing possible confinement were given Fifth Amendment protection against self-incrimination and rights to receive notice of the charges against them, and to present a defense.

U.S. Supreme Court decisions that have shaped juvenile justice over the decades include:

- *Kent v United States*, 383 US 541 (1966) held that, since juveniles charged with criminal offenses potentially suffered the same loss of liberty as their adult counterparts, they should not be denied the constitutional safeguards afforded adults.
- *In re Gault*, 387 US 1 (1967) held that the following rights were constitutionally required:
  - Adequate written notice of the charges;
  - Representation by a lawyer;
  - Right to remain silent;
  - Right to confront and cross-examine adverse witnesses.
- *In re Winship*, 397 US 385 (1970). The right to an acquittal unless [there is proof] beyond a reasonable doubt as to the juvenile's guilt/delinquency.
- *McKeiver v Pennsylvania*, 403 US 528 (1971). A trial by jury is not constitutionally required in the adjudicative phase of a state juvenile court delinquency proceeding.
- *Breed v Jones*, 421 US 519 (1975). Protection from being tried twice for the same offense (double jeopardy).
- *Fare v Michael C* 442 US 707 (1979). A probation officer's presence during a police interrogation is not the same as a lawyers', so questioning can continue.

- *Schall v Martin*, 467 US 253 (1984). Preventive detention serves a legitimate state objective and is constitutional.

The 1970 Juvenile Justice and Delinquency Prevention Act addressed deinstitutionalizing status offenders, separation of incarcerated juveniles from adults, delinquency prevention, and development of community-based alternatives.

By the 1980s, however, the juvenile justice system came under pressure as being soft on crime amid concerns that serious juvenile crime was on the rise, so harsher penalties were needed. In Michigan, statutory reforms permitted the waiver and/or transfer of juvenile cases to adult criminal courts.

During the 1990s, more interest in a “balanced approach” to juvenile justice arose, focusing on community protection, individual accountability, and competency development/treatment. This movement is known as *Balanced and Restorative Justice* and required juvenile justice professionals to devote attention to enabling offenders to make amends to their victims and community, increasing offender competencies, and protecting the public through a process in which the victims, community, and offenders would all be active participants.

### **The Twenty-First Century**

The last two decades have seen more changes, including:

- Graduated sanctions;
- Expanding the use of diversion programs, such as restitution or community service;
- Increasing victim satisfaction and victim-offender mediation;
- Services to address substance use, mental health, improved school achievement, strengthened family supports, and community inclusiveness;
- Addressing the needs of youth dually involved in the juvenile justice and child welfare system, including creation of the family division of the circuit court;
- Assistance with workforce preparation and development of independent living skills;
- An increased use of screening and assessment tools;
- Offering viable education, mental health services, and work-related opportunities for those youth returning to their communities (as well as those aging out of foster care) to prevent youth recidivism;
- Emphasis on evidence-informed practices, and advancements in data collection and analysis;
- Enhanced focus on racial and ethnic disparities;
- Integration of trauma-informed care;
- Increased support for LGBTQ+ youth;
- Development of gender-responsive programs;
- Development and proliferation of juvenile drug and mental health courts;
- The U.S. Supreme Court determining that sentencing a juvenile to life without the possibility of parole constitutes *cruel and unusual* punishment. *Miller v Alabama* 567 US 460 (2012). See also, *Montgomery v Louisiana*, 577 US 190 (2016), which extended retroactivity to *Miller v Alabama*. See also *People v Garay*, 506 Mich 936, 936-937 (2020). The U.S. Supreme Court has also determined that the decision to resentence a juvenile to life without the possibility of parole does

not require a separate factual finding of permanent incorrigibility, nor is the sentencing court required to provide an explanation with an implicit finding of permanent incorrigibility on the record. *Jones v Mississippi*, 593 US\_\_\_(2021) (the Jones decision does not disturb the Miller or Montgomery holdings).

- In Michigan, this includes raising the age of juvenile (division) jurisdiction from 17 to 18. MCL 712A.1 and 712A.3.

### **Latest Statistics from the National Center for Juvenile Justice (NCJJ)<sup>1</sup>**

- In 2021 (the most recent date for which full year statistics are available), juvenile courts in the United States handled 437,300 delinquency cases, or about 1,200 delinquency cases per day, down significantly from over 1.2 million cases in 1985.
- The number of delinquency cases processed by juvenile courts decreased 73% in the 17 years between 2005 and 2021.
- In 2021, juvenile courts processed 13.5 delinquency cases for every 1,000 youth in the population — those aged 10 or older who were under the jurisdiction of a juvenile court.
- From 2005 to 2021, the number of delinquency cases decreased for all four offense categories: property (down 78%), public order (down 78%), drugs (down 75%), and person offense cases (down 62%).
- In 2021, person offense cases accounted for the largest proportion (37%) of the delinquency caseload, followed by property offense cases (30%), public order offense cases (22%), and drug offense cases (11%).
- Males were involved in 73% (320,800) of the delinquency cases handled by juvenile courts in 2021.
- The number of delinquency cases decreased substantially for all race groups between 2005 and 2021: Asian youth (down 78%), White youth (down 75%), Black youth (down 72%), Hispanic youth (down 71%), and American Indian youth (down 62%).
- In 2021, White youth made up 53% of the U.S. population under juvenile court jurisdiction, Black youth 15%, Hispanic youth 24%, American Indian youth 2%, and Asian youth 6%.
- The racial distribution of delinquency cases in 2021 was: White youth at 44%, Black youth at 35%, Hispanic youth at 17%, American Indian youth at 2%, and Asian youth at 1%.
- Of the 437,300 delinquency cases processed in 2021, 53% involved youth younger than age 16.
- Between 2005 and 2021, law enforcement agencies were the primary source of delinquency referrals for each year, with 85% of all delinquency cases referred by law enforcement.
- The number of delinquency cases involving detention decreased by 72% between 2005 and 2021 to its lowest level during that period.

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<sup>1</sup> 2021 Juvenile Court Statistics. National Center for Juvenile Justice, Sponsored by the Office of Juvenile Justice and Delinquency Prevention. Published February 2024.  
[http://www.ncjj.org/pdf/jcsreports/jcs2021\\_508Final.pdf](http://www.ncjj.org/pdf/jcsreports/jcs2021_508Final.pdf)

- In 2021, U.S. courts with juvenile jurisdiction petitioned and formally disposed an estimated 51,500 status offense cases. The number of petitioned status offense cases processed by juvenile courts decreased by 73% between 2005 and 2021.

The COVID-19 pandemic likely impacted the juvenile court caseload, though it is not possible to ascertain the true impact. The number of cases handled by juvenile courts has been steadily decreasing since the late 1990s. Some of the recent decrease was likely related to COVID-19.

### **Questions for Review:**

How has the treatment of juveniles changed over the last few hundred years?

What were the holdings in *Kent v United States*?

What Constitutional rights did *In re Gault* establish?

What were the holdings in *In re Winship*?

What were the holdings in *McKeiver v Pennsylvania*?

What were the holdings in *Schall v Martin*?

What were the holdings in *Fare v Michael C*?

What were the holdings in *Miller v Alabama*? *Montgomery v Louisiana*? *People v Garay*? *Jones v Mississippi*?

What was the “balanced approach” to juvenile justice that emerged in the 1990s?

In the context of the twenty-first century, what changes have been seen in the juvenile justice system?

What are the characteristics of offenders according to the 2021 statistics provided by the National Center for Juvenile Justice statistics, and sponsored by the Office of Juvenile Justice and Delinquency Prevention?



# **The Michigan Judicial System and Role of the Juvenile Probation Officer**

Michigan's "One Court of Justice" was created in 1963 by Article VI § 1 of the Michigan Constitution: consisting of one Supreme Court, one Court of Appeals, one trial court (known as the circuit court), probate court (§ 15), and trial courts of limited jurisdiction.

## **APPELLATE COURTS**

### **The Michigan Supreme Court**

The Michigan Supreme Court is the highest court in the state hearing cases appealed to it from the Court of Appeals. The Supreme Court determines what cases it will hear.

The Supreme Court has three primary duties:

- Judicial (hearing/denying appeals);
- General administrative supervision of all courts in the state;
- Establishing rules for practice and procedure in all courts of the state (Michigan Court Rules and Administrative Orders).

### **The Court of Appeals**

The Court of Appeals is an "intermediate" appellate court. Generally, decisions from final orders of a circuit and probate court and some agency orders may be appealed to the court as a matter of right. Other lower court or tribunal decisions may be appealed only by application for leave to appeal, i.e., with permission of the court.

### **Court of Claims**

The Court of Claims is part of the Michigan Court of Appeals. The Court of Claims jurisdiction is limited to hearing certain claims against the State of Michigan.

## **TRIAL COURTS**

### **Circuit Court**

The circuit court is the trial court of general jurisdiction in Michigan because of its very broad powers. Generally, circuit court has original jurisdiction in all civil cases involving more than \$25,000, in all criminal cases where the offense involves a felony or certain serious misdemeanors, and family cases.

The circuit court also hears cases appealed from lower courts and from some administrative agencies of state government.

### **Family Division**

The family division is part of the circuit court and has exclusive jurisdiction over all family matters such as juvenile delinquency and status offense cases, divorce, custody, parenting time, support, paternity, adoptions, name changes, emancipation of minors, parental consent, and personal protection cases. The family division also has ancillary jurisdiction over cases involving guardianships and conservatorships and cases involving the mentally ill or developmentally disabled. According to the State Court Administrative Office (SCAO) in 2022,<sup>2</sup> there were 22,228 new delinquency petitions filed statewide.

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<sup>2</sup> See: State Court Administrative Office [Interactive Court Data Dashboard \(michigan.gov\)](https://www.michigan.gov/scad)

## **Probate Court**

The probate court handles wills, administers estates and trusts, appoints guardians and conservators for adults, and orders treatment for mentally ill and developmentally disabled persons.

## **District Court**

The district court has exclusive jurisdiction of all civil litigation up to \$25,000, and also handles garnishments, eviction cases, land contract forfeitures, small claims (to a maximum amount of \$7,000), and other cases. For criminal cases, the district court handles all misdemeanors where punishment does not exceed one year in jail, including arraignment, sentencing, setting and acceptance of bail, and conducting preliminary examinations in felony cases. Civil infractions are also handled in district court.

## **Municipal Court**

Municipal court civil jurisdiction is limited to \$1,500-\$3,000. Its criminal jurisdiction is similar to district court.

## **Tribal Courts**

Tribal courts are not state courts, but you should familiarize yourself with them. In fact, in some instances, such as child welfare cases involving a Native American child, tribal intervention is a right. There are 12 federally recognized tribes in Michigan. Each tribe is entirely separate, and each has sovereignty – the authority to self-govern.

Tribal courts have jurisdiction in Indian Country (per 18 U.S. Code § 1151) which includes reservations and trust lands owned by the tribe.

The tribe's jurisdiction in criminal offenses is limited to offenses committed by Native Americans on tribal lands. Civilly, it handles a variety of disputes. The Michigan Supreme Court adopted MCR 2.615 in 1996 that ensures mutual recognition of state and tribal judgments.

## **State Court Administrator**

The position of State Court Administrator was created by the Article VI, § 3 and is charged with administering the state's trial courts, under the direction of the Michigan Supreme Court.

## **Michigan Judicial Institute**

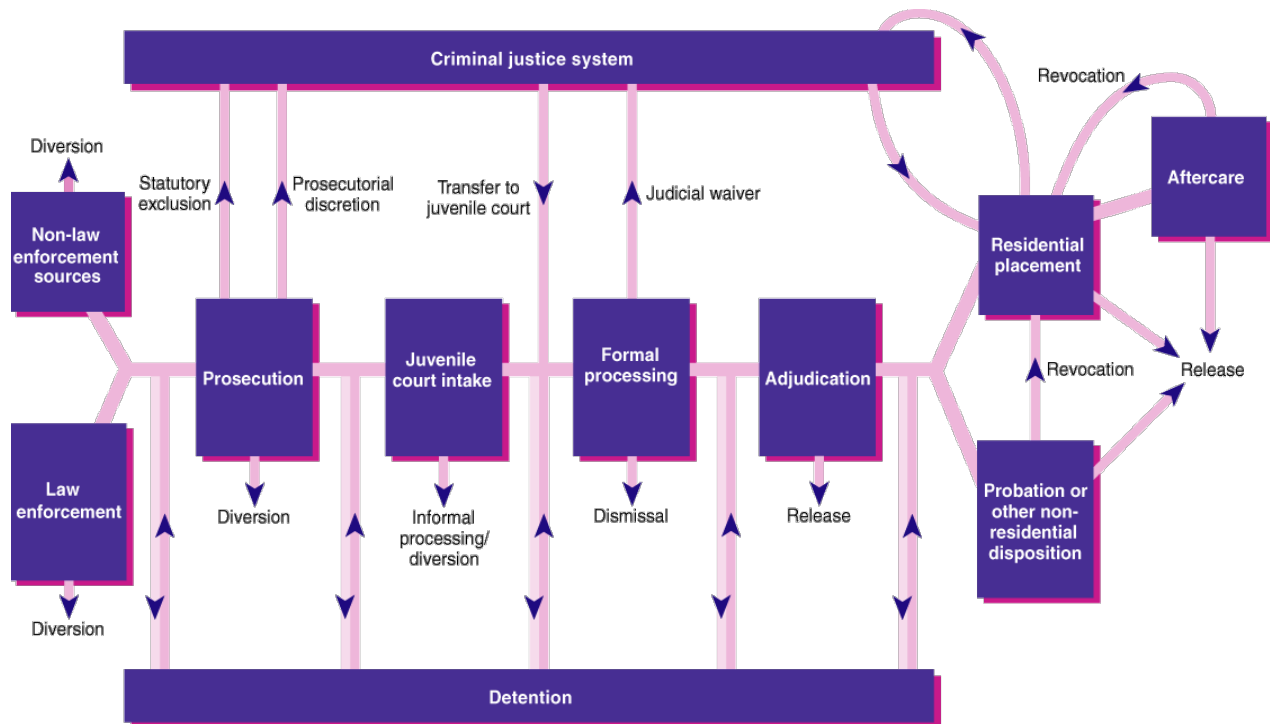
In 1977, the Michigan Supreme Court created the Michigan Judicial Institute (MJl). MJl is the education and training division of the Court.

### ***Important Notes:***

- Throughout this manual, references to "juvenile court" refer to the juvenile division, section, or unit of the family division of the circuit court.
- The focus of this manual is on delinquency/status offenses. It does not address abuse/neglect proceedings.

## Overview of the Juvenile Justice System Process

This diagram provides a general overview of how a case may flow through the juvenile justice system.<sup>3</sup>



### Most Delinquency Matters are Referred by Law Enforcement.

85% of delinquency referrals came from law enforcement agents in 2021. The remaining referrals were made by others such as parents, victims, or probation officers.

### Intake

At intake, the decision must be made to dismiss the case, handle the matter informally, or request formal intervention by the juvenile court. In 2020, 19% of all arrests involving youth were handled within the police department and then released. 45% of all arrests involving youth were referred to juvenile court.

### Intake may ask the Juvenile Court to Transfer the Case to Criminal Court

A waiver petition is filed when the prosecutor or intake officer believes that a case under jurisdiction of the juvenile court would be more appropriately handled in criminal court. This decision generally centers around whether the youth is amenable to treatment in the juvenile justice system, or the severity of the offense. If the judge agrees that the case should be transferred to criminal court, juvenile court jurisdiction over the matter is waived, and the case is filed in criminal court.

If the judge does not approve the waiver request, an adjudicatory hearing is scheduled in juvenile court.

<sup>3</sup> OJJDP Statistical Briefing Book. [https://ojjdp.gov/ojstatbb/structure\\_process/case.html](https://ojjdp.gov/ojstatbb/structure_process/case.html)

### **During the processing of a case, a juvenile may be held in a secure detention facility**

Juvenile courts may hold delinquents in a secure detention facility, separate from adult offenders, if the court believes it is in the best interest of the community or the child. A detention hearing must be held immediately. In 2021, juveniles were detained in one in four (26%) of the delinquency cases processed by juvenile courts.

### **A disproportionate number of delinquency cases involved Black youth.**

In 2021, Black youth constituted 15% of the juvenile population but 35% of the delinquency caseload.

### **The use of formal handling has been stable for several years.**

The use of formal handling changed little between 2010 and 2021, increasing three percentage points from 2010 (53%) to 2021 (56%). The overall likelihood of formal handling was greater for more serious offenses within the same general offense category. In 2021, for example, 72% of aggravated assault cases were handled formally, compared with 48% of simple assault cases.

### **Adjudication**

Adjudication determines that the juvenile comes within the jurisdiction of the court. At the adjudication hearing (trial), witnesses may be called, and the facts of the case are presented. In nearly all adjudicatory hearings, the determination that the youth was responsible for the offense(s) is made by a judicial officer, although, in some states, the youth is given the right to a jury trial. In 2021, 48% of all delinquency cases petitioned to juvenile court resulted in an adjudication of delinquency. The annual number of delinquency cases in which youth were adjudicated delinquent has steadily decreased from 2005 to its lowest level in 2021.

### **Between the adjudication decision and the dispositional hearing, an investigative report is often prepared by probation staff**

After adjudication, a disposition, or case services plan, is developed. To prepare this plan, probation officers develop a detailed understanding of the youth and assess available support systems and programs.

### **The dispositional phase**

The disposition phase of a delinquency proceeding is similar to the "sentencing" phase for an adult. Sworn testimony is not always taken at dispositional hearings. At the disposition hearing, the juvenile probation officer's recommendations may be presented to the judge. Defense counsel or the youth may make a statement agreeing with or disputing the recommendation. The prosecutor may also present their side.

After considering options presented, the judge orders a disposition in the case.

### **Most cases placed on probation also receive other conditions**

A probation order may include specific terms and may be for a specified period of time or open-ended. A probation order may, for instance, include additional requirements such as drug counseling, weekend confinement in a local detention center, or community or victim restitution. In 2021, 65% of all adjudicated delinquency cases were ordered to formal probation as the most severe disposition.

### **The judge may order the juvenile committed to a residential placement**

Nationally, in 2021, about 28% of adjudicated delinquents were placed in residential facilities for a specific or indeterminate time period. Such facilities may be publicly or privately operated and may have a more secure prison-like environment or a more open home-like setting. The proportion of adjudicated delinquency cases that resulted in out-of-home placement has been very stable over the period of 2005 to 2021, ranging from 25% to 28%.

### **Youth aftercare**

Following release from an institution, the youth is often ordered to a period of aftercare, similar to adult parole. During this period, the youth is under supervision of the court or the juvenile corrections department.

### **The processing of status offense cases differs from that of delinquency cases**

A delinquent offense is an act committed by a juvenile for which an adult could be prosecuted in criminal court. Status offenses are behaviors that are law violations only for juveniles. Status offenses may include running away from home, truancy, incorrigibility, and curfew violations. In many ways, the processing of status offense cases parallels that of delinquency. While many youths charged with status offenses enter the juvenile justice system through law enforcement, in many states the initial contact is a child welfare agency. Less than one-fifth (19%) of all petitioned status offense cases referred to juvenile court in 2021 were from law enforcement.

The Juvenile Justice and Delinquency Prevention Act discourages holding status offenders in secure juvenile facilities, either for detention or placement.

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## **REQUIREMENTS AND FUNCTIONS OF A JUVENILE PROBATION OFFICER/CASEWORKER IN MICHIGAN**

The text of this manual addresses the myriad functions performed by the probation officer/caseworker. As with the history of the juvenile court, the role and function of a probation officer have changed over the years.

### **Minimum Requirements**

Minimum requirements for juvenile probation officers/caseworkers were established by Michigan Supreme Court Administrative Order (AO) 1985-5. The AO has been amended over the years. Section I.C.1.b.(1.) presently reads, in part:

A probation officer/caseworker is defined as the professional staff who work directly with children, their families, and other relevant individuals and who are primarily responsible for the development, implementation, and review of plans for children, youth, and their families.

A probation officer/caseworker, at the time of appointment, shall possess the following qualifications:

### ***Education and Experience***

- Minimum Standards:
  - Bachelor's degree in social sciences, education, a related human service field, or a related field that qualifies the person to manage or supervise the delivery of juvenile services;
  - Must complete the MJJ certification training for juvenile court staff within two years after date of employment.
- Desired Standards:
  - Bachelor's degree in social work, criminal justice, education, behavioral sciences, or a related field that qualifies the person to manage or supervise the delivery of juvenile services;
  - Two years of casework experience in juvenile court or a related child welfare agency;
  - Must complete the Michigan Judicial Institute certification training for juvenile court staff within two years after date of employment.

### ***Knowledge, Skills, and Abilities***

- Knowledge of the principles and methods concerned with personal and social problem solving;
- Knowledge of factors concerned in delinquency, neglect, and abuse of children;
- Knowledge of family dynamics and the effects of social conditions on family functioning;
- Knowledge of the juvenile justice system and children's services programs;
- Knowledge of the principles, procedures, and techniques of child welfare work;
- Ability to apply social casework methods to child welfare services;
- Ability to develop child welfare programs with community organizations;
- Ability to relate effectively to the public and individuals on their caseload;
- Ability to speak and write effectively.

### ***Additional Requirements***

Job postings vary. Other requirements may likely include, for instance, the possession of a valid driver's license and the availability of an automobile for business, a criminal history check, the ability to be available for emergency and/or after-hours call-ins, among others. There may also be required training or certification that must be completed soon after hiring, potentially including the use of certain technologies or processes.

Computer literacy, organizational skills, attention to detail, and excellent written and verbal communication skills are often considered essential. Similarly, it may be expected that you gain familiarity with relevant technology as needed, including tools used to manage and organize virtual meetings or appointments, or to collect and analyze data.

The ability to work with people of diverse cultural backgrounds is also often considered crucial. This would include, for example, an awareness of cultural values and biases and demonstrating the ability to be culturally competent and ensure treatment services for clients are conducted in such a manner.

### **Functions Performed by All Probation Officers/Caseworkers**

While job descriptions vary, almost every probation officer/caseworker performs similar functions. These can include, for instance, the following. A more comprehensive list of additional functions is then offered.

- Conduct regular meetings and supervision sessions with probationers, ensuring adherence to all probation requirements. This includes detailed assessments and reporting to facilitate judicial sentencing decisions and recommendations for individuals not complying with probation terms.
- Evaluate assigned cases by examining the social backgrounds of young individuals and their families, interpreting social records, and gathering educational, law enforcement, and other agency reports. This will involve the initial assessment process for new court-involved youth using various screening tools.
- Create reports that consolidate information, such as police reports, defendant information, and risk or screening assessment outcomes, to inform appropriate court actions.
- Formulate and execute individualized case plans for assigned youth, aiming at both immediate and long-term objectives, and adjusting these plans as needed.
- Initiate intake procedures for new probationers, explaining probation orders, court policies, and setting up reporting schedules.
- Craft and send notifications to parents about juvenile petitions, create reports for court use to aid in deciding case outcomes, and suggest conditions for probation, treatments, placements, support services, restitution, and further actions.
- Conduct alcohol and drug screenings and make necessary referrals to support programs for substance abuse or emotional challenges. Maintain ongoing communication with these agencies to monitor probationers' progress and compliance.
- Oversee juveniles on probation by conducting regular visits at their homes, schools, and in the office, addressing emotional, psychological, and behavioral issues, tracking and documenting the progress of the youth.
- Actively participate in the legal process, including initiating probation violation proceedings and presenting findings in court. Maintain accurate and up-to-date probation records and manage calendars for appointments.
- Establish and maintain connections with school officials and community agencies, discussing the juvenile's school behavior and probation matters, and monitoring school attendance and performance.
- Demonstrate the ability to be culturally competent and ensure treatment services for clients are conducted in such a manner.
- Probation officers might represent their county in internal or external committees, participate in specialty court teams, and provide updates on case developments.

Travel to local jails for presentence interviews or to address probation violations is also part of the role.

- Attend and participate in staff development training sessions.

A more comprehensive list of frequent functions would include several categories of tasks, including:

### **Administrative tasks**

- Court appearances;
- Office activities and field visits;
- Maintaining accurate and up-to-date case records;
- Preparing and submitting reports;
- Gathering and evaluating data, likely with the aid of technology;
- Maintaining documents in an electronic and non-electronic format;
- Maintaining excellent time management skills, and being able to track and manage appointments, whether virtual or in person;
- Utilizing office equipment and technology, including virtual meeting programs, database entry programs, and having the ability to learn new software programs applicable to the position;
- Following court policy, and responsibility for monitoring compliance;
- Completing initial and ongoing agency training as required;
- Attending and participating in staff professional development meetings.

### **Casework and Interviewing tasks**

- Interviewing, clarifying problems, suggesting constructive methods;
- Consulting with supervisors when necessary;
- Collaborating with public and private community agencies;
- Referring probationers to community agencies;
- Facilitating access to community resources;
- Contacting collateral sources of information;
- Conducting regular follow-up interviews to monitor progress and compliance;
- Utilizing evidence-based tools and practices to evaluate and manage risks and needs;
- Establishing professional relationship with probationers.

### **Enforcement tasks**

- Enforcing the court's orders;
- Documenting facts and testifying in court compliance;
- Petitioning the court to address alleged probation violations;
- Conducting a variety of risk or needs screenings and assessments;
- Requesting the court modify its orders, when appropriate.

### **Investigative tasks**

- Conducting investigations and preparing reports to assist judges in sentencing;
- Preparing presentence reports that include summaries of information from sources such as the police and defendant, as well as social and criminal history,



and assessment results. Using these summaries to develop recommendations for the most appropriate court action;

- Discussing the juvenile’s school behavior and probation matters with schools or community agencies and monitoring school attendance and performance;
- Assessing threats, risks, needs, and safety issues related to probationers and their environments.

**Public Relation tasks**

- Representing the judges, chief probation officer, and other court officials in public;
- Addressing community groups, participating in conferences, panels, etc.;
- Representing the county on internal/external committees or work groups.

**Additional Assignments**

- Other duties or tasks may be assigned or directed by the chief judge, court administrator, or chief probation officer.

While performing the duties of this job, employees regularly work in an office with some field work.

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**MICHIGAN TASK FORCE ON JUVENILE JUSTICE REFORM (2021) AND MICHIGAN JUSTICE FOR KIDS AND COMMUNITIES BILL PACKAGE (2023)**

As of October 1, 2024, there will be additional training requirements for professional staff who provide case management services to youth on probation, based on recommendations of the Michigan Task Force on Juvenile Justice Reform and the resulting Michigan Justice for Kids and Communities bill package.

These statutory changes have been incorporated into the current revision of this manual, and several major legislative changes are just briefly summarized here.

**Juvenile Justice Funding**

The new laws increase the reimbursement rate for community-based programs and services and allow for the use of the Child Care Fund for youth at risk of juvenile court involvement. Fines, fees, costs, and assessments (including DNA fees) will no longer be able to be assessed or collected by courts.

**Diversion**

The new laws expand eligibility for youth to be diverted from formal court proceedings, incentivize diversion through funding, and limit the amount of time for diversion agreements.

**Screening and Assessments**

The new laws require the use of objective decision-making tools to help inform diversion, detention, and dispositional decisions.

**Appellate Representation**

The new laws expand the State Appellate Defender's Office to include services for juveniles.

**Office of the Child Advocate**

Renames the Office of the Children's Ombudsman to the Office of the Child Advocate and expands the role to include investigations in juvenile justice facilities (in addition to child welfare facilities).

**Questions for Review:**

What does "One Court of Justice" mean?

What are the three primary functions of the Michigan Supreme Court?

What is the role of the Court of Appeals?

What is the jurisdiction of the circuit court?

What is the jurisdiction of the family division of the circuit court?

What are the similarities between all juvenile court systems?

What are the requirements to become a juvenile probation officer/caseworker in Michigan?

What are the common functions performed by almost all juvenile probation officer/caseworkers?

# Chapter 1: Overview of Manual and Definitions

This chapter discusses:

- 1.1. Manual Contents
- 1.2. Important Definitions

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## 1.1. MANUAL CONTENTS

Chapters 1-13 of this manual explain the laws, court rules, and procedures used in juvenile delinquency cases and personal protection order (PPO) cases involving a minor. The remaining chapters focus more on practical application.

## 1.2. IMPORTANT DEFINITIONS — IN ALPHABETICAL ORDER

For a more comprehensive list of terms and definitions, see MCR 3.903. For a more general list of legal terminology, please see the current version of the [MJJ Handbook of Legal Terms](#).

**Adjudication:** The determination by the court that the juvenile has committed the offense. It is similar to a finding of guilt in an adult proceeding.

**Aftercare:** Supervised conditional release of a juvenile from a correctional facility, under which the juvenile must comply with certain terms and conditions as part of the reintegration process into the community.

**Case:** Means an action initiated in the family division of circuit court by:

- (a) An original complaint, petition, or citation;
- (b) Acceptance of transfer of an original action from another court or tribunal; or,
- (c) Filing or registration of a foreign judgment or order.

**Competency:** A juvenile, 10 years of age or older, is presumed competent to proceed unless the issue of competency is raised by a party. A juvenile less than 10 years of age is presumed incompetent to proceed. MCL 330.2062(1), MCL 712A.18n(1). For more information on Juvenile Competency, see Chapter 5.

**Community Service:** A form of punishment or rehabilitation that requires the juvenile to perform work for the benefit of the community, often used as an alternative to more punitive measures.

**Confidential File:** Part of a file made confidential by statute or court rule, which includes:

- (i) Diversion records. MCL 722.821.
- (ii) The separate statement about known victims of juvenile offenses as required by the Crime Victim’s Rights Act. MCL 780.751.
- (iii) The testimony taken during a closed proceeding. MCR 3.925(A)(2); MCL 712A.17(7).
- (iv) Dispositional reports made pursuant to MCR 3.943(C)(3) and 3.973(E)(4).
- (v) Biometric material required to be maintained. MCL 28.243.

- (vi) Reports of sexually motivated crimes. MCL 28.247.
- (vii) Test results of those charged with certain sexual offenses or substance abuse offenses. MCL 333.5129.
- (viii) The “Social File.”<sup>4</sup>

Petitions that the court has not authorized for filing do not fall within the definition of “records” and are therefore “confidential files.”

No provision of the Juvenile Code makes a juvenile probation file confidential. A juvenile probation officer’s file may contain case notes and copies of records whose confidentiality is protected by other laws. MCL 791.229 addresses a “probation officer’s privilege,” but that applies to Michigan Department of Corrections (MDOC) probation officers.

**Consent Calendar:** The consent calendar statute, effective September 19, 2016, says, in part “. . . any time before disposition if the court determines that a case should not proceed on the formal calendar but that the protective and supportive action by the court will serve the best interests of the juvenile and the public, the court may transfer the matter to the consent calendar.” MCL 712A.2f; MCL 712A.11(1). See also MCR 3.932(D).

A case shall not be placed on the consent calendar unless the juvenile and the parent, guardian, or legal custodian and the prosecutor agree to have the case placed on the consent calendar. MCL 712A.2f(2).

The court shall not enter an order of disposition in a case while it is on the consent calendar. MCL 712A.2f(8). See also MCR 3.932(C)(6).

**County Juvenile Agency:** Defined in the “County Juvenile Act,” to provide services to juveniles “within or likely to come within” the family division’s jurisdiction of criminal offenses by juveniles and the criminal division’s jurisdiction over those “automatically waived.” MCL 45.621; MCL 803.302(a).

**Crimes Against Persons:** Includes criminal homicide, forcible rape, robbery, aggravated assault, simple assault, among other person offenses.

**Crimes Against Property:** Includes burglary, larceny, motor vehicle theft, arson, vandalism, stolen property offenses, trespassing, among other property offenses.

**Delinquency Offense Cases:** Involve juveniles under the age of 18 charged with a violation of a criminal law or ordinance, or with a status offense. If the juvenile is found responsible for the offense, the court may order a juvenile disposition.

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<sup>4</sup> Contents of the Social File includes materials such as: (i) youth and family record fact sheet; (ii) social study; (iii) reports (e.g., dispositional, investigative); (iv) MDHHS records; (v) correspondence; (vi) victim statements; (vii) information regarding the identity or location of a foster parent, preadoptive parent, or relative caregiver.

The family division has several options when a petition is filed in a delinquency proceeding, including: denying or dismissing the petition; directing that the parent, guardian, or legal custodian and juvenile appear so that the matter can be handled through further informal inquiry; referring the matter to a public or private agency without authorizing a petition to be filed; proceeding on the consent calendar; or, authorizing a petition and proceeding on the formal calendar.

**Dependency Offenses:** Includes actions that come to the attention of a juvenile court involving neglect or inadequate care of minors on the part of the parents or guardians, such as abandonment or desertion.

**Designated Cases:** In a “specified juvenile violation,” the prosecuting attorney may designate the case for criminal trial. In a “nonspecified juvenile violation,” the judge must decide whether to designate the case for criminal trial. After conviction, the court may impose an adult sentence, delay imposition of an adult sentence, or order a juvenile disposition.

**Detention:** In custody (secure, non-secure, or home confinement) while awaiting an adjudication hearing, disposition, or commitment placement.

**Disposition:** The judgment of the court following adjudication. It is similar to “sentencing” in an adult proceeding. The disposition of a juvenile who has committed an offense that would be a criminal offense if committed by an adult is governed by the Juvenile Code. MCL 712A.18.

**Diversion:** Means that instead of petitioning the court or authorizing a petition, either of the following occurs:

- The minor is released into the custody of their parent, guardian, or custodian and the investigation is discontinued;
- The minor and the minor’s parent, guardian, or custodian agree to work with a person or public or private organization or agency that will assist the minor and the minor’s family in resolving the problem that initiated the investigation. MCL 722.822(c).

Diversion may not be used for any offense listed as a “specified juvenile violation,” as defined by MCL 712A.2. See also MCL 722.822.

**Drug Law Violations:** Includes unlawful sale, purchase, distribution, manufacture, cultivation, transport, possession, or use of a controlled or prohibited substance or drug or drug paraphernalia or attempt to commit these acts.

**Evidence-Based Practices (EBP):** The application of evidence or data that has been scientifically tested and proven effective to inform decision-making, interventions, strategies, or programs.

**Firearm:** Any weapon from which a dangerous projectile may be propelled using explosives, gas, or air as a means of propulsion, except BBs less than .177 caliber. MCL 712A.18g(3); MCR 3.943(E)(7)(c).

**Formal Calendar:** Judicial proceedings other than a delinquency proceeding on the consent calendar, a preliminary inquiry, or a preliminary hearing. If the case is placed on the formal calendar, the court will conduct a formal adjudicative hearing, and, if the juvenile is found responsible for the offense, a dispositional hearing is held. MCL 712A.2f.

**“Found within the county”:** As used in MCL 712A.2, a child is "found within the county" in which the offense against the child occurred, in which the offense committed by the juvenile occurred, or in which the minor is physically present.

**Graduated Sanctions:** An accountability-based graduated series of sanctions (including incentives, treatments, and services) designed to provide appropriate punishment to youth offenders based on the gravity of their offense and an assessment of the potential risk for reoffending, coupled with appropriate treatment to reduce the risk of recidivism.

**Guardian:** A person appointed as guardian of a child by a court (in Michigan or another state).

**Indigent:** A term used to describe individuals, including juveniles, who do not have sufficient financial resources. In the context of juvenile justice, this term often relates to the provision of legal representation for those who cannot afford it.

**Intake:** The process by which a juvenile justice system initially responds to an allegation of delinquency, including the decision whether to file formal charges.

**Juvenile:** A person who is less than 18 years old who is the subject of a delinquency petition.

**Juvenile Code:** Public Act 54 of 1944, MCL 712A.1, as amended.

**Legal Custodian:** An adult who has been given legal custody of a minor by order of a court. It also includes the term Indian custodian, which means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of such child. MCR 3.002(7).

**Manner of Handling:** A general classification of case processing within the court system. Petitioned (***formally handled***) cases are those that appear on the official court calendar in response to the filing of a petition, complaint, or other legal instrument requesting the court to adjudicate a youth as a delinquent, status offender, or dependent child or to waive jurisdiction and transfer a youth to criminal court for processing as a criminal offender. In non-petitioned (***informally handled***) cases, duly authorized court personnel, having screened the case, decide not to file a formal petition.

**Minor:** A person under the age of 18, which may also include an individual aged 18 or older if their case is commenced in juvenile court, over which the juvenile court has continuing jurisdiction pursuant to MCL 712A.2.

**Minor Personal Protection Order Cases:** Personal Protection Orders (PPOs) forbid abusive conduct and stalking, including cyberstalking, by minors ten-years-old or older. A PPO may not be issued if the people involved have a parent-child relationship and the child is an unemancipated minor. In such cases, a delinquency or child protective proceeding may be instituted.

**Offense by a Juvenile:** An act that violates a criminal statute or ordinance or a status offense.

**Offenses Against Public Order:** Includes weapons offenses, nonviolent sex offenses, disorderly conduct, obstruction of justice, among other offenses against public order.

**Officer:** A government official with the power to arrest or any other person designated by the court to apprehend, detain, or place a minor.

**Parent:** The mother, the father, or both. It also means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. MCR 3.002(20).

**Party:** In a delinquency proceeding, means the petitioner and the juvenile.

**Petition Authorized to be Filed:** Refers to written permission by the court allowing a petition to be filed containing allegations against the juvenile.

**Preliminary Hearing:** The formal review of the petition when the judge or referee considers authorizing the petition and placing the case on the formal calendar.

**Preliminary Inquiry:** An informal review by the court to determine appropriate action on a petition.

**Probation:** A form of supervision where a juvenile is allowed to remain in the community but must comply with certain conditions set by the court, like attending school, observing a curfew, and not reoffending.

**Public Ward:** A youth at least 12 years of age when committed by the family division for care by a youth agency. MCL 803.302(c).

**Recidivism:** The act of re-engaging in criminal behavior after having been previously adjudicated or convicted. Reducing recidivism is a primary goal of juvenile justice interventions.

**Referees:** A court may assign a referee to conduct a preliminary inquiry or to preside at a hearing other than those specified in MCR 3.912(A) and to make recommended findings and conclusions. More information about referees can be found in Chapter 2. See also MCL 712A.10(1). This can include:

- **Attorney Referees:** In general, only a person licensed to practice law in Michigan may serve as a referee at a delinquency proceeding other than a preliminary inquiry or preliminary hearing, if the juvenile is before the court for violations of law or ordinance. MCR 3.913(A)(2)(a); MCL 712A.10(2). Only an attorney referee may preside at a hearing to designate a case or to amend a

petition to designate a case and to make recommended findings and conclusions. MCR 3.913(A)(2)(c). Only an attorney referee may preside at any hearing (other than a preliminary hearing) for the enforcement of a minor PPO and make recommended findings and conclusions. MCR 3.913(A)(2)(d).

- **Nonattorney Referees:** In a delinquency case, a nonattorney referee may conduct only the preliminary inquiry or preliminary hearing. MCL 712A.10(2); MCR 3.913(A)(2)(a). In a minor PPO enforcement proceeding, a nonattorney referee may conduct the preliminary hearing. MCR 3.913(A)(2)(d).

**Residential Placements:** Facilities where juvenile offenders are placed to live under supervision and receive treatment or rehabilitation. These can be secure facilities like detention centers or less restrictive environments like group homes.

**Restitution:** Compensation by the juvenile offender to the victim for harm caused by the offender's delinquent act, with the aim of holding the juvenile accountable and providing reparation to victims.

**Risk and Needs Assessment Criteria:** Tools or criteria used to evaluate the risk of reoffending and the specific needs of juvenile offenders. This helps in tailoring interventions and supervision to individual cases.

**Screening Tools:** Instruments used to assess various aspects of a juvenile's situation, such as the likelihood of reoffending, mental health status, or suitability for certain programs. They inform decisions about detention or diversion. These can include, for instance:

- **Detention screening tools:** Assessment instruments used to make informed decisions about whether a juvenile should be detained or released while awaiting further court action.
- **Risk screening tools:** Used to assess the likelihood that a juvenile will engage in future delinquent or criminal behavior.
- **Mental health screening tools:** Designed to quickly assess a juvenile's mental health status and identify potential needs for further evaluation or treatment.

#### **Services for Disabled and Limited English Proficient (LEP) Individuals:**

Terminology related to providing services to those with limited proficiencies in English, or those with disabilities, and can include:

- **Americans with Disabilities Act (ADA):** ADA prohibits discrimination against qualified individuals. If you receive a request for an ADA accommodation, immediately contact your court's ADA coordinator. All courts are required to have an ADA coordinator.
- **Individualized Education Program (IEP):** A document developed for each public school child who needs special education. Used with juveniles with disabilities within the justice system to ensure they receive appropriate educational services.
- **Interpreter Services:** Courts have long been required to provide interpreter services for deaf-blind individuals. MCL 393.501.
- **Providing Services to Limited English Proficiency (LEP) Individuals:** Courts are to provide court-appointed foreign language interpreters for LEP persons to



support access to justice. If you receive a request for an LEP accommodation, immediately contact your court's LEP coordinator. All courts are required to have an LEP coordinator.

**Status Offender:** Refers to juveniles who are alleged to fall within the exclusive jurisdiction of the family division. MCL 712A.2(a)(2)-(4). Status offenders are juveniles who are:

- **Runaways:** The juvenile has deserted their home without sufficient cause.
- **Incorrigibles:** The juvenile is repeatedly disobedient to the reasonable and lawful commands of their parents, guardian, or custodian.
- **Truants:** One who is willfully and repeatedly absent from school or other learning program, repeatedly violates rules/regulations of the school or other learning program.

**Status Offense Cases:** Are acts that are violations of law only when committed by a minor (i.e., running away from home without sufficient cause, incorrigibility, and truancy). Status offenses are governed wholly by the Juvenile Code. Michigan Court Rules include status offenders within the definition of "delinquency proceeding," however, there are important differences between the two. For example, a status offender may only be placed in a secure (locked) facility in limited circumstances.

**Source of Referral:** The agency or individual filing a complaint with intake that initiates court processing. This can include members from a law enforcement agency, or others such as, for instance, parents, probation officers, or other private citizens.

**Waiver:** The process of transferring a juvenile case to adult criminal court. This usually happens in cases of serious offenses or when the juvenile has a history of delinquency. This can include:

- **"Automatic" Waiver Cases:** An "automatic" waiver allows the prosecutor to file the case in the criminal division rather than in the family division. The trial is a criminal case. Following conviction, the juvenile may be sentenced as an adult or placed on probation and committed to public wardship. For some "specified juvenile violations," an adult sentence is mandatory. A court may use telephonic, voice, or videoconferencing to conduct an automatic waiver. MCR 6.006.
- **"Traditional" Waiver Cases:** When a juvenile is charged with a felony, the prosecutor may file a motion asking the family division to allow the juvenile to be tried as an adult in the criminal division. If the family division waives jurisdiction over the juvenile, a criminal trial takes place. Following conviction, the juvenile must be sentenced as an adult.

## Questions for Review:

### ***What do the following terms mean?***

Adjudication

Case

Competency

Confidential File

Consent Calendar

County juvenile agency

Disposition

Diversion

Firearm

Formal Calendar

Guardian

Indigent

Intake

Juvenile

Juvenile Code

Legal Custodian

Minor

Offense by a Juvenile

Officer

Parent

Party

Petition Authorized to be Filed

Preliminary Hearing

Preliminary Inquiry

Public ward

Referee

Risk and Needs Assessment Criteria

Social File

What are the differences between a delinquency offense, a status offense, and a PPO?

What are the differences between a Designated Case, an Automatic Waiver, and a Traditional Waiver?

What sort of services may be offered to those with disabilities or those who have lower proficiencies in English?

What are several different types of screening tools?

## Chapter 2: Jurisdiction, Transfer, and Venue

This chapter discusses:

- 2.1. Jurisdiction
  - 2.2. Transfer of Jurisdiction
  - 2.3. Handling Cases Under the Interstate Compact on Juveniles (ICJ)
  - 2.4. Referees in Juvenile Proceedings
- - - - -

### 2.1. JURISDICTION

#### There are Two Types of Jurisdiction

- **Subject-Matter Jurisdiction:** A court's authority to exercise judicial power over a particular class of cases, for example, delinquency cases.
- **Personal Jurisdiction:** The court's authority to exercise judicial power over a particular individual.

#### Jurisdiction of Juvenile Delinquency Cases

The family division of the circuit court has "exclusive original jurisdiction" over juveniles "found within the county." MCR 3.926(A). As used in MCL 712A.2, a child is "found within the county" in which the offense against the child occurred, in which the offense committed by the juvenile occurred, or in which the minor is physically present. If a juvenile reaches the age of 18 after the filing of the petition, the court's jurisdiction shall continue beyond the juvenile's 18th birthday and the court may hear and dispose of the petition under the Juvenile Code. MCL 712A.11(4).

#### Jurisdiction over Juveniles Charged with Criminal Violations of the Michigan Vehicle Code

The family division has "exclusive original jurisdiction . . . in cases concerning a juvenile less than 18 years of age who is charged with violating any municipal ordinance or state or federal law." MCL 712A.2(a)(1).

#### Jurisdiction of Contempt Cases

The court has the authority to hold persons in contempt of court as provided by MCL 600.1701 and 712A.26. Specifically, the family division may find *any* person who willfully violates, neglects, or refuses to obey an order of the court, and enforce reimbursement orders, and orders assessing attorney costs, through its contempt powers. MCL 600.1701; MCL 712A.26; MCL 712A.18(2) and (3); MCL 712A.17c(8); MCL 712A.18(5); MCR 3.915(E).

However, a juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations unless the court determines that they have the resources to pay and have not made a good-faith effort to do so. MCR 3.928(D).

## **2.2. TRANSFER OF JURISDICTION**

### **Transfer to County of Residence**

Under MCR 3.926(B)(1)-(3), when a minor is brought before the family division in a court in a county where they do not reside, the court may, before trial, transfer the case to the court in the county where the child does reside. The court shall not order transfer of the case until the court to which the case is to be transferred has granted the request to accept the transfer.

### **Bifurcated Proceeding**

If the judges in each county agree, adjudication may occur in the county where the offense occurred, and disposition may occur in the county where the case is being transferred. MCR 3.926(E).

### **Transfer of Records**

The transferring court is responsible for sending the receiving court all case records by a secure method. MCR 3.926(F).

### **Handling Cases When Juvenile Is Subject to Prior or Continuing Jurisdiction of another Court in Michigan**

Where a child is subject to a prior or continuing order of any other court of this state, notice must be filed with the appropriate official of any prior court. MCR 3.205(B).

### **Courtesy Supervision**

To transfer a case to another jurisdiction, request courtesy supervision from the receiving county, and include as much information as possible. If the request is granted, copies of all pertinent information should be forwarded to the receiving court, including court orders, court reports, investigation materials, school records, and psychological evaluations. Further contact should be made with the receiving court to provide background information about the juvenile and family history. The victim should be notified, and the supervising county should have the victim's information.

### **Jurisdiction over Indian Children**

Tribes set their own eligibility requirements, and there is no specific degree of Indian ancestry that qualifies a child for tribal membership. MCR 3.002(12).

The Michigan Indian Family Preservation Act (MIFPA), MCL 712B.1, sets requirements and procedures to ensure compliance with the Indian Child Welfare Act (ICWA), 25 USC 1901. MIFPA establishes procedures that are applicable to Indian children.

Essentially, if a child is known to be a member of a tribe, or is thought to be a member of, or eligible for, membership in a tribe, notice must be given to the tribe and others. The tribe must be given the opportunity to take jurisdiction of the child. Also, see MCR 3.002(12).

### **Jurisdiction and Authority over Adults**

The court has jurisdiction over adults and may make orders affecting adults as necessary for the physical, mental, or moral well-being of a juvenile. MCL 712A.6. However, those orders must be incidental to the jurisdiction of the court over the juvenile.

### **2.3. HANDLING CASES UNDER THE INTERSTATE COMPACT ON JUVENILES (ICJ)**

All 50 states are parties to the ICJ. MCL 3.692. The ICJ allows for interstate placement and supervision of juveniles, the return of runaways, absconders, and escapees, and the “extradition” of juveniles to and from Michigan to face criminal charges.

The ICJ is the only legal means to transfer a juvenile’s probation or parole supervision from one state to another and to return juvenile runaways.

#### **Compact Transfer Eligibility (see ICJ Rules 1-101; 4-101; ICJ Bench Card on Transfer of Supervision)<sup>5</sup>**

A juvenile (who is not being placed in a residential facility) shall be eligible for transfer if they meet all of the following criteria:

- Are classified as a juvenile in the sending state; and,
- Are an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication; and,
- Are under the jurisdiction of the court or appropriate authority in the sending state; and,
- Have a plan inclusive of relocating to another state for a period exceeding 90 consecutive days in any 12-month period; and,
- Have more than 90 days remaining at the time the sending state submits the transfer request; and,
- Will reside with a legal guardian, relative, nonrelative or independently; or, are a full-time student at an accredited secondary school, or accredited university, college, or licensed specialized training program and can provide proof of acceptance and enrollment.

#### **No state shall permit a juvenile who is eligible for transfer to relocate to another state except as provided by the ICJ.**

Relocate means to remain in another state for more than 90 consecutive days in any 12-month period.

A request for transfer of supervision for the *sole* purpose of collecting restitution and/or court fines is not permitted.

#### **Requirements for transfer of juveniles out-of-state (see ICJ Rules 1-101; 4-102; 5-101; 8-101; ICJ Advisory Opinion #02-2015)**

The probation department in the sending state is responsible for submitting a complete referral packet containing the required ICJ forms and other documents to the receiving state for investigation. The court shall assist probation with the completion of the ICJ Form IA/VI Application for Compact Services and Memorandum of Understanding and Waiver. This form must be signed by the juvenile, a witness, and the judge prior to allowing the juvenile to leave the sending state.

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<sup>5</sup> ICJ Bench Card on Transfer of Supervision.  
<https://juvenilecompact.org/sites/default/files/ICJ%20Bench%20Card.pdf>

The juvenile should be directed to report to probation to complete the remaining ICJ forms.

When it is necessary for the juvenile probationer to proceed to the receiving state *prior* to receiving an official acceptance, the probation department may provide the juvenile with a travel permit for testing a proposed residence.

The out-of-state travel and agreement to return form (ICJ Form VII) must be signed by the juvenile and the supervising officer in the sending state and must not provide permission to travel in excess of 90 calendar days. The probation department must send a copy of the travel permit to the receiving state through the Juvenile Interstate Data System *prior* to the juvenile's departure from the sending state.

### **Additional requirements for juvenile sex offenders (See ICJ Rule 4-103)**

A sending state must *not* allow a *juvenile sex offender* to proceed to a receiving state, until the sending state's request for transfer of supervision has been approved or reporting instructions have been provided by the receiving state, unless the juvenile has no legal guardian remaining in the sending state. In this instance *only*, the sending state must determine if the circumstances of the juvenile's immediate transfer justify the use of a travel permit and the appropriateness of the residence in the receiving state.

- If immediate transfer is necessary, the completed out-of-state travel and agreement form must be sent to the receiving state with justification for immediate placement prior to the juvenile's departure from the sending state.
- The receiving state must ensure compliance with local policies or laws when issuing reporting instructions. If the proposed residence is unsuitable, the receiving state may deny acceptance. Juvenile sex offenders must abide by registration laws in receiving state (i.e., felony or sex offender registration, notification, or DNA testing).
- A juvenile sex offender who fails to register in the receiving state when required will be subject to the laws of the receiving state.
- The receiving state must advise the sending state of any sex offender registration requirements and/or reporting instructions the juvenile may have in the receiving state. The sending state maintains supervision responsibility until the transfer is officially accepted by the receiving state. The receiving state has the authority to supervise the juvenile sex offender pursuant to reporting instructions.

### **Acceptance or denial of supervision (See ICJ Rules 4-104; 5-101)**

Upon completion of the ICJ forms, the probation department will submit a referral packet to the receiving state requesting transfer of supervision.

- The receiving state shall, within 45 calendar days of receipt of the referral, forward to the sending state the home evaluation along with the final approval or disapproval of the request for transfer of supervision.
- The receiving state cannot deny supervision based solely on the juvenile's age or the offense. Supervision *may* be denied when the home evaluation reveals that the proposed residence is unsuitable, or if the juvenile is not in substantial compliance with the terms and conditions of supervision, *except* when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.

- If transfer is denied, the sending state must arrange transportation for return of juvenile within five business days.
- Upon acceptance of supervision, the receiving state must supervise the juvenile consistent with other similar juveniles under probation or parole supervision in the receiving state.
- At the time of acceptance or during supervision, a receiving state *may* impose any condition on a juvenile, if that condition would have been imposed on a similar juvenile in the receiving state.
- The sending state is responsible for collecting all financial obligations, such as restitution, imposed by the sending state on a juvenile.
- Both the sending state and the receiving state shall have the authority to enforce the terms of probation, which may include the imposition of detention time in the receiving state. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions. Neither state may impose a supervision fee. The sending state determines the age of majority and length of supervision. The receiving state determines the level (degree) of supervision.

**Violations and retaking (see ICJ rules 5-103; 5-103A; 7-103; 7-104; 7-105)**

Violations must be reported to the sending state and must include detailed information about new citations or violations, status and disposition, supporting documentation, a description of efforts to redirect the behavior, and receiving state recommendations.

Where detention is required in the receiving state, the type of secure facility shall be determined by the laws regarding age of majority in the receiving state.

Sending states have 10 business days to respond to violation reports with the action to be taken and the date that action will occur.

The sending state's decision to retake a juvenile on probation or parole shall be conclusive and not reviewable within the receiving state.

Detained juveniles are not available for retaking. If the juvenile is suspected of committing a criminal offense or act of juvenile delinquency in the receiving state, the juvenile shall not be returned without the consent of the receiving state until discharged from prosecution, or other form of proceeding, imprisonment, detention, or supervision.

The receiving state may determine supervision has failed when:

- A legal guardian remains in the sending state, the receiving state has documented efforts or interventions to redirect the behavior: and,
  - The juvenile no longer resides in the residence approved by the receiving state due to documented instances of violation of conditions of supervision; or,
  - An alternative residence is determined to be in the best interest of the juvenile due to documented instances of violation of conditions of supervision and no viable alternatives have been located in the receiving state; or,

- An immediate, serious threat to the health and safety of the juvenile and/or others in the residence or community is identified; or,
- The juvenile does not reside with a legal guardian and the person with whom the juvenile resides requests the juvenile be removed from their home; or,
- The juvenile is a student or resides independently in the receiving state and the transfer of supervision fails due to documented instances of violations of conditions of supervision, and the receiving state has documented efforts or interventions to redirect the behavior.

Sending states have 10 business days to either secure alternative living arrangements or return the juvenile. If a sending state is required to return a juvenile and fails to do so within 10 business days, a judicial hearing shall be provided in the holding/receiving state. The court shall determine whether the grounds submitted justify the continued detention of the juvenile subject to the provision of the ICJ. A juvenile may be discharged from detention to a legal guardian or their designee if the holding/receiving state's court determines that further detention is not appropriate.

A duly accredited officer of a sending state *may* enter a receiving state and apprehend and retake any such juvenile on probation or parole. If this is not practical, a warrant may be issued.

#### **For more information regarding ICJ**

Contact the [Interstate Commission for Juveniles National Office \(ICJ\)](#). Also, you can find additional information on rules governing the return of runaways, escapees, and absconders, see the "Toolkit for Judges" and "ICJ Bench Book" available.

In Michigan, all requests for services in cases involving other states must be made to the [MDHHS, Office of Children's Services, and Interstate Services Unit](#).

Michigan's Uniform Criminal Extradition Act (UCEA) MCL 780.1 applies to juveniles charged with delinquent behavior in another state. *In re Boynton*, 302 Mich App 632, 635-636, 640 (2013) held that the trial court properly permitted the 15-year-old respondent's extradition to the state of Georgia to face accusations of delinquent behavior allegedly committed in that state when he was 12 years old.

## **2.4. REFEREES IN JUVENILE PROCEEDINGS**

### **Referees**

A court may assign a referee to conduct a preliminary inquiry or to preside at a hearing other than those specified in MCR 3.912(A) and to make recommended findings and conclusions. See also MCL 712A.10(1).

**Attorney Referees:** In general, only a person licensed to practice law in Michigan may serve as a referee at a delinquency proceeding other than a preliminary inquiry or preliminary hearing, if the juvenile is before the court for violations of law or ordinance. MCR 3.913(A)(2)(a); MCL 712A.10(2). Only an attorney referee may preside at a hearing to designate a case or to amend a petition to designate a case and to make recommended findings and conclusions. MCR 3.913(A)(2)(c). Only an attorney referee



may preside at any hearing (other than a preliminary hearing) for the enforcement of a minor PPO and make recommended findings and conclusions. MCR 3.913(A)(2)(d).

**Nonattorney Referees:** In a delinquency case, a nonattorney referee may conduct only the preliminary inquiry or preliminary hearing. MCL 712A.10(2); MCR 3.913(A)(2)(a). In a minor PPO enforcement proceeding, a nonattorney referee may conduct the preliminary hearing. MCR 3.913(A)(2)(d).

### **Scope of Referee Authority**

The chief judge may designate a probation officer or county agent to act as referee in taking the testimony of witnesses and hearing the statements of parties on petitions alleging that a child is within the provisions of the Juvenile Code if there is no objection by parties in interest.

The probation officer or county agent designated to act as referee shall do all of the following:

- Take and subscribe the oath of office provided by the constitution;
- Administer oaths and examine witnesses;
- If a case requires a hearing and the taking of testimony, make a written signed report to the judge containing a summary of the testimony taken and a recommendation for the court's findings and disposition.

A referee's recommendations and proposed order, under MCL 712A.10(1)(c), cannot be accepted without judicial examination. The ultimate decision and the exercise of judicial discretion rests squarely upon the trial judge and may not be delegated. In re AMB, 248 Mich App at 217.

When a juvenile is taken into custody without a court order for violating a law, ordinance, or PPO and is not released to their parents, guardian, or custodian, a referee may conduct a preliminary hearing and may sign an order authorizing the filing of a complaint. MCL 712A.14(1) & (2).

Similarly, when a child is taken into protective custody without a court order and is not released, a referee may enter an order for the placement of the child pending a preliminary hearing. MCL 712A.14a(2)-(3).

Additionally, a referee may issue a written ex parte order authorizing the MDHHS to immediately take a child into protective custody and place the child pending a preliminary hearing. MCL 712A.14b(1); MCR 3.913(A)(2)(b); MCR 3.963(B)(4).

Referees are bound by the rules governing the Judicial Tenure Commission and the Michigan Code of Judicial Conduct. MCR 9.201(B)(2); MCR 9.202; Michigan Ethics Opinion JI-19 (April 9, 1990).

### **Review of Referee's Proposed Order**

Before signing an order based on a referee's recommended findings and conclusions, a judge shall review the recommendations if requested by a party. MCR 3.991(B); MCR 3.991(A)(1).

**Questions for Review:**

What is “subject matter” jurisdiction? “Personal” jurisdiction?

Over what offenses does the family division have jurisdiction?

What procedures must the court follow if it has information that a juvenile may be an “Indian child”?

Does the court have jurisdiction over adults?

What are the procedures under the ICJ? For what type of juvenile offenders are additional procedures required?

What duties must a probation officer or county agent do once designated to act as a referee?

What role do referees serve in juvenile proceedings?

## Chapter 3: Juvenile Justice Probation Standards

This chapter discusses:

- 3.1. Background
- 3.2. Administrative Standards
- 3.3. Case Processing Standards
- 3.4. Case Planning Standards
- 3.5. Supervision Standards
- 3.6. Data Review

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### 3.1. BACKGROUND

On June 9, 2021, Governor Gretchen Whitmer signed Executive Order 2021-6<sup>6</sup> establishing the Michigan Task Force on Juvenile Justice Reform (Task Force). The Task Force was charged with “conducting a comprehensive and data-driven needs assessment of Michigan’s juvenile justice system, complete with recommendations for changes in state law, policy, and appropriations to improve youth outcomes.” The Task Force recommendations were guided by the following objectives:

- Safely reduce placement in detention and residential placement and associated costs;
- Increase the safety and wellbeing of youth impacted by the juvenile justice system;
- Reduce racial and ethnic disparities among youth impacted by the juvenile justice system;
- Improve the efficiency and effectiveness of the state and county juvenile justice systems;
- Increase accountability and transparency within the juvenile justice systems;
- Better align practices with research and constitutional mandates.

The Task Force issued their final report and recommendations<sup>7</sup> on July 22, 2022. One of the ten key findings of the Task Force was that many elements of the juvenile court process and probation supervision are not aligned with research and developmentally appropriate practices across the state. The Task Force found that there were limited guidelines, standards, or tools which existed to guide dispositional decisions, lengths of time on supervision, and supervisory practices. As a result of this finding, the Task Force unanimously recommended that the State Court Administrative Office (SCAO) establish statewide, research-based, juvenile-specific probation standards and guidelines. The Task Force further identified areas for juvenile probation standards which include the use of risk and needs screening and assessment, detention screening and decision-making, case planning, tailoring and individualizing probation conditions, improving youth and family engagement, using graduated responses and incentives, reviewing data, and addressing racial and ethnic disparities.

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<sup>6</sup> Executive Order 2021-6: Task Force on Juvenile Justice Reform

<sup>7</sup> Michigan Task Force on Juvenile Justice Reform Report and Recommendations

The Michigan Justice for Kids and Communities bill package was passed on December 12, 2023, as a result of the recommendations from the Task Force. The bill package required the SCAO to develop guidelines on the use of screening and assessment tools. The SCAO, with the help of the Juvenile Justice Partnership Committee and subgroups, developed the Juvenile Justice Screening and Assessment Tools Guidelines<sup>8</sup> which were published in August 2024. See the guidelines, as well as Chapter 11 of this manual, for detailed information on the use of screening and assessment tools, including the approved and selected tools.

As part of this bill package, the Social Welfare Act was amended to require courts to utilize research-based juvenile-specific probation standards as developed and approved by SCAO from the Child Care Funds received. MCL 400.117a(13)(d).

### **3.2. ADMINISTRATIVE STANDARDS**

Michigan Supreme Court Administrative Order 1985-5 provides for the standards required for direct services staff including juvenile probation officers and casework staff.

#### **Education, Knowledge, and Abilities**

At the time of appointment, a juvenile probation officer or caseworker must possess the following qualifications:

- **Education and Experience:** A juvenile probation officer or caseworker must have a bachelor's degree in social work, criminal justice, education, behavioral sciences, or a related field that qualifies the person to manage or supervise the delivery of juvenile services. Additionally, two years of casework experience in juvenile court or a related child welfare agency is desired.
- **Knowledge and Abilities:** A juvenile probation officer should possess knowledge of delinquency matters, the juvenile justice system and children's services programs, as well as the effects of social conditions on family functioning. Additionally, a juvenile probation officer should have the ability to apply social casework methods to working with youth and families.
- **Certification and Training:** In addition to the qualifications listed above, Michigan Supreme Court Administrative Order 1985-5 requires completion of the Michigan Judicial Institute certification training for juvenile court staff within two years after date of employment.

#### **Ethics and Model Code of Conduct**

As professionals, probation officers and caseworkers exercise specialized knowledge and skills and have unique obligations to the court, youth, and families served. To assure the highest degree of conduct, the Michigan Supreme Court has developed the "Model Code of Conduct for Michigan Court Employees" which includes guidelines for juvenile probation officers. More information about ethics and the Model Code of Conduct can be found in Chapter 14 of this manual. A brief overview, however, is provided here.

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<sup>8</sup> [SCAO Juvenile Justice Screening and Assessment Tools Guidelines](#)

The Model Code of Conduct includes the following ten canons and guidelines:

### 1. Impropriety or the Appearance of Impropriety

Probation officers are highly visible and should conduct themselves in a way that instills public trust and confidence. Their actions reflect not only on themselves, but on the court as well. Improper behavior or the appearance of improper behavior may compromise the integrity of the court, including violating any laws or accepting outside employment that may conflict or appear to conflict with their job duties.

### 2. Abuse of Position

The use of the real or apparent power of a position as a probation officer to personally benefit the probation officer or someone else is prohibited. Probation officers shall not use their position to secure privileges, gifts, special favors, or exemptions, nor attempt to take advantage of their access to court records to further personal interest or engage in ex parte discussions with judges or referees to influence the court or outcome of proceedings.

### 3. Impartiality

The official actions of a probation officer should not be affected or appear to be affected by kinship, rank, position, or influence of any party or person involved in the court system. Probation officers should understand and be mindful of positive and negative bias, be aware of cultural and personal bias, and strive for bias-free behavior.

### 4. Proper Use of Public Resources

Probation officers shall use public resources, property, and funds judiciously and solely in accordance with prescribed procedures, while refraining from conducting personal business on work time, including the time spent traveling to or from home visits in a county vehicle, or when being reimbursed by the county for mileage.

### 5. Duty to Disclose

A probation officer shall report violations of this code or attempts to compel another to violate this code, including informing their employer if arrested in any jurisdiction or involved in any pending legal action at the court of employment.

### 6. Confidentiality & Discretion

Although most court records are public, juvenile court records are nonpublic and cannot be released, except as allowed in the Nonpublic and Limited-Access Court Records chart developed by the SCAO.<sup>9</sup> Confidential information should never be disclosed to any unauthorized person for any purpose. Probation officers shall maintain the integrity of private information and use reasonable efforts to seek only that personal information that is necessary to perform their responsibilities.

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<sup>9</sup> [Nonpublic and Limited-Access Court Records](#)

## 7. Discrimination

A probation officer shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin.

## 8. Political Activity

A probation officer's ability to participate in the democratic process by working for a political cause, party, or candidate should not be hampered by his or her employment, if done outside of working hours. Political activity should not enter the workplace and government equipment, and resources should not be used for promoting political activity.

## 9. Duty to Serve

Probation officers must reflect a high level of professionalism as they faithfully carry out all assigned duties and enforce the rules and orders provided by the court. Probation officers should respect the importance of all entities involved with the juvenile justice system and cultivate professional cooperation with each.

## 10. Competency

Probation officers are encouraged to take advantage of educational opportunities that will enhance their skills, knowledge, and abilities, and allow for better service.

### **3.3. CASE PROCESSING STANDARDS**

Once a youth has been referred to the court as a result of delinquent behavior, decisions must be made regarding how to proceed. All youth referred to the court should proceed through an intake process to determine which route should be taken in order to hold the youth accountable for their behavior and provide rehabilitative services. Youth can proceed through the court system either informally through diversion programming or participating in a consent calendar case plan, or formally after being adjudicated for an offense.

#### **Intake**

##### **Risk Screening and Mental Health Screening**

A validated risk screening tool and a mental health screening tool must be administered on youth prior to making decisions to proceed informally with diversion or the consent calendar. For more information on risk and mental health screening tools, see Chapter 11 of this manual.

##### **Decision-Making**

After considering the results of the risk screening tool and mental health screening tool, as well as all collateral information collected, an intake worker must make a determination regarding the path a juvenile's case will follow. Options available to the court include warning the youth and dismissing the case, utilizing a diversion program, placement on a consent calendar, or adjudication and proceeding on the formal calendar.

## **Disposition**

### **Risk and Needs Assessments**

A validated risk and needs assessment must be administered prior to disposition to help inform the recommendations and decisions regarding disposition for a youth. The results of the risk and needs assessment must be shared with all parties seven days before disposition. An updated risk and needs assessment must be completed at certain intervals throughout a youth's jurisdiction, including every six months after the initial assessment, if the youth experiences a major life event, or if there is a major change in the youth's proceedings. Depending on the tool used, an updated assessment may need to be completed at more frequent intervals to maintain the fidelity of the tool. For more information on risks and needs assessments, see Chapter 11 of this manual.

### **Considerations**

When determining appropriate recommendations for disposition, the following additional factors must be taken into consideration: least restrictive setting, public safety, victim interests, rehabilitation, and improved juvenile outcomes, including but not limited to educational advancement.

## **3.4. CASE PLANNING STANDARDS**

A case plan is a written document outlining goals and activities to be completed during a youth's probation supervision period. Case planning should be a balanced approach of supervision based on the results of a risk and needs assessment, in collaboration and with input from the youth, family, and service providers.<sup>10</sup> The case plan should be both strength-based and trauma-informed. The case plan should also be clearly explained to the youth and family while allowing the family input and the ability to ask questions for clarification.

### **Individualized**

A case plan provides information regarding expected outcomes, goals, and services for the youth. Case plans should be individualized to the youth and family based upon the results of a risk and needs assessment and any and all collateral information received during the court's investigative process. The results of the risk and needs assessment will outline areas of greatest need, while highlighting individual strengths of the youth. Building upon the youth's strengths, a case plan should be a roadmap to successful completion of juvenile court supervision.

### **Addressing Needs and Promoting Strengths**

A case plan should focus on addressing criminogenic needs, promoting positive youth development, setting clear and achievable goals, aligning reporting requirements with the risk score, and tailoring conditions of probation to the individual youth. When creating a case plan, the probation officer or caseworker should:

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<sup>10</sup> Office of Juvenile Justice and Delinquency Prevention (OJJDP): Bridging Research and Practice in Juvenile Probation

- Identify criminogenic risks/needs and dynamic factors. Dynamic factors are areas that can be changed with effective interventions. Examples include substance use, poor problem-solving skills, lack of education/school attendance.
- Identify a youth's strengths and protective factors. Protective factors include positive family involvement, positive attitude towards seeking help, a commitment to education and positive peer relations.
- Identify 2-3 clear and achievable goals. Goals should be developed with input from the youth and family and should be strength-based while aligning with the youth's personal interests.
- Select activities to help youth work towards their goals. Activities should be clearly written in the case plan with a timeframe and expectation for completion.

### **Family and Community Partner Engagement**

Engaging family and community partners in the juvenile court process can encourage collaboration and lead to successful outcomes for the youth and family. Involving families throughout the juvenile court process helps to foster a family-centered approach. It is equally important to ensure that family engagement activities align with their cultural norms and practices.

Juvenile probation officer engagement with a youth and their family allows the officer to learn about the youth's interests and the family's goals for supervision, as well as gain insight on potential barriers to the youth attaining personal growth, positive behavior change, and long-term success. When probation officers positively engage with parents or other supportive adults in a youth's life, they are more likely to succeed.

Engagement requires probation personnel to seek advice and opinions from families, honor and respect their insight and perspective, and treat them as essential participants in the development of their youth's case plans and the oversight of their youth's experience on probation.<sup>11</sup>

Additionally, engaging community partner involvement in a youth's case by working together can help alleviate substantial burdens on families. Community collaboration also assists with ensuring that everyone involved in a youth's case are working together toward the same goals and successful outcomes.

### **3.5. SUPERVISION STANDARDS**

Case contacts with youth and their families should be based on a court's individual policies and procedures. Consideration for, and the frequency of, contact should be based upon the results of the screening and assessment tools, as well as the goals developed in the youth's case plan.

#### **Informal Probation**

The court may proceed informally with a case through either utilizing a diversion agreement or a consent calendar case plan. For diversion cases, the court must consider the eligibility and procedural requirements as defined in the Juvenile Diversion Act (MCL 722.821 et seq.). The court must follow the requirements as outlined in MCL 712A.2f when utilizing the consent calendar case plan.

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<sup>11</sup> [Annie E. Casey Foundation: Family-Engaged Case Planning](#)



- Individualized
  - Case plans for diversion agreements and consent calendar plans should be individualized to the youth and family based upon the results of a risk screening tool and mental health screening tool along with any and all collateral information received during the court’s investigative process. Juvenile probation officers should collaborate with the youth, family and involved community partners to identify specific areas of need, develop goals, and then determine the appropriate services to assist the youth and family in achieving the identified goals.
- Length
  - The time frame in order for a youth to complete a diversion agreement must not exceed three months and a consent calendar case plan must not exceed six months, unless the caseworker determines that a longer period is needed in order for the youth to complete a specific treatment program.

### **Formal Probation**

Formal probation results from a youth having been adjudicated for an offense brought before the court where probation serves as disposition. Probation serves two primary purposes, including holding youth who have offended accountable in order to protect public safety and supporting youth rehabilitation through service delivery as an alternative to incarceration.<sup>12</sup> Youth on formal probation must comply with the conditions of supervision as ordered by the court, which may include participation in treatment services, community service, random drug and alcohol testing, and payment of restitution, among other options.

- Individualized
  - Probation supervision should align with a youth’s case plan, individual risk score and the number of hours of intervention needed to reduce the risk of recidivism. The number of hours of intervention should correlate with the youth’s individual risk score. For example, a youth with a high-risk level should receive more hours of intervention than a youth with a low or moderate risk level. Oversaturating a low-risk youth with intervention can have a negative impact and lead to further involvement in the justice system. Periodic review hearings should be held to determine progress or lack thereof and to reestablish goals and treatment.
- Length
  - The time period for a youth to complete the conditions of probation as ordered by the court may vary based upon, but not limited to, the youth’s risk level, the needs of the youth and family, the services offered and the required timeframe for completion, as well as the nature of the offense. The time period for completion should be achievable by the youth with an end date specified. The length of probation should not be open-ended or generically based upon the maximum age of jurisdiction.

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<sup>12</sup> Office of Juvenile Justice and Delinquency Prevention: [Formal, Post-Adjudication Juvenile Probation Services](#)

## **Graduated Responses and Incentives**

A graduated response system uses a wide range of incentives and sanctions to promote positive change in youth under court supervision. The use of graduated responses helps probation officers and caseworkers steer away from punitive and ineffective consequences or excessive use of detention. When developing a graduated response matrix or guide, the following areas should be considered:

- **Certain:** Youth should be aware of the existence of automatic consequences and incentives, including what they could be.
- **Immediate:** Youth must be able to see the relationship between their actions and timely imposition of consequences or receipt of incentives.
- **Proportionate:** Sanctions and incentives should be proportional to the behavior.
- **Fair:** Sanctions and incentives should be applied equally across the board to all youth involved on probation.
- **Tailored to the youth:** Sanctions and incentives should align with a youth's interests and skills to motivate them to succeed.

## **Out-of-Home Placement**

Use of out-of-home placement should be reserved for those youth where it is not safe for them to remain in the community and a higher level of care and services are warranted.

## **Secure Detention**

A detention screening tool must be administered, and the results considered prior to any decision to detain a youth in secure detention. While the screening tool is required to be used, it is not meant to be used in isolation. The results of the screening tool should be considered, along with other factors, such as those that must be considered pursuant to MCR 3.935, the reason behind the request for detainment, and professional discretion.

In order to reduce reliance on the use of secure detention as a sanction, alternatives to detention should be considered and recommended whenever safely possible.

Research has demonstrated that detention negatively affects a youth's mental state, academic aptitude, and employment prospects. There are indications that serving youth in the community, where they have a greater chance of receiving appropriate rehabilitation and being surrounded by prosocial others, is a less expensive and equally effective alternative.<sup>13</sup> The following are a few examples of alternatives to detention:

- Home confinement or house arrest;
- Electronic monitoring;
- Day treatment programs;
- Therapeutic foster homes;
- Functional family therapy.

## **Residential**

All youth who are recommended for out-of-home residential placement must have a risk and needs assessment completed with the results indicating the need for a higher level of intervention. In general, youth who are at a low or moderate risk of reoffending

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<sup>13</sup> [Office of Juvenile Justice and Delinquency Prevention: Alternatives to Detention and Confinement](#)

should not be recommended for out-of-home placement unless there are extenuating circumstances that would require such higher level of care be recommended.

Before placement of a youth in a more restrictive setting, the court is required to conduct a review hearing pursuant to MCR 3.945(A)(2). A probation officer should provide the results of any assessment completed, along with recommendations for placement to the youth, parents, and all parties prior to the hearing.

### **Reentry**

Reentry planning should begin when a youth enters a facility. A probation officer will create a discharge plan prior to the youth's release from out-of-home placement. The discharge plan should include input from the youth, family, and residential treatment providers. The discharge plan may also include input from a community team who will assist the youth with the goals of their discharge plan (e.g., lawyer, family, healthcare provider, counselor or CMH professional, school representative, mentor). Areas to address in the plan may include the following in addition to other areas identified as a need:

- Stable housing and reunification of the family;
- Educational resources;
- Mental health and public health services;
- Employment or vocational training.

## **3.6. DATA REVIEW**

### **Reviewing Data**

Data must be collected on all cases to help in determining the effectiveness of interventions. This will help the court determine whether any modifications should be made in programming offered. Proper data collection can help courts see how they respond to each youth in their jurisdiction and determine if services are being provided equitably.

### **Addressing Disparities**

Disproportionate representation can occur at all points of contact in the juvenile justice system. Research from The Sentencing Project shows that while there is little difference in offending rates for lawbreaking behavior for all youth, youth of color are arrested at a higher rate than white youth. Post arrest, this trend continues with cases referred to juvenile courts, where white youth are offered diversion services at a higher rate compared to youth of color.

To effectively address these racial, ethnic and other disparities, it is crucial to divert youth from court involvement and reduce the reliance of detention as a consequence for non-compliance, where appropriate. Additionally, using evidence-based risk assessment tools are beneficial as they provide consistent criteria for evaluating a youth's risk of offending across all youth, by eliminating subjectivity from decision-making.<sup>14</sup>

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<sup>14</sup> Coalition for Juvenile Justice: Policy Position 6: [Eliminate Racial and Ethnic Disparities](#)

According to The Sentencing Project, the most comprehensive method to reduce disparities is to collect and analyze data, breaking it down by race and ethnicity to determine where disparities are the most visible.<sup>15</sup> Specific examples of data review should include:

- Most common offenses youth are being referred to court (all youth) for;
- Of the most common offenses, any disparities in referrals for youth of color;
- Share of youth from different racial and ethnic backgrounds being offered diversion;
- How the above rates differ based on offenses;
- For all youth offered diversion, whether the amount of youth who participate differ by race and ethnicity;
- Success rates for youth on diversion, specifically for youth of color.

In addition to the requirements outlined in the Michigan Justice for Kids and Communities Legislation expanding the use of diversion and consent calendar services for youth and limiting the time period those services can be in place, it is important to not limit a youth's opportunity for diversion if they return on future offenses as well as limit the use of punitive responses for minor or technical violations of diversion agreements.<sup>16</sup>

### **Questions for Review:**

What standards are required for direct services staff, including juvenile probation officers and casework staff, according to Michigan Supreme Court Administrative Order 1985-5?

Describe how case plans can and should be individualized to the youth and family.

What are graduated responses and incentives, and what should you consider when developing a graduated response system?

According to The Sentencing Project, what is the best method to reduce disparities in the juvenile justice system?

What are several examples of data that should be reviewed regarding disparities in the juvenile justice system?

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<sup>15</sup> The Sentencing Project: Protect and Redirect: [How to Reduce Racial and Ethnic Disparities in Juvenile Diversion](#)

<sup>16</sup> The Sentencing Project: [Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice](#)

## Chapter 4: Custody and Detention

This chapter discusses:

- 4.1. Obtaining Custody of a Juvenile Without a Family Division Order
- 4.2. Detention

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### 4.1. OBTAINING CUSTODY OF A JUVENILE WITHOUT A FAMILY DIVISION ORDER

#### **Obligations of Officer or Agent Immediately After a Juvenile Is Taken into Custody**

A police officer, sheriff, deputy sheriff, county agent, or probation officer may, without a court order, take into custody any juvenile:

- Who is found violating any law or ordinance;
- Whose surroundings endanger the juvenile's health, morals, or welfare;
- Who is violating or has violated a PPO or valid foreign protection order.

The officer or agent must immediately attempt to notify the juvenile's parent or parents, guardian, or legal custodian (including Indian custodian). MCL 712A.14(1).

While awaiting arrival of the parent or parents, guardian, or custodian, the juvenile must not be held in a detention facility unless the juvenile can be isolated from adult prisoners, to prevent any verbal, visual, or physical contact with an adult prisoner. MCR 3.933(D).

When a juvenile is apprehended without a court order, the officer may:

- Warn and release the juvenile; or,
- Refer the juvenile to a diversion program; or,
- Seek authorization from the prosecuting attorney to file a complaint and warrant charging the juvenile with an offense. MCL 764.1f.

If the prosecutor does not choose/allow a complaint to be filed, the officer may:

- Issue a citation or appearance ticket and release the juvenile; or,
- Accept a written promise of the parent, guardian, or legal custodian to bring the juvenile to court; or,
- Take the juvenile into custody and submit a petition.

### 4.2. DETENTION

#### **Factors to Consider When Deciding Whether Juvenile Should Be Released From Custody**

An officer may take the juvenile into custody and submit a petition if it is in the best interest of the juvenile or the public, and a parent, guardian or legal custodian cannot be located or has refused to take custody of the child. MCR 3.933(A)(3); MCL 712A.14(2).

The juvenile and their parents, guardian, or custodian must immediately be brought before the court for a preliminary hearing on the status of the child. At the conclusion of

the preliminary hearing, the court should either authorize filing of the petition or dismiss the petition and release the juvenile.

If a complaint is authorized, the order shall state where the child is to be placed, pending investigation and hearing. The placement may be in any of the following:

- In the home of the child's parent, guardian, or custodian;
- In a suitable foster care home subject to the court's supervision, for certain juveniles within the court's jurisdiction;
- In a childcare institution or child placing agency licensed by the department to receive for care children within the jurisdiction of the court; or,
- In a suitable place of detention. MCL 712A.14(3).

### **Court Contacts**

“The court must designate a judge, referee, *or other person* who may be contacted by the officer taking a juvenile into custody when the court is not open. . .” MCR 3.934(B)(2).

**NOTE:** *Court intake workers or detention home personnel often make the initial custody determination. Consult your court administrator and/or chief judge regarding the procedure your court uses.*

### **The Use of a Detention Screening Tool**

MCL 712A.15(3) and MCR 3.935 require that before a juvenile may be detained in a secure facility, an individual or designated agency must use the detention screening tool identified by the SCAO on the juvenile. The Michigan Juvenile Justice Assessment System (MJJAS)/Ohio Youth Assessment System (OYAS) screening tool is the identified tool.

MCR 3.907(D) requires the court to share the results of the detention screening tool with all parties at least seven days before a detention hearing as provided in 3.922(B)(4). MCL 712A.15(3) and MCR 3.907(D) requires the court to consider the results of the detention screening tool before a juvenile may be detained in a secure facility pending a hearing. A new tool must be used and considered for each placement in a secure facility.

MCR 3.933 requires that when an order to apprehend the juvenile has been issued, prior to detaining the juvenile in a secure facility, the court must consider the results of the detention screening tool.

MCR 3.944 requires that when a juvenile has been found to have violated a court order under MCL 712A.2(a)(2)-(4), the court must consider the results of the detention screening tool prior to detaining the juvenile in a secure facility.

For more information about the use of the detention screening tool, see Chapter 11 of this manual.

### **Places of Detention for Alleged Juvenile Delinquents**

A juvenile must be detained in the *least restrictive* environment that will meet the needs of the juvenile and the public, including placement in a nonsecure facility or foster home. MCL 712A.13a.

A juvenile under the age of 18 shall not be confined, transported with, or compelled or permitted to associate or mingle with, criminal or dissolute persons. MCL 712A.16(1).

Except for status offenders, a juvenile 15 years or older may be placed in a jail or other place of detention for adults, but in a room or ward separate from, and out of sight and sound of, adults. MCL 764.27a(2).

A youth under 18 years of age while under arrest, confinement, or conviction of any crime must not be:

- Confined with any adult who are under arrest, confinement, or conviction for a crime;
- Permitted in any courtroom during the trial of adults; or,
- Be transported with adults charged with or convicted of a crime. MCL 750.139(1).

Any person who violates these provisions is guilty of a misdemeanor. MCL 750.139(4).

### **Places of Detention for Alleged Status Offenders**

A youth in custody for being an alleged status offender must not be detained in any secure detention facility for juvenile offenders *unless* the court finds that youth willfully violated a court order and that there is no less restrictive alternative. MCL 712A.15(3).

### **Requirements of the Crime Victim's Rights Act**

The law enforcement agency must provide a victim with an opportunity to request notice of the juvenile's arrest and subsequent release, or both. This opportunity must be provided to the victim within 24 hours after the initial contact between the victim of a reported offense and the law enforcement agency having the responsibility for investigating that offense. MCL 780.782.

If a juvenile is placed in a juvenile facility following the preliminary hearing, the prosecuting attorney *or court* must provide the victim with the telephone number of the juvenile facility. The victim may contact the facility to determine whether the juvenile has been released. Upon the victim's request, the law enforcement agency must notify them of the juvenile's arrest, pretrial release, or both. MCL 780.785.

**Questions for Review:**

What are the procedures for taking a juvenile into custody?

What factors are to be considered in determining to detain or release a juvenile?

Where can a juvenile who has allegedly committed a delinquent act be detained?

What are the special requirements for an Indian child?

Where can a juvenile who has allegedly committed a status offense be detained?

What rights do victims have regarding notice of a juvenile's arrest and/or detention?

What tool has been determined by SCAO to be the appropriate detention screening tool?

What are the legal requirements regarding the use of a detention screening tool before detaining a juvenile in a secure facility in Michigan?



## Chapter 5: Preliminary Inquiries, Diversion, Consent Calendar, Formal Calendar

This chapter discusses:

- 5.1. Preliminary Inquiries
- 5.2. Diversion
- 5.3. Consent Calendar
- 5.4. Formal Calendar

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### 5.1. PRELIMINARY INQUIRIES

At a preliminary inquiry, the court conducts an informal review to determine action on a petition. Preliminary inquiries in a status offense may be based on complaints signed and submitted by parents of a juvenile, school officials, or police officers, rather than a petition signed and filed by the prosecuting attorney.

A wide variety of practices exist among courts as to the use of preliminary inquiries. Some courts utilize preliminary inquiries exclusively for less serious offenses where no formal court jurisdiction will be requested or for cases in which the juvenile does not contest the charges. Additionally, some courts do not accept complaints from citizens.

The court may assign a referee to conduct a preliminary inquiry. MCR 3.913(A)(1) & (2); MCL 712A.10.

A preliminary inquiry is not a proceeding on the formal calendar and, except in cases involving offenses enumerated in the Crime Victim's Rights Act, MCL 780.781(1)(g), the preliminary inquiry need not be conducted on the record. The judge or referee is merely required to examine the petition and make their determination.

The court may:

- (1) Deny authorization of the petition;
- (2) Divert the matter under the Juvenile Diversion Act, MCL 722.821 *et seq.*;
- (3) Hold further informal inquiry on the petition;
- (4) Proceed on the consent calendar; or,
- (5) Authorize a petition to be filed and docketed on the formal calendar. MCR 3.932(A).

### 5.2. DIVERSION

Diversion occurs in lieu of the court assuming formal jurisdiction. MCL 712A.2(a). The family division may determine that services should be offered to a juvenile without the filing or authorization of a formal petition. The family division has the authority to establish or assist in developing a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of a juvenile who does not require formal court jurisdiction. These services must be voluntarily accepted by the juvenile and their parents, guardian, or custodian. Restitution must not be considered when deciding if the minor may be diverted.

The court may use informal procedures that comply with the Juvenile Diversion Act, MCL 722.821 *et seq.* MCL 712A.11(7).

"Divert" or "diversion" therefore means the placement that occurs when a formally recorded apprehension is made by a law enforcement agency for an act by a minor, and instead of petitioning the court or authorizing a petition, either of the following occurs:

- (i) The minor is released into the custody of their parent, guardian, or custodian; or,
- (ii) The minor and the minor's parent, guardian, or custodian agrees to work with a person or agency that will assist them. MCL 722.822(b)(i)–(ii); MCL 722.823(1)(a)–(b).

A 2019 decision by the Michigan Court of Appeals determined that a court may "unauthorize" a petition and remove it from the adjudicative process at any time before adjudication. *In re Diehl*, 329 Mich App 671, 694 (2019).

### **The Use of Diversion Screening Tools (see MCL 722.823)**

When a petition has not yet been authorized for a youth, MCL 722.823 authorizes a law enforcement officer or court intake worker to determine if the youth should be diverted from the juvenile court system.

In making this determination, MCL 722.823(4) requires a risk screening and mental health screening tool to be conducted on the minor, unless the minor is accused of or charged with a specified violation or is currently under the supervision by the court or the Michigan Department of Health and Human Services (MDHHS) as they are not eligible for diversion under the Diversion Act. In order for a minor to be diverted, the law enforcement officer or court intake worker must receive the results of the risk screening and mental health screening and they must use the results along with the best interest of the public to inform the decision to divert.

When a decision is made to divert a youth, MCL 722.826 requires the law-enforcement official or court intake worker to file the following information with the court:

- The minor's name, address, and date of birth;
- The act or offense for which the minor was apprehended;
- The date and place of the act or offense for which the minor was apprehended;
- The diversion decision made, whether referred or released;
- The nature of the minor's compliance with the diversion agreement;
- The time period to complete the terms of the diversion agreement and, if the period exceeds 3 months, the determination that a longer period is necessary for the minor to complete a specific treatment program;
- The results of the minor's risk screening tool and mental health screening tool.

For more information about the use of risk screening and mental health screening tools, see Chapter 11.

### **Offenses Precluding the Use of Diversion**

Juveniles accused of, or charged with, a "specified juvenile violation," as defined by MCL 712A.2, shall not be diverted. See also MCL 722.822.

## **Factors to Determine Whether to Divert a Juvenile**

Before a minor is diverted, all of the following factors must be evaluated, in addition to the results of the risk screening and mental health screening:

- (a) The nature of the alleged offense;
- (b) The minor's age;
- (c) The nature of the problem that led to the alleged offense;
- (d) The minor's character and conduct;
- (e) The minor's behavior in school, family, and group settings;
- (f) Any prior diversion decisions made concerning the minor and the nature of the minor's compliance with the diversion agreement. MCL 722.824(a)–(f).

## **Diversion Conference**

If the decision is made to divert the minor, a conference must first be held with the minor and their parent, guardian, or custodian to consider alternatives. MCL 722.825(1).

The law-enforcement official or court intake worker—depending upon who is holding the conference—must notify the minor and the minor's parent, guardian, or custodian of the time and place of the proposed conference and that:

- (a) Participation is voluntary;
- (b) An attorney may accompany them;
- (c) Alternative referral programs available, and the criteria utilized to determine whether to file a petition with the court or to dispose of the petition with a referral;
- (d) If diversion is agreed to and the minor complies, a petition cannot be filed with the court; or if a petition has been filed, the petition cannot be authorized. See MCL 722.825(1)(a)-(d).

The diversion conference may not be held until after any questioning has been completed or after an investigation has been made. Mention of, or promises concerning diversion, shall not be made by a law-enforcement official or court intake worker during any questioning of the minor. Information divulged by the minor during the conference or after the diversion is agreed to, but before a petition is filed with or authorized by the court, cannot be used against the minor. MCL 722.825(2).

## **Diversion Agreement**

Any agreement that imposes conditions on the minor must be in writing, dated, and signed by the law-enforcement official or court intake worker, the minor, and the minor's parent, guardian, or custodian. The time period for a minor to complete the terms of a diversion agreement must not exceed three months, unless the law-enforcement official or court intake worker determines that a longer period is needed for the minor to complete a specific treatment program and documents this determination. The diversion agreement must not include a term requiring the reimbursement of costs related to diversion services. MCL 722.825(3).

If a conference is held but an agreement is not reached, a petition may be filed within 30 days, and a petition may be authorized. MCL 722.825(4).

## Required Information

When diversion occurs, the following information must be filed with the family division in the county in which the minor resides or is found:

- (a) The minor's name, address, and date of birth;
- (b) The act or offense for which the minor was apprehended;
- (c) The date and place of the act or offense for which the minor was apprehended;
- (d) The diversion decision made, whether referred or released;
- (e) The nature of the minor's compliance with the diversion agreement;
- (f) The time period to complete the terms of the diversion agreement and, if the period exceeds 3 months, the determination that a longer period is necessary for the minor to complete a specific treatment program; and,
- (g) The results of the minor's risk screening tool and mental health screening tool. See MCL 722.826(1)(a)–(g).

## Revocation of Diversion Agreement

If the minor fails to comply with the terms of the diversion agreement and the referral plan, the agreement may be revoked. If the agreement is revoked, a petition may be filed with the court and a petition may be authorized by the court. MCL 722.825(5).

## 5.3. CONSENT CALENDAR

### Consent Calendar

The "Consent Calendar" is a statutory alternative that allows for the informal handling of cases by the court. MCL 712a.2f. The court shall not consider restitution when determining if the case should be placed on the consent calendar.

### Placement on or Transfer to Consent Calendar: MCL 712A.2f; MCR 3.932(C)

If the court determines that formal jurisdiction should not be acquired over a juvenile, the court may proceed in an informal manner referred to as a consent calendar. MCL 712A.2f(1); MCR 3.932(C)(1). A case transferred to the consent calendar shall be transferred before disposition but may occur any time after receiving a petition, citation, or appearance ticket. MCR 3.932(C)(1); MCL 712A.2f(5). Note: [See SCAO Form JC 15, Order Transferring Petition to Consent Calendar](#).

The court may proceed on the consent calendar any time before disposition. To do so, the court must determine that it will serve the best interests of the juvenile and the public.

A case must not be placed on the consent calendar unless all of the following apply:

- (a) The juvenile and the parent, guardian, or legal custodian and the prosecutor agree to have the case placed on the consent calendar;
- (b) The court considers the results of the risk screening tool and mental health screening tool conducted on the juvenile by a designated individual or agency that is trained in those screening tools; and,
- (c) The court determines that the case should proceed on the consent calendar. MCL 712A.2f(2)(a)–(c).

If the court authorizes the petition and the juvenile is alleged to have committed an offense that requires the juvenile to have biometric data (e.g., fingerprints) collected, the court is to make sure the biometric data is collected before placing the case on the consent calendar. MCR 3.932(C)(1) & (3); MCR 3.936(B). Upon transfer of a case to the consent calendar, the clerk of the court must make the case nonpublic. MCR 3.932(C)(1).

The court shall not enter an order of disposition in a case while it is on the consent calendar. MCL 712A.2f(10); MCR 3.932(C)(7).

### **The Use of a Risk Screening Tool and Mental Health Screening Tool**

MCL 712A.2f(2) provides that a case must not be placed on the consent calendar unless the juvenile and parent/guardian/custodian and the prosecutor agree, the court considers results of the risk screening tool and mental health screening tool conducted on the juvenile by a designated individual or agency that is trained in those screening tools, and the court determines that the case should proceed on the consent calendar in compliance with MCL 712A.11(1).

MCL 712A.2f and MCL 722.823 require a risk screening and mental health screening tool be conducted on a minor before placement on the consent calendar or utilization of diversion. Further, risk screening and mental health screening tools should be conducted on a single use basis and therefore do not require reassessments throughout a case.

For more information on this, see Chapter 11.

### **Waiver of Juvenile's Rights**

If the family division, the juvenile, the juvenile's parent, guardian, or legal custodian, and the prosecutor agree to place the case on the consent calendar, the juvenile waives certain rights, including, but not limited to the:

- Right to the assistance of an attorney;
- Right to trial by judge or jury;
- Presentation of proof beyond a reasonable doubt; and,
- Privilege against self-incrimination (and the right to remain silent). MCR 3.915(A); MCR 3.935(B)(4)(a)-(c); MCR 3.942(C).

If the case is transferred to the formal calendar, however, the court must inform the juvenile of their right to an attorney, of their right to trial by judge or jury, and that any statement made by the juvenile may be used against them. See *In re Chapel*, 134 Mich App 308, 312-313 (1984).

### **Victims' Rights**

If the case involves the alleged commission of an offense as defined in the Crime Victim's Rights Act (CVRA), MCL 780.781(1)(g), the case may be placed on the consent calendar only upon compliance with the procedures set forth in MCL 780.786(b)(13) and with the consent of the juvenile, the prosecutor, and the parent, guardian, or legal custodian. MCL 712A.2f(2)(a); MCR 3.932(C)(2). After a case is placed on the consent calendar, the prosecutor must provide the victim with notice.

### **Consent Calendar Conference**

After placing a matter on the consent calendar, the court shall conduct a consent calendar case conference with the juvenile, the juvenile's attorney, if any, and the juvenile's parent, guardian, or legal custodian. The prosecutor and victim may, but need not, be present. At the conference, the court shall discuss the allegations with the juvenile and issue a written consent calendar case plan. MCL 712A.2f(8).

### **Case Plan and Costs**

The court must issue a written consent calendar case plan. The following requirements apply to the written case plan:

- (a) The plan must include a requirement that the juvenile pay restitution under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. The court shall **not** order the juvenile or the juvenile's parent, guardian, or legal custodian to pay for fees or costs associated with consent calendar services.
  - (b) A consent calendar case plan shall not contain a provision removing the juvenile from the custody of the juvenile's parent, guardian, or legal custodian.
  - (c) The period for a juvenile to complete the terms of a consent calendar case plan must not exceed 6 months, unless the court determines that a longer period is needed for the juvenile to complete a specific treatment program and includes this determination as part of the consent calendar case record.
  - (d) The consent calendar case plan is not an order of the court but shall be included as a part of the case record.
  - (e) Violation of the terms of the consent calendar case plan may result in the court's placing the case on the formal calendar for further proceedings.
- MCL 712A.2f(9)(a)-(e).

### **Successful Completion of Case Plan**

Upon a judicial determination that the juvenile has completed the terms of the consent calendar case plan, the court must report the successful completion of the consent calendar to the juvenile and the Michigan State Police (MSP). MCL 712A.2f(14); MCR 3.932(C)(10).

Upon successful completion by the juvenile of the consent calendar case plan, the court shall close the case and shall destroy all records of the proceeding in accordance with the records management policies and procedures of the State Court Administrative Office. The MSP must maintain a nonpublic record of the case. MCL 712A.2f(14).

### **Transfer to Formal Calendar**

If it appears to the court at any time that proceeding on the consent calendar is not in the best interest of either the juvenile or the public, the court shall proceed as follows:

- If the court did not authorize the original petition, the court may, without hearing, transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition to determine whether the petition should be authorized.
- If the court authorized the original petition, the court may transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition only after a hearing. MCL 712A.2f(12).

After transfer to the formal calendar, the court shall proceed with the case from where it left off before being placed on the consent calendar.

If a hearing is required under MCL 712A.2f(12)(b), the court must conduct the hearing on the record. MCR 3.932(C)(9)(b). At the hearing, the court must:

- (i) Advise the juvenile that any statements made during the consent calendar proceedings cannot be used against the juvenile at a trial on the same charge;
- (ii) Allow the juvenile and the juvenile's attorney, if any, the opportunity to address the court, and state on the record why the case should not be transferred to the formal calendar. MCR 3.932(C)(9)(b)(i)-(ii).

### **Case Records and Reporting Requirements**

MCL 712A.2f(7) requires that consent calendar case records be maintained in a nonpublic manner. The contents of the confidential file, as defined in MCR 3.903, shall continue to be maintained confidentially. Also, MCR 3.932(C)(1).

Access to consent calendar case records must be provided to the juvenile, the juvenile's parents, guardian, or legal custodian, the guardian ad litem, counsel for the juvenile, the MDHHS if related to an investigation of neglect and abuse, law enforcement personnel, prosecutor, and other courts. However, consent calendar case records must not be disclosed to federal agencies or military recruiters. As used here, "case records" includes the pleadings, motions, authorized petitions, notices, memoranda, briefs, exhibits, available transcripts, findings of the court, register of actions, consent calendar case plan, risk screening tool and mental health screening tool results, and court orders related to the case placed on the consent calendar.

MCL 712A.2f(14) further provides for limited access to the nonpublic record. This record shall be open to the courts of this state, another state, or the United States, the Department of Corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated conditions of employment, or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office.

Upon successful completion by the juvenile of the consent calendar case plan, the court shall close the case and shall destroy all records of the proceeding in accordance with the records management policies and procedures of the State Court Administrative Office. MCL 712A.2f(11).

### **Juvenile Traffic Offenses**

A court may place a case involving a juvenile traffic offense, which would be a criminal offense if committed by an adult, on the consent calendar. See *In re Neubeck*, 223 Mich App 568,572-573 (1997).

## **5.4. FORMAL CALENDAR**

MCR 3.903(A)(10) defines formal calendar as judicial proceedings other than a delinquency proceeding on the consent calendar, a preliminary inquiry, or a preliminary hearing of a delinquency proceeding.

The court may authorize a petition to be filed and docketed on the formal calendar if it appears to the court that formal court action is in the best interest of the juvenile and the public. MCR 3.932(D).

The court shall not authorize a delinquency petition, however, unless the prosecuting attorney has approved submitting the petition to the court. MCR 3.932(D); MCL 712A.11(2).

The juvenile must be advised of their right to counsel, right to trial by judge or jury, right to the presentation of proof beyond a reasonable doubt, and privilege against self-incrimination when the court is proceeding on the formal calendar. MCL 712A.17c(1); MCR 3.915(A)(1); MCR 3.935(B)(4)(a)-(c); MCR 3.942(C).

If at any time before disposition the court determines that a case should not proceed on the formal calendar the court may transfer the matter to the consent calendar under MCL 712A.2f. MCL 712A.11(1); MCR 3.932(D).

### **Competency**

A juvenile 10 years of age or older is presumed competent to proceed unless the issue of competency is raised by a party. A juvenile less than 10 years of age is presumed incompetent to proceed. MCL 330.2062(1) and MCL 712A.18n(1).

If a juvenile is the subject of a delinquency petition or is charged with a status offense under MCL 712A.2(a)(2)-(4), the court may order a competency evaluation to determine whether the juvenile is competent to proceed. MCL 712A.18r(4).

A competency evaluation is to be conducted by a qualified juvenile forensic mental health examiner.

If the court finds that the juvenile is incompetent, and will remain incompetent, to proceed the charges must be dismissed and the court may determine custody of the juvenile. MCL 330.2068(2) and MCL 712A.18q(2).

If the juvenile is determined to be incompetent to proceed, but may be competent sometime in the future, then restoration services are to be provided. MCL 330.2074(1); MCL 712A.18s(1); MCL 330.2074(2)-(4); and, MCL 712A.18s(2)-(4).

### **Drug Treatment/Specialty Courts**

Family divisions are authorized to institute or adopt a drug treatment court for juveniles. MCL 600.1062(2). A drug treatment court is ". . . a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol." MCL 600.1060(c). These courts are specially designed to reduce recidivism and substance abuse among nonviolent, substance-abusing offenders and to increase the offenders' likelihood of successful habilitation through early, continuous, and intense judicially-supervised treatment, mandatory periodic drug testing, and use of appropriate sanctions.



Drug treatment courts evolved to address the revolving-door cycle in which drug and alcohol offenders moved in and out of the justice system. Drug treatment courts treat addiction as a complex disease and provide a comprehensive, sustained continuum of therapeutic interventions, treatment, and other services to increase a participant's periods of abstinence and reduce the rate of relapse, rearrest, and incarceration. Every drug treatment court operating in this state must be certified by the State Court Administrative Office. MCL 600.1060.

### **Juvenile Mental Health Courts**

A family division of circuit court may adopt or institute a juvenile mental health court. MCL 600.1091.

A mental health court is a court-supervised treatment program for individuals who are diagnosed by a mental health professional with having a serious mental illness, serious emotional disturbance, co-occurring disorder, or developmental disability. MCL 600.1090(e).

### **Questions for Review:**

What is a preliminary inquiry?

When may a preliminary inquiry be conducted?

Who can conduct a preliminary inquiry?

Why must the victim be considered?

What factors determine whether a juvenile should be diverted?

What is a diversion conference?

What is the consent calendar?

What are the case record and reporting requirements for consent calendar case records?

What criteria do a risk screening tool and a mental health screening tool need to meet before they are used as part of a proceeding?

What is the formal calendar?

Who is competent to stand trial?

What happens if the juvenile's competency is in question?

Are drug offenders eligible for diversion?

What is a drug treatment/specialty court?

What is a juvenile mental health court?

## Chapter 6: Petitions and Preliminary Hearings

This chapter discusses:

- 6.1. Petitions
- 6.2. Preliminary Hearing
- 6.3. Releasing or Detaining a Juvenile Pending Further Order or Trial

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### 6.1. PETITIONS

#### **Petition to Commence Cases in the Family Division**

A petition is a complaint or other written accusation that a juvenile has committed an offense.

Any person may provide information to the court indicating that a juvenile has committed a status offense. Only the prosecuting attorney may file a petition in criminal matters. MCL 712A.11(1)-(2); MCR 3.914(B)(1).

#### **Required Contents of Petition**

All petitions filed under the Juvenile Code must contain a separate petition number, not just those petitions that are authorized. MCR 8.119(D)(1) *In re Diehl*, 329 Mich App 671, 694 (2019).

A petition must set forth the facts and include identifying information about the juvenile (name, address, and date of birth, if known), their parents, guardian, legal custodian, the alleged offense, membership, or eligibility for membership in an Indian tribe, any prior court involvement, and the action requested. MCL 712A.11(3).

The petition has two principle functions:

- 1) To allow a court to determine if a statutory basis for jurisdiction exists; and,
- 2) To provide the juvenile notice of the charges against them.

### 6.2. PRELIMINARY HEARING

A preliminary hearing is the formal review of the petition where the judge or referee considers authorizing the petition and placing the case on the formal calendar. A preliminary inquiry determines whether the interests of the public or the juvenile require that further action be taken. The Michigan Rules of Evidence apply.

The court must hold a preliminary hearing if a juvenile is in custody or the petition requests detention. MCL 712A.14(2); MCR 3.932(A).

#### **Authorizing a Petition to be Filed**

Before the court may acquire formal jurisdiction of a case, the court must authorize a petition to be filed. MCL 712A.11(1) - (2). A “petition authorized to be filed” refers to written permission by the court to file a petition containing allegations against the juvenile. MCR 3.925. This is the point where the juvenile’s court record begins.

Until a petition is authorized, it is a nonpublic record, accessible only by the court and parties. After authorization, a petition and any associated records may be made nonpublic as permitted by rule or statute. MCR 3.903(A)(21).

### **Constitutional Rights**

Juveniles *do not* have a constitutional right to be treated differently than adult offenders when they are charged with committing a criminal offense. However, caselaw has established various rights for juveniles. See *People v Hana*, 443 Mich 202, 220 (1993), holding that the constitutional protections extended to juvenile proceedings; *People v Abraham* 256 Mich App 265 (2003), holding that the statute allowing charging, trying, and sentencing a juvenile as an adult is constitutional; *People v Conat*, 238 Mich App 134, 159 (1999), holding that the statute requiring the circuit court to sentence certain juvenile offenders as adults is constitutional; and *People v Parrish*, 216 Mich App 178, 182 (1996).

### **Right to Legal Counsel**

In *In re Gault*, 387 US 1, 41 (1967), the United States Supreme Court established a juvenile's right to counsel in delinquency cases:

The court must appoint an attorney for a juvenile if one or more of the following circumstances is present:

- (a) The child's parent refuses or fails to appear and participate in the case;
- (b) The child's parent is the complainant or victim;
- (c) The child and those responsible for their support are financially unable to employ an attorney and the child does not waive their right to an attorney;
- (d) Those responsible for the child's support refuse or neglect to employ an attorney for the child and the child does not waive their right to an attorney;
- (e) The court determines that the best interests of the child or the public require appointment. MCL 712A.17c(2)(a)-(e).

MCR 3.915(A)(2)(e) requires that a court appoint an attorney for a juvenile in a delinquency proceeding if the court determines that the best interests of the juvenile or the public require appointment, for instance, if the parents, guardian, or legal custodian refuses or fails to appear and participate in the proceedings. In addition to the status offenses listed in MCL 712A.2(a), and status offenses involving wayward minors under MCL 712A.2(d), children prosecuted for the status offense of truancy have a right to counsel. *In re EE*, \_\_\_ Mich App at \_\_\_.

### **Appointment of a Guardian Ad Litem (GAL)**

In addition to the appointment of an attorney, the court may appoint a guardian ad litem (a "trusted advisor" who does not need to be an attorney) to promote and protect the interests of the youth.

### **Time Requirements for Preliminary Hearings**

A preliminary hearing must commence no later than 24 hours after the juvenile has been taken into custody, excluding Sundays and holidays, as defined by MCR 8.110(D)(2), or the juvenile must be released. MCR 3.935(A)(1).

The court may adjourn the hearing for up to 14 days to secure the attendance of the juvenile's parent, guardian, or legal custodian or of a witness, or for other good cause shown.

A court may use videoconferencing to conduct a preliminary hearing.

### **Procedure**

The court shall determine whether the parent, guardian, or legal custodian has been notified and is present. The preliminary hearing may be conducted without a parent, guardian, or legal custodian present, provided a guardian ad litem or attorney appears with the juvenile.

The court shall read the allegations in the petition. After considering the results of a juvenile's risk screening tool and mental health screening tool, the court must determine whether the petition should be dismissed, whether the matter should be referred to alternate services pursuant to the Juvenile Diversion Act, MCL 722.821et seq., whether the matter should be heard on the consent calendar as provided by MCR 3.932(C), or whether to continue the preliminary hearing.

If the hearing is to continue, the court shall advise the juvenile on the record in plain language of:

- The right to an attorney pursuant to MCR 3.915(A)(1);
- The right to trial by judge or jury on the allegations in the petition and that a referee may be assigned to hear the case unless demand for a jury or judge is filed pursuant to MCR 3.911 or 3.912; and,
- The privilege against self-incrimination and that any statement by the juvenile may be used against the juvenile.

The juvenile must be allowed an opportunity to deny or otherwise plead to the allegations. MCR 3.935 (B).

## **6.3. RELEASING OR DETAINING A JUVENILE PENDING FURTHER ORDER OR TRIAL**

### **Personal Recognizance**

Public policy favors releasing a juvenile pending further hearing. However, if the court determines a personal recognizance bond will not reasonably ensure the juvenile's appearance, the court may order reasonable conditions to ensure the offender's appearance at further hearings as required, and the safety of the public. MCR 6.106(D).

### **Determining Whether to Release or Detain**

In determining whether the juvenile is to be released, with or without conditions, or detained, the court must consider the following factors:

- (a) Family ties and relationships;
- (b) Prior delinquency record;
- (c) Record of appearance, or nonappearance, at court proceedings;
- (d) The violent nature of the alleged offense;
- (e) Prior history of committing acts that result in bodily injury to others;
- (f) The juvenile's character and mental ability;

- (g) The court's ability to supervise the juvenile if placed with a parent or relative;
- (h) The results of a detention screening tool, and,
- (i) Any other factors indicating the juvenile's ties to the community, the risk of nonappearance, and the danger to the juvenile or the public if the juvenile is released. MCR 3.935(C)(a-i).

### **Criteria for Detention**

A juvenile may be ordered detained or continued in detention if the court finds probable cause to believe the juvenile committed the offense, the results of the detention screening tool have been considered pursuant to MCR 3.907, and that one or more of the following circumstances are present:

- (a) Release would endanger the public safety;
- (b) The juvenile is charged with an offense that would be a felony if committed by an adult and will likely commit another offense pending trial, if released, and,
  - (i) Another petition is pending;
  - (ii) The juvenile is on probation;
  - (iii) The juvenile was previously under the court's jurisdiction.
- (c) There is substantial likelihood, that if released, they will not appear at the next court proceeding;
- (d) The home conditions of the juvenile make detention necessary;
- (e) The juvenile has run away from home (there are certain limitations for status offenders);
- (f) The juvenile has failed to remain in placement, in violation of a court order; or,
- (g) Pretrial detention is specifically authorized by law. MCR 3.935(D)(a-g).

### **Conditions of Release**

The court may release a juvenile to a parent with or without conditions. MCR 3.935(E)(1). Conditions may include, but are not limited to, that the juvenile must:

- (a) Not commit any offense;
- (b) Not use alcohol, any controlled substance or tobacco product;
- (c) Participate in a substance abuse assessment, testing, or treatment program;
- (d) Participate in a treatment program for a physical or mental condition;
- (e) Comply with restrictions on personal associations or place or residence;
- (f) Comply with a curfew;
- (g) Maintain appropriate behavior and attendance at an educational program;
- (h) Surrender a driver's license or passport. MCR 3.935(E)(1)(a)-(h).

### **Violations of Conditions of Release**

If a juvenile is alleged to have violated the conditions set by the court and the court has consulted the results of the detention screening tool as provided under MCR 3.907, the court may order the juvenile apprehended and detained immediately. The court may then modify the conditions or revoke the juvenile's release status after providing the juvenile an opportunity to be heard on the issue of the violation of conditions of release.

### **Bail**

The court may require a parent, guardian, or legal custodian to post bail. Juveniles may not post their own bail. MCR 3.935(F).

## **Bonds**

Bonds allow the release of the juvenile by means of having someone on their behalf deposit money with the court or agree to pay a certain amount (post security) to ensure their appearance at later proceedings, or, if the court determines, allows the juvenile to be released on their own word.

### **Types of Bonds**

- ***Personal Recognizance:*** An obligation entered into before the court containing an individual's promise to appear and answer to an alleged offense.
- ***Cash or Surety:*** The court may require a parent, guardian, or legal custodian to post a surety bond or cash in the full amount of the bail.
- ***Ten Percent:*** A procedure that allows persons to pay to the court ten percent of the bond otherwise required of them to obtain their release.

### **Forfeiture of Bond**

If the conditions of bail are not met, the court may issue a writ of apprehension of the juvenile and order forfeiture of the bail money. MCR 3.935(F).

### **Questions for Review:**

What is a petition?

What is the purpose of a petition?

What is the purpose of preliminary hearing?

What factors must the court consider when deciding to release a juvenile?

What factors must the court consider when deciding to detain a juvenile?

What action can the court take if a juvenile violates release conditions?

What is bail/bond?

## Chapter 7: Adjudication, Dispositional Hearings, and Dispositional Options/Orders

This chapter discusses:

- 7.1. Adjudication
- 7.2. Dispositional Hearings
- 7.3. Dispositional Options
- 7.4. Supplemental Orders of Disposition

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### 7.1. ADJUDICATION

Adjudication is the determination that the minor comes within the jurisdiction of the court; meaning that the factfinder determines that the juvenile has violated a criminal law or committed a civil infraction or status offense. MCL 712A.2(a)(1)–(4).

#### Right to Counsel

The court must advise a juvenile charged with a criminal or status offense that they are entitled to be represented by counsel at each stage of the proceeding. MCL 712A.17c.

The Michigan Indigent Defense Commission Act (MIDCA), MCL 780.981 *et seq.*, creating the Michigan Indigent Defense Commission (MIDC) and establishing a system for the appointment of defense counsel for indigent defendants, applies to juveniles who are charged with felony offenses in traditional waiver, designated, and automatic waiver proceedings. MCL 780.983(a)(ii)(A)–(D).

#### Standard of Proof

Application of the “beyond a reasonable doubt” standard applies to both criminal and status offenses. See *In re Winship*, 397 US 358, 366-68 (1970); *In re Weiss*, 224 Mich App 37, 42 (1997); MCR 3.942(C).

#### Teacher-Student Privilege

Public school employees are prohibited from disclosing a youth’s records or confidences without the consent of a parent or legal guardian. MCL 600.2165.

#### Record of Proceedings

A record of all hearings must be made. MCR 3.925(B).

#### Pleas

A court may take a plea of admission or no contest.

#### Restraints

Restraints, such as handcuffs, chains, irons, or straitjackets, cloth and leather restraints, and other similar items, may not be used on a juvenile during a court proceeding unless the court makes a specific finding that the use of restraints is necessary. MCR 3.906(A).

## **Drug Treatment Courts**

If a juvenile is denied admission to the drug treatment court after admitting responsibility, they are allowed to withdraw the admission of responsibility. MCL 600.1068(5).

## **Bifurcated Proceeding**

If the judges in each county agree, adjudication may occur in the original county where the offense occurred, and disposition may occur in the county to where the case is being transferred. MCR 3.926(E).

## **7.2. DISPOSITIONAL HEARINGS**

### **Definition and Purpose of Dispositional Hearings**

Similar to sentencing in an adult case, the purpose of a dispositional hearing is to determine what measures the court will take. MCR 3.943(A).

### **Time Requirements for Dispositional Hearings**

The time between the plea of admission or trial and disposition, if any, is within the court's discretion. When the juvenile is detained, the interval may not be more than 35 days, except for good cause. MCR 3.943(B).

### **Juvenile's Presence at Dispositional Hearing**

The juvenile may be excused from part of the dispositional hearing for good cause shown but must be present when the disposition is announced. MCR 3.943(D)(1).

A court may use videoconferencing to conduct a dispositional hearing as long as the court does not order a more restrictive placement or more restrictive treatment. MCR 3.904(A)(1).

### **Procedure at Dispositional Hearings**

The proper procedure for the court to follow is to take sworn testimony on the record, allow defense counsel and the prosecuting attorney to argue for an appropriate disposition, and articulate reasons for the disposition imposed. However, sworn testimony is not always taken at dispositional hearings. A probation officer or caseworker assigned to the juvenile's case may submit a report and recommendation for disposition. Defense counsel may make a statement agreeing with or disputing the recommendation. In addition to the probation officer's or caseworker's report, the court may receive reports from the juvenile's school, psychological evaluations, substance abuse evaluations, and, if commitment to the Department of Health and Human Services is contemplated, a classification and assignment report submitted by a delinquency services worker.

If the juvenile has been found to have committed an offense and the court has considered the results of a risk and needs assessment pursuant to MCR 3.907, the court may enter an order of disposition as provided by MCL 712A.18. MCR 3.943(E)(1).

### **Victim Impact Statements**

The victim has the right to be present at the dispositional hearing and to make an impact statement as provided by the Crime Victim's Rights Act, MCL 780.751et seq.



A drug treatment court must permit a victim and others to submit a written statement to the court regarding whether a juvenile should be admitted into the drug treatment court. MCL 600.1068(4).

### **Required Evaluation of Juveniles Adjudicated of Cruelty to Animals or Arson**

Juveniles found responsible for cruelty to animals or arson, must be evaluated to determine the need for psychiatric or psychological treatment. MCL 712A.18l.

### **DNA Profiling**

The Michigan State Police must receive and permanently retain a DNA profile for any offense that would be a felony if committed by an adult. MCL 28.176; MCL 712A.18k.

### **Risk and Needs Assessments for Disposition**

MCL 712A.18(9) requires the use of a risk and needs assessment for each juvenile prior to disposition. MCL 712A.18(11) and MCR 3.907(E)(4) further requires that a new risk and needs assessment for the juvenile be conducted, shared and used to inform decision-making, if any of the following conditions occur:

- Six months have passed since the juvenile's last risk and needs assessment;
- The juvenile experiences a major life event;
- There is a major change in the juvenile's proceedings.

MCL 712A.18(9) and MCR 3.907(E)(1) provides that the results of the risk and needs assessment must be used to inform a dispositional recommendation and determine the most appropriate disposition for the juvenile. In accordance with MCL 712A.18(10) and MCR 3.907(3), the court must consider the results of the risk and needs assessment when making dispositional decisions regarding the juvenile including, but not limited to, any of the following decisions:

- Whether to place a juvenile under supervision, including the length, level, and conditions of supervision;
- Whether to place a juvenile on probation;
- Whether to place a juvenile in out-of-home care.

For more information on the use of risk and needs assessments, please see Chapter 11.

### **7.3. DISPOSITIONAL OPTIONS**

The Juvenile Code and Michigan Court Rules state a preference for leaving the juvenile in their home. See MCL 712A.1(3); MCR 3.902(B)(1). However, the court has many dispositional options available, including:

- **Return to their Parents:** In addition to entering any of the dispositional orders listed in MCL 712A.18(1)(a)-(o), the court must order the juvenile returned to their parent if the return would not cause a substantial risk of harm to the juvenile or society.
- **Warning Juvenile and Dismissing Petition:** MCL 712A.18(1)(a). If there are any financial damages to any victim, the court must order the juvenile (and may also order his/her parent) to pay restitution. MCL 712A.30-.31; MCL 712A.18(7).
- **Appointing a Guardian:** MCL 700.5204. If the court appoints a guardian, the court may enter an order dismissing the petition. MCL 712A.18(1)(h).

- **Foster Care:** The court may place the juvenile in a suitable foster care home subject to the court's supervision. MCL 712A.18(1)(c).
- **In-Home Probation:** MCL 712A.18(1)(b). The court may place the juvenile under supervision in their own home or in the home of an individual who is at least 18 years of age and related to the juvenile; meaning a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, and others. The court is required to order terms and conditions of probation, including rules governing the conduct of parents, guardians, or custodians. MCL 712A.18(1)(b). Required probation conditions include that the probationer not violate any criminal law, not leave the state without the court's consent, and report to the probation officer in person, or in writing as often as required. MCL 771.3(1).
- **Community Service:** MCL 712A.18(1)(i). The court shall not order the juvenile or the juvenile's parent, guardian, or legal custodian to pay for fees or costs associated with community service.
- **Restitution:** Crime victims have a constitutional right to restitution. Const 1963, Art 1, § 24. Restitution is intended to compensate the victim rather than punish the defendant or juvenile. *People v Grant*, 445 Mich 221, 230 n 10 (1997).
- **Participation in a Juvenile Drug Treatment Court or Mental Health Court:** MCL 712A.18(1)(b); MCL 600.1090.
- **Juvenile Boot Camp:** MCL 400.1301; MCL 712A.18(1)(n).
- **Commitment to a Public Institution or Agency:** The court may commit a juvenile to a public institution, county facility, or institution. MCL 712A.18(1)(e). (Note: If the court designates an initial level of placement, eligibility for funding under Title IV-E of the Social Security Act is affected). Juveniles may be committed to a county health and human services office "for placement and care." MCL 400.55(h). See [SCAO Form JC 25](#). Juveniles may also be committed as "public wards" to the MDHHS pursuant to the Youth Rehabilitation Services Act. MCL 803.301.

The court shall not order a juvenile or a juvenile's parent, guardian, or legal custodian to pay for the costs of care, services, court-appointed attorney representation, or other costs or assessments related to the juvenile's court proceeding. MCL 712A.18(3).

### **Mandatory Commitment to Detention Facility for Use of a Firearm**

A juvenile must be committed to a detention facility if the juvenile used a firearm. The period of time in detention shall not exceed the length of the sentence that could have been imposed if the juvenile had been sentenced as an adult for the offense. MCL 712A.18(1)(e); MCL 712A.18g(1)(c); MCR 3.943(E)(7)(a).

### **Youth Adjudicated for Criminal Sexual Conduct**

If a juvenile is adjudicated for committing criminal sexual conduct or assault with intent to commit sexual conduct involving sexual penetration or in the second degree, a court must order that the juvenile is prohibited from "attending the same school building that is attended by the victim of the violation. The order must also prohibit the juvenile from using a school bus for transportation to and from any school if the juvenile will have contact with the victim during use of the school bus." MCL 750.520o(1)(a) & (b).

## **Special Requirements When a Juvenile is Placed Outside of Michigan**

Before a juvenile may be placed in an institution outside of Michigan, the court must find that:

- Institutional care is in the best interest of the juvenile;
- Equivalent facilities are not available within Michigan; and,
- The placement will not cause undue hardship. MCL 712A.18a; MCR 3.943(E)(3).

## **7.4. SUPPLEMENTAL ORDERS OF DISPOSITION**

At any time while a juvenile is under the family division's jurisdiction, the court may terminate jurisdiction, or amend or add to a disposition order. MCL 712A.18; MCL 712A.19(1).

MCR 3.943(E)(2) requires the court to consider imposing "graduated sanctions" upon a juvenile when making second and subsequent dispositions in delinquency cases, which may include:

- Additional conditions;
- Extending the term;
- Out-of-home placement;
- More restrictive placement;
- State wardship;
- Any other conditions deemed appropriate by the court.

## **Appeals**

A juvenile may appeal an order of disposition that places them under the supervision of the court, or an order of disposition that removes them from the home.

MCR 3.993(A)(3). See also *In re McCarrick/Lamoreaux*, 307 Mich App 436 (2013).

## **Orders Directed to Parents and Other Adults**

### **Refrain from Conduct Harmful to the Juvenile**

The court may order the parents, guardian, custodian, or any other person to:

- Refrain from undesirable conduct (MCL 712A.18(1)(g));
- Participate in treatment (MCL 712A.18(1)(m));
- Assist in ensuring the juvenile's continued participation in, and successful completion of, the drug treatment court (MCL 600.1072(2)).

### **Health Care, Clothing, and Incidentals**

The court may provide the juvenile with medical, dental, surgical, or other health care, and with clothing and other incidental items as the court considers necessary. MCL 712A.18(1)(f).

### **Contempt of Court for Parent/Guardian/Other Adult OR Juvenile at Least 18 years of Age**

If a parent, guardian or other adult, or a juvenile who has attained the age of 18, fails to comply with the court's order, contempt proceedings may be initiated by a probation officer. SCAO Form JC 40 may be used. MCR 3.928. This form should not be used for probation violations.

### **Extension of Family Division Jurisdiction Beyond a Juvenile's 18th Birthday**

The family division has jurisdiction over juveniles less than 18 years of age who violate a law or ordinance or commit a status offense. MCL 712A.2(a)(1)B(4).

If the court has jurisdiction under MCL 712A.2(a), the court shall extend jurisdiction for a period of two years beyond the maximum age of jurisdiction, unless the juvenile is released sooner by court order. MCL 712A.2a-2a(1). However, if the court has exercised jurisdiction over a juvenile for an enumerated serious offense and committed the juvenile to a public institution or agency, jurisdiction may be extended, following a hearing, until the juvenile is 21. MCL 712A.2a(2).

### **Questions for Review:**

What is the purpose of adjudication?

When does a dispositional hearing occur, and what is its purpose?

What are the time requirements within which the court must hold a dispositional hearing?

May a probation officer submit a report and recommendation at a dispositional hearing?

Are juveniles subject to DNA profiling?

What dispositional options are available to the court?

What sort of costs can courts not order a juvenile or a juvenile's parent, guardian, or legal custodian to pay?

Are there any special considerations regarding juveniles' participation in drug treatment court?

Can the court enter and enforce orders against parents and other adults?

Can the court extend its jurisdiction beyond the age of 18? If so, to what age(s) and under what circumstances?

## Chapter 8: Review of Juvenile Dispositions

This chapter discusses:

- 8.1. Periodic Dispositional Review Hearings
- 8.2. Continued Jurisdiction

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### 8.1. PERIODIC DISPOSITIONAL REVIEW HEARINGS

The court is required to hold periodic hearings to review dispositional orders in juvenile delinquency cases where the juvenile was placed outside their own home. Reviews may include the probation officer or community service worker. The victim has a right to make an oral and/or written statement. At a review hearing, the court may modify or amend the dispositional order or treatment plan to include any disposition permitted by MCL 712A.18 and MCL 712A.18a or as otherwise permitted by law and shall permit the court to approve or disapprove of the child's initial or continued placement in residential treatment.

#### **Videoconferencing**

A court may use videoconferencing to conduct a post-dispositional hearing where the court does not order a more restrictive placement. MCR 3.904.

#### **Review Hearing before Moving a Juvenile to a More Physically Restrictive Placement**

The court is required to conduct a review hearing before moving a juvenile to a more physically restrictive placement *unless* the juvenile and their parent consent in writing filed with the court. MCR 3.945(A)(2).

#### **Progress Reports**

When a placement is made to a private institution or agency the court must require that a progress report be made at least every six months. MCL 712A.24.

#### **Dispositional Review Hearings for Juveniles Placed in Out-of-Home Care**

If a child is removed from the home, the court must hold review hearings not more than 182 days from the date a petition is filed and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year, a review hearing must be held no later than 182 days from the immediately preceding review hearing and no later than every 182 days from each preceding review hearing after that until the case is dismissed. MCL 712A.19(3).

If a child is under the care and supervision of the MDHHS and is either placed with a relative and the placement is intended to be permanent or is in a permanent foster family agreement, the court shall hold a review hearing not more than 182 days after the child has been removed from their home and no later than every 182 days after that so long as the child is subject to the jurisdiction of the court, the Michigan children's institute, or other agency. MCL 712A.19(4).

### **Information That Must Be Reviewed**

At a review hearing, the court must review compliance with the case service plan and likely harm to the child if the child continues to be separated from, or returned to, their parent, guardian, or custodian. MCL 712A.19(6)(a)-(e).

### **Modifying the Plan**

The court may modify any part of the case service plan. MCL 712A.19(7)(a)-(b).

### **Required Decisions**

The court shall:

- Return the child to the custody of the parent;
- Continue the dispositional order, modify the dispositional order;
- Enter a new dispositional order. MCL 712A.19(8).

### **Burden of Proof at Hearings**

The juvenile has the burden of proving, by a preponderance of the evidence, that they have been rehabilitated. MCR 3.945(B)(4); MCL 712A.18d(2).

### **Reports at Hearings**

The institution shall prepare commitment reports. MCL 803.225; MCL 712A.18d(5).

## **8.2. CONTINUED JURISDICTION**

The court shall retain jurisdiction over the juvenile for a period of two years beyond the maximum age of jurisdiction, unless the juvenile is released sooner by court order or unless the court has extended jurisdiction until age 21 for certain serious offenses. MCL 712A.2a(1) and (2); MCL 712A.18c(4). If the court continues jurisdiction over the juvenile, the juvenile shall be automatically discharged upon reaching the age of 21. MCL 712A.18d(1); MCL 803.307(1)(a) and (2).

### **Requirements of the Crime Victim's Rights Act**

A crime victim has the right to:

- Notice of juvenile's transfer from one facility to another;
- Notice of review hearings and the right to make a statement;
- Notice of juvenile's dismissal from court jurisdiction or discharge from commitment to juvenile agency;
- Early termination of probation.

## **Questions for Review:**

Can a probation officer request a periodic review?

Can the court place a juvenile in a more physically restrictive environment without a hearing? If so, under what circumstances?

If a child is placed in foster care, how often must a rehearing occur?

What information must be reviewed at a dispositional review hearing?

If a juvenile is committed to a private institution or agency, how often must progress reports be made?

How often must review hearings be held?

What is the purpose of the required commitment review hearing?

Who has the "burden of proof" at a review hearing?

If the court extends jurisdiction to age 21, how often must a dispositional review hearing be held?

What rights do crime victims have?

## Chapter 9: Restitution

This chapter discusses:

- 9.1. Restitution
- 9.2. Calculating Restitution

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### 9.1. RESTITUTION

The Justice for Kids and Communities bill package, effective October 1, 2024, eliminates all fines and fees associated with juvenile court involvement except for restitution and the Crime Victims Fund.

#### **Purpose of Restitution**

The Michigan Constitution gives crime victims the right to receive restitution. The purpose of restitution is to compensate the victim rather than punish the juvenile. Const 1963, Art 1 § 24; *People v Grant*, 445 Mich 221; 230 NW 10 (1997).

#### **Michigan Statutes Addressing Restitution**

See: MCL 712A.30; MCL 712A.31; MCL 780.751 through MCL 780.834; MCL 712A.18 through MCL 712A.30.

#### **“Victim” Defined**

“Victim” is defined as an individual who suffers direct or threatened physical, financial, or emotional harm as a result of an offense, or a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of an offense.

#### **Restitution Ordered as a Condition of Probation**

If a juvenile is placed on probation, any restitution ordered by the court must be a condition of that probation. Where restitution is imposed as a condition of probation, the court must also order either community service or employment as a condition of probation.

The court may revoke probation if the juvenile intentionally refuses to perform required community service.

#### **Offenses for Which Restitution Must Be Ordered**

The Crime Victim’s Rights Act (CVRA) requires restitution for any criminal offense.

#### **Victim’s Right to Submit Information**

The CVRA requires the person preparing a disposition report to notify victims of their right to submit information to the court regarding restitution.

#### **When Must Restitution Must Be Ordered**

The court is to order restitution at the dispositional hearing.



## **Claims for Restitution That Arise After Disposition or Sentencing**

The court may amend a restitution order based upon new information.

## **Required Restitution when Ordering an Informal Disposition in a Juvenile Delinquency Case**

For an offense that does not result in a dispositional hearing, by assignment to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order restitution.

## **Persons or Entities Entitled to Restitution**

All victims and individuals or entities that have provided services to the victims are entitled to restitution. The court must order restitution to be paid to the victim or the victim's estate first. *People v Bell*, 276 Mich App 342 (2007).

An offender may not be held liable for restitution for crimes for which they were not specifically charged. *People v McKinley*, 496 Mich 410 (2014).

The court can order criminal defendants to pay victims' travel expenses connected with recovering their stolen property and attending restitution hearings. *People v Garrison*, 495 Mich 362, 365, 373 (2014).

The court may order restitution to a governmental agency for the loss of "buy money" resulting from drug offenses. *People v Crigler*, 244 Mich App 420, 427 (2001).

Expenses that are not reimbursable under statutes may not be included in a restitution order. *People v Jones*, 168 Mich App 191, 196 (1988).

A school district qualifies as a victim. *In re McEvoy* 267 Mich App 55 (2005).

MCL 780.794(24) states that if the victim is a minor, the defendant may be required to pay to the parent of the victim a reasonable amount for any of the following that are actually incurred or reasonably expected to be incurred by the parent as a result of the crime:

- Homemaking and childcare expenses;
- Income loss not ordered to be paid under subsection;
- Mileage;
- Lodging or housing;
- Meals;
- Any other cost incurred in exercising the rights of the victim or a parent under this act.

## **Time Requirements for Making Restitution**

Restitution must be made immediately. The court may allow the juvenile to make restitution within a specified period or in specified installments.

## **Amount of Restitution Required**

The court must consider the amount of the loss sustained by any victim.

## **Codefendants and Coconspirators may be Held Jointly and Severally Liable for the Entire Amount of Loss**

Each conspirator is criminally responsible for the acts of their coconspirators committed in furtherance of the conspiracy. Ordering a defendant to pay full restitution is justified. *People v Grant*, 455 Mich 221 (1997).

## **9.2. CALCULATING RESTITUTION**

### **Where the Offense Results in Property Damage, Destruction, Loss, or Seizure**

If return of the property is impossible, impractical, or inadequate, the court may order the juvenile to pay the value of the property on the day it was damaged, lost, or destroyed, or the value of the property at disposition.

### **Where the Offense Results in Physical or Psychological Injury, Serious Bodily Impairment, or Death Expenses Related to Physical or Psychological Injury**

The court *shall* order restitution for professional services and devices, physical and occupational therapy, lost income, medical, and psychological treatment for the victim's family, and homemaking and childcare expenses.

### **Expenses Related to the Victim's Death**

The court must order the restitution be paid to the victim's estate.

### **Triple Restitution for Serious Bodily Impairment or Death of a Victim**

If an offense causing bodily injury to the victim also results in the serious impairment of a body function or the death of that victim, the court may order up to three times the amount of restitution otherwise allowed under the Crime Victim Rights Act (CVRA).

### **Reports by Probation Officers**

The court may order a probation officer to obtain information pertaining to the amount of loss suffered by a victim, and this information must be included in a disposition report or a separate report, as the court directs.

The court must disclose to the juvenile, the juvenile's parent, and the prosecuting attorney all portions of the disposition or other report pertaining to the amount of loss.

### **Hearings on Restitution Payable by Juvenile's Parent**

The court may order the juvenile's parent to pay some, or all of the restitution owed, however:

- The juvenile's parent must be given an opportunity to be heard on the issue;
- The court must consider "the parent's financial resources and the burden that the payment of restitution will impose," with regard to any other financial obligations the parent may have.

The court must cancel all or part of the parent's obligation if the court determines that payment of the amount will impose a hardship on the parent *and* also determines that modifying the method of payment will not impose a hardship on the victim.

The Juvenile Code does not limit the amount of restitution for which a parent may be held liable. See *In re McEvoy*, 704 N.W.2d 78 (2005).

A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so. MCR 3.928(D).

#### **Orders for Services by Juvenile in Lieu of Money**

If the victim or victim's estate consents, the order of restitution may require that the juvenile make restitution in services in lieu of money.

#### **Wage Assignment by Employed Defendant or Juvenile as a Condition of Probation**

If a juvenile is employed, they are to make regularly scheduled payments. If they miss two or more such payments, the court shall execute a wage assignment.

#### **Review of Restitution as a Condition of Probation**

The probation officer or caseworker shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If restitution was ordered to be paid within a specified period of time, review of the case must occur at the end of the specified period. A final review of restitution payment must be conducted not less than 60 days before the expiration of the probationary period.

#### **Revocation of Probation for Failure to Comply with Restitution Order**

If restitution is not being paid as ordered, a probation officer/caseworker must file a written report, including a statement of the amount of the arrearage and any reasons for the arrearage.

A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so. MCR 3.928(D).

#### **Modification of Method of Payment of Restitution**

The court may modify the method of payment of restitution imposed, so long as it does not create a hardship for the juvenile or the victim.

#### **Enforcing a Restitution Order**

A restitution order is enforced in the same manner as a civil judgment, not by filing a new civil action. The court cannot impose a fee on a victim, victim's estate, or prosecuting attorney for enforcing a restitution order.

#### **Incarceration for Failure to Pay Court-Ordered Financial Obligations: Determination of Ability to Pay**

A juvenile and/or parent shall not be detained or incarcerated for the nonpayment of court-ordered financial obligations as ordered by the court, unless the court determines that the juvenile and/or parent has the resources to pay and has not made a good-faith effort to do so. MCR 3.944(F).

### **Payment of Restitution When Juvenile is Placed in a Juvenile Facility**

Being placed in a facility does not relieve the juvenile of their obligation to pay restitution. If the juvenile receives more than \$50 in a month, 50% of the amount over \$50 received by the juvenile is to be deducted for payment of restitution.

### **Dischargeability**

A restitution order is not dischargeable in bankruptcy cases.

### **No Forgiveness (Remission) of Restitution Paid If Adjudication Is Set Aside**

If a juvenile successfully moves to set aside their adjudication, the juvenile is not entitled to the remission (forgiveness) of any sums of money paid as a consequence of an adjudication [or conviction] that is set aside, including restitution.

### **Unclaimed Restitution**

If restitution paid by the juvenile is unclaimed or refused by the victim for a period of two years, those funds are to be deposited in the Crime Victim's Rights Fund.

### **Crime Victim's Rights Fund Assessment of Adjudicated Delinquents**

The court must order a \$25 crime victim's rights fund assessment against an adjudicated juvenile.

### **Questions for Review:**

What is the purpose of restitution?

What does the CVRA require with respect to restitution?

Can the court order/modify restitution after the dispositional order is entered?

Who is entitled to restitution?

What are the time requirements for making restitution?

Can codefendants and/or coconspirators each be held liable for the entire amount of restitution?

A juvenile and/or parent shall not be detained or incarcerated for nonpayment unless what is true?

How is restitution calculated?

What reports are probation officers likely to be required to provide?

Can parents be ordered to pay restitution for their child's act?

Can the court order services and/or community service work in lieu of money?

How often is a probation officer required to review restitution payments?

How is restitution enforced?

Can probation be revoked for failure to pay restitution? If so, under what circumstances?

## Chapter 10: Probation Violations

This chapter discusses:

- 10.1. Due Process Requirements
- 10.2. Initiating Probation Violation Proceedings
- 10.3. Detention Hearings
- 10.4. Contempt of Court for Parent/Guardian/Other Adult OR Juvenile at Least 18 Years of Age
- 10.5. Procedures
- 10.6. Dispositions Following a Finding of Probation Violation

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### 10.1. DUE PROCESS REQUIREMENTS

Probationers are entitled to:

- Written notice of the claimed violations of probation;
- Disclosure of evidence against them;
- Opportunity to be heard in person and to present witnesses and evidence;
- The right to confront and cross-examine witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation);
- A 'neutral and detached' hearing body . . .; and,
- A written statement by the factfinder as to the evidence relied on and reasons for revoking probation. See: *People v Pillar*, 233 Mich App 267, 269 (1998), *Gagnon v Scarpelli*, 411 US 778 (1973).

### 10.2. INITIATING PROBATION VIOLATION PROCEEDINGS

MCR 3.944(A) sets forth the procedure for initiating probation violation proceedings.

The following options are available to initiate such proceedings:

- ***Petition; Temporary Custody:*** Submit a supplemental petition alleging that the juvenile has violated a condition of probation. Upon receipt, the court may:
  - Direct that the juvenile be notified, pursuant to MCR 3.920, to appear for a hearing; or,
  - Order that the juvenile be apprehended and brought to the court for a detention hearing, which must be commenced within 24 hours after the juvenile has been taken into court custody, excluding Sundays and holidays as defined in MCR 8.110 (D)(2).
- ***Issuance of Summons or Notice of Hearing:*** A summons may be used to direct the juvenile to appear for a hearing on the alleged probation violation. If the juvenile is not in custody, at least seven days' notice must be given. A copy of the probation violation petition and notice of juvenile's rights must be provided. MCR 3.944(A)(1)(a); MCR 3.920(C)(1); MCR 3.921(A)(1).
- ***Issuing an Order to Apprehend a Juvenile and Conducting a Detention Hearing:*** Instead of issuing a summons, the court may issue an order

authorizing a peace officer or other person designated by the court to apprehend a juvenile who has violated probation. MCL 712A.2c. When a juvenile is apprehended per a court order, the officer must “. . . take the juvenile (i) to the court for a detention hearing, or (ii) to the place designated by the court pending the scheduling of a detention hearing.” The custodial parent, guardian, or legal custodian must be notified that the juvenile has been taken into custody, the time and place of the detention hearing, if known, and the need for the presence of the parent, guardian, or legal custodian at the detention hearing. MCR 3.934(B). The court must consider the results of a detention screening tool in accordance with MCR 3.907.

In a notice to appear for a probation violation hearing or at the detention hearing, the juvenile must be provided a copy of the supplemental petition and advised of their rights. MCR 3.944(A)(1)(a); MCR 3.944(B)(2); MCR 3.944(B)(4).

A juvenile has the right to:

- Be present at the hearing;
- An attorney;
- Have the petitioner prove the probation violation by a preponderance of the evidence;
- Have the court order any witnesses to appear at the hearing;
- Question witnesses against them;
- Remain silent and not have that silence used against the juvenile; and,
- Testify at the hearing if the juvenile wants to testify. MCR 3.944(C)

### **10.3. DETENTION HEARINGS**

#### **Conduct of Detention Hearing**

MCR 3.944(B) states, in part, that at a detention hearing the court must:

- Determine whether a parent, guardian, or legal custodian has been notified and is present. If they have been notified, but fail to appear, the hearing may be conducted *if* a guardian ad litem or attorney appears with the juvenile;
- Provide the juvenile with a copy of the petition alleging a probation violation;
- Read the petition to the juvenile, unless the attorney or the juvenile waives the reading;
- Advise the juvenile of their rights, and of the possible disposition;
- Allow the juvenile an opportunity to deny or otherwise plead to the probation violation; and,
- Consider the results of a detention screening tool in accordance with MCR 3.907.

#### **Detention without Bond**

A juvenile may be detained without bond pending a probation violation hearing if the court finds probable cause to believe that the juvenile violated a condition of probation. If the hearing is not commenced within 42 days, and the delay in commencing the hearing is not attributable to the juvenile, the juvenile must be released pending hearing without requiring that bail be posted. MCR 3.944(B)(5)(b).

#### **10.4. CONTEMPT OF COURT FOR PARENT/GUARDIAN/OTHER ADULT OR JUVENILE AT LEAST 18 YEARS OF AGE**

If a parent, guardian, or other adult or a juvenile who has attained the age of 18 fails to comply with the court's order, contempt proceedings may be initiated by a probation officer.

SCAO Form JC 40 may be used in two situations:

- When the probationer has already attained the age of 18 and you are seeking a sanction that may result in jailing the offender for up to 93 days; or,
- In situations where you are pursuing contempt charges against a parent, guardian, or other adult for their failure to comply with the court's order. See MCR 3.928.

This form should not be used for probation violations.

#### **10.5. PROCEDURES**

##### **Pleas of Admission or No Contest**

A juvenile may admit to the probation violation or plead no contest. However, before accepting the plea, the court must:

- Tell the juvenile the nature of the alleged probation violation;
- Tell the juvenile the possible dispositions;
- Tell the juvenile that if the plea is accepted the juvenile waives some rights;
- Confirm any plea agreement on the record;
- Ask the juvenile if any promises have been made beyond those in the plea agreement and whether anyone has threatened the juvenile;
- Establish support for a finding that the juvenile violated probation;
- Inquire of the parent, guardian, legal custodian, or guardian ad litem whether there is any reason why the court should not accept the juvenile's plea; and,
- Determine that the plea is accurately, voluntarily, and understandingly made. MCR 3.944(D).

Moreover, the court must specifically inform a probationer of their right to a hearing and the opportunity to contest the charges.

##### **Procedures at Probation Violation Hearings**

A probation violation hearing is a dispositional hearing, not an adjudicative hearing. If, after hearing, the court finds that a violation of probation has occurred, the court may modify the existing order of probation or order any disposition available under MCL 712A.18 or MCL 712A.18a.

##### **Recording Probation Violation Hearings**

Detention hearings, plea hearings, and violation hearings must be recorded. MCR 3.925(B).

### **“Neutral and Detached Hearing Body,” Probation Officers and Referees**

If a referee tries a case, that same referee may conduct a probation violation hearing even if the juvenile requests that a judge preside at such a hearing. MCR 3.913(B).

MCL 712A.10(1) allows a court to assign a juvenile probation officer or county agent as a referee. The juvenile officer who submits a petition alleging a probation violation should not serve as factfinder at the hearing on the alleged violation.

### **Appearance of Prosecuting Attorney**

If the court requests, the prosecuting attorney must review the petition for legal sufficiency and appear at any delinquency proceeding. MCR 3.914(A); MCL 712A.17(4).

### **Violation of Probation Based on Finding of Responsibility for an Offense**

A juvenile may be found to have violated probation based upon a prior finding of responsibility for an offense at a plea or trial. MCR 3.944(C)(3). A probation revocation hearing may still be held even if proceedings involving the underlying offense against the probationer are pending and for the same conduct for which revocation is sought.

MCR 3.944(E)(2) provides that a finding of probation violation based upon the juvenile’s responsibility for an offense must be recorded as a probation violation only, not a finding of responsibility for the underlying offense.

### **Limitations on Use of Evidence at Probation Revocation Proceedings**

Statements made to a probation officer (or caseworker) during an interview are admissible in probation revocation hearings or subsequent criminal proceedings, even absent Miranda warnings. A probationer, however, cannot be compelled to testify against themselves at a probation revocation hearing.

### **Additional Witnesses or Additional Evidence**

The court has authority to call or examine witnesses and to order production of additional evidence or witnesses. MCR 3.923(A)(1).

### **Underlying Order of Disposition**

The juvenile may not attack the underlying order of disposition at a probation revocation hearing.

## **10.6. DISPOSITIONS FOLLOWING A FINDING OF PROBATION VIOLATION**

If the court finds that a probation violation has occurred, the court may modify the existing probation order, or order any other disposition under MCL 712A.18 or 712A.18a; MCR 3.944(B)(5)(a); MCR 3.944(E)(1).

### **Reporting**

A probation violation based on a juvenile’s responsibility for committing an offense must be recorded as a probation violation only, not as a finding of responsibility for the underlying offense. MCR 3.944(E)(3).



### **Supplemental Orders of Disposition**

The court may amend or supplement a disposition. In doing so, the court must consider imposing increasingly severe (graduated) sanctions, which may include:

- Additional conditions of probation;
- An extended term of probation;
- Out-of-home placement;
- A more restrictive placement;
- State wardship;
- Any other conditions.

If, after hearing, the court finds that the juvenile has violated a court order, the court may order that the juvenile be placed in a secure facility if it has considered the results of a detention screening tool in accordance with MCR 3.907. An order requiring the juvenile to be placed in a secure facility must include all of the following individualized findings by the court:

- The court order the juvenile violated;
- The factual basis for determining that there was a reasonable cause to believe that the juvenile violated the court order;
- The court's finding of fact to support a determination that there is no appropriate less restrictive alternative placement available considering the best interests of the juvenile;
- The length of time, not to exceed seven days, that the juvenile may remain in the secure facility and the plan for the juvenile's release from the facility; and,
- The order may not be renewed or extended.

### **Incarceration for Failure to Pay Court-Ordered Financial Obligations: Determination of Ability to Pay**

A juvenile must not be detained or incarcerated solely because of nonpayment of restitution. If the juvenile has the resources to pay and has not made a good-faith effort to pay restitution, the court may revoke or alter the terms and conditions of probation as provided in MCL 712A.30. MCR 3.944(F).

**Questions for Review:**

Is a juvenile entitled to due process on a probation violation?

How do you initiate a probation violation proceeding?

Can juveniles be detained pending a probation violation hearing?

What rights does a juvenile have at a probation violation hearing?

Should the probation officer assigned to the juvenile's case also act as a referee at a probation violation hearing?

Can statements made by the juvenile to a probation officer or caseworker be used at a probation violation hearing?

Can the court enter a supplemental order of disposition as the result of a probation violation hearing?

Under what circumstances may a juvenile or parent be detained/incarcerated for failure to pay restitution?

## Chapter 11: Screening and Assessments

This chapter discusses:

- 11.1. Background/Authority
- 11.2. Purpose of Screening and Assessment Tools
- 11.3. Administration of the Tools
- 11.4. Risk Screening and Mental Health Screening Tools For Diversion or Consent Calendar
- 11.5. Risk and Needs Assessments For Disposition
- 11.6. Detention Screening Tool
- 11.7. The SCAO Approved and Selected Tools
- 11.8. Appendices

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### 11.1. BACKGROUND/AUTHORITY

On June 9, 2021, Governor Gretchen Whitmer signed Executive Order 2021-6 establishing the Michigan Task Force on Juvenile Justice Reform. The Task Force was charged with “conducting a comprehensive and data-driven needs assessment of Michigan’s juvenile justice system, complete with recommendations for changes in state law, policy, and appropriations to improve youth outcomes.” The Task Force recommendations were guided by the following objectives:

- Safely reduce placement in detention and residential placement and associated costs;
- Increase the safety and wellbeing of youth impacted by the juvenile justice system;
- Reduce racial and ethnic disparities among youth impacted by the juvenile justice system;
- Improve the efficiency and effectiveness of the state’s and counties’ juvenile justice systems;
- Increase accountability and transparency within the juvenile justice system;
- Better align practices with research and constitutional mandates.

Many of the recommendations from the Task Force focused on the use of screening and assessment tools to help inform and guide the decision-making process at various points throughout a juvenile delinquency case. These include requiring the use of a validated risk screening tool and validated mental health screening tool to inform diversion and consent calendar decisions, a validated risk and needs assessment to be used to inform dispositional recommendations, and a statewide detention screening tool to be used prior to any decision to detain a youth.

The Michigan Justice for Kids and Communities bill package was passed on December 12, 2023, as a result of the recommendations from the Task Force. In addition to the enacted legislation, corresponding court rules were added and amended to reflect the requirement for the use of screening and assessment tools, identified by the State Court Administrative Office (SCAO), or in compliance with SCAO guidelines, at various decision-making points throughout a juvenile delinquency case.

Effective October 1, 2024, Michigan courts are required to conduct screenings and risk and needs assessments on justice-involved youth at various decision-making points to help inform decisions. The SCAO is required to create, and courts are required to comply with, guidelines on the use of the screening tools and risk and needs assessments.

## **11.2. PURPOSE OF SCREENING AND ASSESSMENT TOOLS**

Screening and assessment tools provide objective data that helps to inform decision-making and facilitate targeted interventions, with a goal of improving outcomes for individuals and communities. The purpose of screening tools, when it comes to criminogenic risk, is to determine the likelihood in which a youth will engage in future delinquent behavior. The purpose of a risk and needs assessment is to gather detailed information to inform case planning and connect appropriate services to the risk and needs level of the youth.

The following are some of the key purposes of screening and assessment tools:

- Identification of issues, conditions, or concerns;
- Treatment planning by way of personalized case plans targeting areas of highest need;
- Monitoring progress over time through reassessment to measure the effectiveness of interventions;
- Resource allocation by identifying those with the highest needs and matching those with resources available;
- Research and evaluation to gather data to study trends and effectiveness of interventions.

### **Screening and Assessment – What is the Difference?**

Screening is a process used to identify potential issues or risks, while assessment involves a more detailed and comprehensive examination of an individual's characteristics, circumstances, and needs.

Screening often serves as a first step to identify the possible presence of an issue, leading to further assessment if indicated, while assessment informs intervention planning. Screening aims to quickly and efficiently identify whether individuals have certain characteristics, conditions, or risk factors. Screening often serves as a decision point, determining whether individuals need a more comprehensive assessment.

Assessment is a process used to define the nature of a problem and develop specific treatment recommendations for addressing the problem. It aims to provide a comprehensive understanding of the individual's strengths, weaknesses, and areas for intervention. Assessment results are used to guide decision-making about the most appropriate strategies to address the individual's needs effectively and develop personalized treatment plans for interventions.

### **11.3. ADMINISTRATION OF THE TOOLS**

#### **Initial and Ongoing Training or Certification on Screening and Assessment Tools**

All designated individuals or agency users who will be administering a screening tool or an assessment tool must be formally trained on the tool, how to administer it, and how to interpret the results prior to use and in accordance with the requirements of the selected tool. Proper training will ensure fidelity of the selected tool and aid in the understanding of the results and how to use the results to inform decision-making at various points in a case. Continuous training on the chosen tool(s) must occur as recommended by the vendor in order to ensure inter-rater reliability and fidelity of the selected tool.

#### **Administration of Tools**

Courts must establish clear policies and procedures for the administration of screenings and assessments on justice-involved youth. When developing local policies and procedures for the administration of screening and assessment tools, courts must consider several factors, including but not limited to, the following:

- Identifying the designated individual or agency tasked with conducting the screening and assessment tools;
- Outlining the required training for the chosen tools to ensure each designated individual or agency has completed the proper training;
- Identification of the decision-making points in where each screening and assessment tool is to be conducted;
- Identifying the process for sharing the results of the screenings and assessments;
- Identifying to whom the screening and assessment results are shared;
- Identifying the process for using the screening and assessment results to assist with decision-making;
- Defining specific circumstances or criteria under which exceptions or overrides may be warranted;
  - For example, exceptions or overrides may be limited to overriding the supervision level as opposed to the risk score with considerations given to additional factors, including but not limited to, the following:
    - Severity of the offense;
    - Mitigating circumstances;
    - Public safety;
    - Youth's needs.
- Identifying the process for documenting when an exception or override occurs to include results of the screening and assessment tools, specific factors considered, and decision-making process followed;
- Identifying the process for reassessment;
- Identifying the specific data to be collected regarding the use of and results of the screening and assessment tools and the process for reporting data to the SCAO and the MDHHS.

#### **Confidentiality and Inadmissibility**

To facilitate open and honest responses, as well as to promote the accuracy of the tools, MCL 712A.15(3), MCL 712A.18(15), MCL 712A.2f(7)(c), MCL 722.829(3), and

MCR 3.907(F) provide a level of protection regarding any statements, admissions, confessions, or incriminating evidence obtained from the juvenile while conducting the risk screening tool, mental screening tool, detention screening tool, and the risk and needs assessment. This includes protection from such statements being admissible in an adjudicatory hearing, being subject to a subpoena, or being used in any other court proceeding or for any other purpose.

### **Data Collection and Reporting Requirements**

Data will be collected from courts on the use of the selected screening and assessment tools. Courts are required to share data related to the use of screening and assessment tools as identified by the SCAO. The frequency and format in which this data will be collected and reported will be determined by the SCAO. In addition, courts will be required to report on the usage of the screening and assessment tools pursuant to MCL 400.117a(13)-(16) and as described in the [MDHHS Child Care Fund Handbook](#).

### **Case Planning**

Risk and needs assessments must be used to drive an individual case plan. A case plan is a guide and agreement for both the court and the youth. A case plan provides information regarding expected outcomes, goals, and services for the youth. A case plan is a roadmap to successful completion of juvenile court supervision.

The case plan should align with the youth's risk level whenever possible. Low-risk youth should receive the least number of services and lowest level of supervision and high-risk youth should receive the greatest number of services (and potentially intensive service) and the highest level of supervision. Additionally, services should be focused on the areas which scored highest needs.

Any deviation in the supervision level must be noted with a detailed explanation.

## **11.4. RISK SCREENING AND MENTAL HEALTH SCREENING TOOLS FOR DIVERSION OR CONSENT CALENDAR**

Prior to the utilization of diversion or placement on the consent calendar, a risk screening and mental health screening tool must be conducted by a designated individual or agency and the results considered. MCL 712A.2F, MCL 722.826.

### **Diversion**

When a petition has not yet been authorized for a youth, MCL 722.823 authorizes a law enforcement officer or court intake worker to determine if the youth should be diverted from the juvenile court system.

In making this determination, MCL 722.823(4) requires a risk screening and mental health screening tool to be conducted on the minor, unless the minor is accused of or charged with a specified violation or is currently under the supervision by the court or the MDHHS as they are not eligible for diversion under the Diversion Act. In order for a minor to be diverted, the law enforcement officer or court intake worker must receive the results of the risk screening and mental health screening and they must use the results along with the best interest of the public to inform the decision to divert. MCL 722.824

includes additional factors to be considered when making the determination to utilize diversion:

- The nature of the alleged offense;
- The minor's age;
- The nature of the problem that led to the alleged offense;
- The minor's character and conduct;
- The minor's behavior in school, family, and group settings;
- Any prior diversion decisions made concerning the minor and the nature of the minor's compliance with the diversion agreement.

When a decision is made to divert a youth, MCL 722.826 requires the law-enforcement official or court intake worker to file the following information with the court:

- The minor's name, address, and date of birth;
- The act or offense for which the minor was apprehended;
- The date and place of the act or offense for which the minor was apprehended;
- The diversion decision made, whether referred or released;
- The nature of the minor's compliance with the diversion agreement;
- The time period to complete the terms of the diversion agreement and, if the period exceeds 3 months, the determination that a longer period is necessary for the minor to complete a specific treatment program;
- The results of the minor's risk screening tool and mental health screening tool.

### **Consent Calendar**

MCL 712A.2f(2) provides that a case must not be placed on the consent calendar unless the juvenile and parent/guardian/custodian and the prosecutor agree, the court considers results of the risk screening tool and mental health screening tool conducted on the juvenile by a designated individual or agency that is trained in those screening tools, and the court determines that the case should proceed on the consent calendar in compliance with MCL 712A.11(1).

MCL 712A.2f and MCL 722.823 require a risk screening and mental health screening tool be conducted on a minor before placement on the consent calendar or utilization of diversion. Further, risk screening and mental health screening tools should be conducted on a single use basis and therefore do not require reassessments throughout a case.

### **11.5. RISK AND NEEDS ASSESSMENTS FOR DISPOSITION**

MCL 712A.18(9) requires the use of a risk and needs assessment for each juvenile prior to disposition. MCL 712A.18(11) and MCR 3.907(E)(4) further requires that a new risk and needs assessment for the juvenile be conducted, shared and used to inform decision-making, if any of the following conditions occur:

- Six months have passed since the juvenile's last risk and needs assessment;
- The juvenile experiences a major life event;
- There is a major change in the juvenile's proceedings.

The above reflect the minimum requirements for reassessment based upon the statute. Courts must also comply with the requirements for reassessment based upon the selected tool.

### **Sharing of Results**

MCL 712A.18(9) requires that the results of the risk and needs assessment, and a dispositional recommendation made by the designated individual or agency that performed the risk and needs assessment be shared with the court, the juvenile, the juvenile's attorney, and the prosecuting attorney.

MCR 3.907(E)(2) requires the results of the risk and needs assessment, along with a written dispositional recommendation, to be filed with the court and provided to the juvenile, juvenile's attorney, and prosecuting attorney no less than seven days before the dispositional hearing. The written recommendation must include all of the following:

- Overall risk score;
- Type of supervision;
- Level of supervision;
- Length of supervision;
- Specific terms and conditions, including, but not limited to, frequency of reviews and requirements for early termination of supervision.

### **Decision-making**

MCL 712A.18(9) and MCR 3.907(E)(1) provides that the results of the risk and needs assessment must be used to inform a dispositional recommendation and determine the most appropriate disposition for the juvenile considering all of the following factors:

- The least restrictive setting possible;
- Public safety;
- Victim interest;
- Rehabilitation of the juvenile;
- Improved juvenile outcomes, including but not limited to, education advancement.

In accordance with MCL 712A.18(10) and MCR 3.907(3), the court must consider the results of the risk and needs assessment when making dispositional decisions regarding the juvenile including, but not limited to, any of the following decisions:

- Whether to place a juvenile under supervision, including the length, level, and conditions of supervision;
- Whether to place a juvenile on probation;
- Whether to place a juvenile in out-of-home care.

## **11.6. DETENTION SCREENING TOOL**

MCL 712A.15(3) and MCR 3.935 require that before a juvenile may be detained in a secure facility, an individual or designated agency must use the detention screening tool identified by the SCAO on the juvenile. The MJJAS/OYAS-DET screening tool is the identified tool.



## **Sharing of Results**

MCR 3.907(D) requires the court to share the results of the detention screening tool with all parties at least seven days before a detention hearing as provided in MCR 3.922(B)(4).

## **Decision-making**

MCL 712A.15(3) and MCR 3.907(D) requires the court to consider the results of the detention screening tool before a juvenile may be detained in a secure facility pending a hearing. A new tool must be used and considered for each placement in a secure facility.

MCR 3.933 requires that when an order to apprehend the juvenile has been issued, prior to detaining the juvenile in a secure facility, the court must consider the results of the detention screening tool.

MCR 3.944 requires that when a juvenile has been found to have violated a court order under MCL 712A.2(a)(2)-(4), the court must consider the results of the detention screening tool prior to detaining the juvenile in a secure facility.

## **11.7. THE SCAO APPROVED AND SELECTED TOOLS**

Use of additional specialized tools for specific areas of need, such as sexual offender behavior, substance use disorders, etc. are permissible. The SCAO will conduct an annual review of all approved screening and assessment tools to ensure that they continue to meet the requirements set forth by statute. This annual review will also consider other newly suggested or developed tools for addition to the list of approved tools.

For more specific information regarding the tools noted below, please see the [SCAO Juvenile Justice Screening and Assessment Tools Guidelines](#).

### **The SCAO Approved Risk Screening Tools**

The SCAO approved list of risk screening tools that meet the criteria as set forth in the statutes include:

- MJJAS/OYAS-DIV (Michigan Juvenile Justice Assessment System/Ohio Youth Assessment System);
- YASI – Pre-Screen (Youth Assessment and Screening Instrument);
- YLS/CMI Short Form (Youth Level of Service/Case Management Inventory).

### **The SCAO Approved Mental Health Screening Tools**

The SCAO approved list of mental health screening tools that meet the criteria as set forth in the statutes include:

- CAFAS (Child and Adolescent Functional Assessment Scale);
- CANS (Child and Adolescent Needs and Strengths);
- MAYSI-2 (Massachusetts Youth Screening Instrument).

### **The SCAO Approved Risk and Needs Assessment**

The SCAO approved list of risk and needs assessment tools that meet the criteria as set forth in the statutes include:

- MJJAS/OYAS (Michigan Juvenile Justice Assessment System/Ohio Youth Assessment System);
- YASI (Youth Assessment and Screening Instrument);
- YLS/CMI (Youth Level of Service/Case Management Inventory).

### **The SCAO Selected Detention Screening Tool**

The SCAO selected detention screening tool:

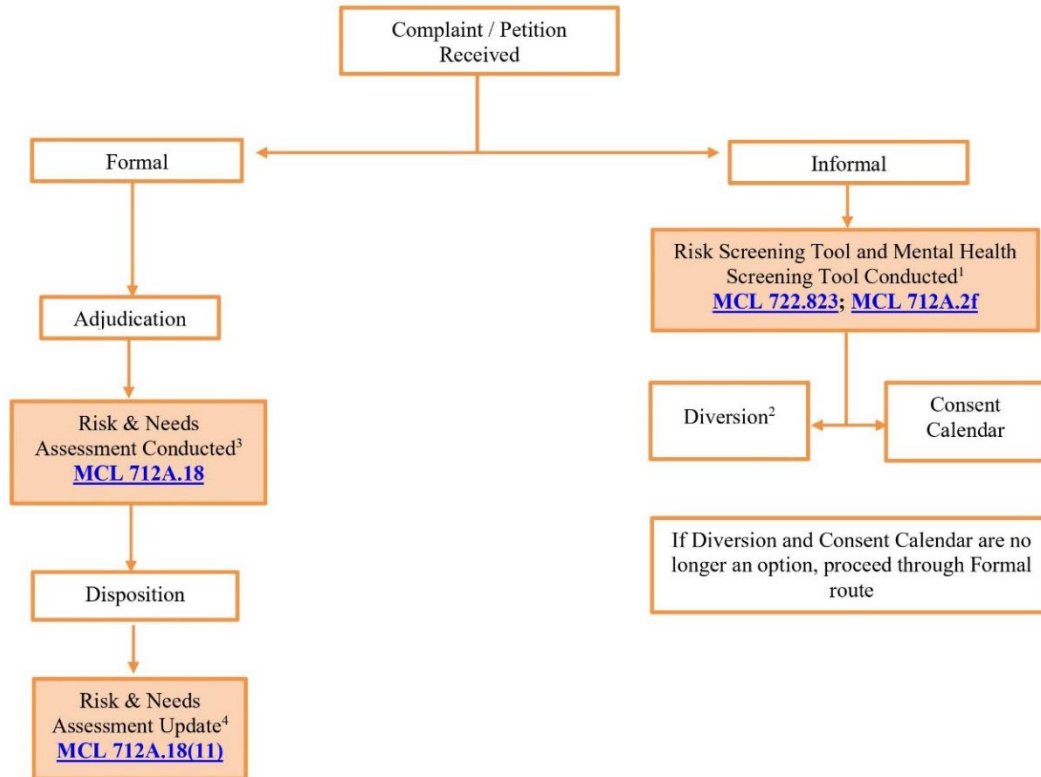
- The MJJAS/OYAS-DET (Michigan Juvenile Justice Assessment System/Ohio Youth Assessment System).

## **11.8. APPENDICES**

**Appendix A:** For reference, the following process map illustrates where screening and assessment tools should be utilized during the case flow.

**State Court Administrative Office**  
**Juvenile Court Screening & Assessment Tools**  
**Sample Flowchart**

*Please note that this document is a sample and not mandatory for use. Individual court policies and procedures may vary.*



<sup>1</sup> Risk screening tool and mental health screening tool are only required for youth eligible for consideration for a court’s diversion program or consent calendar  
<sup>2</sup> Juvenile must meet eligibility requirements in MCL 722.823(4) to be considered for diversion, and court has a diversion program. Please follow individual court policy regarding diversion program and consent calendar.  
<sup>3</sup> Risk and needs assessment is required for all youth prior to disposition  
<sup>4</sup> Individual tools may require more frequent updates that align with the fidelity of the tool, however, MCL 712A.18(11) requires updates to occur at the following points during a case:

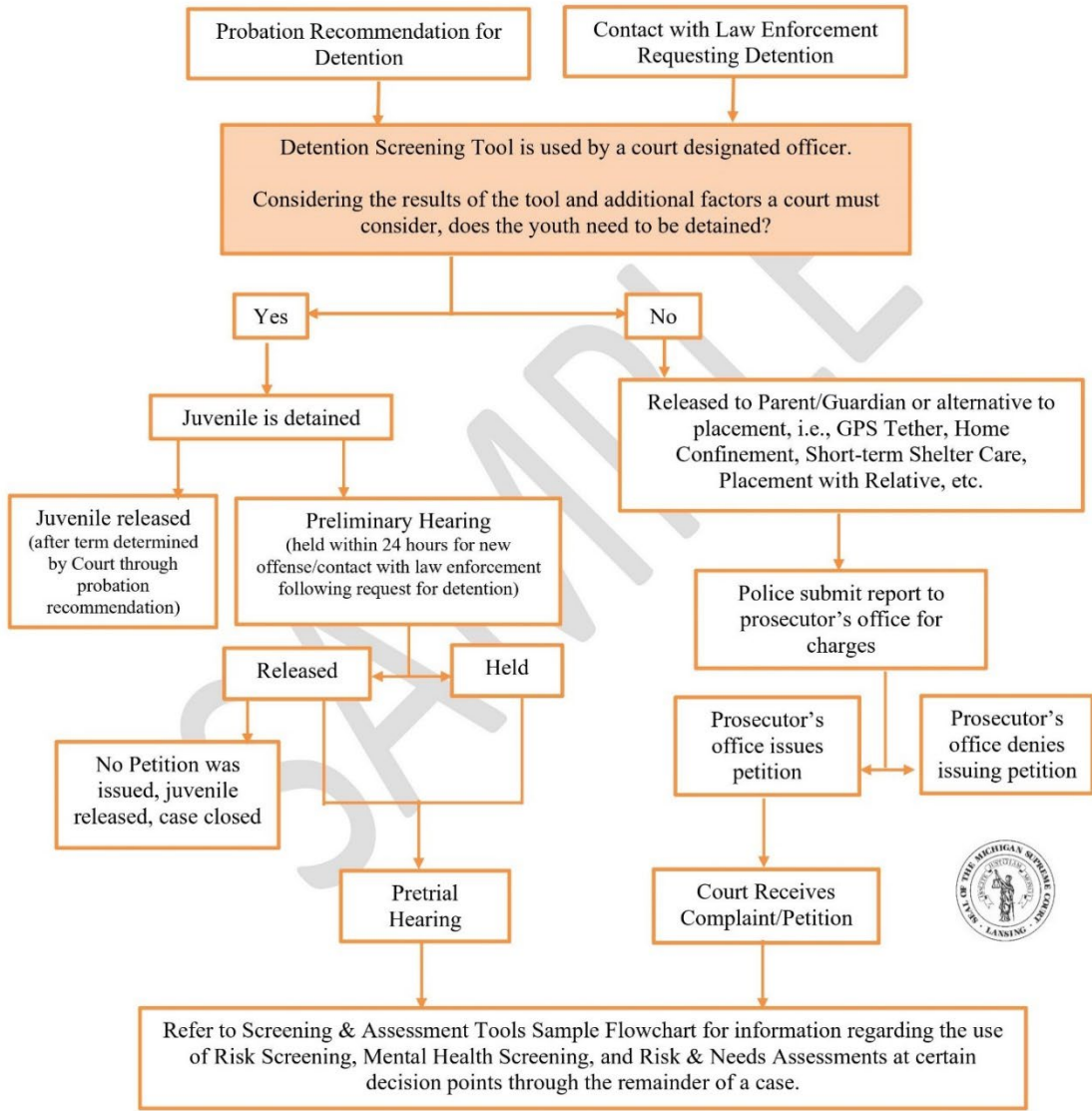
- Every 6 months
- Juvenile experiences major life event
- Major change in juvenile’s proceedings



*Published 08/19/2024*

**Appendix B:** For further reference, please consult the following flow chart which illustrates how detention screening should be conducted.

**State Court Administrative Office**  
**Juvenile Court Detention Screening Tool**  
**Sample Flowchart**



*Please note that this document is a sample and not mandatory for use. Individual court policies and procedures may vary.  
 Published 08/19/2024*

**Questions for Review:**

What were the key objectives of the Michigan Task Force on Juvenile Justice Reform?

What is the difference between screening and assessment, and how does each process contribute to decision-making in addressing an individual's needs?

What factors must courts consider when developing local policies and procedures for the administration of screening and assessment tools?

What level of protection is there for statements, admissions, confessions, or incriminating evidence obtained from the juvenile while conducting a screening tool or assessment?

What are the SCAO approved tools for risk screening, mental health screening, risk and needs assessment, and detention screening?

## Chapter 12: Minor Personal Protection Order (PPO) Proceedings

This chapter discusses:

- 12.1. Jurisdiction of Minor PPO Proceedings
- 12.2. Types of PPOs
- 12.3. Required Conditions in a PPO
- 12.4. Dismissal of a PPO Action
- 12.5. Enforcing a Minor PPO

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### 12.1. JURISDICTION OF MINOR PPO PROCEEDINGS

The family division has jurisdiction over minor respondents between the ages of 10 and 18-years-old in PPO proceedings. MCL 712A.2(h).

A 'Minor' for purposes of a PPO means a person under the age of 18, and may include a person aged 18 or older over whom the juvenile court has continuing jurisdiction under MCL 712A.2a; MCR 3.903(A)(16). A PPO may not be issued if the respondent is less than 10 years of age. MCL 600.2950(27)(c).

#### Issuance, Dismissal, Modification, and Termination of a PPO

If the respondent is under age 18, issuance of a PPO is subject to the Juvenile Code. MCL 600.2950(28); MCL 600.2950a(26); MCR 3.701(A); MCR 3.981; MCR 3.703(F)(1) requires a minor petitioner or a legally incapacitated individual to proceed through a next friend.

The respondent may file a motion to modify or terminate an ex parte PPO and request a hearing within 14 days after being served with, or receiving actual notice of, the order. MCR 3.707(A)(1)(b).

#### No Parent-Child PPOs

A PPO may not be issued if the petitioner and respondent have a parent-child relationship and the child is an unemancipated minor.

#### Mutual Orders Prohibited

The court may not issue mutual PPOs.

### 12.2. TYPES OF PPOs

There are two types of minor PPOs: Domestic and Nondomestic.

- **Domestic Relationship PPOs** (MCL 600.2950): A domestic relationship PPO is used to restrain behavior (including stalking) that interferes with the petitioner's personal liberty, or that causes a reasonable apprehension of violence. To fall under a domestic relationship PPO, the respondent must be:
  - A person with whom the petitioner has had a child in common;
  - A person who resides or who has resided in the same household as petitioner;

- A person with whom the petitioner has or has had a dating relationship.<sup>17</sup> MCL 600.2950(1).
- **Nondomestic PPOs:** A nondomestic stalking PPO is available to restrain anyone who is stalking, including someone who is a stranger to the petitioner.
  - **Nondomestic Relationship PPOs:** MCL 600.2950a: Available to restrain anyone ten years of age or older who is stalking, including a stranger to the petitioner.
    - Nondomestic stalking PPOs are used to restrain a person, regardless of that person’s relationship with the petitioner, from engaging in:
      - Stalking (MCL 750.411h);
      - Aggravated stalking (MCL 750.411i);
      - Cyberstalking (MCL 750.411s).
    - A court must not enter a nondomestic stalking PPO if the petitioner is a prisoner. MCL 600.2950a(31). A “prisoner” includes an adjudicated delinquent. MCL 600.2950a(32)(e).
  - **Nondomestic Sexual Assault PPOs:** MCL 600.2950a(2): Nondomestic sexual assault PPOs are used when the respondent:
    - Has been convicted of sexually assaulting the petitioner;
    - Has been convicted of furnishing obscene material to the petitioner under MCL 750.142;
    - Has placed the petitioner in reasonable apprehension of sexual assault.

## Filing Fee

There is no fee for filing a PPO. MCL 600.2529(1)(a); MCR 3.703(A).

## 12.3. REQUIRED CONDITIONS IN A PPO

If the court grants a PPO petition, the resulting order must contain the following information/statements:

- A PPO has been entered;
- The penalties for violation;
- If the respondent is less than 18 years of age, the PPO must state that a violation will subject the respondent to immediate apprehension or being taken into custody, and the dispositional alternatives listed in MCL 712A.18;
- A statement that the PPO is “effective and immediately enforceable anywhere in Michigan when signed by a judge, and also may be enforced by another state, an Indian tribe, or a territory of the United States;”
- A statement listing the prohibited conduct; and,
- An expiration date. MCR 3.706; MCL 600.2950 and 2950a.

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<sup>17</sup> “Dating relationship” is defined in the statute as “frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.” MCL 600.2950(30)(a).

### **Duration of a PPO**

Orders must be valid for at least 182 days. Statutes place no maximum limit on the duration of a PPO. MCL 600.2950(13); MCL 600.2950a(13).

### **Entry of the Order into the Law Enforcement Information Network (LEIN)**

After issuance of a PPO, the clerk of the court has the responsibility to facilitate entry of the PPO and other related documents into the LEIN system.

### **Service of the Petition and Order**

The petitioner is responsible to arrange for service of the PPO. **Note:** A PPO is effective and enforceable upon a judge's signature without written or oral notice. Failure to serve it on the respondent does not affect the PPO's validity or effectiveness. MCR 3.705(A)(4); MCR 3.706(D). However, if it has not been personally served then prior to apprehension, the respondent must be given an opportunity to comply with the terms of the PPO.

## **12.4. DISMISSAL OF A PPO ACTION**

### **Involuntary Dismissal**

An involuntary dismissal of a PPO action can only be initiated by the court under the following circumstances:

- The court has determined that the petitioner's claims are without merit;
- The petitioner has failed to attend a hearing scheduled on the petition.

### **Voluntary Dismissal**

MCR 3.704 permits the petitioner to move for dismissal of a PPO action prior to the issuance of an order. There is no fee for filing this motion.

## **12.5. ENFORCING A MINOR PPO**

### **Jurisdiction of Contempt Proceedings**

The family division has jurisdiction to conduct contempt proceedings based upon a violation of a PPO. MCL 764.15b(6).

Requests for court action to enforce a PPO may be in writing by way of a supplemental petition containing the facts and alleged violation. MCR 3.983(A). A probation officer or a caseworker may file this petition.

If a PPO petition is filed in the same court where a pending action was filed or a prior order or judgment involving the same party was entered, the PPO petition must be assigned to the same judge. MCR 3.703(D)(1)(a).

Proceedings to enforce a minor personal protection order where the respondent is under 18 are governed by MCR 3.900. Proceedings to enforce a personal protection order issued against an adult, or to enforce a minor personal protection order still in effect when the respondent is 18 or older, are governed by MCR 3.708 (governing adult PPO proceedings).



### **Apprehension of the Respondent**

A court may issue an order for apprehension of a minor who allegedly violates a PPO. MCL 712A.2c.

### **Apprehending a PPO Violator without a Court Order**

Any local police officer, sheriff, or deputy sheriff, state police officer, county agent, or *probation officer of any court of record* may, without the order of the court, immediately take into custody any juvenile for whom there is reasonable cause to believe is found violating or has violated a PPO or a valid foreign protection order. MCL 712A.14(1).

### **Designated Court Contact**

The court must designate a judge, referee, or *other person* who may be contacted by the officer taking a minor under age 18 into custody when the court is not open, for permission to detain the minor pending preliminary hearing. MCR 3.984(D).

### **Transfer of Minor PPO Cases to Issuing Court for Enforcement**

When a minor who has allegedly violated a PPO is apprehended in a county other than the county in which the PPO was issued, the case may be transferred to the issuing county for enforcement proceedings. MCR 3.984(E).

### **Authority of Referees to Conduct Proceedings**

The court may not assign a referee to preside at a proceeding on the issuance, modification, or termination of a PPO. A nonattorney referee may preside at a preliminary hearing for enforcement of a minor PPO. Only an attorney referee may preside at any other hearing for the enforcement of a minor PPO and make recommended findings and conclusions. MCR 3.913.

### **Enforcing Foreign Protection Orders**

The family division has jurisdiction to conduct proceedings to enforce a valid foreign protection order. MCL 600.2950h.

### **Preliminary Hearings**

A preliminary hearing (as well as a violation hearing) on an alleged PPO violation may take place in either the issuing jurisdiction or the jurisdiction where a minor respondent was apprehended. MCL 764.15b(6).

### **Presence of Parent**

The court shall determine whether the parent, guardian, or custodian has been notified and is present. The preliminary hearing may be conducted without a parent, guardian, or custodian *if* a guardian ad litem or attorney appears with the minor. MCR 3.985(B)(1).

### **Respondent's Rights**

The respondent may:

- Contest the allegations at a violation hearing;
- Have an attorney at every stage in the proceedings;
- Have a nonjury trial and that a referee may be assigned to hear the case;
- Have witnesses appear at a violation hearing;

- Question the witnesses;
- Remain silent. Any statement the respondent makes may be used against them. MCR 3.985(B).

### **Authorization or Dismissal of the Supplemental Petition**

At the preliminary hearing, the court must decide whether to authorize the filing of the supplemental petition, or to dismiss the supplemental petition. MCR 3.985(B)(4).

### **Release of Respondent with Conditions Pending Violation Hearing**

In setting release conditions, the court must consider available information on the following factors:

- Family ties and relationships;
- Prior juvenile delinquency or minor PPO record, if any;
- Record of appearance or nonappearance at court proceedings;
- Violent nature of the alleged violation;
- Prior history of committing acts that resulted in bodily injury to others;
- Character and mental condition;
- Court's ability to supervise the respondent if placed with a parent or relative;
- Likelihood of retaliation or violation of the PPO by the respondent; or,
- Any other factors indicating the minor's ties to the community, the risk of nonappearance, and the danger to the respondent or the original petitioner if the respondent is released. MCR 3.985(E).

### **Detention Pending Violation Hearing**

A minor cannot be removed from their parent, guardian, or custodian pending a PPO violation hearing or further court order unless:

- Probable cause exists to believe the minor violated the minor PPO; and,
- At the preliminary hearing, the court finds one or more of the following circumstances to be present:
  - There is a substantial likelihood of retaliation or continued violation;
  - There is a substantial likelihood that if the minor is released, they will fail to appear at the next court proceeding; or,
  - Detention pending violation hearing is otherwise specifically authorized by law. MCR 3.985(F)(1).

A respondent who is detained must be placed in the least restrictive environment available. MCL 712A.15; MCL 712A.16; and MCR 3.985(F)(4).

### **Possible Sentences or Juvenile Dispositions**

An individual less than 18 years of age is subject to the dispositional alternatives listed in the Juvenile Code.

**Questions for Review:**

What is a Personal Protection Order (PPO)?

What are the types of PPOs?

What is a “minor” for purposes of a PPO?

What conduct may be prohibited by a PPO?

Is there a filing fee for a PPO?

What authority does a probation officer have to enforce a PPO?

Can the court enforce a foreign protection order?

What are the sanctions for violating a PPO?

- If respondent is under age 18?
- If respondent is over age 18?

## Chapter 13: Court Records

This chapter discusses:

- 13.1. Family Division Records
- 13.2. Personal Identifying Information (PII/P-PII)
- 13.3. Access to Records of Closed Proceedings
- 13.4. Destruction of Records
- 13.5. Appendices

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### 13.1. FAMILY DIVISION RECORDS

#### Definition

“Records” include both paper and electronic files, and are defined as, but not limited to, pleadings, complaints, citations, motions, authorized and unauthorized petitions, notices, memorandums, briefs, exhibits, available transcripts, findings of the court, registers of action, consent calendar case plans, and court orders. MCR 3.903(A)(25). These items are contained in the so-called “legal file.” Confidential information is contained in the so-called “social file.” MCR 3.903(A)(3)(b). For more information on the “social file,” see the definition for “Confidential File” located in Chapter 1.

#### Records Management

The court, under the direction of the chief judge, has responsibility for the management of all records necessary to adequately support the business of the court. For additional information on records management, and for links to records retention and disposal schedules, see the [State Court Administrative Office’s Records Management website](#).

#### “Clean Slate for Kids”

On January 4, 2021, the legislature enacted a series of bills aimed at juvenile justice reform. The Clean Slate for Kids package makes juvenile records nonpublic and amends the current set aside application process, while also creating an automatic set aside process effective December 30, 2023.

The information below summarizes the Clean Slate for Kids package and offers initial guidance to courts about the package’s implementation. The State Court Administrative Office (SCAO) is continuing to identify and address issues relating to case management systems, court rules, and court procedures.

#### Set Aside

Beginning December 30, 2023, courts must automatically set aside juvenile adjudications two years after the termination of court supervision or when the juvenile turns 18 years of age, whichever comes later. MCL 712A.18t(1). All juvenile adjudications must be automatically set aside except for offenses identified in MCL 712A.18t(2).

A memo from the State Court Administrator as well as Appendices A, B, and C (found at the end of this Chapter) identify offenses that are ineligible for an automatic juvenile set aside.

- Appendix A is a list of ineligible offenses identified by statute and Prosecuting Attorneys Coordinating Council (PACC) code;
- Appendix B is a list of “specified juvenile violations” that are ineligible for an automatic set aside;
- Appendix C is a list of “lesser included offenses” of specified violations. These lesser included offenses, as well as offenses arising out of the same transaction if the juvenile is charged with a specified juvenile violation, are ineligible for an automatic set aside.

Automatic juvenile set asides occur by operation of law. Unlike set aside applications filed under MCL 712A.18e(2), courts do not need to enter an order granting an automatic set aside.

Upon automatically setting aside an adjudication, the court must notify the arresting agency and the Michigan State Police (MSP) that the adjudication has been set aside. MCL 712A.18t(5). Courts should contact their local law enforcement agencies to determine how to provide this notice.

### **13.2. PERSONAL IDENTIFYING INFORMATION (PII/P-PII)**

Personal identifying information is protected and shall not be included in any public document or attachment filed with the court on or after April 1, 2022, unless otherwise provided by the Michigan Court Rules. MCR 1.109(D)(9)(a).

#### **Protected PII Defined**

An individual’s protected PII includes the following:

- (i) Date of birth;
- (ii) Social security number or national identification number;
- (iii) Driver’s license number or number of state-issued personal identification card;
- (iv) Passport number; and
- (v) Financial account numbers. MCR 1.109(D)(9)(a)(i)-(v).

#### **Protecting PII**

The responsibility for excluding or redacting P-PII from all documents filed with or offered to the court rests solely with the parties and their attorneys.

#### **The court is:**

- Not responsible to review, redact, or screen documents at time of filing;
- Not responsible to redact P-PII in documents filed by parties (unless public website);
- Responsible for redacting documents prepared/issued by the court before provided to the public;
- To cease using any local court form that requires filing of P-PII.

#### **Additionally:**

- The court cannot publicly display P-PII in electronic records at courthouse;

- P-PII cannot be viewable in public case files, regardless of whether paper or electronic;
- Case history data standards can contain P-PII, if applicable;
- Filers must provide P-PII in appropriate SCAO-approved manner or form;
- A P-PII form is to be filed along with, but not attached to, pleadings;
- P-PII is to be redacted from documents not created by the filer (i.e., *the attachments filed in support*).

### **13.3. ACCESS TO RECORDS OF CLOSED PROCEEDINGS**

#### **Delinquency Cases**

If a hearing is closed to the public, the records of the hearing shall only be open by order of the court to persons having a legitimate interest. MCL 712A.28(2).

#### **Juvenile Diversion Cases**

Diversion records are “confidential files” open only to law enforcement agencies, court intake workers, and persons having a legitimate interest. MCL 722.827; MCL 722.828(1)-(2) and 722.829(1); MCR 3.903(A)(3)(a)(i).

Documents and other materials made confidential by court rule, statute, or order of the court must be designated as confidential and maintained to allow only authorized access. MCR 8.119(D).

#### **Use of Evidence and Records in Subsequent Proceedings**

Evidence regarding the disposition of a juvenile and evidence obtained in a dispositional proceeding shall not be used against the juvenile, except in a subsequent case against the juvenile under the Juvenile Code. MCL 712A.23.

### **13.4. DESTRUCTION OF RECORDS**

#### **Destruction of Files and Records**

The records of a trial court may not be disposed of except as authorized by the records retention and disposal schedule and upon order by the chief judge of that court. MCR 8.119(K).

The court shall destroy its case files and other court records only as prescribed by the records retention and disposal schedule established under MCR 8.119(K).

Destruction of a case record does not negate, rescind, or set aside an adjudication.

#### **Diversion Case Records**

A juvenile diversion record must be destroyed within 28 days after the juvenile becomes 18 years of age. MCL 722.828(3).

#### **Consent Calendar Case Files**

Upon successful completion by the juvenile of the consent calendar case plan, the court shall close the case and shall destroy all records of the proceeding in accordance with State Court Administrative Office rules, when the juvenile attains the age of 21. MCL 712A.2f(11).

However, if a case on the formal calendar is transferred to the consent calendar, the register of actions created for the formal calendar must be maintained permanently as a nonpublic record. MCL 600.1428; MCR 8.119(K).

### Records That May Not Be Destroyed

The Register of Actions (case history) must be maintained permanently and may not be destroyed. MCR 3.903(A)(26); MCR 3.925(E)(2); MCR 8.119(D)(1); MCR 8.119(D)(1)(a).

## 13.5. APPENDICES

**Appendix A:** A list of ineligible offenses identified by statute and Prosecuting Attorneys Coordinating Council (PACC) code.

### Maximum Punishment—Life Imprisonment

An adjudication of an offense which if committed by an adult would be a felony for which the maximum punishment is life imprisonment is not eligible for an automatic juvenile set aside. MCL 712A.18t(2); MCL 712A.18e(2). The offenses below all have a maximum punishment of life in prison.

PACC Code	Statute Cite	Offense
333.74012A1	MCL 333.7401(2)(a)(i)	Controlled Substance – Delivery/Manufacture (Cocaine, Heroin, or Another Narcotic) 1000 or more Grams
333.74032A1	MCL 333.7403(2)(a)(i)	Controlled Substance – Possession (Cocaine, Heroin or Another Narcotic) 1000 or More Grams
333.7416	MCL 333.7416	Controlled Substance – Inducing A Minor to Commit a Felony (if act solicited is delivery or possession of over 650 grams of a narcotic or cocaine, the penalty is life)
333.177647	MCL 333.17764(7)	Controlled Substances-Sale of Adulterated/Misbranded Drugs-with Intent to Kill or Cause Serious impairment—Causing Death
462.2571	MCL 462.257(1)	Trains—Endangering Travel
472.212	MCL 472.21(2)	Street Railway—Derailing or Endangering Passengers
472.36	MCL 472.36	Railroad—Obstruction of Track Causing Injury
750.165-A	MCL 750.16(5)	Drugs or Medicine— Adulterating/Misbranding/Substituting with Intent to Kill or Cause Serious Impairment – Causing Death
750.165-AJ	MCL 750.16(5)	Drugs or Medicine – Adulterating/Misbranding/Substituting with Intent to Kill or Cause Serious Impairment – Causing Death – Juvenile Defendant

750.187	MCL 750.18(7)	Drugs or Medicine – Adulterating to Affect Quality – with Intent to Kill or Cause Serious Impairment – Causing Death
750.187-J	MCL 750.18(7)	Drugs or Medicine – Adulterating to Affect Quality – with Intent to Kill or Cause Serious Impairment – Causing Death – Juvenile Defendant
750.49-D	MCL 750.49(2)	Animals – Inciting Fighting Dogs Causing Death
750.72	MCL 750.72	First-Degree Arson
750.761A	MCL 750.76(1)(a)	Arson of an Insured Dwelling
750.80	MCL 750.80	Arson – Mines
750.83	MCL 750.83	Assault with Intent to Murder
750.85	MCL 750.85	Torture
750.89	MCL 750.89	Assault with Intent to Rob While Armed
750.90A	MCL 750.90a	Assault – Pregnant Individual – Intentionally Causing Miscarriage/Stillbirth
750.90G	MCL 750.90g	Infants – Procedure with Intent to Cause Death
750.91	MCL 750.91	Homicide – Attempted Murder
750.136B2	MCL 750.136b(2)	Child Abuse – 1st Degree
750.136D1A	MCL 750.136d(1)(a)	Child Abuse – 1st Degree Committed in the Presence of Another Child
750.157B2	MCL 750.157b(2)	Homicide – Solicitation of Murder
750.158-A	MCL 750.158	Sexually Delinquent Person Notice – Sodomy
750.200I1D	MCL 750.200i(2)(d)	Harmful Devices – Unlawful Possession or Use Causing Serious Injury
750.200I1E	MCL 750.200i(2)(e)	Harmful Devices – Unlawful Possession or use Causing Death
750.200I1E-J	MCL 750.200i(2)(e)	Harmful Devices – Unlawful Possession or Use Causing Death – Juvenile Defendant
750.200J1E	MCL 750.200j(1)(e)	Harmful Devices – Imitation/Irritants – Unlawful Possession or Use Causing
750.2042D	MCL 750.204(2)(d)	Explosives – Sending with intent to Injure/Destroy Causing Serious Injury
750.2042E	MCL 750.204(2)(e)	Explosives – Sending with Intent to Injure/Destroy Causing Death
750.2042E-J	MCL 750.204(2)(e)	Explosives – Sending with Intent to Injure/Destroy Causing Death – Juvenile Defendant
750.2072D	MCL 750.207(2)(d)	Explosives – Placing Near Property Causing Serious Injury
750.2072E	MCL 750.207(2)(e)	Explosives – Placing Near Property Causing Death
750.2072E-J	MCL 750.207(2)(e)	Explosives – Placing Near Property Causing Death – Juvenile Defendant
750.2091D	MCL 750.209(1)(d)	Explosives – Placing Offensive Substance with Intent to Injure – Causing Serious Injury



750.2091E	MCL 750.209(1)(e)	Explosives – Placing Offensive Substance With intent to Injure – Causing
750.2091E-J	MCL 750.209(1)(e)	Explosives – Placing Offensive Substance with intent to Injure – Causing Death – Juvenile Defendant
750.2102D	MCL 750.210(2)(d)	Explosives – Possession of Bombs with Unlawful Intent – Causing Serious Injury
750.2102E	MCL 750.210(2)(e)	Explosives – Possession of Bombs with Unlawful Intent – Causing Death
750.2102E-J	MCL 750.210(2)(e)	Explosives – Possession of Bombs with Unlawful Intent – Causing Death – Juvenile Defendant
750.211A2D	MCL 750.211a(2)(e)	Explosives – Manufacture/Possession of Molotov Cocktail/Explosive or Incendiary Device Causing Serious Injury
750.211A2E	MCL 750.211a(2)(f)	Explosives – Manufacture/Possession off Molotov Cocktail/Explosive or Incendiary Device Causing Death
750.211A2E-J	MCL 750.211a(2)(f)	Explosives – Manufacture/Possession of Molotov Cocktail/Explosive or Incendiary Device Causing Death – Juvenile Defendant
750.234A1D	MCL 750.234a(1)(d)	Weapons – Firearms – Discharge from a Vehicle Causing Death
750.234B5	MCL 750.234b(5)	Weapons – Firearms – Discharge in or at a Building Causing Death
750.260	MCL 750.260	Counterfeiting – Coins/Possession of 5 or More
750.316	MCL 750.316	Homicide – First-Degree Murder – Multiple Theories
750.316-J	MCL 750.316	Homicide – First-Degree Murder – Multiple Theories – Juvenile Defendant
750.316-A	MCL 750.316	Homicide – Murder First-Degree – Premeditated
750.316-AJ	MCL 750.316	Homicide – First-Degree Murder – Premeditated – Juvenile
750.316-B	MCL 750.316(1)(b)	Homicide – Felony Murder
750.316-BJ	MCL 750.316(1)(b)	Homicide – Felony Murder – Juvenile Defendant
750.316-C	MCL 750.316	Homicide – Open Murder – Statutory Short Form
750.316-D	MCL 750.316(1)(c)	Homicide – Murder of Peace/Corrections Officer
750.316-DJ	MCL 750.316(1)(c)	Homicide – Murder of Peace/Corrections Officer – Juvenile Defendant
750.317	MCL 750.317	Homicide – Murder – Second Degree
750.317A	MCL 750.317a	Delivery of Controlled Substance Causing Death

750.327	MCL 750.327	Homicide – Death by Explosives/Common Carrier
750.328	MCL 750.328	Homicide – By Explosives in or Near Building
750.335A2C	MCL 750.335a(2)(c)	Sexually Delinquent Person Notice – Indecent Exposure
750.338-A	MCL 750.338	Sexually Delinquent Person Notice – Gross Indecency Between Males
750.338A-A	MCL 750.338a	Sexually Delinquent Person Notice – Gross Indecency Between Females
750.338B-A	MCL 750.338b	Sexually Delinquent Person Notice – Gross Indecency Between Male and
750.349	MCL 750.349	Kidnapping
750.349A	MCL 750.349a	Prison – Taking a Hostage
750.350	MCL 750.350	Kidnapping – Child Enticement
750.422-A	MCL 750.422	Perjury – Capital Trial
750.4362D	MCL 750.436(2)(d)	Poisoning – Food/Drink/Medicine/Water Supply – Causing Serious Injury
750.4362E	MCL 750.436(2)(e)	Poisoning – Food/Drink/Medicine/Water Supply – Causing Death
750.4362E-J	MCL 750.436(2)(e)	Poisoning – Food/Drink/Medicine/Water Supply – Causing Death – Juvenile
750.462B4	MCL 750.462b	Human Trafficking – Forced Labor involving Kidnapping, CSC, or Death
750.462C4	MCL 750.462c	Human Trafficking – Debt Bondage Involving Kidnapping, CSC, or Death
750.462DA4	MCL 750.462d	Human Trafficking – Subjecting Person to Forced Labor or Debt Bondage Involving Kidnapping, CSC, or Death
750.462DB4	MCL 750.462d(b)	Human Trafficking Enterprise Involving Kidnapping, CSC, or Death
750.511	MCL 750.511	Railroads – Blocking/Wrecking Track
750.520B	MCL 750.520b	Criminal Sexual Conduct – First-Degree (Multiple Variables)
750.520B1A	MCL 750.520b(1)(a)	Criminal Sexual Conduct – First-Degree (Person Under Thirteen- Defendant Under
750.520B1B	MCL 750.520b(1)(b)	Criminal Sexual Conduct – First-Degree (Relationship)
750.520B1C	MCL 750.520b(1)(c)	Criminal Sexual Conduct – First-Degree (During Felony)
750.520B1D	MCL 750.520b(1)(d)	Criminal Sexual Conduct – First-Degree (Accomplices)
750.520B1E	MCL 750.520b(1)(e)	Criminal Sexual Conduct – First-Degree (Weapon Used)
750.520B1F	MCL 750.520b(1)(f)	Criminal Sexual Conduct – First-Degree (Personal Injury)
750.520B1G	MCL 750.520b(1)(g)	Criminal Sexual Conduct – First-Degree (Injury to Incapacitated Victim)

750.520B1H	MCL 750.520b(1)(h)	Criminal Sexual Conduct – First-Degree (Mentally Disabled – Relationship)
750.520B2B	MCL 750.520b(2)(b)	Criminal Sexual Conduct – First-Degree Person Under Thirteen – Defendant 17 Years of Age or Older
750.520B2C	MCL 750.520b(2)(c)	Criminal Sexual Conduct – First-Degree (Person Under Thirteen, Defendant 18 Years of Age or Older) Second Offense
750.529	MCL 750.529	Robbery – Armed
750.529-A	MCL 750.529	Robbery – Armed – Serious Injury
750.529A	MCL 750.529a	Carjacking
750.531-A	MCL 750.531	Bank Robbery
750.531-B	MCL 750.531	Safe Breaking
750.543F-A	MCL 750.543f	Terrorism
750.543F-B	MCL 750.543f	Terrorism Causing Death
750.543F-BJ	MCL 750.543f	Terrorism Causing Death – Juvenile Defendant
750.543H3B	MCL 750.543h(3)(b)	Terrorism – Hindering Prosecution of a Terrorist
750.544	MCL 750.544	Treason
767A.91B	MCL 767A.9(1)(b)	Prosecutors Investigative Subpoenas – Life Offense – Perjury
769.12	MCL 769.12	Habitual Offender – Fourth Offense Notice (if primary offense has penalty of five years or more)
769.121A	MCL 769.12(1)(a)	Habitual Offender – Fourth Offense Notice – Mandatory 25 Year Sentence

### Designated Proceedings

A conviction in a designated proceeding in the Family Division is not eligible for an automatic juvenile set aside. MCL 712A.18t(2); MCL 712A.18e(2); MCL 712A.2d.

### Other Ineligible Offenses

An adjudication for the offenses identified below are not eligible for an automatic juvenile set aside. MCL 712A.18t(2).

PACC Code	Statute Cite	Offense
750.81A	MCL 750.81a(1)	Assault - Aggravated
750.81A2	MCL 750.81a(2)	Domestic Violence - Aggravated
750.81A3	MCL 750.81a(3)	Domestic Violence – Aggravated – Second Offense Notice
750.82	MCL 750.82	Assault With a Dangerous Weapon (Felony Assault)
750.822	MCL 750.82(2)	Weapon-Free Schools – Assault with a Dangerous Weapon
750.90	MCL 750.90	Sexual Intercourse - Pretext of Medical Treatment
750.136B2	MCL 750.136b(2)	Child Abuse – 1st Degree
750.136B3	MCL 750.136b(3)	Child Abuse – 2nd Degree

750.136B3-A	MCL 750.136b(3)(d)	Child Abuse – 2nd Degree – Child Care Organization – Violation Causing Death
750.136B4B	MCL 750.136b(4)(b)	Child Abuse – 2nd Degree – Second or Subsequent Offense Notice
750.136B4	MCL 750.136b(5)	Child Abuse – 3rd Degree
750.136B6B	MCL 750.136b(6)(b)	Child Abuse – 3rd Degree – Second or Subsequent Offense Notice
750.136B5	MCL 750.136b(7)	Child Abuse – 4th Degree
750.136B8B	MCL 750.136b(8)(b)	Child Abuse – 4th Degree – Second or Subsequent Offense Notice
750.321-A	MCL 750.321	Homicide – Manslaughter
750.321-B	MCL 750.321	Homicide – Abortion – Death Resulting
750.321-C	MCL 750.321	Homicide – Manslaughter – Involuntary
750.321-E	MCL 750.321	Homicide – Manslaughter with Motor Vehicle
750.322	MCL 750.322	Homicide - Willful Killing of Unborn Quick Child
750.397	MCL 750.397	Mayhem
750.411H	MCL 750.411h	Stalking
750.411H2B	MCL 750.411h(2)(b)	Stalking a Minor
750.411I	MCL 750.411i	Stalking - Aggravated
750.411I2B	MCL 750.411i(2)(b)	Stalking a Minor - Aggravated
750.520D	MCL 750.520d	Criminal Sexual Conduct – 3rd Degree (Multiple Variables)
750.520D1A	MCL 750.520d(1)(a)	Criminal Sexual Conduct – 3rd Degree (Person Thirteen through Fifteen)
750.520D1B	MCL 750.520d(1)(b)	Criminal Sexual Conduct – 3rd Degree (Force or Coercion)
750.520D1C	MCL 750.520d(1)(c)	Criminal Sexual Conduct – 3rd Degree (Incapacitated Victim)
750.520D1D	MCL 750.520d(1)(d)	Criminal Sexual Conduct – 3rd Degree (Incest)
750.520D1E	MCL 750.520d(1)(e)	Criminal Sexual Conduct – 3rd Degree (Student)
750.520D1F	MCL 750.520d(1)(f)	Criminal Sexual Conduct – 3rd Degree (Special Education Student)
750.520D1G	MCL 750.520d(1)(g)	Criminal Sexual Conduct – 3rd Degree (Foster Care)
750.520G1	MCL 750.520g(1)	Criminal Sexual Conduct – Assault with Intent to Commit Sexual Penetration
750.520G2	MCL 750.520g(2)	Assault With Intent to Commit Criminal Sexual Conduct – 2nd Degree
750.543K1A	MCL 750.543k(1)(a)	Terrorism – Soliciting Material Support
750.543K1B	MCL 750.543k(1)(b)	Terrorist Acts – Providing Material Support

**Appendix B:** A list of “specified juvenile violations” that are ineligible for an automatic set aside.

## Specified Juvenile Violations

An adjudication for a “specified juvenile violation” is not eligible for an automatic juvenile set aside. MCL 712A.18t(2). This includes an attempt to commit, conspiracy to commit, or solicitation to commit any “specified juvenile violation”. MCL 712A.2(a)(1)(E)-(G). A list of specified juvenile violations is contained below. MCL 712A.2.

PACC Code	Statute Cite	Offense
750.72	MCL 750.72	First-Degree Arson
750.72[A]	MCL 750.72	Attempt to Commit First-Degree Arson
750.72[C]	MCL 750.72	Conspiracy to Commit First-Degree Arson
750.72[S]	MCL 750.72	Solicitation to Commit First-Degree Arson
750.83	MCL 750.83	Assault with Intent to Murder
750.83[A]	MCL 750.83	Attempt to Commit Assault with Intent to Murder
750.83[C]	MCL 750.83	Conspiracy to Commit Assault with Intent to Murder
750.83[S]	MCL 750.83	Solicitation to Commit Assault with Intent to Murder
750.84	MCL 750.84*	Assault with Intent to Do Great Bodily Harm Less Than Murder or By Strangulation <ul style="list-style-type: none"> <li>If armed with a dangerous weapon. MCL 712A.2(a)(1)(B)</li> </ul>
750.84[A]	MCL 750.84*	Attempt to Commit Assault with Intent to Do Great Bodily Harm Less Than Murder or By Strangulation <ul style="list-style-type: none"> <li>If armed with a dangerous weapon. MCL 712A.2(a)(1)(B)</li> </ul>
750.84[C]	MCL 750.84*	Conspiracy to Commit Assault with Intent to Do Great Bodily Harm Less Than Murder or By Strangulation <ul style="list-style-type: none"> <li>If armed with a dangerous weapon. MCL 712A.2(a)(1)(B)</li> </ul>
750.84[S]	MCL 750.84*	Conspiracy to Commit Assault with Intent to Do Great Bodily Harm Less Than Murder or By Strangulation <ul style="list-style-type: none"> <li>If armed with a dangerous weapon. MCL 712A.2(a)(1)(B)</li> </ul>
750.89	MCL 750.89	Assault with Intent to Rob While Armed
750.89[A]	MCL 750.89	Attempt to Commit Assault with Intent to Rob While Armed
750.89[C]	MCL 750.89	Conspiracy to Commit Assault with Intent to Rob While Armed
750.89[S]	MCL 750.89	Solicitation to Commit Assault with Intent to Rob While Armed
750.91	MCL 750.91	Homicide – Attempted Murder
750.91[A]	MCL 750.91	Attempt to Commit Homicide – Attempted Murder
750.91[C]	MCL 750.91	Conspiracy to Commit Homicide – Attempted Murder
750.91[S]	MCL 750.91	Solicitation to Commit Homicide – Attempted Murder
750.110A2	MCL 750.110a(2)*	Home Invasion – 1st Degree <ul style="list-style-type: none"> <li>If armed with a dangerous weapon. MCL 712A.2(a)(1)(B)</li> </ul>

750.110A2[A]	MCL 750.110a(2)*	Attempt to Commit Home Invasion – 1st Degree <ul style="list-style-type: none"> <li>• If armed with a dangerous weapon. MCL 712A.2(a)(1)(B)</li> </ul>
750.110A2[C]	MCL 750.110a(2)*	Conspiracy to Commit Home Invasion – 1st Degree <ul style="list-style-type: none"> <li>• If armed with a dangerous weapon. MCL 712A.2(a)(1)(B)</li> </ul>
750.110A2[S]	MCL 750.110a(2)*	Solicitation to Commit Home Invasion – 1st Degree <ul style="list-style-type: none"> <li>• If armed with a dangerous weapon. MCL 712A.2(a)(1)(B)</li> </ul>
750.186A	MCL 750.186a	Escape – Juvenile Facility <ul style="list-style-type: none"> <li>• If the juvenile facility was a high-security or medium-security facility operated by the department or a county juvenile agency; or a high-security facility operated by a private agency under contract with the department or a county juvenile agency. MCL 712A.2(a)(1)(C)</li> </ul>
750.186A[A]	MCL 750.186a	Attempt to Commit Escape – Juvenile Facility <ul style="list-style-type: none"> <li>• If the juvenile facility was a high-security or medium-security facility operated by the department or a county juvenile agency; or a high-security facility operated by a private agency under contract with the department or a county juvenile agency. MCL 712A.2(a)(1)(C)</li> </ul>
750.186A[C]	MCL 750.186a	Conspiracy to Commit Escape – Juvenile Facility <ul style="list-style-type: none"> <li>• If the juvenile facility was a high-security or medium-security facility operated by the department or a county juvenile agency; or a high-security facility operated by a private agency under contract with the department or a county juvenile agency. MCL 712A.2(a)(1)(C)</li> </ul>
750.186A[S]	MCL 750.186a	Solicitation to Commit Escape – Juvenile Facility <ul style="list-style-type: none"> <li>• If the juvenile facility was a high-security or medium-security facility operated by the department or a county juvenile agency; or a high-security facility operated by a private agency under contract with the department or a county juvenile agency. MCL 712A.2(a)(1)(C)</li> </ul>
750.316	MCL 750.316	Homicide – First-Degree Murder – Multiple Theories
750.316[A]	MCL 750.316	Attempt to Commit Homicide – First-Degree Murder – Multiple Theories
750.316[C]	MCL 750.316	Conspiracy to Commit Homicide – First-Degree Murder – Multiple Theories
750.316[S]	MCL 750.316	Solicitation to Commit Homicide – First-Degree Murder – Multiple Theories
750.316-J	MCL 750.316	Homicide – First-Degree Murder – Multiple Theories – Juvenile Defendant

750.316-J[A]	MCL 750.316	Attempt to Commit Homicide – First-Degree Murder – Multiple Theories – Juvenile Defendant
750.316-J[C]	MCL 750.316	Conspiracy to Commit Homicide – First-Degree Murder – Multiple Theories – Juvenile Defendant
750.316-J[S]	MCL 750.316	Solicitation to Commit Homicide – First-Degree Murder – Multiple Theories – Juvenile Defendant
750.316-A	MCL 750.316(1)(a)	Homicide – Murder First-Degree - Premeditated
750.316-A[A]	MCL 750.316(1)(a)	Attempt to Commit Homicide – Murder First-Degree - Premeditated
750.316-A[C]	MCL 750.316(1)(a)	Conspiracy to Commit Homicide – Murder First-Degree - Premeditated
750.316-A[S]	MCL 750.316(1)(a)	Solicitation to Commit Homicide – Murder First-Degree - Premeditated
750.316-AJ	MCL 750.316(1)(a)	Homicide – Murder First-Degree – Premeditated – Juvenile Defendant
750.316-AJ[A]	MCL 750.316(1)(a)	Attempt to Commit Homicide – Murder First-Degree – Premeditated – Juvenile Defendant
750.316-AJ[C]	MCL 750.316(1)(a)	Conspiracy to Commit Homicide – Murder First-Degree – Premeditated – Juvenile Defendant
750.316-AJ[S]	MCL 750.316(1)(a)	Solicitation to Commit Homicide – Murder First-Degree – Premeditated – Juvenile Defendant
750.316-B	MCL 750.316(1)(b)	Homicide – Felony Murder
750.316-B[A]	MCL 750.316(1)(b)	Attempt to Commit Homicide – Felony Murder
750.316-B[C]	MCL 750.316(1)(b)	Conspiracy to Commit Homicide – Felony Murder
750.316-B[S]	MCL 750.316(1)(b)	Solicitation to Commit Homicide – Felony Murder
750.316-BJ	MCL 750.316(1)(b)	Homicide – Felony Murder – Juvenile Defendant
750.316-BJ[A]	MCL 750.316(1)(b)	Attempt to Commit Homicide – Felony Murder – Juvenile Defendant
750.316-BJ[C]	MCL 750.316(1)(b)	Conspiracy to Commit Homicide – Felony Murder – Juvenile Defendant
750.316-BJ[S]	MCL 750.316(1)(b)	Solicitation to Commit Homicide – Felony Murder – Juvenile Defendant
750.316-C	MCL 750.316	Homicide – Open Murder
750.316-C[A]	MCL 750.316	Attempt to Commit Homicide – Open Murder
750.316-C[C]	MCL 750.316	Conspiracy to Commit Homicide – Open Murder
750.316-C[S]	MCL 750.316	Solicitation to Commit Homicide – Open Murder
750.316-D	MCL 750.316(1)(c)	Homicide – Murder of Peace/Corrections Officer
750.316-D[A]	MCL 750.316(1)(c)	Attempt to Commit Homicide – Murder of Peace/Corrections Officer

750.316-D[C]	MCL 750.316(1)(c)	Conspiracy to Commit Homicide – Murder of Peace/Corrections Officer
750.316-D[S]	MCL 750.316(1)(c)	Solicitation to Commit Homicide – Murder of Peace/Corrections Officer
750.316-DJ	MCL 750.316(1)(c)	Homicide – Murder of Peace/Corrections Office – Juvenile Defendant
750.316-DJ[A]	MCL 750.316(1)(c)	Attempt to Commit Homicide – Murder of Peace/Corrections Office – Juvenile Defendant
750.316-DJ[C]	MCL 750.316(1)(c)	Conspiracy to Commit Homicide – Murder of Peace/Corrections Office – Juvenile Defendant
750.316-DJ[S]	MCL 750.316(1)(c)	Solicitation to Commit Homicide – Murder of Peace/Corrections Office – Juvenile Defendant
750.317	MCL 750.317	Homicide – Murder – 2nd Degree
750.317[A]	MCL 750.317	Homicide – Murder – 2nd Degree
750.317[C]	MCL 750.317	Homicide – Murder – 2nd Degree
750.317[S]	MCL 750.317	Homicide – Murder – 2nd Degree
750.349	MCL 750.349	Kidnapping
750.349[A]	MCL 750.349	Attempt to Commit Kidnapping
750.349[C]	MCL 750.349	Conspiracy to Commit Kidnapping
750.349[S]	MCL 750.349	Solicitation to Commit Kidnapping
750.520B	MCL 750.520b	Criminal Sexual Conduct – 1st degree (Multiple Variables)
750.520B[A]	MCL 750.520b	Attempt to Commit Criminal Sexual Conduct – 1st degree (Multiple Variables)
750.520B[C]	MCL 750.520b	Conspiracy to Commit Criminal Sexual Conduct – 1st degree (Multiple Variables)
750.520B[S]	MCL 750.520b	Solicitation to Commit Criminal Sexual Conduct – 1st degree (Multiple Variables)
750.520B1A	MCL 750.520b(1)(a)	Criminal Sexual Conduct – 1st Degree (Person Under Thirteen)
750.520B1A[A]	MCL 750.520b(1)(a)	Attempt to Commit Criminal Sexual Conduct – 1st Degree (Person Under Thirteen)
750.520B1A[C]	MCL 750.520b(1)(a)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree (Person Under Thirteen)
750.520B1A[S]	MCL 750.520b(1)(a)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree (Person Under Thirteen)
750.520B1B	MCL 750.520b(1)(b)	Criminal Sexual Conduct – 1st Degree (Relationship)
750.520B1B[A]	MCL 750.520b(1)(b)	Attempt to Commit Criminal Sexual Conduct – 1st Degree (Relationship)
750.520B1B[C]	MCL 750.520b(1)(b)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree (Relationship)
750.520B1B[S]	MCL 750.520b(1)(b)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree (Relationship)
750.520B1C	MCL 750.520b(1)(c)	Criminal Sexual Conduct – 1st Degree (During Felony)



750.520B1C[A]	MCL 750.520b(1)(c)	Attempt to Commit Criminal Sexual Conduct – 1st Degree (During Felony)
750.520B1C[C]	MCL 750.520b(1)(c)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree (During Felony)
750.520B1C[S]	MCL 750.520b(1)(c)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree (During Felony)
750.520B1D	MCL 750.520b(1)(d)	Criminal Sexual Conduct – 1st Degree (Accomplices)
750.520B1D[A]	MCL 750.520b(1)(d)	Attempt to Commit Criminal Sexual Conduct – 1st Degree (Accomplices)
750.520B1D[C]	MCL 750.520b(1)(d)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree (Accomplices)
750.520B1D[S]	MCL 750.520b(1)(d)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree (Accomplices)
750.520B1E	MCL 750.520b(1)(e)	Criminal Sexual Conduct – 1st Degree (Weapon Used)
750.520B1E[A]	MCL 750.520b(1)(e)	Attempt to Commit Criminal Sexual Conduct – 1st Degree (Weapon Used)
750.520B1E[C]	MCL 750.520b(1)(e)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree (Weapon Used)
750.520B1E[S]	MCL 750.520b(1)(e)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree (Weapon Used)
750.520B1F	MCL 750.520b(1)(f)	Criminal Sexual Conduct – 1st Degree (Personal Injury)
750.520B1F[A]	MCL 750.520b(1)(f)	Attempt to Commit Criminal Sexual Conduct – 1st Degree (Personal Injury)
750.520B1F[C]	MCL 750.520b(1)(f)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree (Personal Injury)
750.520B1F[S]	MCL 750.520b(1)(f)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree (Personal Injury)
750.520B1G	MCL 750.520b(1)(g)	Criminal Sexual Conduct – 1st Degree (Injury to Incapacitated Victim)
750.520B1G[A]	MCL 750.520b(1)(g)	Attempt to Commit Criminal Sexual Conduct – 1st Degree (Injury to Incapacitated Victim)
750.520B1G[C]	MCL 750.520b(1)(g)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree (Injury to Incapacitated Victim)
750.520B1G[S]	MCL 750.520b(1)(g)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree (Injury to Incapacitated Victim)
750.520B1H	MCL 750.520b(1)(h)	Criminal Sexual Conduct – 1st Degree (Mentally Disabled – Relationship)
750.520B1H[A]	MCL 750.520b(1)(h)	Attempt to Commit Criminal Sexual Conduct – 1st Degree (Mentally Disabled – Relationship)
750.520B1H[C]	MCL 750.520b(1)(h)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree (Mentally Disabled – Relationship)
750.520B1H[S]	MCL 750.520b(1)(h)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree (Mentally Disabled – Relationship)

750.520B2B	MCL 750.520b(2)(b)	Criminal Sexual Conduct – 1st Degree – Person Under Thirteen – Defendant 17 Years of Age or Older
750.520B2B[A]	MCL 750.520b(2)(b)	Attempt to Commit Criminal Sexual Conduct – 1st Degree – Person Under Thirteen – Defendant 17 Years of Age or Older
750.520B2B[C]	MCL 750.520b(2)(b)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree – Person Under Thirteen – Defendant 17 Years of Age or Older
750.520B2B[S]	MCL 750.520b(2)(b)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree – Person Under Thirteen – Defendant 17 Years of Age or Older
750.520B2C	MCL 750.520b(2)(c)	Criminal Sexual Conduct – 1st Degree (Person Under Thirteen, Defendant 18 Years of Age or Older) – Second Offense Notice
750.520B2C[A]	MCL 750.520b(2)(c)	Attempt to Commit Criminal Sexual Conduct – 1st Degree (Person Under Thirteen, Defendant 18 Years of Age or Older) – Second Offense Notice
750.520B2C[C]	MCL 750.520b(2)(c)	Conspiracy to Commit Criminal Sexual Conduct – 1st Degree (Person Under Thirteen, Defendant 18 Years of Age or Older) – Second Offense Notice
750.520B2C[S]	MCL 750.520b(2)(c)	Solicitation to Commit Criminal Sexual Conduct – 1st Degree (Person Under Thirteen, Defendant 18 Years of Age or Older) – Second Offense Notice
750.529	MCL 750.529	Robbery – Armed
750.529[A]	MCL 750.529	Attempt to Commit Robbery – Armed
750.529[C]	MCL 750.529	Conspiracy to Commit Robbery – Armed
750.529[S]	MCL 750.529	Solicitation to Commit Robbery – Armed
750.529-A	MCL 750.529	Robbery – Armed – Serious Injury
750.529-A[A]	MCL 750.529	Attempt to Commit Robbery – Armed – Serious Injury
750.529-A[C]	MCL 750.529	Conspiracy to Commit Robbery – Armed – Serious Injury
750.529-A[S]	MCL 750.529	Solicitation to Commit Robbery – Armed – Serious Injury
750.529A	MCL 750.529a	Carjacking
750.529A[A]	MCL 750.529a	Attempt to Commit Carjacking
750.529A[C]	MCL 750.529a	Conspiracy to Commit Carjacking
750.529A[S]	MCL 750.529a	Solicitation to Commit Carjacking
750.531-A	MCL 750.531	Bank Robbery
750.531-A[A]		Attempt to Commit Bank Robbery
750.531-A[C]		Conspiracy to Commit Bank Robbery
750.531-A[S]		Solicitation to Commit Bank Robbery
750.531-B	MCL 750.531	Safe Breaking
750.531-B[A]		Attempt to Commit Safe Breaking
750.531-B[C]		Conspiracy to Commit Safe Breaking
750.531-B[S]		Solicitation to Commit Safe Breaking
333.74012A1	MCL 333.7401(2)(a)(i)	Controlled Substance – Delivery/Manufacture (Cocaine, Heroin or Another Narcotic) 1000 or More Grams

333.74012A1[A]	MCL 333.7401(2)(a)(i)	Attempt to Commit Controlled Substance – Delivery/Manufacture (Cocaine, Heroin or Another Narcotic) 1000 or More Grams
333.74012A1[C]	MCL 333.7401(2)(a)(i)	Conspiracy to Commit Controlled Substance – Delivery/Manufacture (Cocaine, Heroin or Another Narcotic) 1000 or More Grams
333.74012A1[S]	MCL 333.7401(2)(a)(i)	Solicitation to Commit Controlled Substance – Delivery/Manufacture (Cocaine, Heroin or Another Narcotic) 1000 or More Grams
333.74032A1	MCL 333.7403(2)(a)(i)	Controlled Substance – Possession (Cocaine, Heroin or Another Narcotic) 1000 or More Grams
333.74032A1[A]	MCL 333.7403(2)(a)(i)	Attempt to Commit Controlled Substance – Possession (Cocaine, Heroin or Another Narcotic) 1000 or More Grams
333.74032A1[C]	MCL 333.7403(2)(a)(i)	Conspiracy to Commit Controlled Substance – Possession (Cocaine, Heroin or Another Narcotic) 1000 or More Grams
333.74032A1[S]	MCL 333.7403(2)(a)(i)	Solicitation to Commit Controlled Substance – Possession (Cocaine, Heroin or Another Narcotic) 1000 or More Grams
N/A	N/A	Any other offense arising out of the same transaction as a specified juvenile violation, if the juvenile is charged with a specified juvenile violation. MCL 712A.2(a)(1)(l).

\* Under MCL 712A.2(a)(1)(B), “dangerous weapon” means one or more of the following:

- i. A loaded or unloaded firearm, whether operable or inoperable.
- ii. A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.
- iii. An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.
- iv. An object or device that is used or fashioned in a manner to lead a person to believe the object or device described in subparagraphs (i) to (iii).

**Appendix C:** A list of “lesser included offenses” of specified violations. These lesser included offenses, as well as offenses arising out of the same transaction if the juvenile is charged with a specified juvenile violation, are ineligible for an automatic set aside.

### Lesser Included Offenses

A lesser included offense of a specified juvenile violation, if the juvenile is charged with a specified juvenile violation, is not eligible for an automatic juvenile set aside.

MCL 712A.18t(2). A list of lesser-included offenses is contained below. MCL 712A.2.

PACC Code	Statute Cite	Offense
750.321-A	750.321	Voluntary Manslaughter <ul style="list-style-type: none"> <li>• Assault with Intent to Murder (MCL 750.83)</li> <li>• Homicide – Open Murder (MCL 750.316)</li> </ul>

750.84	MCL 750.84	Assault with Intent to Do Great Bodily Harm Less Than Murder <ul style="list-style-type: none"> <li>Assault with Intent to Do Great Bodily Harm Less Than Murder or By Strangulation (MCL 750.84) <ul style="list-style-type: none"> <li>If armed with a dangerous weapon.</li> </ul> </li> </ul>
750.317	MCL 750.317	Homicide – Murder - Second Degree <ul style="list-style-type: none"> <li>Homicide – Murder First-Degree – Premeditated (MCL 750.316(1)(a))</li> <li>Homicide – Murder First-Degree – Premeditated – Juvenile Defendant (MCL 750.316(1)(a))</li> <li>Homicide Open Murder (MCL 750.316)</li> </ul>
750.321-C	MCL 750.321	Homicide – Manslaughter – Involuntary <ul style="list-style-type: none"> <li>Homicide Open Murder (MCL 750.316)</li> </ul>
750.321-A	MCL 750.321	Homicide – Manslaughter – Voluntary <ul style="list-style-type: none"> <li>Homicide Open Murder (MCL 750.316)</li> </ul>
750.81A	MCL 750.81a	Assault and Infliction of Serious Injury (Aggravated Assault)
750.82	MCL 750.82	Assault with a Dangerous Weapon
750.84	MCL 750.84(1)(b)	Assault With Intent to Do Great Bodily Harm Less Than Murder by Strangulation or Suffocation
750.110A4	MCL 750.110a(4)	Home Invasion – Third Degree (only if supported by evidence) <ul style="list-style-type: none"> <li>Home Invasion – First-Degree (MCL 750.110a)</li> </ul>

### Questions for Review:

What does the court rule consider to be a “record” of the family division?

What court records can the general public access?

Can you identify the cases that can or cannot be set aside?

What is P-II/P-PII and how does it impact court records?

Who may access confidential files?

What happens to diversion records?

What happens to consent calendar records?

## Chapter 14: Ethics

This chapter discusses:

14.1. Ethics

14.2. Some Ethical Dilemmas You May Encounter

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### 14.1. ETHICS

Ethics are the set of moral principles that guide a person’s behavior. As professionals, probation officers and caseworkers exercise specialized knowledge and skills and have unique obligations to the court, youth, and families served.

The Michigan Supreme Court has developed a “Model Code of Conduct for Michigan Court Employees” to assure the highest degree of conduct. Check with your court administrator or chief judge to see if your court has adopted this, or any, code of conduct. The Model Code was updated in 2020 to address use of social media.

There are also general guidelines that follow the code of conduct. The general guidelines apply to all court employees. There are also specific ethical guidelines for juvenile probation officers.



### Model Code of Conduct for Michigan Trial Court Employees

*All employees in Michigan’s courts hold highly visible positions of public trust. We must conduct our business in an environment and in a manner that favorably reflects the ideals consistent with the fundamental values of the Michigan judicial system, as identified by the Michigan Supreme Court. These values include: fairness, accessibility, accountability, effectiveness, responsiveness, and independence. Our actions at all times should uphold and increase the public trust and confidence in the judicial branch, reflect the highest degree of integrity, and demonstrate commitment to each principle embodied in this model code.*

**Canon One  
IMPROPRIETY OR THE  
APPEARANCE OF  
IMPROPRIETY**

I will avoid activities that could cause an adverse reflection on my position or the court. I will maintain dignity in every comment, photograph, or video shared in person or via electronic means including social networking sites.

**Canon Two  
ABUSE OF POSITION**

I will not use or attempt to use my position to secure unwarranted privileges for others or myself.

**Canon Three  
IMPARTIALITY**

I will provide impartial treatment to all persons interacting with the court. I will not make comments in person or via electronic means including social networking sites regarding pending matters, including comments regarding parties, or attorneys who appear before the court.

**Canon Four  
PROPER USE OF  
PUBLIC RESOURCES**

I will use the resources, property, and funds of the court judiciously and solely in accordance with prescribed procedures.

**Canon Five  
DUTY TO DISCLOSE**

I will respectfully disclose information required by the court.

**Canon Six  
CONFIDENTIALITY &  
DISCRETION**

I will not disclose confidential or discretionary information gained through my court employment to any unauthorized person. Information on blogs or other social media should comply with the court's confidentiality and any other relevant court policies. I will not post internal reports, policies, procedures, or other internal business-related confidential communications on social media. I will not use my court e-mail address to register on or engage in social media or professional social networking utilized for personal use.

**Canon Seven  
DISCRIMINATION**

I will not discriminate on the basis of race, color, religion, national origin, gender, or other protected group.

**Canon Eight  
POLITICAL ACTIVITY**

I am free to participate in political activities during nonworking hours as long as such activity does not use or appear to use my position or court in connection with such activities.

**Canon Nine  
DUTY TO SERVE**

I will carry out my responsibilities to the court, litigants, coworkers, and all others interacting with the court in a timely, diligent, and courteous manner. I will not harass, threaten, retaliate, or disparage court employees, or anyone associated with, or doing business with the court, whether in person or through other means, including the use of social media.

Canon Ten  
**COMPETENCY**

I will actively pursue educational opportunities to improve my professional knowledge, skills, and abilities in order to provide quality service to the court and the public.

## Guidelines

The following guidelines clarify the aforementioned canons:

### Canon One

#### IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY

Court employees are highly visible and should conduct themselves in a way that instills public trust and confidence. Their actions reflect not only on themselves, but on the court as well. Improper behavior or the appearance of improper behavior may compromise the integrity of the court. Activities an employee engages in that are improper or may be perceived as improper include:

- Violating federal, state, or local laws and regulations.
- Entering into a contract directly or indirectly for services, supplies, equipment, or realty with the court system.
- Outside employment that may conflict or appear to conflict with the employee's job duties. Seek approval from the appropriate authority before accepting outside employment. **NOTE:** No form of outside employment shall be performed utilizing the resources of the court and shall not require or induce the employee to disclose information acquired during their official duties.
- Employees shall abide by the Michigan Supreme Court anti-nepotism policy found in AO 2016-5.
- Employees shall not engage in the use of social media while also listing their affiliation with the court. If an employee identifies himself or herself as a court employee, they must state that the views they express on social media are their own and not those of the court.
- If employees choose to identify themselves as judiciary employees on personal social media, some readers may view them as spokespersons for the court and/or for a particular court. Even if you do not identify yourself as a judiciary employee, you should assume that the viewer of any social media is aware that you are a judiciary employee and that you are held to a high standard of personal and professional conduct.

The use of the real or apparent power of a position as a court employee to personally benefit the employee or someone else is prohibited. Court employees should never use their position to secure privileges, gifts, special favors, or exemptions. Generally, these would be special considerations given by others to the employee specifically because of their position as a court employee. The solicitation or acceptance of a gift, favor, or additional compensation can give the impression that something will be done in return for the donor. This contravenes the core ideals of the judiciary.



**Canon Three  
IMPARTIALITY**

The official actions of a probation officer should not be affected or appear to be affected by kinship, rank, position, or influence of any party or person involved in the court system. Many times, relationships place temptation upon the probation officer to provide special treatment. Differential treatment in any of these situations undermines the integrity of the probation officer and the judicial system.

**Canon Four  
PROPER USE OF  
PUBLIC RESOURCES**

Court employees are stewards of public resources. A court employee shall use the resources, property, and funds judiciously and solely in accordance with prescribed procedure. Pitfalls include temptations such as personal phone calls at the court's expense, personal use of government property (such as office supplies, printers, computers, vehicles, etc.), or the use of court property to assist nonemployees as a favor.

**Canon Five  
DUTY TO DISCLOSE**

A court employee should expect coworkers to abide by the canons set out in this code. A court employee shall report violations of this code or attempts to compel one to violate this code.

Court employees must inform the appropriate authority if he or she is arrested in any jurisdiction or involved in any pending legal action at the court of employment. This will allow the court to take the appropriate actions related to the employee's status. When required by law, rule, or regulation, court employees will dutifully disclose all financial interests and dealings.

**Canon Six  
CONFIDENTIALITY &  
DISCRETION**

Although most court records are public, some are nonpublic, and cannot be released. Court employees need to understand the types of cases, and documents that are considered confidential. Confidential information should never be disclosed to any unauthorized person for any purpose to the media, general public, in person, or over the phone, or on social media. Employees shall never disclose confidential information including, but not limited to, the possible outcome of a pending case, case processing procedures, and other nonpublic information in person or via electronic means including social media platforms.

A court employee shall not attempt to take advantage of their access to judges and court files to further any personal interest or engage in ex parte discussions.

Sensitive information acquired by court employees while performing their official duties should never be revealed until it is made a matter of public record. Even when the information becomes public, court employees should exercise a great deal of discretion.

Sometimes breaches of confidentiality do not involve intentional disclosures of official court records. Some are the result of innocent and casual remarks about pending or closed cases, about participants in litigation, or about juries, which could give attorneys, litigants, reporters, and the public confidential information. Such remarks can seriously compromise a case or a person's standing in the community. Court staff should discuss cases only for legitimate reasons. Court employees shall treat personal or sensitive information with the same discretion that one would wish others to have if one were involved in a similar case.

Examples of confidentiality issues are not limited to cases. Personnel, probation, health records, and information accessed through the Law Enforcement Information Network (LEIN), or the Judicial Data Warehouse (JDW) have confidential limitations. Counter clerks should guard against being overheard when discussing legitimate confidential information.

**Canon Seven  
DISCRIMINATION**

Essential to the administration of justice is allowing equal access and treatment for all. Every day, court employees are called upon to assist people, and it is their responsibility to provide customers and coworkers with courteous service, regardless of the individual's race, religion, gender, national origin, political activities, etc. Discrimination can come in varying forms (words and actions), yet court employees should be aware that no form of discrimination is acceptable and when discovered should be exposed and discouraged.

Additionally, the evaluation of prospective employees should be based on their employable qualities such as job skills, knowledge, and attitude. Likewise, the evaluation of existing employees should be based upon criteria such as job skills, knowledge, and attitude in the performance of their duties. Therefore, no employee will discriminate in favor of or against any employee or applicant for employment based on the individual's race, religion, gender, national origin, political activities, etc.

**Canon Eight  
POLITICAL ACTIVITY**

A court employee's ability to participate in the democratic process by working for a political cause, party, or candidate should not be hampered by their employment if done outside of working hours. This participation includes, but is not limited to, holding party membership, holding public office, making speeches, and making contributions of time and/or money to candidates, political parties, or other groups engaged in political activity. This participation in political activity should not transcend into the workplace by the displaying of political material (i.e., literature, badges, signs, or other material advertising a political cause, party, or candidate), soliciting signatures for political candidacy, or soliciting, or receiving funds for political purposes. In addition, no government equipment, or resources of any kind are to be used for promoting political activity in the workplace before, during, or after work hours.

**Canon Nine  
DUTY TO SERVE**

For the court to be an effective institution, court employees must reflect a high level of professionalism as they faithfully carry out all assigned duties and enforce the rules/orders provided by the court. It is never acceptable to undermine the judge or speak negatively of the court, especially in a public arena. A court employee's primary obligation is to the court. Court employees are not to inappropriately destroy, alter, falsify, mutilate, backdate, or fail to make required entries on any court records.

Court employees must recognize that colleagues are also customers, and they should be given the same level of professional consideration as public clients.

**Canon Ten  
COMPETENCY**

Employees shall refrain from posts on social media that can contribute to a hostile work environment on the basis of race, sex, disability, religion, or any other status protected by law. Some specific examples of prohibited social media conduct include posting commentary, content, or images that are defamatory, pornographic, proprietary, harassing, or libelous.

When working within the court system, laws and rules of operation are continually changing due to legislation, court rules, administrative orders, caselaw, technology, etc. Therefore, court employees are encouraged to take advantage of educational opportunities that will enhance their skills, advance their understanding, and allow for better service.

**Guidelines for Juvenile Probation Officers**

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

**Canon One**

**IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY**

Probation officers are highly visible and should conduct themselves in a way that instills public trust and confidence. Their actions reflect not only on themselves, but on the court as well. Improper behavior or the appearance of improper behavior may compromise the integrity of the court. Activities a probation officer engages in that are improper, or may be perceived as improper, include:

- Probation officers shall not violate federal, state, or local laws and regulations.
- Probation officers shall recognize that probationers have legal rights regarding new substantive offenses, apart from the issue of a probation violation. Probation officers should not use their position to elicit information that may be used against the juvenile without first warning the juvenile.
- Probation officers shall not accept outside employment that may conflict or appear to conflict with the probation officer's job duties. Seek approval from the appropriate authority before accepting outside employment.

- **NOTE:** No form of outside employment shall be performed utilizing the resources of the court and shall not require or induce the probation officer to disclose information acquired during their official duties.
- Probation officers shall avoid entering into a contract or conducting financial or business dealings with probationers and their families, or with service providers. In the event such dealings are unavoidable, the probation officer shall not receive any special personal or financial benefits and shall disclose the business dealing to the probation officer's employer.
- Probation officers shall not receive any personal benefit from probationers ordered to perform work to pay off fines and costs or as a consequence for failure to follow rules established by the court.

## **Canon Two**

### **ABUSE OF POSITION**

The use of the real or apparent power of a position as a probation officer to personally benefit the probation officer or someone else is prohibited. Probation officers should never use their position to secure privileges, gifts, special favors, or exemptions. Generally, these would be special considerations given by others to the probation officer specifically because of their position as a probation officer.

The solicitation or acceptance of a gift, favor, or additional compensation can give the impression that something will be done for the donor in return. This contravenes the core ideals of the judiciary.

A probation officer shall not attempt to take advantage of their access to court records to further any personal interest.

A probation officer shall not attempt to take advantage of their access to judges and/or referees to engage in ex parte discussion in order to influence the court or outcome of the proceedings.

## **Canon Three**

### **IMPARTIALITY**

The official actions of a probation officer should not be affected or appear to be affected by kinship, rank, position, or influence of any party or person involved in the court system. Many times, relationships place temptation upon the probation officer to provide special treatment. Differential treatment in any of these situations undermines the integrity of the probation officer and the judicial system.

Probation officers should strive for bias-free behavior. They should be aware of different cultures and personal biases. A probation officer should understand and be mindful of both positive and negative biases they may hold.

Probation officers should not knowingly become personally involved socially or intimately either with probationers or with their families. Any such preexisting relationship should immediately be reported to a supervisor.

Probation officers need to be able to provide impartial and understandable answers to the public's questions in an efficient manner, without providing legal advice.

### **Implicit Bias**

Implicit Biases, also called unconscious biases, are social stereotypes about groups of people that individuals form outside of their conscious awareness. They are based on an individual's background and experiences and lead to quick judgments about people and situations. Fortunately, there is increased awareness and tools available to help.

#### **Five steps to help mitigate implicit bias:**

**1. *Admit this to yourself***

No human being is unbiased. You must acknowledge that you are not the exception to this rule. You also must be highly motivated to overcome your biases. Without strong internal motivation, research tells us that you will not be successful in conquering your biases.

**2. *Identify your biases***

Implicit biases are, by definition, unknown. You can't hope to dismantle your implicit biases until you discover what they are. Start by taking the [Implicit Association Test offered free online by Harvard University](#).

Have a supervisor or trusted colleague observe your interactions with court users and offer feedback on how you treated people of different backgrounds, races, genders, sexual orientations, and ethnicities.

**3. *Decide which of your implicit biases to address first***

Don't try to tackle your implicit biases all at one time. Focus on the most pressing ones that impact your caseload and community.

**4. *Identify and acknowledge individual differences***

Lady Justice wears a blindfold. You can't. You must learn how differences in people may affect your thinking. You can do this by:

- Putting extra effort into identifying the unique aspects of stigmatized individuals;
- Being aware of what you are thinking when confronted by initial identifying factors that can lead to stereotyping (differences in race/ethnicity, gender, language, etc.);
- Appreciating the individual differences in people.

**5. *Slow down***

Your biases are more likely to affect you and court users in times of stress. Do everything *on purpose* by being deliberate. Consider rules carefully. Don't run your caseload and court activities on autopilot.

### **Canon Four**

#### **PROPER USE OF PUBLIC RESOURCES**

Probation officers, like all court employees, are stewards of public resources. A probation officer shall use public resources, property, and funds judiciously and solely in accordance with prescribed procedures. Pitfalls include temptations such as personal phone calls at the court's expense and personal use of government property (such as office supplies, printers,

computers, vehicles). The time a probation officer is paid to work is also a public resource. Probation officers should refrain from conducting personal business on work time, including the time spent traveling to or from home visits in a county vehicle, or when being reimbursed by the county for mileage.

### **Canon Five**

#### **DUTY TO DISCLOSE**

A probation officer should expect coworkers to abide by the canons set forth in this code. A probation officer shall report violations of this code or attempts to compel another to violate this code. A probation officer must inform their employer if they are arrested in any jurisdiction or are involved in any pending legal action at the court of employment. When required by law, rule, or regulation, probation officers will dutifully disclose all financial interests and dealings.

### **Canon Six**

#### **CONFIDENTIALITY & DISCRETION**

Although most court records are public, some are nonpublic and cannot be released, including Personal Identifying Information (PII/P-PII). Probation officers need to understand the types of cases and documents that are considered confidential. Confidential information should never be disclosed to any unauthorized person for any purpose. Sensitive information acquired by probation officers while performing their official duties should never be revealed until it is made a matter of public record. Even when the information becomes public, probation officers should exercise a great deal of discretion.

Probation officers shall maintain the integrity of private information and use reasonable efforts to seek only that personal information that is necessary to perform their responsibilities. Sometimes breaches of confidentiality do not involve intentional disclosures of official court records. Some are the result of innocent and casual remarks about pending or closed cases, about probationers, or about juries, which could give attorneys, litigants, reporters, and the public confidential information. Such remarks can seriously compromise a case or a person's standing in the community. Probation officers should discuss cases only for legitimate reasons. Probation officers shall treat personal or sensitive information with the same discretion that one would wish others to have if one were involved in a similar case. Examples of confidentiality issues are not limited to cases. Personnel, probation, health records, and information accessed through the LEIN or the JDW have confidentiality restrictions. Probation officers should guard against being overheard when discussing legitimate confidential information. Probation officers should consult the nonpublic and limited access chart.

### **Canon Seven**

#### **DISCRIMINATION**

A probation officer shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin. Essential to the administration of justice is allowing equal access and treatment for all. Every day, probation officers are called upon to assist people, and it is their responsibility to provide customers and coworkers with courteous service, regardless of the individual's race, religion, gender, national origin, political activities, etc. Discrimination can come in varying forms (words and actions), yet probation officers should be aware that no form of discrimination is acceptable and when discovered should be exposed and discouraged. Preferential treatment to a certain class is also discrimination.

**Canon Eight**  
**POLITICAL ACTIVITY**

A probation officer's ability to participate in the democratic process by working for a political cause, party, or candidate should not be hampered by their employment, if done outside of working hours. This participation includes, but is not limited to, holding party membership, holding public office,<sup>18</sup> making speeches, and making contributions of time and/or money to candidates, political parties or other groups engaged in political activity. Participation in political activity should not enter the workplace by, for example, the display of political material (i.e., literature, badges, signs, or other material advertising a political cause, party, or candidate), soliciting signatures for political candidates or issues, or soliciting or receiving funds for political purposes. In addition, no government equipment or resources of any kind are to be used for promoting political activity in the workplace before, during, or after work hours.

**Canon Nine**  
**DUTY TO SERVE**

For the court to be an effective institution, probation officers must reflect a high level of professionalism as they faithfully carry out all assigned duties and enforce the rules and orders provided by the court. When factually appropriate, probation officers shall make reports to other agencies (protective services and/or law enforcement). Probation officers shall maintain relationships with colleagues in such a manner as to promote mutual respect and improve the quality of services provided.

Probation officers shall respect the authority and follow the directives of the court. Recognize that you are an extension of the court. Probation officers shall not impugn the decisions and directives of the court. This should not be construed to limit a probation officer from maintaining their independence in making recommendations to the court but means that once the court has made a decision the probation officer shall follow the decision.

Probation officers should respect the importance of all entities involved with the juvenile justice system and cultivate professional cooperation with each. For juvenile probation officers this includes, but is not limited to, state and local agencies, law enforcement, schools, etc.

Probation officers are not to alter, falsify, mutilate, backdate, or inappropriately destroy any court records.

**Canon Ten**  
**COMPETENCY**

Laws and rules of operation are continually changing due to legislation, court rules, administrative orders, caselaw, technology, etc. Therefore, probation officers are encouraged to take advantage of educational opportunities that will enhance their skills, advance their understanding, and allow for better service. This includes understanding the community, being culturally proficient, and networking with other professionals.

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<sup>18</sup> Holding public office is acceptable unless a conflict of interest exists with employment at the court, or it is prohibited by law. An example of a conflict includes serving on the county board of commissioners whose oversight of budget and other policy issues impact the court.



## 14.2. SOME ETHICAL DILEMMAS YOU *MAY* ENCOUNTER

### **Example #1: Residential Placement in Out-Of-State Facility**

Based upon your recommendation, the court placed a juvenile in a residential treatment facility in Arizona. Once every three months you fly to the facility and stay for a couple of days. You stay in a luxury hotel. While there, the facility tells you to explore the campus and use any of the services they offer, including golf, horseback riding, and boating all at no charge. In the evening, one of the facility managers takes you to a nice restaurant for dinner, pays for the dinner, and then takes you and a group of juveniles to a professional sporting event.

What are the ethical considerations? Is it okay to fly to the facility, stay in a luxury hotel, use the services of the facility, go to dinner, and to the professional sporting event? How would this appear to the public? How would this appear to others (public/private)?

**Minimum Accepted Practice:** MCR 3.943(E)(3) states:

“Before a juvenile is placed in an institution outside the state of Michigan as a disposition, the court must find that:

- (a) Institutional care is in the best interests of the juvenile;
- (b) Equivalent facilities to meet the juvenile’s needs are not available within Michigan, and;
- (c) The placement will not cause undue hardship.”

Once the court makes the decision to place a youth in a facility (whether in state or out-of-state), periodic visits should be made to allow first-hand observation of contracted services, maintain contact with the youth, and keep the youth connected to the community. Any time you are representing the court you are accountable and must be able to justify your activities to your court administrator and chief judge.

Probation officers should be sure that they are aware of the court’s policy regarding the probation officer’s participation in activities while visiting a facility. Probation officers should discuss with their supervisor what activities are appropriate and what are not. You should understand how it appears to others (coworkers, supervisor, the public, and other agencies).

Your court’s residential contracts likely specify that the facility will pay the cost of travel, meals, housing, etc. These costs should be reasonable and consistent, when practicable, with your court’s travel policy. If you have any questions regarding your court’s travel policy, or acceptable activities, you should consult with your supervisor, court administrator, or chief judge prior to the visit.

**Best Practice:** The best practice is not to accept any gifts, dinners, sporting events, or participate in free extracurricular activities while at the facility. The focus of the visit should be the welfare of the juvenile and the adequacy of the facilities. You should limit your activities to appropriate business activities.

### **Example #2: Job Competency**

While observing a fellow probation officer explain court procedures and due-process rights guaranteed to all juveniles, you notice several errors and omissions. Afterward,

you advise your colleague of your observations, to which he replies: “I didn’t know that, and it doesn’t really matter anyway.” You know it matters to the judge, to you and other probation officers, and especially to the juveniles that come into your court.

What do you do? Do you bring this to anyone else’s attention? Should you have interrupted your coworker during their explanation?

**Best Practice:** It is important for you to bring these issues to the attention of your coworker and supervisor. Your colleague may, perhaps unwittingly, be violating a probationer’s due-process rights, contrary to longstanding U.S. Supreme Court decisions. Michigan Supreme Court Administrative Order 1985-5, as amended, requires a juvenile probation officer or caseworker to meet certain educational, experiential, and training thresholds to achieve certification. This includes knowledge of the juvenile justice system and the ability to be effective. In addition to a policy and procedures manual, there are a number of ways to keep abreast of trends and issues in juvenile justice including subscribing to various free Internet-based publications and attending trainings and seminars, as well as various online tutorials. The most up-to-date statutes may be found on the [Michigan Legislature website](#).

Current (as well as proposed amendments to) court rules, and Court of Appeals and Supreme Court cases, as well as Michigan Judicial Institute (MJI) Benchbooks and training materials can be found on the Michigan Supreme Court website (see link below). At a minimum, probation/casework staff should be given administrative time, during regular work hours, to participate in training, and should include the ability (via Internet access, streaming video, and sound cards) to access online tutorials. You should also encourage administration to provide opportunities for outside training (which also allows you to interact with professional colleagues) and regular and routine in-service trainings. See: [One Court of Justice | Home](#).

### **Example #3: Judicial Elections**

Your judge is up for reelection, and while she is expected to win, this is the first contested judicial election in your court for some time. You like and respect your judge and think she should be reelected. One day, she approaches you and asks you to work on her campaign, and to start that day. In fact, she has a campaign flyer she wants distributed at a social function this evening and asks you to take some time this afternoon and make the flyer look nicer by adding some graphics, and then making 100 copies to distribute. She knows you do not have time to go home and do this, or to make it to the local copy shop.

How do you respond? Would it make any difference if you could go home and do this? Would it matter if you did not think the judge should be reelected?

**Best Practice:** You are welcome to work on your judge’s reelection campaign, as long as you do it on your own time and with your own resources, or resources provided somewhere other than by the court. It is not ethical for your judge to ask you do this during work time (see the Code of Judicial Conduct, Canon 7), and it could be construed as illegal (see MCL 15.404 and 405). Of course, it is not as easy to do, as it is to say. Your judge is your boss, and it may be difficult to say “no.” If you want to work on her campaign, you may let her know of your willingness to do so, outside court hours and

with outside resources. It is likely that she did not even think about the potential inappropriate use of court resources when she asked you to perform the task.

#### **Example #4: Accepting Gifts 1**

As a probation officer, you invest a lot of time with a juvenile on your caseload. You set up counseling services, community service, and substance abuse treatment for the juvenile. The juvenile has difficulties while on probation, but you are consistent and fair with the juvenile. You have established a respectful relationship between you, the juvenile, and the juvenile's parents. After a year, you recommend that the court discharge a juvenile from the jurisdiction of the court because he has made great personal progress. The court agrees and discharges the juvenile. The parents are grateful for all the work you have done, and you receive a basket of homemade cookies and a card thanking you for all you have done.

What do you do? What are the ethical implications? Does it matter if the file is open or closed? Does it matter what the gift is? Gift certificate, money, favor, service? How would your answer differ if the juvenile were 18? Would your answer change if the juvenile were still on probation? What if the juvenile has siblings that may have contact with the court?

**Minimum Accepted Practice:** The provisions of the Code of Judicial Conduct, Canon 4, Section E(4), addresses the extent to which judges and their family members may receive gifts. You should check with your court administrator and/or chief judge regarding your court's policy on employees receiving gifts.

#### **Example #5: Accepting Gifts 2**

You attend a juvenile justice conference with fellow probation officers. Vendors are set up at the conference to market their products, facilities, and programs. When you come back from the conference, a coworker, Joe, mentions that he golfed with one of the vendors who paid for the golf. Your coworker, Jane, indicates that she loves conferences because of all the free stuff. She said she went to dinner with some other probation officers and a vendor. At the end of the meal, the vendor picked up the entire bill. All you left with was a pen.

What are the ethical implications? Was it okay for Joe to accept the golf? Was it okay for Jane to accept the dinner? Was it okay for you to take the pen?

**Minimum Accepted Practice:** If all conference participants have access to a variety of vendors, and these vendors make small marketing items available to anyone, there is generally no problem taking some. However, the probation officer is still cautioned about displaying these items to clients, parents, and other court users. These items are distinguishable from individual benefits such as golf and dinner, which should not be accepted.

**Best Practice:** The probation officer should not accept any gifts or free "activities" from a vendor as acceptance of a gift implies an agreement exists between the parties; there will be an expectation of a payback. While the accepting of small items, such as pens embossed with a vendor's logo, may seem innocent, using these items while employed as a probation officer may be perceived by some as a preference toward that vendor.

In addition, as each juvenile justice conference participant is representing their court, negative behavior reflects poorly on the court and the chief judge. Care must be taken to avoid any activity which will cast doubt on a court's ability to remain bias-free and impartial. The probation officer has a duty to disclose to their supervisor that coworkers have accepted gifts or activities from the vendor.

### **Example #6: Duty to Report**

You have been a probation officer for five years. One of your coworkers, Mark, has been promoted to a juvenile referee position and a new probation officer, Connie, has been hired to fill the vacancy. Mark suggests that all the probation officers go out for a drink after work on Friday to celebrate his promotion and welcome Connie to the office. You meet at a local bar and have dinner and drinks. The group is very loud and boisterous. At one point, you are discussing "war stories" and laughing at the crazy things that you have come across in this line of work. Mark is extremely intoxicated. When it is time to go home, you suggest that he call a cab, but he declines. He leaves the bar, hops in his car, and takes off. On Monday, you ask Mark how his weekend was. He tells you that he was arrested for drunk driving, but he is sure he can convince the prosecutor to dismiss the charge. He also tells you not to tell anyone else because he would lose his job. You are aware that probation officers stick together, and this office has always had a "code of silence."

What do you do? What are the ethical considerations? Is there any issue with probation officers drinking at a local bar? Is it okay to discuss "war stories" in public? What are your ethical obligations regarding Mark's behavior? How is Connie impacted by these circumstances?

**Minimum Accepted Practice:** Inform Mark that he must inform his supervisor and/or the judge of his arrest. Also, inform him that you will be reporting the incident to your supervisor and the judge. You should also report the possible breach of confidentiality that occurred during the loud and boisterous discussion of your experiences. Failure to do so may put your job at risk. The best practice is to never discuss cases and your personal experiences in public. When probation officers meet in a public place that serves alcohol, the potential for improper behavior goes up. This increases the likelihood that their actions are going to reflect poorly on the court. Even though it is legal for probation officers to drink alcohol at a bar, you must remember that the public is watching your behavior and your behavior should not create a negative image of yourself or the court. The best practice is to restrict your celebratory gatherings to private locations.

Probation officers are never to use their position to secure privileges, special favors, or exemptions. The best practice is to avoid any improper behavior that could compromise the integrity of the probation officer and the court.

### **Example #7: (Dis)Agreeing with Judge's Order**

Jim has been on probation with you for six months. He has a short delinquent history and is under the court's jurisdiction on a retail fraud charge. The day before his review hearing, he calls to tell you that he got into a fight after school. He isn't facing any additional charges and you know the other kid involved in the fight. The other kid is an instigator, and you frequently have problems with him. Jim has paid all his restitution.

You are recommending that the court discharge Jim from probation and, before the hearing, you tell Jim that he won't be on probation after the hearing. At the hearing, the judge learns of the fight and orders continued probation as well as anger management class. After the hearing, you meet with Jim and his family. You tell the family that you are displeased with the judge, and that he is "not being fair and completely overreacted."

What are the ethical implications? How could you have handled this differently? Was it okay to tell Jim that he would not be on probation after the hearing? Was it okay to disagree with the judge?

**Minimum Accepted Practice:** Be honest and do not keep any information from the judge. It is never acceptable to undermine the judge or speak negatively of the court to a client and their family. Although you might not agree with the judge, your primary responsibility is to serve the court. The probation officer's responsibility is to make a recommendation to the court and the court is responsible for making the final determination. This should be communicated to the probationer and their family. The probation officer also needed to be upfront with the client/family to explain what was recommended, and that they had an obligation to inform the court of any violations and that the judge might not see it favorably.

#### **Example #8: Diversity, Equity, and Inclusion**

Your coworker tells you that they are tired of dealing with defendants/litigants who can't speak English. They say that if a person cannot speak proper English they should be sent back to where they came from. Your colleague indicates that they cut no slack for these "immigrants" and will not go out of their way to help them. What should you do?

**Minimum Accepted Practice is also the Best Practice:** This is wholly unacceptable behavior by any court employee. At worst, it is a potential violation of individuals' civil rights and should immediately be reported to your supervisor (and the chief judge). See MCL 37.2101 "Elliott-Larsen Civil Rights Act" [Michigan Legislature - Section 37.2101](#) and MSC AO 2013-8\* re: Language Access Plan.

#### **Example #9: Cultural Competency**

Your colleague, Mary, who has been with the court for several years, is extremely bright and competent. Others, including her supervisor, continually commend her work ethic. She adorns her office with religious artifacts and is never seen without a crucifix around her neck. She is often overheard bidding farewell to her probationers with the phrase "God Bless You!"

Are there any concerns with the way Mary decorates her office? Her appearance? Her speech? Should she do anything differently? Should you discuss this situation with anyone?

**Minimum Accepted Practice:** A probation officer may possess small pieces of commonly worn jewelry but should remove all other religious symbols from their office and should refrain from engaging in religious speech.

**Best Practice:** The best practice is to avoid religious symbols or speech in the workplace, as any activity which might imply favoritism or bias must be avoided. Even innocent and

sincere use of religious symbols or speech may be misinterpreted by a court user who may believe a probation officer's religious preference is, at best, uncomfortable or, at worse, invasive. Further, as a representative of the court, the probation officer must avoid activities that may affect the perceived impartiality of the court and its judge(s).

Probation officers represent the court and must display the appearance of bias-free behavior. See Michigan Supreme Court Administrative Order 1990-3\*.

[\\*Michigan Supreme Court Administrative Orders](#)

Ethics impact your daily decision-making. When questioning whether a certain course of action is ethical, and until such time as you are completely comfortable with the ethics, you should keep the canons and guidelines close to you for easy reference.

### **Questions for Review:**

What are ethics?

What are the ethical canons?

What are the ethical canons specific to juvenile probation officers?

How do the ethical canons impact your role as a probation officer?

What are some ethical dilemmas you may face, and how should you handle them?

How can you engage in bias-free behavior?

## Chapter 15: Interviewing, Report Writing, and Testifying in Court

This chapter discusses:

- 15.1. Interviewing
- 15.2. Nonverbal Communication and Body Language
- 15.3. Evaluating Nonverbal Signals
- 15.4. Report Writing, The Social History Investigation, and Case Planning
- 15.5. Other Reports
- 15.6. Commonalities of All Reports
- 15.7. Testifying in Court - Eight Tips

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### 15.1. INTERVIEWING

Youth and families coming into court typically have little time with the judge and/or referee. The court relies on probation officers to interview, investigate, and assess juvenile offenders, and recommend appropriate dispositions.

During the first meeting with a family, you should explain the court process, answer questions, and gather necessary information. It is often helpful to ask the family to provide documentation in the form of the youth's birth certificate, social security card, health insurance card, and last school report card.

It is best to conduct the initial interview with the juvenile and their family in your office, for at least three reasons:

- It minimizes external distractions;
- It presents a formal beginning to the legal process;
- It sets the tone for probation.

You should have an outline or a written list of questions that need to be addressed. Many courts require face sheets, which list demographic information about the family, be prepared at the time of the initial interview.

When interviewing a juvenile and their parents, try to ask open-ended questions that will produce responses that you can "piggy-back" on and develop into the next question.

At no time during the interview process should promises be made regarding the outcome of probation orders that might be created by the court. Explain that information from the interview will go into a report to the judge. All information shared by youth or parents should be weighed for relevance before it is included in a report.

Courts should also require that Release of Information forms be signed at this time so that you may obtain information from agencies that have dealt with the youth/family, including schools, counselors, treatment providers, special education records, and others. Release of Information forms should be as specific as possible, especially if you are seeking medical records. Healthcare providers are subject to Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations and are hesitant to release healthcare information not specifically requested. See the INFORMATION

RELEASE AUTHORIZATION in the “sample forms” section at the end of Chapter 16.

If your court allows, additional interviews prior to the disposition hearing may occur in the family’s home. Contacts can also be made with the juvenile at their school.

### **Assessment**

During the interview, the probation officer should be assessing the juvenile and their family. In order to do so, a number of factors must be considered:

- Offense;
- History;
- Family;
- Risk to community;
- Risk to self.

It is important to maintain a working relationship with the youth and family. Expect that the family will be protective of the very information needed to make an accurate assessment. In some cases, families may become hostile. The key is to focus on the issues that have brought the youth before the court. The youth and family should understand that the court needs sufficient information to make an appropriate recommendation.

### **Risk and Needs Assessment**

Risk and needs assessments are usually conducted by intake officers, probation officers, or caseworkers. They are tools that assist with identifying the risk level (low to high) for a youth to reoffend if nothing is done to intervene. They also assist with case service planning by identifying the areas (needs) to target for intervention that will be most effective in reducing the risk of harm to others and the community. The assessments also provide a level of service for the youth to ensure that they are receiving the appropriate services.

The assessment can be a useful tool to determine the need for expanded, modified, or additional services, and may indicate whether the community and other agencies would support a program.

Please see Chapter 11 of this manual for more information regarding the use of risk and needs assessments, as well as information about the State Court Administrative Office’s (SCAO’s) risk and needs assessment guidelines.

## **15.2. NONVERBAL COMMUNICATION AND BODY LANGUAGE<sup>19</sup>**

Your facial expressions, gestures, posture, and tone of voice are powerful communication tools.

### **What is body language?**

Body language is the use of physical behavior, expressions, and mannerisms to communicate nonverbally, often done instinctively rather than consciously.

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<sup>19</sup> *Jeanne Segal, Ph.D., Melinda Smith, M.A., Lawrence Robinson, and Greg Boose.* Last updated: October 2020



All your nonverbal behaviors - the gestures you make, your posture, your tone of voice, how much eye contact you make - send strong messages. They can put people at ease, build trust, and draw others toward you, or they can offend, confuse, and undermine what you are trying to convey. These messages don't stop when you stop speaking either. Even when you are silent, you are still communicating nonverbally.

In some instances, what comes out of your mouth and what you communicate through your body language may be two totally different things. For instance, if you say "yes" while shaking your head no, the listener must choose whether to believe your verbal or nonverbal message. Since body language is a natural, unconscious language that broadcasts your true feelings and intentions, they will likely choose the nonverbal message.

By improving how you understand and use nonverbal communication, you can express what you really mean, connect better with others, and build stronger, more rewarding relationships.

### **The importance of nonverbal communication**

Your nonverbal communication cues - the way you listen, look, move, and react - tell the person you are communicating with whether or not you care, if you are being truthful, and how well you are listening. When your nonverbal signals match up with the words you are saying, they increase trust, clarity, and rapport. When they don't, they can generate tension, mistrust, and confusion. If you want to become a better communicator, it is important to become more sensitive not only to the body language and nonverbal cues of others, but also to your own.

### **Nonverbal communication can play five roles:<sup>20</sup>**

- **Repetition:** It repeats and often strengthens the message you are making verbally.
- **Contradiction:** It can contradict the message you are trying to convey, thus indicating to your listener that you may not be telling the truth.
- **Substitution:** It can substitute for a verbal message. For example, your facial expression often conveys a far more vivid message than words ever can.
- **Complementing:** It may add to or complement your verbal message. As a boss, if you pat an employee on the back in addition to giving praise, it can increase the impact of your message.
- **Accenting:** It may accent or underline a verbal message. Pounding the table, for example, can underline the importance of your message.

### **Types of Nonverbal Communication**

#### **Facial expressions**

The human face is extremely expressive, able to convey countless emotions without saying a word. Unlike some forms of nonverbal communication, facial expressions are universal. The facial expressions for happiness, sadness, anger, surprise, fear, and disgust are the same across cultures.

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<sup>20</sup> *The Importance of Effective Communication*, Edward G. Wertheim, Ph.D.

## **Body movement and posture**

Consider how your perceptions of people are affected by the way they sit, walk, stand, or hold their head. The way you move and carry yourself communicates a wealth of information to the world. This type of nonverbal communication includes your posture, bearing, stance, and the subtle movements you make.

## **Gestures**

Gestures are woven into the fabric of our daily lives. You may wave, point, beckon, or use your hands when arguing or speaking animatedly, often expressing yourself with gestures without thinking. However, the meaning of some gestures can be very different across cultures. While the “OK” sign made with the hand, for example, usually conveys a positive message in English-speaking countries, it is considered offensive in countries such as Germany, Russia, and Brazil. So, it is important to be careful of how you use gestures to avoid misinterpretation.

## **Eye contact**

Since the visual sense is dominant for most people, eye contact is an especially important type of nonverbal communication. The way you look at someone can communicate many things, including interest, affection, hostility, or attraction. Eye contact is also important in maintaining the flow of conversation and for gauging the other person’s interest and response.

## **Touch**

We communicate a great deal through touch. Think about the very different messages given by a weak handshake, a warm bear hug, a patronizing pat on the head, or a controlling grip on the arm, for example.

## **Space**

Have you ever felt uncomfortable during a conversation because the other person was standing too close and invading your space? We all have a need for physical space, although that need differs depending on the culture, the situation, and the closeness of the relationship. You can use physical space to communicate many different nonverbal messages, including signals of intimacy and affection, aggression, or dominance.

## **Voice**

It is not just what you say, it is *how* you say it. When you speak, other people “read” your voice in addition to listening to your words. Things they pay attention to include your timing and pace, how loud you speak, your tone and inflection, and sounds that convey understanding, such as “ahh” and “uh-huh.” Think about how your tone of voice can indicate sarcasm, anger, affection, or confidence.

### **15.3. EVALUATING NONVERBAL SIGNALS**

The following are some questions to consider when trying to evaluate the nonverbal signals of others.

**Eye contact** – Is the person making eye contact? If so, is it overly intense or just right?

**Facial expression** – What is their face showing? Is it masklike and unexpressive, or emotionally present and filled with interest?

**Tone of voice** – Does the person’s voice project warmth, confidence, and interest, or is it strained and blocked?

**Posture and gesture** – Is their body relaxed, or stiff and immobile? Are their shoulders tense and raised, or relaxed?

**Touch** – Is there any physical contact? Is it appropriate to the situation? Does it make you feel uncomfortable?

**Intensity** – Does the person seem flat, cool, and disinterested, or over-the-top and melodramatic?

**Timing and place** – Is there an easy flow of information back and forth? Do nonverbal responses come too quickly or too slowly?

**Sounds** – Do you hear sounds that indicate interest, caring, or concern from the person?

Nonverbal signals communicate feelings and intentions. Your ability to understand and interpret these signals can help you to notice unspoken issues or negative feelings in others.

#### **15.4. REPORT WRITING, THE SOCIAL HISTORY INVESTIGATION, AND CASE PLANNING**

The purpose of report writing is to provide the court with an accurate record of the interaction that occurs between the probation officer and the juvenile/family. Reports should capture relevant information. Reports chronicle the time frame between a youth’s entry into, and their exit from, the justice system. Be careful to avoid including any Personal Identifying Information (PII/P-P-II) in your report if there is any chance of it being disseminated outside of the court.

#### **The Social History Investigation – and Case Planning**

##### **Social History/Predisposition Report/Report of Investigation**

Probation officers may have a good deal of influence over the disposition of a case, so the investigation and assembling information about the juvenile into a broad picture must be both detailed and objective. The report that results is sometimes referred to as a social history, predisposition report, or a Report of Investigation (ROI).

##### **Scope of Investigation**

The purpose of the social history investigation is to compile information regarding the youth’s life including school, family, community, and any mental and physical health issues to formulate an appropriate case plan for the youth. It is important to stress to the youth and their parents that this information will not be used against them but will be used to formulate any future case plan.

### **I: *Family***

A list of the youth's siblings and parents or guardians and items such as employment status, military experience, and justice system contact are necessary. In addition, parents' or guardians' marital information and any other names they may be known by can be helpful for future reference.

### **II: *School***

Where the youth attends school, grades, grade attending/last completed, disciplinary problems, extracurricular activities, honors or recognition, and special education certification are all important.

### **III: *Counseling/Mental Health Treatment/Developmental Disabilities***

A list of any providers the youth has seen, prescribed medications, diagnoses, and any in or outpatient treatment, and special educational placements or assistance. It is important to get a clear idea of needs the youth may have.

### **IV: *Physical Health***

Medical insurance information, name of a primary care physician, known medical problems, any injuries, and known allergies. These can become significant, especially if the child is ever removed from the home.

### **V: *Substance Abuse***

Questions regarding the age at which the youth first used marijuana/alcohol/other substances, date of last use, and frequency of use are valuable.

### **VI: *Miscellaneous***

Other areas of importance are:

- History of fire-setting (arson);
- Physical or sexual abuse (victim/offender);
- Gang involvement;
- Suicidal ideation/attempts;
- Runaways;
- Prior court involvement;
- Previous out-of-home placements.

The ROI is the first of what may be many reports, depending on the juvenile's progress. Probation officers must:

- Develop a detailed understanding of the juvenile;
- Determine the impact of the alleged offense on the victim(s);
- Prepare and assess available options regarding programs.

At the dispositional hearing, the ROI is presented to the judge. Any statements made in the ROI may be repeated by a defense attorney, prosecutor, or the judge in open court. Do not put anything in a report that you do not want the youth or parents to hear.

### **Recommended Case Plan**

The ROI establishes the basis for the recommended case plan. The case plan should list the specifics of the types of interventions the probation officer believes will work best for the client and family, and the rationale for the recommendations. Examples include:

- Probation;
- Counseling (individual and/or family);
- Community service;
- Restitution;
- School placement;
- Employment.

It is important to follow any standard format established by your court and address all required items. You should make sure the jurist is able to easily locate information in a report.

### **ROIs should be clear, concise, and complete.**

Certain general guidelines apply to all such reports. Be sure of facts. Clearly indicate what information has been established and how. Also:

- Include only information that has value or relevance to the decision.
- Be specific. Avoid generalized descriptions (“frequently tardy”) in favor of detailed or quantifiable facts (“tardy 13 times in October”).
- Maintain objectivity. Do not state opinions as facts. Label them as opinions and attribute them to their proper source. Confine your opinions to the summary or assessment section of the report.
- Keep report language clear, simple, and grammatically correct. Avoid jargon. Be natural in your style. Refer to the juvenile by name and yourself as “I,” rather than as the “offender” and the “officer.”
- Keep the information brief, succinct, and user friendly, so that it is capable of being quickly and easily comprehended.
- Designate information that is known only by hearsay—that is, any information that has been learned from a third party whose credibility cannot be tested by cross-examination.

### **Typical Components of an ROI:**

- Offense information:
  - Charges substantiated;
  - Additional facts developed at the adjudication hearing;
  - Whether the juvenile acted alone or with others;
  - Whether the juvenile acted as a leader or follower.
- Role of other participants and disposition of codefendants;
- Motivation for offense (e.g., personal gain, retribution, chemical dependency);
- Events preceding the offense;
- Condition of juvenile at time of offense (e.g., impaired by alcohol or drugs, emotional/angry);
- Whether the offense was premeditated or committed on impulse;
- Time of day the offense was committed;
- Whether the offense involved a weapon;
- Juvenile’s statement regarding offense;
- Attitude about the offense (e.g., boastful, ashamed, defiant, remorseful);
- Attitude and concern toward the victim;
- Parental statement(s) regarding offense;
- Risks the juvenile poses to the community;

- Skills the juvenile needs to acquire;
- The juvenile's (and the juvenile's family's) strengths, resources, and receptiveness to intervention.

Much attention should be given to the closing summary. In this section, the probation officer justifies their recommendations. It should be assumed that the judge or referee and attorneys will carefully scrutinize the recommendations. It is important to develop a reasonable set of recommendations or goals. These recommendations or goals must offer the youth a fair opportunity to succeed.

## **15.5. OTHER REPORTS**

### **Quarterly Reports**

Quarterly reports should include a case update, case goals, case plan, problems identified, and client contacts. Quarterly reports are not usually prepared with a court hearing in mind.

### **Supplemental Reports**

The supplemental report can serve a variety of functions. Most often it is used as an addendum to other reports. The purpose of supplemental reports is to provide the court with updated information after a quarterly, rehearing, or a review hearing report has been completed. Supplemental reports include the following:

- Matter before the court;
- Case update (additional or new information brought to the court's attention);
- Recommendations (changed or left the same);
- Support (for changed recommendation).

### **Dispositional and/or Probation Violation (PV) Summaries**

If, while on probation, the juvenile commits another offense, then a dispositional/PV summary is prepared (not a second report of investigation). The dispositional/PV summary will bring the court up-to-date from the previous hearing. After each additional violation of probation or charge, a dispositional/PV summary would be completed.

The dispositional summary should contain the following:

- Probation officer's evaluation (problem/progress, adherence to probation rules, general case update);
- Victim statement (if necessary);
- Recommendation and support;
- Case plan;
- Updated goals and objectives;
- Additions or modifications to treatment plan.

**NOTE:** This format may also be used in the event that the youth is brought before the court for subsequent probation violations or a new criminal complaint.

### **Institutional Placement Reports**

Institutional reports require that the probation officer outline why they believe a juvenile should be placed in an institution. The structure of the report should follow the format of the supplemental report with certain modifications. The following information should be included:

- Matter before the court;
- Case update;
- Prior history;
- Result of previous interventions;
- Screening committee recommendation (if your county requires an administrative screening team, examine all cases where out-of-home placement may be recommended);
- Institutional options available;
- Recommendations;
- Support for recommendations;
- Recommendations for out-of-state facility (out-of-state placement can only be made when there are no equivalent in-state placements for the court or Michigan Department of Health and Human Services (MDHHS) to consider).

### **Closing/Dismissal Summary Report**

Perhaps the most looked-forward-to report is the dismissal summary. Usually, dismissal summaries mean the youth has successfully complied with probation terms and is ready to be discharged from probation.

There are two basic forms of dismissal:

- A dismissal for completion of all terms of probation;
- A dismissal for maximum benefits.

### **Dismissal for successful completion of probation**

This lets the court know that the juvenile has satisfactorily complied with the court's order. It is important to understand that holding onto cases until everything is perfect may be unrealistic and will more than likely result in a caseload that is so large it becomes unmanageable. Satisfactory compliance is usually sufficient.

### **Dismissal for maximum benefits**

Usually implies that all programs have been tried and limited success has been achieved. In preparing a dismissal summary, emphasis is on the conditions of probation adhered to and the progress, or lack of progress, made.

Upon submission of either of these reports, the court will typically conduct a dispositional review hearing to determine whether the youth should be discharged from probation.

## **15.6. COMMONALITIES OF ALL REPORTS**

Some commonalities of all reports include such things as:

- Set time frames that include months, day, and date when certain requirements or probationary orders are to be completed.
- Set realistic goals for the juvenile. Perhaps it is unreasonable to consider that a juvenile can complete 200 hours of community service work, or for a 13-year-old with limited assets to pay \$1,000 in restitution within six months.
- Try not to impart your values on the youth you work with. For example, a probation officer speaking to a juvenile who is skipping school was overheard to

say, “You will never amount to anything if you don’t complete high school.” That statement was made in front of a parent who did not have a high school diploma.

- Be honest with the parents and the juvenile regarding the recommendations and statements presented to the court.
- Reports should tell a story in as few words as possible. Stick with the “who, what, where, and when” concept.
- Your next report should pick up where your last one left off. Reports may be read by others. Attorneys don’t know any history other than what clients have told them. Your report is very important.
- Greatest attention should be given to the closing summary of your report. Justification of your position, especially in contested matters, will be carefully scrutinized.
- Reports must be fair and accurate. Information contained in them becomes part of the record.
- Reports must be done in a timely and professional manner. In doing so, the probation officer ensures that the record of a youth meets all the criteria that a given court requires.
- The probation officer must, at all times, be prepared to testify about statements contained in the report.

## **15.7. TESTIFYING IN COURT—EIGHT TIPS**

Testifying in court can be nerve-racking. The stakes are high, and, in many cases, a youth’s freedom is on the line. It is imperative to put your best foot forward and answer questions to the best of your ability. In an effort to lessen the stress and help you feel more comfortable on the witness stand, here are nine tips for testifying in court.

### **1. Be Prepared**

It is important to think about your testimony ahead of time and to review any materials at your disposal before walking into court. Refresh your memory by reviewing your notes and other information. Don’t try to predict questions and memorize answers, however. If your testimony comes across as scripted, you could lose credibility. It’s also a good idea to familiarize yourself with [courtroom etiquette](#), such as standing when the judge enters the courtroom, silencing your cellphone, and discarding your gum.

### **2. Dress Appropriately**

Dress neatly and conservatively. Your appearance should signify that you are taking this matter seriously and that you respect the court and the judicial system. Wear something that you would wear to a job interview or nice event.

### **3. Talk Slowly, Clearly, and Loudly**

Because everything will be taken down by a court reporter, it is important to speak slowly and clearly. Be sure to respond “yes” or “no,” rather than shaking your head or nodding. “Uh-huhs” or “nahs” do not translate well. Also, try not to talk at the same time as anyone else, including the attorneys or judge. Wait for the question to be asked, listen to it carefully and then begin your answer. Make sure you speak loud enough for everyone to hear.



#### **4. Only Answer the Question Being Asked**

Many people who are in uncomfortable situations become very talkative or “nervous talk.” It is very important not to “over-answer” or offer up additional information on the witness stand. Listen to the question, and answer only that question. Do not elaborate. Volunteering information can draw an objection or make you seem over-eager or even biased.

#### **5. Stop Talking if an Objection is Made**

If you hear the word “objection,” stop talking immediately. Wait for the judge to rule and to tell you to continue before speaking again. If the judge overrules the objection, you must answer the question. If the judge sustains the objection, you will not be required to answer.

#### **6. If You Do Not Know the Answer, Say So**

If you do not know or can’t remember something, say so. Don’t guess. Be careful when asked about specific dates, times, speeds, or measurements. Likewise, if you didn’t hear the question or don’t understand the question, say so.

#### **7. Stay Calm**

It is important to keep your emotions in check on the witness stand. Remain calm and respectful, even if an attorney is peppering you with questions. Showing sarcasm or anger could cause you to lose credibility.

#### **8. Be Honest and Correct Your Mistakes**

Remember that you are under oath. If you did not answer a question accurately or made a mistake, correct it immediately. It is better to correct a mistake or clarify yourself than to have an attorney discover it and make an issue out of it. Just tell the truth.

#### **Questions for Review:**

What is the purpose of interviewing?

What is an assessment and what factors should be considered?

What is a “social history investigation”?

What are the contents of a social history report?

What are nonverbal deception indicators and why is it important to probation work?

What are the different types of reports you may be expected to prepare?

What are the eight tips to testifying in court?

## Chapter 16: Case Management

This chapter discusses:

- 16.1. Working with Juveniles
  - 16.2. Case Management Forms and Other Tools of the Trade
  - 16.3. Students with Disabilities: Individualized Education Program (IEP)
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### 16.1. WORKING WITH JUVENILES

In this chapter, the specific work of a juvenile probation officer/caseworker will be examined.

Over seventy years ago, Dr. Forest E. Witcraft, scholar and author, wrote in *“Within My Power - The Power of One Man”* (1950), *“One hundred years from now it will not matter what my bank account was, the sort of house I lived in, or the kind of car I drove, but the world may be different because I was important in the life of a (youth).”* One of the rewards of being a caseworker is the opportunity to make a difference in a juvenile’s life.

#### Expectations of Good Caseworkers

Probation officers play many roles: Enforcer, mentor, educator, confidant, cheerleader, and role model. Whatever the role, there are several expectations of juvenile officers. They include:

- **Lead by Example.** Be ethical, law abiding, honest, and hard working. Youth need role models they can look up to.
- **Explain All of Your Expectations.** Be very clear on the probation terms and court orders that you expect the youth to follow.
- **Be Consistent.** If you tell them you will meet with them next Tuesday at 4:00 p.m., be there. If an emergency arises and you can’t make that appointment, be sure to contact them promptly.
- **Make a Connection.** Youth want to be treated as individuals. The best caseworkers are the ones who will take the time to establish rapport and take a genuine interest.
- **Be Patient.** It will take time to get into the role. Don’t expect perfection from yourself or the juveniles. Often, it may take a year or two for a caseworker to feel comfortable in their knowledge, skills, and abilities.

#### Good probation case management practice must be goal-driven, performance-based, and outcome-focused

Case management, a term that encompasses the core of the probation function, is the sum of all the activities the caseworker engages in to assist the probationer toward behavior change and accountability.

The probation officer facilitates the youth's participation in the case plan, oversees the risk management component, monitors performance, and enforces compliance, while serving as a role model and a resource to the juvenile and family.

### **The case plan serves as the blueprint**

The case plan is essentially a contract between the court/probation department, the juvenile, and their family. A case plan is a guide and agreement for both the court and the juvenile, and provides information regarding expected outcomes, goals, and services for the juvenile. A case plan can be a roadmap to successful completion of juvenile court supervision.

The case plan should outline:

- Clear goals and objectives;
- Activities needed to accomplish those goals and objectives;
- A time frame for completing each objective.

If the terms of the case plan are met, the juvenile should be granted some form of completion benefit.

Additionally, risk and needs assessments should be used to drive an individual case plan. The case plan should be commensurate with the juvenile's risk level. Low-risk juveniles should receive the least number of services and lowest level of supervision and high-risk juveniles should receive the greatest number of services (and potentially intensive service) and the highest level of supervision. Additionally, services should be focused on the areas which scored highest needs. Any deviation in the supervision level should be noted with a detailed explanation. See Chapter 11 for a more thorough discussion of risk and needs assessments.

### **Every case management plan must address community safety**

The case plan should specify what level of case management and security is required to address the overall risk the youth poses to the community and how the juvenile's day will be structured in productive activities.

- What behaviors must be monitored and addressed to keep the community safe?
- How will the juvenile develop internal controls so that the community will be safe during and after case management?

Probation departments should have a range of case management activities and security restrictions available including:

- Different levels of case management (low, medium, and high intensity) with minimum contact standards/reporting requirements for each level;
- Risk and needs assessments to help determine the juvenile's risk level;
- Probation/police surveillance teams;
- Electronic monitoring;
- Curfew;
- Substance use testing;
- Day and evening reporting program.

## **16.2. CASE MANAGEMENT FORMS AND OTHER TOOLS OF THE TRADE**

The following pages, and the samples that appear at the end of this chapter, are forms that probation officers throughout the state use with different clients and their families. Check with your court to be sure the forms are ones you can also use.

### **Working with substance abusing juveniles/families**

#### **Self-Help Meeting Sheet**

This form is given to the juvenile (or a family member if required to attend a self-help program). They fill out the date of the meeting, the location of the meeting, and the time of the meeting. **The topic of the meeting is very important.** It will help you determine if they really went to the meeting. The good thing about the “topic” area is that it is very hard to make up if they are not attending regular meetings.

#### **Daily Inventory Sheet**

This form is for those juveniles invested in the recovery process. It helps them look at how they did each day in several key areas. When using this form, have the juvenile or family member who is working on their recovery fill out their name and date. Then they can quickly check the boxes that best describe their behavior/attitude for the day. At the bottom are a couple of quick questions to answer.

### **Organizational Forms**

#### **A Monthly Calendar**

This can be used to help organize the juvenile who forgets probation, counseling, and other important dates and appointments. Appointments can also be automatically generated using their smart phone.

#### **Probation Checklist**

This form is to be given to the juvenile and family with a copy put in the probation officer’s file. It is usually completed after a dispositional and/or supplemental hearing. During each meeting, it can be reviewed to check off those completed or being worked on. This can include community service hours, detention days, etc. This will also help you keep focused on the youth’s compliance with the court order.

#### **Probation Check-In**

This sheet can be used when juveniles are going on vacation or may have moved and are about done with probation, or for low-level offenses that do not require routine in-person meetings. This can also be used with some juveniles at the end of their probation as a way to start transitioning a juvenile out of the court system.

The columns can be changed to include whatever the juvenile needs. Under the notes section, the juvenile can just write a couple of sentences about their day or what they did.

#### **Time Management Form**

To be used with those juveniles that say they “don’t have time” for the things you are asking of them. This helps them use their time for school, work, community service, counseling, etc.

## **School Progress Report**

This form lets probation officers and parents know how the juvenile is behaving in school and the youth's performance. Letter grades are often not as important as being prepared for class, completing homework assignments and projects, and positively participating in class discussion. Many schools have their own version of this type of form. Ask around to find one that suits your needs. Many schools also have electronic "real time" access. If your schools have such access, you should take advantage of it.

## **Family Communication Sheet**

This form is for use by families where the juvenile says one thing and parent says another. This way all of it is in writing and both will sign it. This can help probation officers sort out who is more accurate and is really trying to make things better in the home.

## **Apology Letter**

Is for use by those who need to/should write apology letters to victims. Often, they are used as part of a restorative justice program, or in diversion and consent calendar. You need to make sure apology letters are consistent with your court's policy, and that the victim is willing to receive an apology letter. If you are not sure, check with the victim services coordinator at your prosecuting attorney's office.

## **Miscellaneous Forms/Ideas**

### **Journal Ideas**

At times, it is helpful to have juveniles' write about their lives, even daily. Benefits to journaling include helping the juvenile take a few minutes out of their day to reflect on how they spent their time. Did they complete something for probation? Did they have an argument with a friend or family member? It is amazing how on one day their world seems to fall apart and the next day life is just fine again.

### Some Journal Ideas:

- First assignment: Write about your court experience today. What did the judge order? What do you think about what the judge ordered? Do you think it was fair? Was this offense worth it?
- Whom do you most admire? Why? What qualities do they possess that you respect?
- What will you be like tomorrow, next week, next year, in five years, in ten years, in twenty-five years? What will you be doing for a living? Is the behavior you are doing today getting you closer to, or further from, that goal?
- What are five good qualities about you? What would you most like to change about you? Why?
- If you could be principal of your school, what would you do differently? (You can substitute parent, teacher, probation officer, judge, or anyone else in authority in their life).
- If you could meet anyone in the world, past or present, who would it be, and why?
- If they have a particular goal they are working on, such as getting a job, have them write the steps they are taking to reach that goal.
- What was your day like? What good things happened? What would you change?

- Last assignment: What have you learned from probation? How will you avoid future court involvement?

### **Additional ideas**

- Art journaling: Let your juvenile draw, paint, etc. to express how they are feeling.
- Assign books or videos on topics they need help with and have them write a report.
- Allow the juvenile to help create the goals and actions in their treatment plans when possible.
- Behavior contracts: This can be simply having the juvenile and parent(s) write expectations. You can list consequences for not following through, and rewards. This can be formally typed or informally handwritten. It seems to have more validity if they have to sign their name committing to it. This will also hold up better in court with signatures and dates on it.
- Send notes or e-mails of encouragement.
- Get scholarships for teens to do art or dance classes. Encourage juveniles to pursue special interests or new challenges.
- “Debrief” with juveniles after giving any consequences. Review what they did wrong, what they could have done differently, and what they learned from it.
- At the end of probation, help them make a list of things they have achieved or changed while on probation.

### **16.3. STUDENTS WITH DISABILITIES: INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

Providing case management services to a youth with a disability presents an additional challenge. If the youth has an IEP through their school, it is important to know the content of the IEP. Information contained in the IEP may assist them to achieve the case plan objectives.

#### **Individualized Education Programs (IEPs)**

The federal Individuals with Disabilities Education Act (IDEA) entitles students with disabilities eligible for special education programs and services in Michigan a Free Appropriate Public Education (FAPE). In Michigan, special education programs and services are available for eligible students from birth through age 25. Eligibility is determined through a comprehensive evaluation process and is specific to one of 13 categories determined by the Michigan Administrative Rules for Special Education (MARSE). After eligibility is determined, and with the consent of the student’s parent/guardian, state and federal laws require that a written IEP be developed, and reviewed at least annually, to meet a student’s unique special education needs.

Providing case management services to a youth with a disability presents an additional challenge. If the youth has an IEP through their school, it is important to know the content of the IEP. Information contained in the IEP may assist them to achieve the case plan objectives.

The IEP is the written documentation of an eligible student’s individualized education program. Important parts of the IEP include:

- A statement of the student's Present Level of Academic Achievement and Functional Performance (PLAAFP). The PLAAFP provides data about what the student can do at this time;
- How the student's disability affects the student's involvement and progress in the general curriculum;
- Eligibility: The student's eligibility, as determined by a comprehensive evaluation, will help focus programming specific to the student's identified disability/disabilities;
- A list of the annual goals and short-term objectives;
- All special education related services and supplementary aids and programs and services are listed;
- Specific timelines for the delivery of programs and services;
- A statement about the Least Restrictive Environment (LRE) – written rationale for placement outside general education must be included;
- A statement of the needed transition services for students beginning no later than age 16 (or younger if determined appropriate by the student's IEP team) and annually thereafter.

### **How is the IEP Used to Help a Child?**

The development and implementation of an IEP is a team effort that involves both special education and general education school personnel, the student's parents and IEP Team, and the student. The focus is on the individual student's disability-related needs and the interventions and supports necessary to address those unique needs within the entire school environment.

### **Questions for Review:**

What is the biggest difference between the adult and the juvenile justice system?

Why is case management the most important component of probation?

What expectations should you have of probationers?

What expectations should probationers have of you?

What are some case management ideas that can assist you in better assessing the juvenile's progress while on probation?

# **SAMPLE FORMS**



## INFORMATION RELEASE AUTHORIZATION

I do hereby give my permission for the following agencies/organizations and their designated representatives to exchange information regarding:

Name	Date of Birth	Social Security No.
Name: {Probation Officer/Caseworker}		Name:
Address:		Address:

Specific Information Requested: (Only that authorized to be released)

Medical History/Treatment	Other:
Psychological History/Treatment	
Treatment Summary of	
Social Worker/Psychologist	
Psychological Testing	
Substance Abuse	Exclusions/Limitations:
History of School Performance	

Purpose and/or need for disclosure and how disclosure is pertinent:  
(i.e., to develop an appropriate case plan)

This consent expires in six months, unless conditions that are more specific are set here:  
(i.e., until completion of probation and dismissal)

This consent may be revoked by me in writing at any time unless the release is already in process. The recipient of this information may not re-release any of the above information without my written consent and he/she will be informed of this provision.

\_\_\_\_\_  
Signature of Client or Parent/Guardian

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

COUNTY DELINQUENCY FACE & WORK SHEET				
<b>Name</b>				
<b>Race</b>				<b>Case #</b>
<b>Attorney Name</b>				<b>Attorney Phone #</b>
<b>Other Children In the Home</b>	<b>School</b>	<b>DOB</b>	<b>Birthplace</b>	<b>Sex</b>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
<b>Parents</b>	<b>Mother</b>	<b>Father</b>	<b>Other</b>	
Full Name				
Address				
Phone				
DOB				
Birthplace				
#				
Marriage				
Divorce				
Deceased				
Health				
Employer				
Income				
Military Service				
Police Involvement				
Education				
Financial Benefits due Child				
<b>Emergency Contact</b>				
Name				
Address				
<b>Other Agencies Interested</b>				
1.				
2.				
3.				
<b>Health Insurance</b>				
Company				
Subscriber				
ID Numbers				

Dental Insur.			
Family Dr.			
Family DDS			
<b>Child's Information</b>			
Immunization Record			
Is Child Under Dr.'s Care?	State Reason:		
Medications			
Significant Identifying Information			
Major Illnesses/ Accidents			
Allergies			
Hospital Preference	Pregnancy, Delivery, Development:		
Mental Health Hospitalizations			
<b>School Information</b>	Name of School:		
Grade	Attendance:		
Special/Regular Education			
Disciplinary Problems			
Extracurricular Activities			
<b>Child's Personal Information</b>			
Employment			
Prior Court Involvement			
Previous out-of-home placements			
Marijuana use	Age at 1st use: Last Use: Frequency of Use		
Alcohol use:	Age at 1st use: Last Use: Frequency of Use:		
Other Substance use	Type: Age at 1st use: Last Use: Frequency of Use:		
<b>History</b>			
Fire-setting			
Physical abuse	Victim: Offender:		

Sexual abuse	Victim: Offender:
Gang Involvement	
Runaway	
Tattoo's/Other Identifying Marks	
<b>Comments:</b>	



**CALENDAR FOR MONTH OF:**

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY

**PROBATION CHECKLIST**

<b>DESCRIPTION</b>	<b>ORDERED</b>	<b>COMPLETED</b>	<b>YET TO DO</b>
COMMUNITY SERVICE			
BOOK REPORTS			
COUNSELING			
INDIVIDUAL/FAMILY ASSESSMENT			
APOLOGY LETTER			
NONSECURE DETENTION			
SECURE DETENTION			
JAIL			
SCHOOL PROGRESS REPORTS			
ELECTRONIC TETHER			
VIDEOS			
SELF-HELP MEETINGS			
FAMILIES FIRST			
IN-HOME PARENTING			
ADDITIONAL ORDERS:			

TIME MANAGEMENT							
	SUN	MON	TUES	WED	THUR	FRI	SAT
5 a.m.							
6							
7							
8							
9							
10							
11							
12 p.m.							
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12 a.m.							
1							
2							
3							
4							



<b>SCHOOL PROGRESS REPORT</b>			
Class/teacher	Was student prepared for class? Did (s)he have paper, pencil, and books?	Did student have homework completed and turned in?	Did student participate? Did (s)he have positive attitude for learning?
1st HOUR			
2nd HOUR			
3rd HOUR			
4th HOUR			
5th HOUR			
6th HOUR			
7th HOUR			

ADDITIONAL COMMENTS:

\_\_\_\_\_  
PARENT SIGNATURE

\_\_\_\_\_  
STUDENT SIGNATURE

## FAMILY COMMUNICATION SHEET

Where am I going?

NAME:

ADDRESS:

PHONE:

What will I be doing?

When will I be going?

When will I be back?

How will I get there?

How will I get back?

Will I need money?

Will I need anything else?

---

CHILD'S SIGNATURE

---

PARENT SIGNATURE

## SAMPLE Apology Letter Format

Date:

To: Victim's Name  
Victim's Address  
City, State Zip Code

Dear \_\_\_\_\_:

First paragraph: Tell the victim that you are sorry for what you did. State exactly what you did and why it was wrong.

Second paragraph: Tell them all the consequences you received for this offense. Include all that you were given at home, and from the court. Include others, such as schools, if applicable.

Third paragraph: Tell the victim what you have learned from this experience. Tell them how you will handle a similar situation differently if the future.

Sincerely,

Your Name

Remember to use your own words. The victim wants to hear from you!

(\*\*do not use this form if the offense is sexual in nature or in some assault type cases. It is important not to revictimize the victim. You may send this to victim's counselor with consent if known.)

Weekly Checklist

- General Behaviors:  
Did they follow directions & take consequences appropriately?  
Child one: \_\_\_\_\_  
Child two: \_\_\_\_\_
- Homework time – Is it being used wisely?
- Family Meeting Night – Go over checklist and discuss problems and always note one or more good things that happened in the week.
- Family Day - what did you spend time doing?  
\_\_\_\_\_
- Household chores:  
Child one: \_\_\_\_\_  
Child two: \_\_\_\_\_  
Any changes that need to be made?
- Help with cooking? Who helped and who needs to do more. (“thanks for helping”, “dinner was great on Wednesday – thanks for helping” “any new suggestions for meals this week?”)
- How many times did you have dinner together this week? \_\_\_\_\_
- Computer time...discuss how it went last week and if any changes need to be made.
- Attitude in the home... any troubles or concerns?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Counseling-did they attend? And how did it go?
- Only out time is for pre-approved events. \_\_\_\_\_  
any requests for upcoming events? \_\_\_\_\_
- School – has anyone missed days and why. Any concerns about school?  
\_\_\_\_\_  
\_\_\_\_\_

# Chapter 17: Continuum of Services and Funding

This chapter discusses:

- 17.1. Continuum of Services
- 17.2. Funding Overview
- 17.3. Resources and Funding

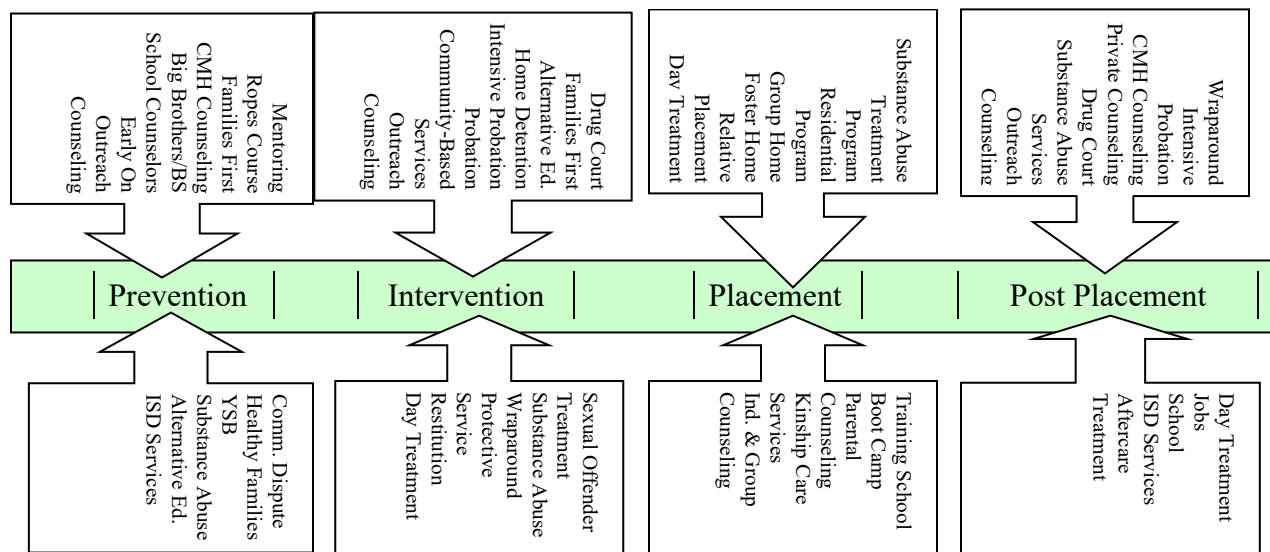
## 17.1. CONTINUUM OF SERVICES

As a probation officer, you are most concerned with providing a case plan and services for youth. It is still important to know about the Continuum of Care and how various in-home care programs and out-of-home placements are funded.

Each jurisdiction is different, but the process to providing services is similar. The first step is to identify the services offered in your jurisdiction at the different phases of potential court involvement – prevention, intervention, placement, and postplacement (aftercare).

**Example:**

### Continuum of Care



Programs should be reviewed regularly to determine their effectiveness. The cost of programs should be reviewed in comparison to the benefits and the availability of future funding should be considered. Gaps in services should also be identified and addressed accordingly.

### Screening and Assessment Tools

As discussed in Chapter 11, screenings and assessments are usually conducted by intake officers, probation officers or caseworkers. Screening is a process used to

identify potential issues of risks, while assessment involves a more detailed and comprehensive examination of an individual's characteristics, circumstances, and needs.

Screenings serve as a first step in identifying the possible presence of an issue and aim to quickly and efficiently identify whether youth have certain characteristics, conditions, or risk factors. These tools serve as a decision point to assist with determining whether a youth needs a more comprehensive assessment. There are two types of screenings that are required when a youth is being considered for diversion or placement on the consent calendar – a risk screening and a mental health screening.

Risk and needs assessments are tools that assist with identifying the risk level (low to high) for a youth to reoffend if nothing is done to intervene. They also assist with case service planning by identifying the areas (needs) to target for intervention that will be most effective in reducing the risk of harm to others and the community. Assessments also ensure that youth are receiving the correct services. Assessments can be useful tools to determine the need for expanded, modified, or additional services, and may indicate whether the community and other agencies would support a program. A detention screening tool is required to be administered and the results considered by the court prior to the placement of a youth in a secured facility. A detention screening tool is to be used to inform initial placement and/or release decisions and should not be used in isolation. The results of the screening should be considered along with other factors such as those that must be considered pursuant to MCR 3.935, the reason for the detainment, and professional judgment.

To facilitate open and honest responses, as well as to promote accuracy of the tools, there is a level of protection provided regarding statements, admissions, confessions, or incriminating evidence obtained from the youth while conducting the various screening and assessment tools. This includes protection from such statements being admissible in an adjudicatory hearing, being subject to a subpoena, or being used in any other court proceedings or for any other purpose.

## **17.2. FUNDING OVERVIEW**

The State of Michigan provides financial incentives for development of alternatives to court intervention and court placements with an emphasis on the development of community-based programming for youth.

### **PA 150 and PA 220 Youth**

**State Ward – Delinquent - Act 150:** A child who has been **committed** to the Michigan Department of Health and Human Services (MDHHS) under the Youth Rehabilitation Services Act (1974 PA 150), according to one of the following requirements:

- The child is at least 12 years of age when committed to MDHHS by the juvenile court; and the offense for which the child is committed occurred prior to the child's 18th birthday; or,
- The child is at least 14 years of age when committed to MDHHS by a court of general criminal jurisdiction; and the offense for which the child is committed occurred prior to the child's 18th birthday.

**State Ward – Termination of Parental Rights – Act 220:** A child who has been **committed** to the MDHHS following termination of parental rights by the family division of the circuit court. 1935 PA 220. Such a child is considered a ward of the Michigan Children’s Institute (MCI), and the superintendent of MCI is the child’s legal guardian.

### **Funding Sources for Delinquent (and Dependent) Youth:**

The current **common *funding sources*** for the care of children and youth are:

#### **1. Title IV-E (Neglect/Abuse & Delinquent) – Federal Funding**

To be eligible for Title IV-E funding, all of the following must be met:

- The child must meet specific Title IV-E eligibility criteria when they are initially removed from his or her home and placed under the care and placement of the MDHHS, including establishment of financial need and deprivation (was or would have been eligible for Title IV-E in his/her own home);
- If the child is a court ward (not committed to the State through Public Act 150 or 220), the courts order must place the child under the "care and supervision" of the MDHHS;
- The court order must state in the first hearing that it is contrary to the welfare of the child to remain in the home of the parents, and that within sixty days make a determination that reasonable efforts have been made to prevent removal or to return the child to the home;
- The child must be placed in a Title IV-E fundable placement. Title IV-E fundable placements are licensed family foster homes, low-risk private childcare institutions.

The cost share under Title IV-E funding is dependent on the type of placement. Approximately 50% state and 50% federal, for all licensed foster homes and eligible private childcare institutions.

#### **2. State Ward Board and Care (SWBC) – (Non-Title IV-E – Neglect/Abuse & Delinquent) – State Funding**

To be eligible for SWBC funding, all of the following criteria must be met:

- The child is a state ward committed to MDHHS under PA 150 (delinquency) or PA 220 (dependent, abused, neglected);
- The child is not eligible for Title IV-E or is not in a Title IV-E fundable placement;
- The child is in a MDHHS supervised and approved out-of-home placement;
- The child has not attained age 19. An exception is a PA 150 ward who has had court jurisdiction extended to age 21 due to a class I or II criminal offense.

The cost share under State Ward Board and Care (SWBC) is 50% state, 50% county.

### **3. Child Care Fund (CCF)**

The Child Care Fund (CCF) is a fund source for serving juvenile justice, neglected, and/or abused youth who cannot be funded through Title IV-E funds. CCF reimbursement assists with costs for intensive in-home care services, juvenile justice out-of-home placements, and related supportive services such as drug screening and mental/behavioral health interventions.

To be eligible for CCF reimbursement, the following criteria must be met:

- The child is an MDHHS youth in either a Category I or II Children's Protective Services case;
- The child is a juvenile-justice youth for whom a petition, complaint, or referral has been filed and accepted by the court, and who:
  - Receives in-home care (IHC); or,
  - Is placed in court-ordered out-of-home care; or,
  - Has a plan for early exit from out-of-home care.

The CCF reimbursement for in-home expenses including community-based supervision, services, and related practices, prearrest diversion services, and per diem rates for the use of respite care and shelter for less than 30 days is at 75%. This reimbursement is tied to the use of a validated risk screening tool, mental health screening tool, validated risk and needs assessment tool, and a detention screening tool. Further, this reimbursement is tied to the utilization of research-based juvenile-specific probation standards.

### **4. Basic Grant**

Counties having a population of less than 75,000 are eligible for a basic grant of \$15,000. The grant is to support programs for youth under court or tribal jurisdiction who have at least two identified risk factors. The grant must be used to create programs that have proved to be alternatives to out of home placements for juvenile justice or neglect/abuse youth.

## **17.3. RESOURCES AND FUNDING**

Movement through the continuum of care provides an array of funding sources. When considering the continuum of services, the court must look at all options for resources and funding sources, including the following.

### **Intermediate School District (ISDs)**

ISDs have financial responsibilities to provide special education services from birth through the twenty-fifth birthday. ISDs offer a range of services including work skills training opportunities through programs like *Michigan Works!* and services through the Early-On Program that provides programs to children with disabilities and/or delays, and their families from birth to three years old.



## **Community Mental Health (CMH)**

CMH provides a variety of mental health services for Medicaid eligible children, adolescents, and adults based upon specific diagnosis, disability, and other criteria. In addition, private insurance companies also provide coverage for a variety of mental health services.

## **Schools**

Provide services through their counseling departments, and many offer alternative education programs. These services include Individualized Education Plans (IEPs) and 504 Plans (Behavior Plans) for students needing extra assistance academically and behaviorally. Schools rely on funding through attendance on count days. Probation officers should take great efforts in making sure that supervised youth are in school during these times.

## **Agencies**

Many programs that serve court and MDHHS supervised youth are offered by agencies that receive funds in part from the United Way, Strong Families/Safe Children, and Child Safety and Permanency Planning. Programs such as Big Brothers/Big Sisters, The Boys and Girls Club, mentoring, counseling programs, YMCA programs, victims' services, Healthy Families, sexual assault counseling, kinship care programs, Families First, Wraparound, etc., can provide important services to clients.

## **Why Consider Funding When Developing a Case Plan?**

While the needs of the child should determine case planning, tight budgets require the court to utilize all possible resources to fund programs. While The Child Care Fund, the General Fund, and IV-E funding are key to probation, intensive in-home care programs, and out-of-home placements, the court should also consider restitution, community service, allowable fines and costs, parental reimbursement, income tax intercepts, adoption subsidy, social security benefits, veteran's benefits, and private insurance.

## **Questions for Review:**

What are the major components in the Continuum of Care?

Under what two (primary) Public Acts are children committed to the State for care?

What are the three broad categories of Child Care Fund expenditures?

Why is it important to consider funding when case planning?

## Chapter 18: Personal Safety and Security

This chapter discusses:

- 18.1. Personal and Physical Safety Awareness
- 18.2. De-Escalation Strategies
- 18.3. Cybersecurity Awareness
- 18.4. Some Ways Courts Can Improve Overall Safety

- - - - -

### 18.1. PERSONAL AND PHYSICAL SAFETY AWARENESS

This chapter provides a brief overview of personal security measures. Talk with your supervisor about your court's policies and procedures. For more information, see the [State Court Administrative Office \(SCAO\) Court Security Guidelines](#).

Societal violent behavior seems to be a daily occurrence. In 2023, on average, 118 people a day died from a gun-related incident in the U.S. Additionally, in 2024, there were over 261 mass shootings in the U.S. from just January through the end of June.<sup>21</sup>

Judges and court staff are not immune to violence. Security threats, assaults, and violent incidents in court buildings occur. Incidents that come to our attention through various media do not include disruptions to court operations from medical emergencies, minor security issues that should be, but are not usually, reported, or workplace disruptions involving only court staff. Incidents are not isolated to any single court type, geographic area, or size of jurisdiction.

The goal of court security is to protect everyone using the building. This includes litigants, defendants, attorneys, jurors, the public, judges, and staff.

#### First Meeting with the Juvenile and Parents

Just walking into a courthouse makes most people nervous and anxious. The first meeting is critical to the rest of your relationship with this family and the juvenile.

- The first meeting should be held in your office. It sets the tone for your future interactions with the youth and their family.
- Your office or meeting space should be designed so that you sit in a chair that is closest to an exit. In case things get hostile, you want to be able to get out of the room.
- Be sure to use your best communication skills. Actively listen to answers. Let them complete their answers/statements before you ask subsequent questions.

#### Potential for Violent Interaction

There is no certain way to predict when interactions may turn negative, but several common factors have been identified which can make people more inclined to violence. Some of these factors are:

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<sup>21</sup> <https://nihcm.org/publications/gun-violence-the-impact-on-society>

- A history of violence. The single best indicator of violence. If a person has a history of violence, it is more probable that violence will happen again. Meeting with someone with a history of violent behavior should be arranged in a controlled environment with assistance present or readily available.
- Certain internal factors, including fear, humiliation, boredom, grief, and a sense of powerlessness. To reduce risk, avoid putting youth in situations that may embarrass them.
- Physical factors, including a lack of sleep, physical exhaustion, use of drugs or alcohol, heat, hunger, cold, physical disability, or chronic pain. Be aware of the youth's physical condition and make accommodations, including rescheduling if necessary.
- Situational factors including access to weapons, having experienced childhood abuse or aggression, or feeling a sense of injustice or oppression can lead to increased aggression.

Whether or not probation officers have information about a person's history or current emotional state, there are signs to look for to identify possible aggression. Warning signs include:

- Clenching of fists or jaws;
- Having a "wild" look in the eyes;
- Being out of touch with reality;
- Speaking in a loud voice;
- Becoming verbally abusive.

If these behaviors occur, immediate steps to reduce the tension should be taken before the behaviors escalate to violence.

## **18.2. DE-ESCALATION STRATEGIES**

The best way to manage violent behavior is to prevent it. However, that is not always possible. When a potentially violent situation threatens to erupt, verbal de-escalation is the preferred approach.

### **Steps to Verbally De-Escalate**

#### ***The first step--remain in control:***

- Appear calm and self-assured even if you don't feel that way. Take a deep breath. Relax your facial muscles and look confident. Anxiety can make a youth feel more anxious and unsafe which can escalate aggression.
- Use a modulated, low, monotone voice. The normal tendency when people are frightened or excited is to have a high-pitched, tight voice, which can increase a youth's anxiety. Speak in a clear and direct manner.

#### ***The second step--body language and physical stance:***

- Never turn your back for any reason.
- Try to be at the same eye level. Encourage youths to be seated, but if they need to stand, you should also stand up.

- Allow extra physical space between you and the youth, if possible.
- Do not stand squarely facing the youth. Position yourself at an angle so you can sidestep away if needed.
- Do not maintain constant eye contact. Youth may perceive “staring” as disrespectful.
- Do not smile. This could be perceived as mockery or anxiety.
- Do not touch them. Agitated youths can interpret this as hostile or threatening.
- Do not have the youth stand between you and the door.
- Use nonconfrontational body language. Move slowly. Avoid putting your hands on your hips. Do not point or shake your finger. Keep hands out of your pockets to indicate that you do not have a concealed weapon.

***The third step--discussion:***

- Do not be verbally defensive. Even if comments are directed at you, they are not personal.
- Communicate. Be empathetic of their feelings but not their behavior. Do not solicit how they are feeling or interpret their feelings in an analytic manner. Just reflect their feelings and be nonjudgmental.
- Do not argue. Never tell a youth to “calm down.” By saying this, you communicate that you do not understand and accept their viewpoint. This, in turn, validates their anger.
- Do not get loud. Wait until they take a breath and then talk calmly at an average volume.
- Do not use humor. Angry individuals may misinterpret this as being disrespectful.
- Attempting to distract or change the subject can sometimes work but may further anger youth who realize you are diverting them.
- Respond selectively. Answer all informational questions, no matter how rudely asked. Do not, however, answer abusive questions.
- Explain limits and rules in an authoritative, firm, but respectful tone.
- Give choices, where possible, that give youths a way out of the situation without embarrassment. For example, giving them the option of talking later or agreeing on a cooling-off period allows the youth to save face.
- Be patient. Physiologically, it takes a person about 30 to 40 minutes to calm down from anger.
- Trust your instincts. You may be able to tell within 2-3 minutes if de-escalation strategies are beginning to work. If you have done what you can to calm the situation, but de-escalation is not working, stop. Tell the youth to leave, escort them to the door, call for help, leave yourself and call for assistance, or call the police.

**If Aggression Occurs**

As much as you would like to believe you can control any situation, you may not always be able to do so. Anger and aggression cannot always be contained. If that happens, the first step you should take is to leave the room and get away from the situation as quickly as possible. If that is not feasible, call for help and try to protect yourself as best as you can.

Some basic tactics to protect yourself until help arrives include:

- Try to protect yourself from head injuries by blocking blows with arms, clipboards, pillows, etc.;
- If you fall, block an attack with your feet and legs;
- If you are unable to get up, curl into a ball to protect your vital organs;
- If you are bitten, push into the bite, do not pull away;
- Use your fingers, fists, palms, elbows, knees, and feet as your weapons.

### **If You Conduct Home Visits**

The more you know before going into the home, the better. It is also important to get to know local law enforcement. Call and talk with the local city police department, sheriff's department, and even the state police. Ask them what they know about this family and their address before you go there.

If your court requires you to conduct home visits:

- Be sure your office knows where you are going, the route you are taking, and when you will return. Some offices even have a policy that workers call in just before going into a house and then call back when they have exited.
- It is highly recommended that all probation officers go into homes as a team of two.
- Get to know the neighborhood. If you haven't been there before, drive around the area to assess what is going on and who is around. Be sure that your intake questionnaires include questions such as:
  - "Do you have any dogs or other animals at home?" "How many?" "Will they be tied up or caged when making home visits?"
  - "Do you have any guns in the home?" and "Does anyone hunt in the home?"
  - "Has anyone in the home ever been charged with an assaultive offense?"
  - "Does anyone in the home have a personal protection order?" (Either as petitioner or respondent).
  - "Who else lives in the home?"

It is important to remember that a home or neighborhood is not safe simply because you have been there before. Be observant of the outside of the home. Mentally prepare an escape route before going in.

- Be sure to lock your car door. Keep the key fob/car alarm handy.
- When going up to the door, listen before knocking.
- Do not stand directly in front of the door.
- Refrain from entering the home if the juvenile is there alone.
- Once inside, try to stay close to exits.
- Stay in well-lit areas. Avoid spending much time in hallways, bedrooms, bathrooms, or basements.

- It is important to remember that you are a probation officer, not a police officer. If something feels wrong, or the youth/their family are uncooperative or hostile, do not try to take them into custody or force a situation. Leave the home and call for advice from your supervisor.
- In an emergency, call law enforcement.

### **Transporting a Juvenile or Family Member**

If you transport juveniles, it is strongly recommended that you never transport by yourself. Always transport with another staff member or adult. If the juvenile is a member of the opposite sex, it is best to have the other worker with you of that same sex. Always have the juvenile in the back passenger seat with their seat belt on. If your vehicle doors have child safety locks, use them. Be sure that no potential weapons like an ice scraper, tools, jumper cables, etc., are in the back seat or on the floor.

### **18.3. CYBERSECURITY AWARENESS**

Personal safety and security include being safe using technology. The weakest link in any security system is always the same — people. No matter how comprehensive, effective, or expensive your cybersecurity tools are, it can all come crashing down if a single careless user makes one simple mistake. Every time someone decides to click on an unfamiliar link or open a suspicious e-mail attachment, your court could be facing massive data loss and significant disruption.

#### **Artificial Intelligence (AI)**

Artificial intelligence (AI) is a broad term that refers to the science of simulating human intelligence in machines with the goal of enabling them to think like us and mimic our actions. Recently, the prevalence of AI has been reshaping every industry, and cybersecurity is no exception. A recent research report estimated the global market for AI-based cybersecurity products was about \$15 billion in 2021 and will surge to roughly \$135 billion by 2030.

New cybersecurity threats seem to emerge almost weekly. To help strengthen your cybersecurity practices, you should be aware of some of the most common corrupting techniques.

#### **Phishing**

The practice of sending fraudulent e-mails that resemble e-mails from reputable sources. The aim is to steal sensitive data like credit card numbers and login information. It is the most common type of cyber-attack. You can help protect yourself through education or a technology solution that filters malicious e-mails.

A newer type of phishing has recently emerged. QR phishing, also known as “quishing,” is a cybercrime that exploits the popularity of QR codes. In this scam, cybercriminals create malicious QR codes that, when scanned, lead to fraudulent websites or prompt downloads of harmful software.

## **Ransomware**

A type of malicious software. It is designed to extort money by blocking access to files or the computer system until the ransom is paid. Paying the ransom does not guarantee that the files will be recovered, or the system restored.

## **Malware**

A type of software designed to gain unauthorized access or to cause damage to a computer.

## **Social Engineering**

A tactic used to trick you into revealing sensitive information. It is used to solicit a monetary payment or gain access to your confidential data. Social engineering can be combined with any of the threats listed above to make you more likely to click on links, download malware, or trust a malicious source.

## **Password Hacking**

Cybercriminals exploit AI to improve the algorithms they use for deciphering [passwords](#). The enhanced algorithms provide quicker and more accurate password guessing, which allows hackers to become more efficient and profitable. This may lead to an even greater emphasis on password hacking by cybercriminals.

## **Deepfakes**

This type of deception leverages AI's ability to easily manipulate visual or audio content and make it seem legitimate. This includes using phony audio and video to impersonate another individual. The doctored content can then be broadly distributed online in seconds—including on influential social media platforms—to create stress, fear, or confusion among those who consume it.

Cybercriminals can use deepfakes in conjunction with social engineering, extortion, and other types of schemes.

## **Data Poisoning**

Hackers “poison” or alter the training data used by an AI algorithm to influence the decisions it ultimately makes. In short, the algorithm is being fed with deceptive information, and bad input leads to bad output.

Additionally, data poisoning can be difficult and time-consuming to detect. So, by the time it's discovered, the damage could be severe.

## **Staying Safe**

Here is a list of ten cybersecurity tips for anyone using the Internet:

- Realize that you are an attractive target to attackers, and it can happen to anyone, anytime, anywhere, on any device. Don't ever say, “It won't happen to me.”
- Practice good password management. Use a strong mix of characters, and do not use the same password for multiple sites. Do not share your password with others and do not write it down — no “post-it notes” attached to your monitor! If

you have trouble remembering your passwords, consider using a secure password vault. Then you only need to remember one (very strong) password.

- Never leave your devices unattended. If you need to leave your work or personal computer, phone, or tablet for any length of time — no matter how short — lock the screen so no one can use it while you are gone. If you keep sensitive information on a flash drive or external hard drive, make sure to lock those up as well.
- Always be careful when clicking on attachments or links in an e-mail. If an e-mail is unexpected or suspicious for any reason, do not click on it. Even if it seems like it is from your chief judge. Scammers can look up information online and use it to target individuals in your court. Double-check the uniform resource locator (URL) of the website to see if it looks legitimate. Bad actors will often take advantage of spelling mistakes to direct you to a harmful domain. Never open an attachment unless you are sure of the source.
- Sensitive browsing, such as banking or shopping, should only be done on a device that belongs to you, on a network that you trust. Whether you are using a friend's phone, a public computer, or free Wi-Fi at a coffee shop — your data could be copied or stolen.
- Back up your data regularly. Make sure antivirus software is always turned on and up-to-date.
- Be conscientious of what you plug in to your computer. Malware can be spread through infected flash drives, external hard drives, and even smartphones.
- Watch what you are sharing on social networks. Criminals can find you and easily gain access to a shocking amount of information — where you shop, where you live, where you work, details about your family, when you are on vacation — that could help them gain access to more valuable data.
- Be wary of social engineering, where someone attempts to gain information from you through manipulation. If someone calls or e-mails you asking for sensitive information like login information or passwords, it is okay to say “no.” Always verify credentials before giving out any information.
- Be sure to monitor your accounts for any suspicious activity. If you see something unfamiliar, it could be a sign that you have been compromised. Don't be afraid to speak up and tell your IT team if you notice anything unusual. Remember, you are the victim of the attack, and you are not in trouble!

### **Using Remote Technology for Probation Appointments**

In addition to in-person meetings/appointments, some courts allow probationers to report using some form of remote technology in addition to telephone appointments. These technologies include Zoom, Microsoft Teams, WebEx, and other applications. While this technology is convenient and enhances the ability of the users (both probation officer and youth) to maintain contact with each other and reduce travel time, missing school, and interrupting other required activities, it also presents additional challenges.

No matter what remote technology you use, it is important that meetings are free from disruption and interference.



First, check with your supervisor or court administrator to make sure that, if they are requiring or allowing you to utilize remote technology to meet with probationers, safety protocols have been established.

As a general rule, no matter what technology you are using, if possible:

- Enable the waiting room;
- Allow only those invited to the meeting into the meeting room;
- Remove anyone you have not invited or don't recognize;
- Limit, as much as possible, the number of people you provide your personal meeting ID to;
- Require a passcode to join the meeting;
- Once your appointment has started, lock the meeting room so others cannot join;
- If you are meeting with more than one youth at a time, disable the private chat function;
- Record your meetings.

Each application has specific guidelines/suggestions for making meetings secure, so you should refer to their security protocols for more specific details.

#### **18.4. SOME WAYS COURTS CAN IMPROVE OVERALL SAFETY**

##### **Security Advisory Committee**

Your chief judge and court administrator should create a permanent security advisory committee to develop and assist with the oversight of a court security program.

[Michigan Supreme Court Administrative Order 2019-1](#) requires each court to establish a security committee, and to submit that plan to the Supreme Court for approval.

##### **Incident Reporting**

Your court should have an incident reporting form to use for *all* incidents, no matter how minor they may seem at the time. A policy for reporting all incidents will document either effectiveness of, or the need for changes to, security or emergency procedures, or policies.

##### **Medical Emergencies**

Given day-to-day risks and the additional stress of coming into an adversarial environment, medical emergencies are likely to occur. Comprehensive plans and training of staff on how to deal with medical emergencies are essential.

First aid kits and universal precaution kits (for the handling and cleanup of potentially infectious blood and body fluid spills) should be readily available to staff in each office or on all floors of each building. Kits should be maintained and restocked at least monthly.

##### **Awareness of Your Court's Security Procedures**

A new employee should be clearly informed of policies, procedures, and expectations for any assigned duties relating to security. If you don't know, ask.

##### **Communication Equipment**

The court should consider purchasing communication devices for use by any court staff while in the field, in emergencies, or to call for assistance.

## **Training and Equipment for Juvenile Probation Officers who are Required to Take Probationers into Custody**

Staff required to check on probationers at home, school, or work, or to take probationers into custody and transport them to court or to detention should receive training preparing them to engage in these tasks, ensuring their own safety, as well as the well-being of the probationer. The court should provide adequate equipment to allow staff to carry out this function.

### **Questions for Review:**

Why is security important?

What are some things you can do to assist with your own security?

How can you de-escalate violent situations?

What are some key issues to remember when conducting home visits?

What are some key issues to remember when transporting a juvenile and/or their family member?

What is cybersecurity/artificial intelligence and why is it important to be aware of cybersecurity attacks?

How can you be more secure during remote meetings?

What are some things your court can do to assist with your security?

## Chapter 19: Drugs of Choice

This chapter discusses:

- 19.1. Heroin
- 19.2. Prescription Opioids and Heroin
- 19.3. Drug Schedules
- 19.4. Survey Results on Drug Use
- 19.5. Commonly Used [Illicit] Drugs and Their Effects: Michigan
- 19.6. Drug Testing
- 19.7. Resources

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### 19.1. HEROIN

Heroin (opioid) use continues to be a public health issue. According to the National Institutes of Health (NIH), older adolescents and young adults are at the highest risk for initiation of opioid use, opioid misuse, opioid use disorder (OUD), and death from overdose, and there are no evidence-based interventions to prevent opioid use disorder.<sup>22</sup>

Opioids are a class of drugs that include the illicit drug heroin as well as prescription pain relievers like oxycodone, hydrocodone, codeine, morphine, fentanyl, carfentanil, and others. Opioids interact with receptors on nerve cells in the brain and nervous system to produce pleasurable effects and relieve pain.

For information on Michigan's substance use disorder resources, see the [Substance Use Disorder \(SUD\) Resources](#) website.

#### What is Heroin?

Heroin is an opioid drug made from morphine, a natural substance taken from the seedpod of opium poppy plants grown in Asia, Mexico, and Colombia. Heroin can be a white or brown powder, or a black sticky substance known as *black tar heroin*. Other common names for heroin include *big H*, *horse*, *hell dust*, and *smack*.

#### How do people use heroin?

People inject, sniff, snort, or smoke heroin.

#### What are the effects of heroin?

Heroin enters the brain rapidly and binds to receptors on cells located in many areas, especially those involved in feelings of pain and pleasure and in controlling heart rate, sleeping, and breathing.

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<sup>22</sup> National Institute of Health [Preventing At-Risk Adolescents from Developing Opioid Use Disorder | NIH HEAL Initiative](#)

### **Short-Term Effects**

People who use heroin report feeling a “rush” (a surge of pleasure or euphoria). However, there are other common effects, including:

- Dry mouth;
- Warm flushing of the skin;
- Heavy feeling in the arms and legs;
- Nausea and vomiting;
- Severe itching;
- Clouded mental functioning;
- Going "on the nod," a back and forth state of being conscious and semiconscious.

### **Long-Term Effects**

People who use heroin over the long-term may develop:

- Insomnia;
- Collapsed veins for people who inject the drug;
- Damaged tissue inside the nose for people who sniff or snort it;
- Infection of the heart lining and valves;
- Abscesses (swollen tissue filled with pus);
- Constipation and stomach cramping;
- Liver and kidney disease;
- Lung complications, including pneumonia;
- Mental disorders such as depression and antisocial personality disorder;
- Sexual dysfunction for men;
- Irregular menstrual cycles for women.

### **Injection Drug Use, Human Immunodeficiency Virus (HIV), and Hepatitis**

People who inject drugs such as heroin are at high risk of contracting the HIV and hepatitis C virus (HCV). These diseases are transmitted through contact with blood or other bodily fluids, which can occur when sharing needles or other injection drug use equipment. HCV is the most common blood-borne infection in the United States.

### **Other Potential Effects**

Heroin often contains additives, such as sugar, starch, or powdered milk that can clog blood vessels leading to the lungs, liver, kidneys, or brain, causing permanent damage.

### **Can a person overdose on heroin?**

Yes, a person can overdose on heroin. A heroin overdose occurs when a person uses enough of the drug to produce a life-threatening reaction or death. Heroin overdoses have increased in recent years.

When people overdose on heroin, their breathing often slows or stops. This can decrease the amount of oxygen that reaches the brain, a condition called hypoxia. Hypoxia can have short and long-term mental effects and effects on the nervous system, including coma and permanent brain damage.

### **How can a heroin overdose be treated?**

Naloxone is a medicine that can treat an opioid overdose when given right away. It works by rapidly binding to opioid receptors and blocking the effects of heroin and other opioid drugs.

Naloxone is available as an injectable (needle) solution, a hand-held auto-injector (EVZIO®), and a nasal spray (NARCAN® Nasal Spray).

For more information on entities or individuals in Michigan that may administer Naloxone, see MCL 333.7109.

## **19.2. PRESCRIPTION OPIOIDS AND HEROIN**

Prescription opioid pain medicines such as OxyContin® and Vicodin® have effects similar to heroin. Research suggests that misuse of these drugs may open the door to heroin use. Nearly 80% of Americans using heroin (including those in treatment) reported misusing prescription opioids first.

### **Medications for Opioid Use Disorder (MOUD)**

Medications for Opioid Use Disorder (MOUD), also known as Medication-Assisted Treatment (MAT), is the use of medications in combination with counseling and behavioral therapies. MOUD is effective in the treatment of opioid use disorders (OUD) and can help some people sustain recovery.

### **The American Academy of Pediatricians Recommendations<sup>23</sup>**

The American Academy of Pediatrics, as long ago as 2016:

- Advocated for increasing resources to improve access to medication-assisted treatment of opioid-addicted adolescents and young adults. This recommendation includes both increasing resources for medication-assisted treatment within primary care and access to developmentally appropriate substance use disorder counseling in community settings.
- Recommended that pediatricians consider offering medication-assisted treatment to their adolescent and young adult patients with severe opioid use disorders or discuss referrals to other providers for this service.
- Supported further research on developmentally appropriate treatment of substance use disorders in adolescents and young adults, including primary and secondary prevention, behavioral interventions, and medication treatment.

### **Fentanyl**

Fentanyl is a powerful synthetic opioid analgesic that is similar to morphine but is 50 to 100 times more potent. It is a schedule II drug and is typically used to treat patients with severe pain or to manage pain after surgery. In its prescription form, fentanyl is known by such names as Actiq®, Duragesic®, and Sublimaze®. Street names for fentanyl or for fentanyl-laced heroin include *Apache*, *China Girl*, *China White*, *Dance Fever*, *Friend*, *Goodfella*, *Jackpot*, *Murder 8*, *TNT*, and *Tango and Cash*.

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<sup>23</sup> <https://pediatrics.aappublications.org/content/early/2016/08/18/peds.2016-1893>

## **Carfentanil**

Carfentanil, like fentanyl, is a synthetic opioid, meaning it is completely manmade. [Carfentanil](#) is structurally similar to fentanyl. However, it is 100 times more potent.

## **Xylazine**

Xylazine, also known as "[tranq](#)," is an animal sedative not meant for human consumption. It can lull people into a state of unconsciousness for hours, increasing their risk for robbery or assault. It can slow the heart rate and lower blood pressure.

The percentage of fatal opioid overdoses in which xylazine was detected rose by 276%, from 2.9% to 10.9%, between January 2019 through June 2022, according to data released in mid-June 2023 by the [Centers for Disease Control and Prevention](#).

With chronic use, tranq causes dramatic, disfiguring wounds, usually on a person's legs or arms. It is not clear why this happens, and it can occur regardless of whether the drug was snorted, smoked, or injected.

Tranq is increasingly being found laced in the illegal supply of fentanyl. In March 2023, the [U.S. Drug Enforcement Administration warned](#) about a growing threat from the drug combination, often called "[tranq dope](#)," saying that the DEA had seized xylazine and fentanyl mixtures in 48 states, including Michigan.

### **19.3. DRUG SCHEDULES**

Drugs, substances, and certain chemicals used to make drugs are classified into five distinct categories or schedules depending upon the drug's acceptable medical use and the drug's abuse or dependency potential. The abuse rate is a factor in the scheduling of the drug; for example, schedule I drugs are considered the most dangerous class of drugs with a high potential for abuse and potentially severe psychological and/or physical dependence.<sup>24</sup>

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<sup>24</sup> See the U.S. Drug Enforcement Administration webpage at <https://www.dea.gov/drug-scheduling>

# HOW DRUGS ARE CLASSIFIED IN THE US

SCHEDULE	DESCRIPTION	EXAMPLES
<b>Schedule 1</b>	Drugs with no currently accepted medical use and a high potential for abuse. They are the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence.	<ul style="list-style-type: none"> <li>- Heroin</li> <li>- Lysergic acid diethylamide (LSD)</li> <li>- Marijuana (Cannabis)</li> <li>- Methylenedioxymethamphetamine (Ecstasy)</li> <li>- Methaqualone</li> <li>- Peyote</li> </ul>
<b>Schedule 2</b>	Drugs with a high potential for abuse, with use potentially leading to severe psychological or physical dependence. These drugs are also considered dangerous.	<ul style="list-style-type: none"> <li>- Combination products with less than 15mg of hydrocodone per dosage unit (Vicodin)</li> <li>- Cocaine</li> <li>- methamphetamine</li> <li>- Methadone</li> <li>- Hydromorphone (Dilaudid)</li> <li>- Meperidine (Demerol)</li> <li>- Oxycodone (OxyContin)</li> <li>- Fentanyl</li> <li>- Dexedrine</li> <li>- Adderall</li> <li>- Ritalin</li> </ul>
<b>Schedule 3</b>	Drugs with a moderate to low potential for physical and psychological dependence. Schedule 3 drugs abuse potential is less than Schedule 1 and Schedule 2 drugs but more than Schedule 4.	<ul style="list-style-type: none"> <li>- Products containing less than 90mg of codeine per dosage unit (Tylenol and codeine)</li> <li>- Ketamine</li> <li>- Anabolic steroids</li> <li>- Testosterone</li> </ul>
<b>Schedule 4</b>	Drugs with a low potential for abuse and low risk of dependence.	<ul style="list-style-type: none"> <li style="width: 50%;">- Xanax</li> <li style="width: 50%;">- Ativan</li> <li style="width: 50%;">- Soma</li> <li style="width: 50%;">- Talwin</li> <li style="width: 50%;">- Darvon</li> <li style="width: 50%;">- Ambien</li> <li style="width: 50%;">- Darvocet</li> <li style="width: 50%;">- Tramadol</li> <li style="width: 50%;">- Valium</li> </ul>
<b>Schedule 5</b>	Drugs with lower potential for abuse than Schedule 4 and consist of preparations containing limited quantities of certain narcotics. Schedule 5 drugs are generally used for antidiarrheal, antitussive, and analgesic purposes.	<ul style="list-style-type: none"> <li>- Cough preparations with less than 200mg of codeine per 100ml (Robitussin AC)</li> <li>- Lomotil</li> <li>- Motofen</li> <li>- Lyrica</li> <li>- Parepectolin</li> </ul>

SOURCE: Drug Enforcement Administration

BUSINESS INSIDER

## 19.4. SURVEY RESULTS ON DRUG USE

### Key Findings on Adolescent Drug Use, 1975-2023<sup>25</sup>

Monitoring the Future (MTF) is a long-term study of substance use and related factors among U.S. adolescents, college students, and adult high school graduates through age 60. It is conducted annually and supported by the National Institute on Drug Abuse. MTF findings identify emerging substance use problems, track substance use trends, and inform national policy and intervention strategies.

<sup>25</sup> <https://monitoringthefuture.org/results/annual-reports/>

The key findings regarding use of various substances by 8th, 10th, and 12th graders surveyed across the U.S. in 2023 are summarized below.

An important finding to emerge from the 2023 survey is that adolescent cannabis use and nicotine vaping decreased after the onset of the pandemic in 2021, and these lowered levels of use continued into 2023. In fact, the 2023 results show that adolescent drug use levels for many of the most common substances continued at the lowered levels observed after the pandemic onset. In contrast, levels of alcohol use significantly increased between 2021 and 2022, returning to pre-pandemic levels, though began to slightly drop again in 2023. These three substances have the highest levels of use among adolescents.

- The percentage of 12th grade students who used cannabis (or marijuana) in 2023 was 29%, slightly lower than in 2021. In both these years the survey took place after the onset of the pandemic. These levels are significantly lower than they were during the pre-pandemic years of 2020 and 2019, when prevalence levels were 35% and 36%, respectively. The decline from 35% in 2020 to 31% in 2021 is the largest one-year decline among 12th grade students ever recorded in the 48 years of the survey for this measure.
- The percentage of 12th grade students who vaped nicotine in 2022 was 27%, as it was in 2021, which then dropped to 23.2% in 2023. In fact, the percentage of students who vaped nicotine in 2023 decreased in all grades (17.6% for 10th grade, 11.4% for 8th grade). However, despite the recent declines in use, the prevalence of nicotine vaping remains one of the highest among all adolescent substances. In 2023, its past 12-month prevalence levels of 11% in 8th grade and 18% in 10th grade are second only to alcohol.
- The percentage of 12th grade students who used alcohol within 2022 was 52%, a statistically significant increase from the 2021 level of 47%. However, in 2023, alcohol use significantly declined for 12th (to 45.7%) and 10th grade students (to 30.6%), which the report notes is consistent with a delayed effect of the pandemic. Binge drinking was also lower in 2023 than in 2022 for all three grades.

Also, for the first time in 2023, MTF asked 12th grade students about their use of “delta-8.” Delta-8 is a variant of delta-9-THC, which is the main psychoactive compound of cannabis (marijuana). Both delta-8 and delta-9 have similar intoxicating effects but different legal contexts. Delta-8 is federally legal. It is synthesized from hemp, which was legalized in the 2018 Agriculture Improvement Act. Since the passage of this legislation, delta-8 products have become increasingly available, including at gas stations and convenience stores, in many U.S. states. In Michigan, delta-8 can only be sold by businesses licensed by the Marijuana Regulatory Agency.<sup>26</sup> Potential health effects of delta-8, including dependence, are currently unknown.

The 2023 results show a delta-8 prevalence of 11.4% for past 12-month use among 12th grade students (the only grade asked about its use in 2023). Prevalence was lower in states that had legalized adult use of marijuana, consistent with the possibility that adolescents may be more likely to use delta-8 when regular marijuana is relatively

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<sup>26</sup> <https://www.michigan.gov/cra/resources/consumer-connection/delta-8-information>



less available and accessible. The 2024 survey will expand the number of questions on delta-8 in all three grades to better track its trends in use going forward.

### **Michigan Statistics**

According to the Center for Disease Control-Youth Risk Behavior Surveillance System (YRBSS) data, in 2021 (the most recent data):

- About one out of five Michigan high school students report drinking alcohol in the last 30 days;
- 20% of Michigan high school students say that they were offered, sold, or given illegal drugs on school property;
- One out of eight Michigan high school students say they have taken prescription drugs without a prescription or differently from how a doctor told them;
- Approximately 15% of Michigan high school students report regularly using marijuana.

### **19.5. COMMONLY USED [ILLICIT] DRUGS AND THEIR EFFECTS: MICHIGAN**

**NOTE:** Manufacturers are consistently designing new legal and illegal mood-altering substances. The reader is invited to contact the Michigan Judicial Institute with any updated information.

#### **Alcohol**

Alcohol abuse is one of the most serious substance abuse problems facing populations worldwide. It is the most commonly used and widely abused psychoactive drug in the country. Alcohol is absorbed by the stomach, enters the bloodstream, and goes to all the tissues. The effects of alcohol are dependent on a variety of factors, including a person's size, weight, age, and sex, as well as the amount of food and alcohol consumed. The street names/slang terms for it are *booze, canned heat, firewater, hard-stuff, moonshine, red-eye, rotgut, tippie, toddy, scoops, and sauce.*

#### **Marijuana (aka Marihuana)**

Marijuana is a green, brown, or gray mixture of dried, shredded flowers and leaves of the hemp plant (*Cannabis sativa*). There are over 200 slang terms for marijuana, including *pot, weed, grass, hay, herb, cannabis, doobie, ganja, and reefer.*

The main ingredient in marijuana is tetrahydrocannabinol (THC). THC is found in all parts of the cannabis plant, including hemp. The amount of THC in marijuana determines how strong its effects will be on the user.

Marijuana is usually smoked as a cigarette called a joint, or in a pipe or bong. Sometimes, it will appear in hollowed-out cigars called *blunts* or *swishers* which are more dangerous because they contain the equivalent of three to four joints.

Some immediate physical effects of marijuana, along with euphoria, include red, bloodshot eyes, confusion and anxiety, loss of coordination, increased appetite, hallucinations, and a dry mouth and throat. Someone high on marijuana may seem giggly or silly for no reason and have trouble walking. Studies of marijuana's mental effects show that the drug can impair or reduce short-term memory, alter sense of time,

and reduce ability to do things that require concentration, swift reactions, and coordination.

A common adverse reaction to marijuana is the “acute panic anxiety reaction,” an extreme fear of losing control, causing panic. The symptoms usually disappear in a few hours.

Long-term regular users of marijuana may become dependent or addicted. Problem users lose interest in daily activities and report loss of energy and boredom. They may have a hard time limiting their use, may build a tolerance to the drug requiring larger amounts to get the same effect, and may develop problems with their jobs and personal relationships. Like other drug addictions, marijuana can become the most important aspect of their lives.

In a 2019 study of over 23,000 individuals, adolescent cannabis consumption was associated with increased risk of developing depression and suicidal behavior in later life.<sup>27</sup>

### **Medical Marihuana**

In 2008, Michigan voters approved a Constitutional Amendment allowing certain individuals with a “debilitating medical condition” to use medical marihuana. The use of medical marihuana is a statement by a physician that a patient may benefit from the use for a certain condition. There is no minimum age limit, but patients under age 18 must have the consent of their parent or guardian responsible for medical decisions. The parent or guardian must be the registered caregiver of the minor patient.

It is possible, perhaps even likely, that you will encounter a youth on probation who is also a qualified patient registered to use medical marihuana.

In a published opinion in the matter of *People v Thue*, 336 Mich App 35, 48; (2021), the Michigan Court of Appeals determined that in the case of an *adult* offender, provisions of the probation act that are inconsistent with the Michigan Medical Marihuana Act (MMMA) do not apply to the medical use of marijuana. The Court stated, in part, that: “[A probation] condition . . . prohibiting the use of medical marijuana that is otherwise used in accordance with the MMMA is directly in conflict with the MMMA and is impermissible.” and since “the revocation of probation is a penalty or the denial of a privilege,” and [MCL 333.26424\(a\)](#) protects a person “from penalty in any manner, or denial of any right or privilege, for the lawful use of medical marijuana.”

No additional guidance is provided to trial courts.

### **Recreational Marihuana**

Effective December 6, 2018, the recreational use and possession of marihuana was legalized for individuals 21 and over. This act does not authorize transfer of marihuana or marihuana accessories to a person under 21 or for any person under 21 to possess, consume, purchase, or otherwise obtain, cultivate, process, transport, or sell marihuana.

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<sup>27</sup> Gobbi, G., Atkin, T, et al., JAMA Psychiatry, February 13, 2019

## Hashish

Hashish/hash oil are stronger forms of marijuana. Hashish is made by taking the resin from the leaves and flowers of the marijuana plant and pressing them into cakes or slabs and smoked through an “oil rig” which is a pipe similar to a bong. This is known as “dabbing.” Hash may contain five to ten times as much THC as other forms of marijuana. This form of hashish may also be known as *Wax*, *Shatter*, and *Crumble*.

## Synthetic Marijuana

Also known as *K2*, *Spice*, *Sence*, *Yucatan Fire*, *Skunk*, or *Genie* and other names. It is a synthetic form of marijuana. Some people compare the effects of K2 to marijuana.

K2 is natural incense composed of natural herbs such as *canavalia rosea*, *clematis nucifera*, *heima salicifolia*, and *ledum palustre*. Various sources report that K2 also contains the synthetic cannabinoid JWH-018, which when smoked can produce intoxicative effects similar to marijuana. Only recently have drug test kits been developed to detect this synthetic compound.

K2 is not intended for human consumption and is intended only to be used as incense. Clearly though, the hundreds of cases across the country to poison control centers and emergency rooms indicates it is not solely being used as such. K2 is an illegal substance. However, chemists are developing new strains of synthetic marijuana every day.

## Kratom

Kratom is illegal in many states. Presently, Kratom is unregulated in Michigan and continues to gain in popularity.<sup>28</sup> It is sold as an energy booster, mood enhancer, pain reliever, and antidote for opioid withdrawal.

Kratom is an herbal extract that comes from the leaves of an evergreen tree grown in Southeast Asia. Kratom leaves can be chewed, and dried kratom can be swallowed or brewed. Kratom extract can be used to make a liquid product.

Kratom is believed to act on opioid receptors. At low doses, kratom acts as a stimulant, making users feel more energetic. At higher doses, it reduces pain and may bring on euphoria. At very high doses, it acts as a sedative, making users quiet and perhaps sleepy.

Kratom takes effect after five to 10 minutes, and its effects last two to five hours. The effects of kratom become stronger as the quantity taken increases. In animals, kratom appears to be more potent than morphine.

Although people who take kratom believe in its value, researchers think its side effects and safety problems more than offset any potential benefits.

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<sup>28</sup>Legislation has been introduced to regulate the use and distribution of Kratom in Michigan. See <http://legislature.mi.gov/doc.aspx?2023-HB-4061>

Kratom has several known side effects, including:

- Weight loss;
- Dry mouth;
- Chills, nausea, and vomiting;
- Changes in urine and constipation;
- Liver damage;
- Muscle pain.

Kratom also affects the mind and nervous system:

- Dizziness;
- Drowsiness;
- Hallucinations and delusion;
- Depression and delusion;
- Breathing suppression;
- Seizure, coma, and death.

It is not known exactly what level of kratom is toxic in people, but as with pain medications and recreational drugs, it is possible to overdose on kratom.

### **Cocaine**

While the state diverts more and more of its attention and institutional resources toward heroin and other opioids, a steady and consistent cocaine addiction threat continues to plague many Michigan residents. Deaths from cocaine, including singular presence and co-occurring presence with opioids, have remained an issue throughout the state.

### **Methamphetamine**

For years, methamphetamine (*meth*, *crystal meth*, etc.) has been a problem in Michigan, a problem which has only grown worse.<sup>29</sup> Methamphetamine is a potent stimulant that can have significant effects on both physical and mental health. It can cause permanent brain structure changes and mixing a stimulant with an additional drug, such as a depressant, can lead to complications such as increased risk of brain injury and death.

### **Benzodiazepines**

Benzodiazepines (benzos) are prescription sedatives including common brand names (e.g., Xanax, Valium) commonly used to treat anxiety and certain types of sleep disorders. In addition to powerful opioid painkillers, benzodiazepines contribute to a multilateral prescription drug threat in Michigan that has only recently begun to dissipate. Mixing alcohol with benzos is also especially dangerous.

### **Stimulants**

As is the case across other areas of the United States, stimulant addiction particularly impacts Michigan's adolescent and young adult population. Attention-Deficit/Hyperactivity Disorder (ADHD) drugs such as Ritalin and Adderall continue to be primary drivers of use.

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<sup>29</sup> <https://www.michigan.gov/opioids/-/media/Project/Websites/opioids/documents/Methamphetamine-Use-and-Overdose-Trends-Michigan-20192022.pdf?rev=9a1ff660a69f4932a2d2f1b4bd681a04>

## **Some Drug and Alcohol Screening and Assessment Tools**

An estimated 4.5% of U.S. adolescents ages 12 to 17 have a substance use disorder.

### **General Assessment Tools**

The National Institute on Drug Abuse (NIDA) Modified Alcohol, Smoking, and Substance Involvement Screening Test, or NMASSIST, is an assessment tool that clinicians use in general health care to find out if a youth is actively using substances. This web-based tool was developed by NIDA out of a recognized need to capture statistics on drug abuse. The assessment tool is a questionnaire that asks a series of questions about the types of drugs that an individual uses and how often the substances are used; then the tool provides clinicians with a summary of whether the patient seems to be a substance abuse risk. The Substance Abuse Subtle Screening Inventory for Adolescents, or SASSI, is another general tool that measures all kinds of substance abuse specifically for adolescents. See: [The Substance Abuse Subtle Screening Inventory for Adolescents](#).

### **Alcohol Screening and Brief Intervention for Youth: A Practitioner's Guide**

This is designed to help health care professionals quickly identify youth at risk for alcohol-related problems. The National Institute on Alcohol Abuse and Alcoholism (NIAAA) developed the guide in collaboration with the American Academy of Pediatrics, a team of underage drinking researchers and clinical specialists, and practicing healthcare professionals. See: [Alcohol Screening and Brief Intervention for Youth: A Practitioner's Guide | National Institute on Alcohol Abuse and Alcoholism](#).

### **Alcohol and Drug Involvement Scale**

The Adolescent Alcohol and Drug Involvement Scale, or AADIS, is an assessment tool that measures a youth's behaviors when it comes to drug use and drinking alcohol. The AADIS asks adolescents' 14 questions around their drug and alcohol use and the frequency. This is a self-report, meaning the AADIS is a screening tool that is used by the youth. At the end of the assessment, the youth is given a weighted score. A higher weighted score indicates the need for a professional substance abuse assessment. See: [Screening for Alcohol and Other Drug Problems Using the Adolescent Alcohol and Drug Involvement Scale](#).

### **Diagnostic Interviews**

Diagnostic interviews are assessment screening tools that address whether a youth has a diagnosable problem with substance abuse. The Diagnostic Interview for Children and Adolescents, or DICA, is one such tool. This interview consists of 416 items to determine if a youth has a substance abuse disorder. The Diagnostic Interview Schedule for Children, or DISC, is another tool that is used for the same purpose. After the interviews are conducted, the evaluator determines the appropriate course of treatment for youth who present as having a substance abuse disorder.

### **Multiscale Assessment Tools**

Multiscale assessment tools measure various depths of substance abuse in youth. These tools are self-administered, so adolescents can complete them on their own. To eliminate or minimize the potential of misrepresentation, multiscale assessment tools

are developed to detect response discrepancies. Some tools may take youth an hour to complete, while others could take 20 minutes. The Chemical Dependency Assessment Profile (CDAP), Hilson Adolescent Profile (HAP), and Personal Experience Inventory (PEI) are examples of multiscale assessment tools. These tools dig deep into the youth's life to understand what types of behaviors are exhibited in the youth's friends, family, whether the youth is a victim of abuse, whether the individual appears to be depressed, and other comprehensive questions that can pinpoint a substance abuse disorder.

## **19.6. DRUG TESTING**

### **Biological Testing**

Biological tests can be valuable instruments to determine alcohol and other drug (AOD) use, especially when such use is denied by the client. Urinalysis, breathalyzer tests, blood tests, and all other available physical tests should be considered when AOD use is not self-reported. The most objective tools for measuring progress are urine and blood tests for the presence of AODs.

### **Treatment**

**NOTE:** Medications for Opioid Use Disorder (MOUD) is discussed previously in this chapter.

The treatment plan, developed as an important component of the clinical assessment, is reviewed, assessed, updated, and revised throughout the course of treatment.

Ideally, the plan is adapted as intermediate goals are met successfully. Then, at the end of a successful process, the treatment plan evolves into a discharge plan. All treatment plans should address specific substantive issues. Among these are:

- Employment, vocational, and educational needs;
- Housing in an environment that is free from AODs;
- The juvenile's and their family's strengths;
- Medical and psychological concerns;
- Recovery support;
- Self-esteem development;
- Relapse prevention;
- Stress management;
- Self-help resources;
- Abstinence or reduced AOD use.

## **19.7. RESOURCES**

### **Whom Should I Contact if a Youth on My Caseload has a Substance Use Issue?**

Contact your local Council on Alcohol and Drug Abuse for referral assistance. You may also suggest that parents contact a family physician, hospital, or yellow pages for other intervention and treatment options.

Access reliable information at:

- [The National Institute on Drug and Abuse.](#)
- [The Partnership for a Drug-Free America.](#)
- [The Substance Abuse and Mental Health Services Administration.](#)
- [The Michigan Department of Health and Human Services.](#)

### **Questions for Review:**

How has the opioid epidemic affected youth?

What is Medication-Assisted Treatment?

What are the findings of the Monitoring the Future report?

Can youth use medical marijuana/marihuana? Recreational marijuana/marihuana?

What was the primary finding in *People v Thue* 336 Mich App 35, 48; (2021)?

What is Kratom?

What are some other common drugs of abuse? Cocaine? Meth? Benzos? Stimulants?

What are some common assessment tools?

What biological testing is generally reliable?

Where can you find more resources on substance abuse?

## **Chapter 20: Juvenile Sexual Offenders and Working with Youth who Exhibit Problematic Sexual Behaviors, Assessment, and Treatment**

This chapter discusses:

- 20.1. Introduction
- 20.2. Offenses Under the Sex Offender Registration Act (SORA)
- 20.3. Sex Offender and Youth Displaying Unusual Sexual Behavior Assessment Tools
- 20.4. Sex Offender Treatment

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### **20.1. INTRODUCTION**

This chapter focuses on both youth who sexually offend and youth who may present themselves to the juvenile justice system for other reasons, but who engage in problematic sexual behavior. Assessment and intervention for these populations is similar, so they are treated as such throughout this chapter.

Research into adult sexual offenders dates back many years, but when a young person committed a sexual offense, it was seen as experimental or developmental curiosity. Much of the theory and research on juveniles focused more on the person and neglected to explore and understand the behavior and the context in which these behaviors occur. This perspective lent itself to the misconception that juveniles who commit a sexual offense are destined to a life of sexual crime and are predators who need to be managed and punished.

#### **Responding to adolescent sexual behavior that is not developmentally expected**

Adolescent sexual behavior determined or suspected to be harmful or abusive in nature should be further evaluated. This is necessary both to understand the nature of continued risk for sexually harmful behavior and to consider what, if any, interventions are needed.

It is important to recognize that young people who have engaged in sexually abusive behavior should not be treated or viewed in the same manner as sexually offending adults. Interventions for young persons should be implemented in accordance with their age and developmental level. Further, young people who engage in sexually abusive behavior often experience a range of nonsexual problems, which are an important focus of treatment. Accordingly, rather than solely attempting to contain and manage the young person's sexual behavior, it is important to help these young people develop accountability for both sexual and nonsexual behaviors. The goals of interventions are to build strengths, protective factors, and prosocial skills that will reduce risk and promote social competence, stability, and healthy relationships.

#### **Recidivism**

Research consistently finds that sexual recidivism is relatively low. The most current research strongly suggests that rates of sexual recidivism for adolescents following treatment are somewhere between 3-12%. For those individuals who may be at high risk for sexual recidivism, reoffending is unusual after having completed evidence-based treatment.



## **Sexual Assault and Sex Offenders**

For a thorough understanding of the laws governing sexual assault, refer to the [Michigan Judicial Institute \*Sexual Assault Benchbook\*](#).

### **20.2. OFFENSES UNDER THE SEX OFFENDER REGISTRATION ACT (SORA)**

#### **Tier I, Tier II, and Tier III Offenses**

Offenses under the SORA are grouped in three categories (Tier I, Tier II, and Tier III) based on the seriousness of an offense. A *listed offense* for purposes of the SORA is a Tier I, Tier II, or Tier III offense. MCL 28.722(i). **Note:** Juvenile adjudications are not included on the public Internet website; juvenile adjudications appear only on the law enforcement database. MCL 28.728(1); MCL 28.728(4)(a)-(b).

#### **Tier I Offenses/Offenders**

##### **Tier I offender defined**

A Tier I offender is the lowest-level offender. MCL 28.722(q).

##### **Required reporting**

After their initial verification or registration, a Tier I offender must report on a yearly basis, during the individual's month of birth, and pay the \$50 initial registration fee as well as a \$50 annual registration fee unless indigent. MCL 28.725a(3)(a), MCL 28.727(1).

##### **List of Tier I offenses**

Tier I offenses are listed in MCL 28.722(r)(i)-(xi).

##### **Length of registration for Tier I offenders**

A Tier I offender must register under the SORA for 15 years. MCL 28.725(11).

#### **Tier II Offenses/Offenders**

##### **Tier II offender defined**

A Tier II offender is a higher-level offender who is:

- (i) An individual who is a Tier I offender who is subsequently convicted of another Tier I offense; or,
- (ii) An individual who is convicted of a Tier II offense and who is not a Tier III offender. MCL 28.722(s)(i)-(ii).

##### **Required reporting**

After their initial verification or registration, a Tier II offender must report semiannually, according to their birth month, and pay their \$50 initial registration fee and a \$50 annual registration fee, unless indigent. MCL 28.725a(3)(b); MCL 28.727(1).

##### **Length of registration**

A Tier II offender must register under the SORA for 25 years. MCL 28.725(12).

### **List of Tier II offenses**

Tier II offenses are listed in MCL 28.722(t)(i)-(xii).

### **Tier III Offenses/Offenders**

#### **Tier III offender defined:**

A Tier III offender is the highest-level offender and is an individual who is a Tier II offender who is subsequently convicted of a Tier I or Tier II offense, or an individual who is convicted of a Tier III offense. MCL 28.722(u)(i)-(ii).

#### **Required reporting**

After their initial verification or registration, a Tier III offender must report four times each year according to their birth month and pay the \$50 initial registration as well as a \$50 annual registration fee unless indigent. MCL 28.725a(3)(c); MCL 28.727(1).

#### **Length of registration**

A Tier III offender must register under the SORA for life. MCL 28.725(13).

### **List of Tier III offenses**

Tier III offenses are listed in MCL 28.722(v)(i)-(ix).

### **“Romeo & Juliet” Exceptions to Registration under SORA**

#### **Application of the Exceptions**

##### **Romeo & Juliet Exception for Select Tier II Offenses**

An individual may claim an exception to the registration requirement for conviction of MCL 750.158 (sodomy) involving a minor. MCL 28.722(s)(t). To successfully claim this exception, the individual must satisfy either of two conditions:

- All of the following:
  - The minor consented to the conduct that constituted the violation;
  - The minor was at least age 13 but was less than age 16 at the time of the violation;
  - The individual was not more than four years older than the minor. MCL 28.722(s)(t)(A)(I-III).
- OR, all of the following:
  - The minor consented to the conduct that constituted the violation;
  - The minor was age 16 or age 17 at the time of the violation;
  - The minor was not under the custodial authority of the individual at the time of the violation. See MCL 28.722(c) for the definition of custodial authority. MCL 28.722(s)(t)(B)(I-III).

An individual may claim an exception to a violation of various gross indecency statutes MCL 750.338; MCL 750.338a; MCL 750.338b involving a minor who was at least age 13 but less than age 18 at the time of the violation. See MCL 28.722(t)(vi). To successfully claim this exception, the individual must satisfy either of two conditions:

- All of the following:
  - The minor consented to the conduct constituting the violation;

- The minor was at least age 13 but was less than age 16 at the time of the violation;
- The individual was not more than four years older than the victim. MCL 28.722(t)(vi)(A)(I-III).
- OR, all of the following:
  - The minor consented to the conduct constituting the violation;
  - The minor was age 16 or age 17 at the time of the violation;
  - The minor was not under the custodial authority of the individual at the time of the violation. MCL 28.722(t)(vi)(B)(I-III).

### **Romeo & Juliet Exception for Select Tier III Offenses**

An individual may claim an exception to a violation of MCL 750.520b (CSC-I), MCL 750.520d (CSC-III), MCL 750.520g(1) (assault with intent to commit criminal sexual conduct involving penetration) involving a minor who was at least age 13 but less than age 16 at the time of the violation. See MCL 28.722(v)(iv).

To successfully claim this exception, the individual must satisfy the following conditions:

- The minor consented to conduct constituting the offense;
- The minor was at least age 13 but under age 16 at the time of the offense;
- The individual was not more than four years older than the minor.  
MCL 28.722(v)(iv).

### **Juveniles Excluded from the Public Internet Website**

Juvenile adjudications are excluded from the public internet website. This information appears only on the law enforcement database. MCL 28.728(4)(a)-(b).

More information on the Sex Offender Registry may be found at the [Sex Offender Registry](#) website.

## **20.3. SEX OFFENDER AND YOUTH DISPLAYING UNUSUAL SEXUAL BEHAVIOR ASSESSMENT TOOLS**

Some recognized assessment instruments include:

### **Child and Adolescent Needs and Strengths (CANS)**

The CANS is a multi-purpose tool developed for children’s services to support decision-making, including level of care and supervision planning, facilitate quality improvement initiatives, and to allow for the monitoring of outcomes of services. It is also on the list of the SCAO approved mental health screening tools (see Chapter 11).

There are six key principles of the CANS:

- Items are selected based on relevance to planning.
- There are action levels for all items.
- Consider culture and development before establishing the action level.
- Agnostic as to etiology. It is the “what” not the “why.”
- It is about the child, not about the service.
- Specific ratings window (e.g., 30 days) so it stays fresh, which can be overridden based on action levels.

See: [The Child and Adolescent Needs and Strengths \(CANS\) – Praed Foundation](#)

## **The Protective + Risk Observations for Eliminating Sexual Offense Recidivism (PROFESOR)**

The PROFESOR is a structured checklist to help professionals identify and summarize protective and risk factors for adolescents and emerging adults (i.e., individuals aged 12 to 25) who have offended sexually. The PROFESOR is intended to assist with planning interventions that can help individuals enhance their capacity for sexual and relationship health and, thus, eliminate sexual recidivism.

Wherever possible, multiple sources of information should be utilized to form judgments for each factor. This would include information such as interviews with the individual, interviews with parents/caregivers and/or other significant adult supports/informants, review of relevant collateral information, and information from relevant tests/measures. It is also critical to be sensitive to developmental differences. Although the PROFESOR is intended for a relatively restricted age range, spanning only 14 years, there are going to be differences on most factors that will require sensitivity to developmental norms. For example, what constitutes an emotionally intimate friendship at age 13 will likely look different from what constitutes an emotionally intimate friendship even three or four years later.

For some clients who are in controlled and supervised residential settings, current ratings on the PROFESOR may be different than if they were to be in a less restrictive environment.

Protective and risk factors are summarized into one of five categories. The categories are intended to reflect the intensity of services that may be required. For example, those in Category 1 (Predominantly Protective) would likely require little or no intervention focused on building the capacity for sexual and relationship health, whereas those in Category 5 (Predominantly Risk) would likely require considerable intervention. Given that the PROFESOR contains only potentially dynamic protective and risk factors, it may also be useful as a measure of change over time or following intervention.

See: [The Protective + Risk Observations for Eliminating Sexual Offense Recidivism \(PROFESOR\)](#)

## **Sexual Adjustment Inventory-Juvenile (SAI-Juvenile)**

The Sexual Adjustment Inventory-Juvenile (SAI-Juvenile) is a juvenile (12-18 years old, male and female) sex offender assessment test - this is a popular test.

See: [Sexual Adjustment Inventory-Juvenile \(SAI-Juvenile\)](#)

## **The Sexual Offense Risk Appraisal Guide (SORAG)**

The SORAG is an effective though relatively complicated 14-item scale. It requires a thorough and reliable social history, knowledge of the offender's Diagnostic and Statistical Manual of Mental Disorders (DSM-V) diagnosis and a Hare's Psychopathy Checklist Revised (PCL-R) score. If no PCL-R Score is available, users can substitute the Child and Adolescent Taxon Scale (CATS), but risk losing a small degree of accuracy. SORAG is best at predicting risk among violent sexual offenders.

See: [The Sexual Offense Risk Appraisal Guide \(SORAG\)](#)

**NOTE:** You should not utilize any assessment instrument without proper training.

## **20.4. SEX OFFENDER TREATMENT**

Most sex offenders are managed by the justice system through a combination of methods including detention, probation, and some form of specialized treatment.

### **Treatment Program Components**

The treatment components of sexual offender programs vary. There are, however, some consistent themes:

- Accepting responsibility for behavior;
- Identifying a pattern or cycle of offending;
- Learning to interrupt the cycle;
- Developing empathy for the victim;
- Increasing the use of appropriate social skills;
- Addressing one's own history of abuse;
- Decreasing deviant forms of sexual arousal;
- Increasing accurate sexual knowledge;
- Enhancing interpersonal skills;
- Improving family relationships; and,
- Increasing awareness of the possibility of relapse as well as learning methods to prevent this.

### **Psycho-Educational Treatment**

Many programs offer psycho-educational experiences to youth in order to enhance knowledge or reduce skill deficits. Research supports individualized programming for youth with different needs and backgrounds so that they receive what they need and do not participate in unnecessary or inapplicable classes/interventions.

### **Cognitive-Behavioral Therapy (CBT)**

CBT helps youth discover and change the thought processes that lead to maladaptive behavior. CBT programs emphasize personal accountability, help offenders understand the thoughts and choices that led to their crimes, and teach alternative behaviors and thought processes. Programs are delivered in community settings, as individual or group therapy. There is strong evidence that CBT reduces recidivism among youth sex offenders.<sup>30</sup>

### **Motivational Interviewing (MI)**

Originally developed to address individuals with substance abuse issues, MI is a collaborative, goal-oriented style of communication with particular attention to the language of change. It is designed to strengthen personal motivation for and

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<sup>30</sup> Cognitive-Behavioral Therapy for Offenders, University of Wisconsin, 2020.  
<https://www.countyhealthrankings.org/take-action-to-improve-health/what-works-for-health/strategies/cognitive-behavioral-therapy-cbt-for-offenders>

commitment to a specific goal by eliciting and exploring the person's own reasons for change within an atmosphere of acceptance and compassion.

MI is a person-centered counseling style for addressing the common problem of ambivalence about change that employs four processes:

- *Engaging* – used to involve the client in talking about issues, concerns, and hopes, and to establish a trusting relationship with a counselor.
- *Focusing* – used to narrow the conversation to habits or patterns that clients want to change.
- *Evoking* – used to elicit client motivation for change by increasing clients' sense of the importance of change, their confidence about change, and their readiness to change.
- *Planning* – used to develop the practical steps clients want to use to implement the changes they desire.

See: [Motivational Interviewing Network of Trainers \(MINT\)](#).

### **The Good Lives Model (GLM)**

The GLM is a framework of offender rehabilitation which addresses the limitations of the traditional risk management approach. The GLM has been adopted by several sex offender treatment programs internationally and is now being applied successfully in case management settings for offenders.

The GLM is a strengths-based approach to offender rehabilitation and is therefore premised on the idea that we need to build capabilities and strengths in people in order to reduce their risk of reoffending. According to the GLM, people offend because they are attempting to secure some kind of valued outcome in their life. As such, offending is essentially the product of a desire for something that is inherently human and normal. Unfortunately, the desire or goal manifests itself in harmful and antisocial behaviors.

Intervention should be viewed as adding to an individual's functioning, rather than an activity that simply removes a problem, or is devoted to managing problems, as if a lifetime of restricting one's activity is the only way to avoid offending.

The following are some of the goals promoted by the GLM:

- Having fun;
- Achieving;
- Being one's own person;
- Having people in one's life;
- Having a purpose and making a difference;
- Emotional health;
- Sexual health;
- Physical health.

See: [The Good Lives Model \(GLM\)](#)

To view the Michigan Judicial Institute webinar on “New Developments in Adolescent Sexual Behavior Assessment” featuring discussion of the PROFESOR and the Good Lives Model, see: [MJI New Developments in Adolescent Sexual Behavior Assessment](#).

## **Statewide and Community Resources Available to Victims of Sexual Assault**

### **The Michigan Domestic and Sexual Violence Prevention and Treatment Board (MDSVPTB)**

The MDSVPTB was established in 1978 by state legislation that created a Governor-appointed Board responsible for focusing state activity on domestic violence. The Board offices are administratively housed within the MDHHS.

In 2012, Governor Rick Snyder issued an executive order creating the Michigan Domestic and Sexual Violence Prevention and Treatment Board, and transferring to it all of the MDSVPTB's authority, powers, duties, functions, and responsibilities. The Board develops and recommends policy; develops and provides technical assistance and training to the criminal justice, child welfare, etc.; and administers state and federal funding for domestic and sexual violence services.

The seven-member Board represents a cross-section of professions concerned with the crime of domestic and sexual violence. Members are appointed by the Governor, with the advice and consent of the Senate. Staff provided by the Michigan Department of Health and Human Services assists the Board in carrying out their legislative charge.

See: [The Michigan Domestic and Sexual Violence Prevention and Treatment Board \(MDSVPTB\)](#)

### **Michigan Coalition to End Domestic and Sexual Violence (MCEDSV)**

The MCEDSV is a private, nonprofit, statewide membership organization. MCEDSV's mission is to develop and promote efforts aimed at the elimination of all domestic and sexual violence in Michigan. MCEDSV program activities include providing leadership, technical assistance, training, and resources throughout Michigan to benefit domestic and sexual violence survivors.

See: [Michigan Coalition to End Domestic and Sexual Violence \(MCEDSV\)](#)

### **Community-Based Efforts That Address Sexual Assault**

Michigan sexual assault service agencies provide victims of sexual assault with help and support in surviving sexual assault. The types of services provided are not uniform statewide. However, some common services are as follows:

- 24-hour telephone crisis lines;
- Individual and group counseling;
- Transportation assistance;
- Safety planning;
- Childcare services;
- Information and education about sexual violence;
- Assistance in finding temporary or permanent housing; if needed,
- Assistance to victim's family members and friends;

- Assistance and advocacy with social service agencies;
- Assistance and advocacy with medical and other health care;
- Assistance and advocacy with the legal system.

To identify some services located in different areas across Michigan, see the [MDHHS Find Services In Your Area](#) website.

### **Questions for Review:**

What does recent research say about juvenile sex offenders and recidivism?

What is the “Sex Offender Registry”?

What are the different tiers?

Are juveniles required to register?

How may an offender be exempted from the registry?

What are some assessment instruments?

What are some current interventions for juveniles?

What statewide and local services are available to victims of sexual assault?



## Chapter 21: Gangs

This chapter discusses:

- 21.1. Introduction
- 21.2. Various Gangs
- 21.3. Gangs and Social Media

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### 21.1. INTRODUCTION

The purpose of this chapter is to provide general information about gang culture and activity.

Although gang activity seems to have declined in recent years, gangs continue to exist, and are active. In fact, in just the last year multiple news stories have been published related to Michigan gang activity, for example:

- [Teen ordered to stand trial in homicide officials say sparked Flint gang war](#) (March 27, 2024).
- [Police: 'Known gang member' arrested Monday morning in Genesee County](#) (March 5, 2024).
- [Vice Lords convicted of racketeering in latest gang crackdown by feds in Detroit](#) (April 24, 2024)
- [Oakland County Sheriff warns transnational gangs are targeting high end homes](#) (May 13, 2024)
- [Gang members sentenced for retaliatory drive-by murder and shootout with police](#) (July 2, 2024)

#### The Term “Gang”

Gangs are not new. They existed as early as the fourteenth and fifteenth century in Europe and colonial America. Throughout the twentieth and well into the twenty-first centuries, social researchers devoted extensive time and resources to understanding youth gangs in America.

The media has done little to differentiate fact from fiction in their portrayal of youth gangs. The media has capitalized on incidents of gang activities by their coverage of youth gangs and contributed to the stereotypical images of how we think about gangs and gang members.<sup>31</sup>

According to the National Youth Gang Center,<sup>32</sup> researchers accept the following criteria for classifying groups as youth gangs:

- The group has three or more members, generally aged 12-24;
- Members share an identity, typically linked to a name, and often other symbols;
- Members view themselves as a gang, and they are recognized by others as a gang;

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<sup>31</sup> *Youth Gangs in American Society*, Sheldon, et al. 2012

<sup>32</sup> <https://www.nationalgangcenter.gov/About/FAQ#q1>

- The group has some permanence and a degree of organization;
- The group is involved in an elevated level of criminal activity.

### **Michigan Law**

While Michigan law does not specifically utilize the term “gang,” MCL 750.157a states that “any person who conspires together with one or more persons to commit an offense prohibited by law, or to commit a legal act in an illegal manner is guilty of the crime of conspiracy punishable” as a felony.

MCL 750.147b addresses ethnic intimidation, commonly known as “hate crimes,” and makes it a felony if a person maliciously, and with specific intent, intimidates or harasses another person because of that person's race, color, religion, gender, or national origin, by doing any of the following:

- (a) Causes physical contact with another person;
- (b) Damages, destroys, or defaces any real or personal property of another person;
- (c) Threatens, by word or act, to do an act described in subdivision (a) or (b), or if there is reasonable cause to believe that an act described in subdivision (a) or (b) will occur.

### **Reasons for Gang Involvement**

James C. (Buddy) Howell, Ph.D., renowned gang expert, cites many potential reasons why individuals become involved in gangs, including:

#### **Community factors:**

- Social disorganization, including poverty;
- Availability of drugs and firearms;
- Social and economic barriers;
- Norms supporting gang behavior.

#### **Family factors:**

- Family disorganization, including broken homes;
- Parental drug/alcohol abuse;
- Incest, family violence, and drug addiction;
- Family members in a gang;
- Lack of adult male/parental role models;
- Parents with violent attitudes.

#### **School factors:**

- Academic failure;
- Negative labeling;
- Trouble at school;
- Low achievement test scores.

#### **Peer group factors:**

- Delinquent peers;
- Few positive peers;

- Street socialization;
- Friends who use drugs or who are gang members;
- Interaction with delinquent peers.

#### **Individual Issues:**

- Prior delinquency;
- Deviant attitudes;
- Early or precocious sexual activity, especially among females;
- Alcohol and drug use;
- Desire for group rewards such as status, identity, self-esteem, companionship, and protection from victimization.

#### **The Impact of Gangs on Schools**

According to the most recent *Report on Indicators of School Crime and Safety (2022)*, the percentage of students ages 12-18 who reported a gang presence fell to 9% in 2019 down from 20% in 2009.<sup>33</sup>

Further reports indicate that 7% of students reported being called hate-related words, and 23% reported seeing hate-related graffiti. These figures are less prevalent than they were in 2009, when 9% reported being called hate-related words, and 29% reported seeing hate-related graffiti.

However, more 9th through 12th graders reported observing a gang presence at their school than 6th through 8th graders reporting gang presence. In contrast, the percentages of students who reported being called a hate-related word at school were lower for 10th and 12th graders than for 7th and 8th graders.

### **21.2. VARIOUS GANGS**

Below are some of the most notable gangs, historically.

#### **Bloods**

The Bloods were once called Pirus; the name continues but is not as prominent as it once was. Founded in Los Angeles, it is widely known for its rivalry with the Crips. The Bloods are identified by the red color worn by their members and by particular gang symbols, including distinctive hand signs. The Bloods consist of various subgroups known as "sets" between which significant differences exist such as colors, clothing, operations, and political ideas which may be in open conflict with each other.

#### **Crips**

The Crips are primarily, but not exclusively, an African-American gang. Founded in Los Angeles, the Crips are one of the largest and most violent of street gangs in the United States, with an estimated 30,000 to 35,000 members. The gang is known to be involved in murders, robberies, and drug dealing, among many other criminal pursuits. The gang is known for its gang members' use of the color blue in their clothing. However, this practice has waned due to police crackdowns on gang members. Crips

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<sup>33</sup> <https://bjs.ojp.gov/document/iscs22.pdf>

graffiti often include “B/K” which means Blood Killer. The “B” may have a slash through it. Often, any “B” or “P,” standing for Piru, appearing in any name or word has a slash through it or is written backward – all to “diss” the Bloods.

### **Latin Kings**

Latin Kings is a Puerto Rican gang that started in Chicago. The Latin King colors are black and gold; gang markings consist of a five or three-point crown, writings of LK, ALK, ALKN, ALKQN abbreviations (or the whole words), and drawings of the Lion and/or the King Master. Latin King symbolism is usually accompanied with the name and number of the chapter, region, or city of the gang. The Latin Kings are of the “People Nation,” and therefore represent everything to the “left” in opposition to the “right,” which is representative of the “Folk Nation.”

### **Vice Lords**

The Almighty Vice Lord Nation (abbreviated AVLN, VLN, or CVLN) is the second largest gang and one of the oldest gangs in Chicago. They are also one of the founding members of the People Nation multigang alliance. Vice Lord street gangs use a variety of gang graffiti symbols or emblems to identify themselves and their gang “turf,” including:

- A hat cocked to the left side;
- Cane;
- Saracen symbols of the Legendary Arabian Anti-Crusaders King Neal;
- Five-points of the golden star;
- Crescent moon (Teutonic);
- Broken heart with wings - the heart with wings is a symbol of the Maniac Latin Disciples, breaking it is a sign of disrespect.

### **White Supremacist Gangs**

Often blatantly racist and homophobic. For example: ANP (American Nazi Party), WAY (White American Youth or White Aryan Youth, Proud Boys, and Oath Keepers), SWP (Super White Power), WAR (White Aryan Resistance), NSWPP (National Socialist White Peoples Party), NSWWP (National Socialist White Workers Party), AYM (Aryan Youth Movement), SRIW (Super Race Is White).

In March 2021, FBI Director Christopher Wray testified before the U.S. Senate Judiciary Committee and stated “. . . racially motivated violent extremism specifically of the sort that advocates for the superiority of the white race is a persistent evolving threat . . . It’s the biggest chunk of our racially motivated violent extremism cases for sure and racially motivated violent extremism is the biggest chunk of our domestic terrorism portfolio.”

### **Transnational Gangs**

Within the last two decades, a number of violent upstart gangs have emerged, including the Los Angeles-based Mara Salvatrucha (MS-13). The MS-13 gang has been described as the “world’s most dangerous gang.” With cliques in 42 states, including Michigan, MS-13 is truly “international” and on the verge of becoming the first gang to be categorized as an “organized crime” entity. Their progressive increase in violent activities and careless disregard for the law (threats and attacks against law enforcement officials is common), has made them the most feared gang in the United States.

## **Tagger and Gang Graffiti**

Graffiti can be petty annoyances by juvenile vandals, attempts at artistic expression, or signs that street gangs have moved into the neighborhood. Individual gangs often have more than one acronym or graffiti tag that identifies them, and frequently use variations in the spelling of their names.

- **Tagger graffiti**, also known as street art, are personal expressions of the taggers, and they are an end in themselves, not a threat of something else.
- **Gang graffiti** is intended to represent the presence of a gang. They convey a threat of gang violence in the neighborhood. In New York City, subway graffiti artists came to be known as “taggers” because they signed their work with their chosen nicknames or “tags.” To the tagger, the important thing was “getting up,” that is, putting their tag on as many surfaces as possible. Taggers often form into groups called “crews” and adopt “crew tags.”

Gang graffiti can become dialogue between gangs and eventually a record of gang wars, from initial territorial claims, to challenges to individuals and gangs, to records of individual deaths. Graffiti are easy and cheap to put up and entail relatively low risk for the gang graffiti artist, particularly when compared to other gang activity. Even the risk of being caught is not terribly threatening because legal sanctions, if any, are not heavy.

### **21.3. GANGS AND SOCIAL MEDIA**

Gang literature increasingly reflects the importance of social media in gang lifestyle, as gang members adopt new communication practices. For example, urban gangs of problematic youths, living in marginal neighborhoods, have adopted these new practices as part of their everyday experiences.

This online universe can offer gang members a space in which they can construct their digital identity and where street culture emerges. Unlike traditional media, digital platforms offer these gangs or “youth street groups” a place for cultural construction via self-representations and their online practices.

This gang presence – referred to by scholars as “Internet banging” or “cyberbanging” – serves, among other uses, to promote gang affiliation and glorify gang life, to display power and achieve notoriety by threatening or reporting participation in criminal acts, to create a shared information network and even to support criminal activities.<sup>34</sup>

We can only expect to see gang presence on social media increase.

#### **For More Information**

See the Office of Juvenile Justice and Delinquency Prevention funded [National Gang Center Database](#).

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<sup>34</sup> Gangs and social media: A systematic literature review and an identification of future challenges, risks and recommendations (2021) <https://journals.sagepub.com/doi/full/10.1177/1461444821994490>

**Questions for Review:**

What is a gang?

How does Michigan law address gang activity? Hate crimes?

What are some reasons youth become involved in gang activity?

Has gang activity in schools increased, decreased, or stayed the same over the past two decades?

What are some well-known gangs?

How is graffiti related to gang activity?

What is internet banging or cyberbanging?

Where can you get more information?

## Chapter 22: Mental Health Issues

This chapter discusses:

- 22.1. Introduction
  - 22.2. Depressive and Mood Disorders
  - 22.3. Bipolar Disorders
  - 22.4. Attention-Deficit and Disruptive Behavior Disorders
  - 22.5. Impulse-Control and Related Disorders
  - 22.6. Anxiety Disorders and Trauma- and Stressor-Related Disorders
  - 22.7. Learning and Neurodevelopmental Disorders
  - 22.8. Behavioral and Other Disorders
  - 22.9. Interventions
  - 22.10. Other Resources
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### 22.1. INTRODUCTION

This chapter is intended to familiarize you with some common mental health issues. ***It is not meant to be all-inclusive.***

#### **Adverse Childhood Experiences (ACEs) and Delinquency**

Adverse Childhood Experiences (ACEs) may lead to increased stress and delinquent activities.

#### **What are ACEs?**

The term “ACEs” originated in a study conducted in 1995. In that study, “ACEs” referred to three specific kinds of adversity children faced in the home environment—various forms of physical and emotional abuse, neglect, and household dysfunction.

The key findings are:

- ACEs are quite common. More than two-thirds of the general population report experiencing one ACE, and nearly a quarter have experienced three or more.
- There is a correlation between the more ACEs experienced and the greater the chance of poor outcomes later in life, including involvement in the justice system, dramatically increased risk of heart disease, diabetes, obesity, depression, substance abuse, smoking, poor academic achievement, time out of work, and early death.

#### **How do ACEs relate to toxic stress?**

ACEs research shows the correlation between early adversity and poor outcomes later in life. Toxic stress explains how ACEs “get under the skin” and trigger biological reactions that lead to those outcomes.

In the early 2000s, the National Scientific Council on the Developing Child coined the term “toxic stress” to describe extensive, scientific knowledge about the effects of stress on a child’s developing brain, as well as the immune system, metabolic

regulatory systems, and cardiovascular system. Experiencing ACEs triggers all of these interacting stress response systems.

When a child experiences multiple ACEs over time—especially without supportive relationships with adults to provide buffering protection—the experiences will trigger an excessive and long-lasting stress response, which can have a wear-and-tear effect on the body, like revving a car engine for days or weeks at a time.

### **What is trauma, and how does it connect to ACEs and toxic stress?**

While trauma has many definitions, typically in psychology it refers to an experience of serious adversity or terror—or the emotional or psychological *response* to that experience. When children endure ACEs, they often experience trauma. The trauma from ACEs can alter the development of a child's brain and body, particularly if the experiences are prolonged, repeated, or severe.

**Trauma-informed care** or services are characterized by an understanding that problematic behaviors may need to be treated as a result of the ACEs or other traumatic experiences someone has had, as opposed to addressing them as simply willful and/or punishable actions. Such care or services recognize that trauma can profoundly affect a person's mental, emotional, and physical well-being, and seek to create a safe, supportive environment that fosters healing and builds resilience.

### **What can we do to help mitigate the effects of ACEs?**

People who have experienced significant adversity (or many ACEs) are not irreparably damaged. Probation officers/caseworkers are not expected to provide ACEs-specific intervention but can consider ACEs in developing case plans and providing appropriate referrals.

There are many potential responses to ACEs and their possible chain of developmental harm that can help a person recover from trauma caused by toxic stress, ranging from in-patient treatment to regular sessions with a mental health professional, trauma-informed care or practice, to meditation and breathing exercises, to physical exercise and social supports.

At the most intensive end of the spectrum are therapeutic interventions. ACEs-based screening and referral is an increasingly common approach, in which individuals are given an ACE score based on a brief survey of their own personal history of ACEs (see the link below). A high ACE score can serve as a rough first screening to identify youth who may benefit from services.

The ideal approach to ACEs is one that *prevents* the need for all levels of services by reducing the sources of stress in people's lives, whether basic needs like food and housing, or more entrenched sources of stress, like substance abuse, mental illness, violent relationships, community crime, discrimination, or poverty.

Supporting responsive relationships with a parent or caregiver can also help to buffer a child from the effects of stress, and helping youth build their core life



skills—such as planning, focus, and self-control—can strengthen the building blocks of resilience.

These three principles—reducing stress, building responsive relationships, and strengthening life skills—are the best way to prevent the long-term effects of ACEs.

[Take the ACES Quiz - American SPCC](#)

## **Mental Health**

Mental Health refers to our emotional state of well-being. It refers to healthy functioning and happiness. It may otherwise be known as mental wellness.

## **Mental Illness**

Mental Illness refers to a diagnosed<sup>35</sup> clinical condition that leads to a psychological or behavioral pattern that causes distress and is not normal functioning. Symptoms range from mild to severe. To be classified as a mental illness, symptoms must cause a significant distress to one's life and reduce one's ability to function as they would like.

Estimates indicate that approximately 50-75% of the two million youth entering the juvenile justice system meet criteria for a mental health disorder. This emphasizes the need for different levels of mental health care and varying treatment options. Some youth experience their disorder temporarily and only need emergency services. Others, approximately 10%, represent a group of youth with chronic mental health needs who will likely need clinical care well into adulthood. Some youth function well despite their symptoms, while others present limited functionality.<sup>36</sup>

There are many mental health disorders that begin in childhood but cannot be diagnosed until adulthood. For purposes of this chapter, we focus on youth-related diagnoses. Additional links to websites have been added at the end of this chapter as resources.

## **Mental Health Disorders**

Mental health disorders can typically be classified into one of the following categories:

- Mood disorders;
- Attention-deficit and disruptive behavior, personality disorders;
- Impulse-control disorders;
- Reactive attachment disorder;
- Anxiety disorders;
- Adjustment disorders;
- Learning disorders;
- Substance abuse disorders;
- Self-mutilation.

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<sup>35</sup> The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) is the principal authority for psychiatric diagnoses and treatment recommendations.

<sup>36</sup> Scott, Dennis, et al *Juvenile Justice Systems of Care*, *Health and Justice Journal*, December 7, 2019 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6717998/>

## 22.2. DEPRESSIVE AND MOOD DISORDERS

### Depressive Disorders

#### Major Depressive Disorder

Typically characterized by one or more episodes lasting a period of at least two weeks and a depressed mood or the loss of interest or pleasure in nearly all activities. In children, the mood may be irritable rather than sad.

#### Major Depressive Episode Diagnosis Criteria

Five or more symptoms present from following list:

- Depressed mood most of the day, nearly every day;
- Diminished interest in most activities, nearly every day;
- Significant weight loss or gain or change in appetite;
- Insomnia or hypersomnia, nearly every day;
- Fatigue or loss of energy, nearly every day;
- Feelings of worthlessness or excessive guilt, nearly every day;
- Diminished ability to think or concentrate, nearly every day;
- Recurrent thoughts of death;
- Psychomotor agitation or retardation, nearly every day.

In 2019 (the most recent year of available data), 3.8 million youth ages 12–17 reported experiencing a major depressive episode.<sup>37</sup>

Approximately 10-15% of adolescents with recurrent major depressive episodes will go on to develop Bipolar I Disorder.

#### Minor Depressive Disorder

Similar to a major depressive disorder in duration, but involves fewer symptoms, and less impairment. Again, progressively worsening episodes must exist.

#### Persistent Depressive Disorder (Dysthymia)

Characterized by at least two years of a pervasively depressed mood accompanied by additional depressive symptoms that do not meet criteria for a major depressive episode.

#### Disruptive Mood Dysregulation Disorder (DMDD)

Diagnosed in children and adolescents, this disorder is characterized by chronic irritability and frequent temper outbursts, which are out of proportion to the situation.

## 22.3. BIPOLAR DISORDERS

### Bipolar I Disorder

Characterized by the occurrence of one or more manic episodes or mixed episodes and often one or more major depressive episodes. Completed suicide occurs in 10-15% of these individuals. Abusive, violent behavior may occur during manic episodes or during

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<sup>37</sup> <https://ojjdp.ojp.gov/publications/2022-national-report.pdf>

those with psychotic features. Other associated problems may include truancy, academic failure, occupational failure, episodic antisocial behavior, or relational difficulties.

### **Bipolar II Disorder**

Characterized by one or more major depressive episodes, accompanied by at least one hypomanic (a mild form of mania, marked by elation and hyperactivity) episode. The mood disturbance is severe, causing impairment in job, social, and relationship activities.

Three or more of the following symptoms during the mood period:

- Inflated self-esteem;
- Decreased need for sleep;
- More talkative than usual;
- Thoughts are racing;
- Distractibility;
- Increase in goal directed activity;
- Excessive involvement in activities with potentially painful consequences.

### **Manic Episode**

A distinct period of abnormally and persistently elevated, expansive, or irritable mood lasting at least one week.

### **Hypomanic (low intensity) Episode**

Same list of characteristic symptoms of manic episode, but disturbance is not sufficiently severe to cause marked impairment in functioning.

## **22.4. ATTENTION-DEFICIT AND DISRUPTIVE BEHAVIOR DISORDERS**

### **Attention-Deficit/Hyperactivity Disorder (ADHD)**

- Characterized by prominent and persistent patterns of inattention, hyperactivity, and impulsivity;
- Impairment in at least two areas of functioning must occur;
- Often do not follow through on requests - work is messy, and incomplete. There must be clear evidence of interference with developmentally appropriate social, academic, or occupational functioning.

### **Conduct Disorder**

A repetitive and persistent pattern of behavior in which major age-appropriate societal norms or rules are violated. Behaviors fall into four main groups:

- Aggressive conduct that threatens or causes physical harm to people or animals;
- Nonaggressive conduct that causes property loss or damage;
- Serious violations of rules;
- Being deceitful or thievery.

At least three behaviors listed above must have been present over the past 12 months. Behaviors are often present in the home, school, and/or the community. Minimization of behaviors is prevalent. Children often initiate aggressive behaviors.

## **Oppositional Defiant Disorder**

A recurrent pattern of negative, defiant, disobedient, and hostile behavior toward authority figures that persists for more than six months.

Typically includes frequent occurrence of at least four of the following behaviors:

- Losing temper;
- Arguing with adults;
- Actively defying or refusing to comply with requests or rules;
- Deliberately doing things that annoy others, easily annoyed by others, blames others for own mistakes or misbehavior, angry and resentful, and vindictive compared to peers.

May also include deliberate testing of limits, persistent stubbornness, resistance to directions, and failing to accept blame. Most often manifested in the home and may not be evident at school or within the community.

## **22.5. IMPULSE-CONTROL AND RELATED DISORDERS**

### **Intermittent Explosive Disorder (IED)**

Characterized by the occurrence of aggressiveness that result in serious, assaultive acts, or destruction of property. Aggressive behavior is grossly out of proportion to any provocation or stressor.

### **Reactive Attachment Disorder**

Markedly disturbed and developmentally inappropriate social relatedness in most contexts that begins before the age of five. Associated with grossly pathological parental care that does not take into account the child's needs for comfort, stimulation, and affection. There are two types of reactive attachment disorders: inhibited and disinhibited.

- **Inhibited:** Child persistently fails to initiate and respond to most social interactions in a developmentally appropriate way; shows a pattern of excessively inhibited, hypervigilant, or highly ambivalent responses.
- **Disinhibited:** A pattern of diffuse attachments; exhibits indiscriminate sociability or lack of selectivity in the choice of attachment figures.

### **Kleptomania**

An impulse-control disorder where individuals feel an irresistible urge to steal objects, typically items they do not need or that have little monetary value. The stealing is done to relieve tension or stress, not for personal gain.

### **Pyromania**

Characterized by an obsession with setting fires and deriving pleasure or relief from the act. Individuals with pyromania deliberately and repeatedly set fires, and they experience tension or arousal before doing so.

## **22.6. ANXIETY DISORDERS AND TRAUMA- AND STRESSOR-RELATED DISORDERS**

### **Social Anxiety Disorder/Social Phobia**

Characterized by significant anxiety, provoked by exposure to types of social and performance situations. This fear can be so overwhelming that it interferes with daily activities, such as work, school, or relationships.

### **Generalized Anxiety Disorder (GAD)**

Characterized by excessive, uncontrollable worry about various aspects of daily life, often accompanied by physical symptoms such as restlessness, fatigue, and difficulty concentrating.

### **Agoraphobia**

Fear and avoidance of situations where escape may be difficult or help unavailable during a panic attack, often leading to avoidance of public places, open spaces, or crowds.

### **Post-Traumatic Stress Disorder (PTSD)**

Development of characteristic symptoms following exposure to an extreme traumatic stressor, involving direct personal experience of an event that involves actual or threatened death, serious injury, threat to one's physical integrity, or witnessing of such.

Characteristic symptoms include re-experiencing an extremely traumatic event accompanied by symptoms of increased arousal and by avoidance of stimuli associated with the trauma.

### **Panic Attacks**

Periods of intense fear or discomfort with four or more symptoms developing abruptly and peaking within 10 minutes:

- Palpitations, pounding heart;
- Sweating;
- Trembling or shaking;
- Sensations of shortness of breath or smothering;
- Feeling of choking;
- Chest pain or discomfort;
- Nausea or abdominal distress;
- Feeling dizzy, unsteady, lightheaded, faint;
- Feelings of unreality or being detached from oneself;
- Fear of losing control or going crazy;
- Fear of dying;
- Numbness or tingling sensations;
- Chills or hot flashes.

### **Acute Stress Disorder**

Similar to PTSD, but symptoms occur immediately after a traumatic event and last for less than a month. It includes anxiety, dissociation, and flashbacks.

### **Adjustment Disorder/Stress Response Syndrome**

Adjustment disorder (now known as Stress Response Syndrome) is a short-term

condition that occurs when a person has great difficulty coping with, or adjusting to, a particular source of stress, such as a major life change, loss, or event.

## **22.7. LEARNING AND NEURODEVELOPMENTAL DISORDERS**

### **Learning Disability**

A disorder in the basic psychological processes involved in understanding or using language, whether spoken or written. This disorder may manifest in difficulties with listening, thinking, speaking, reading, writing, spelling, or performing mathematical calculations.

The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

### **Emotionally Impaired/Emotional Disturbance**

The Individuals with Disabilities Education Act (IDEA) uses the term “emotional disturbance” and defines it as “a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child’s educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- Inappropriate types of behavior or feelings under normal circumstances;
- A general pervasive mood of unhappiness or depression;
- A tendency to develop physical symptoms or fears associated with personal or school problems.”

### **Autism Spectrum Disorder (ASD)**

Autism spectrum disorder is characterized by difficulties in social interaction, verbal and nonverbal communication, and repetitive behaviors. ASD appears to have its roots in very early brain development. However, the most obvious signs of ASD tend to emerge between two and three years of age. Some persons with ASD excel in visual skills, music, math, and art.

ASD can be associated with:

- Intellectual disability;
- Difficulties in motor coordination;
- Attention and physical health issues, such as sleep, and gastrointestinal disturbances.

ASD statistics from the U.S. Centers for Disease Control and Prevention (CDC) identify approximately one in 54 children as on the spectrum.<sup>38</sup>

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<sup>38</sup> Center for Disease Control, *Surveillance Summaries* / March 27, 2020 / 69(4);1–12. Updated April 20, 2020. [https://www.cdc.gov/mmwr/volumes/69/ss/ss6904a1.htm?s\\_cid=ss6904a1\\_w](https://www.cdc.gov/mmwr/volumes/69/ss/ss6904a1.htm?s_cid=ss6904a1_w)

## **Asperger Syndrome**

Asperger Syndrome is an ASD considered to be on the “high functioning” end of the spectrum. Affected children and adults have difficulty with social interactions and exhibit a restricted range of interests and/or repetitive behaviors. Motor development may be delayed, leading to clumsiness, or uncoordinated motor movements.

Compared with those affected by other forms of ASD, however, those with Asperger Syndrome do not have significant delays or difficulties in language or cognitive development. Some even demonstrate precocious vocabulary – often in a highly specialized field of interest.

The following behaviors are often associated with Asperger Syndrome. However, they are seldom all present in any one individual and vary widely in degree:

- Limited or inappropriate social interactions;
- “Robotic” or repetitive speech;
- Challenges with nonverbal communication (e.g., gestures, facial expressions) coupled with average to above average verbal skills;
- Tendency to discuss “self” rather than “others”;
- Inability to understand social/emotional issues or nonliteral cues;
- Lack of eye contact or reciprocal conversation;
- Obsession with specific, often unusual, topics;
- One-sided conversations;
- Awkward movements and/or mannerisms.

Asperger Syndrome often remains undiagnosed until a child or adult begins to have serious difficulties in school, the workplace, or involvement in the justice system. Many adults with Asperger Syndrome receive their diagnosis when seeking help for related issues such as anxiety or depression.

## **Intellectual Disability**

Characterized by significantly below average intellectual functioning with an onset before 18 years of age, and accompanied by significant limitations in at least two of the following areas:

- Communication;
- Self-care;
- Home living;
- Social/interpersonal skills;
- Use of the community resources;
- Self-direction;
- Functional academic skills;
- Work, leisure, health, and safety.

## **22.8. BEHAVIORAL AND OTHER DISORDERS**

### **Fetal Alcohol Spectrum Disorder (FASD)**

A condition in a child that results from alcohol exposure during the mother's pregnancy. FASD causes brain damage and growth problems. The problems vary from child to

child, but defects caused by the disorder are irreversible. Youth may or may not be diagnosed as having FASD.

Physical defects may include:

- Distinctive facial features, including wide-set eyes, an exceptionally thin upper lip, a short, upturned nose, and a smooth skin surface between the nose and upper lip;
- Slow physical growth before and after birth;
- Vision difficulties or hearing problems.

Some characteristics that contribute to FASD youth becoming involved in delinquent behavior include cognitive and social functioning.

**Cognitive functioning:**

- Intellectual disability, learning disorders, and delayed development;
- Poor memory;
- Trouble with attention and with processing information;
- Difficulty with reasoning and problem solving;
- Difficulty identifying consequences of choices;
- Poor judgment skills;
- Jitteriness or hyperactivity;
- Rapidly changing moods.

**Social functioning:**

- Difficulty in school;
- Trouble getting along with others;
- Poor social skills;
- Trouble adapting to change or switching from one task to another;
- Problems with behavior and impulse-control;
- Poor concept of time;
- Problems staying on task;
- Difficulty planning or working toward a goal.

**Substance Use Disorders (SUDs)**

SUDs are patterns of symptoms resulting from the use of a substance that an individual continues to take, despite experiencing problems as a result.

SUDs span a wide variety of problems arising from substance use, and cover 11 different criteria:

- Taking the substance in larger amounts or for longer than intended;
- Wanting to cut down or stop using the substance but not managing to;
- Spending a lot of time getting, using, or recovering from use of the substance;
- Cravings and urges to use the substance;
- Not managing to do home or schoolwork because of substance use;
- Continuing to use, even when it causes problems in relationships;
- Giving up important social, occupational, or recreational activities because of substance use;



- Using substances again and again, even when it puts them in danger;
- Continuing to use, even when one knows they have a physical or psychological problem that could have been caused or made worse by the substance;
- Needing more of the substance to get the effect they want (tolerance);
- Development of withdrawal symptoms, which can be relieved by taking more of the substance.

### **Co-Occurring Disorder**

Co-occurring disorder refers to the condition in which an individual has a coexisting mental illness and substance use disorder. Common examples include the combination of depression with cocaine addiction, alcohol addiction with panic disorder, marijuana addiction, and adjustment disorder.

### **Self-Mutilation:**

- Characterized by injury to skin or body tissues that is a form of self-soothing;
- May be in the form of tearing, bruising, cutting, or burning of the skin;
- Provides relief and gratification from increasingly intense stress and/or anxiety;
- Is NOT suicidal behavior;
- MAY result in ACCIDENTAL suicide as a result of methods used to self-injure while seeking relief;
- May involve the use of tools or instruments (e.g., cigarette, erasers, iron, for burning; swallowing sharp objects such as razor blades; excessive body piercing and tattooing; needles; swallowing toxic chemicals that burn).

### **Trichotillomania:**

- Essential feature includes recurrent pulling out of one's own hair, which results in visible hair loss;
- An increased sense of tension immediately before pulling out the hair or when attempting to resist the behavior may exist;
- May experience a sense of stress relief, pleasure, or gratification from behavior.

## **22.9. INTERVENTIONS**

Working with youth who have mental health issues can be challenging. Although you are not a therapist, these strategies may assist you when working with youth:

- Be patient;
- See them as a person first, not a diagnosis;
- Put yourself in their shoes;
- Get informed about the youth, family, and environs in which they live;
- Treat them with respect and affirmation;
- Be consistent, nurturing, yet firm;
- Be gender-responsive;
- Get trained so you can respond appropriately;
- Be concrete, repeat instructions and important statements;
- Develop and use behavioral contracts;
- Ask them to repeat and summarize what you have told them;
- If giving written material, have them read some aloud;

- Use games, art, or outside activities to help them talk more easily;
- Clarify jargon, abbreviations, or other words they may not understand;
- Make appropriate referrals.

### **Evidence-Based Practice (EBP)**

EBP is the objective, balanced, and responsible use of current research and the best available data to guide decisions, so that outcomes are improved. EBP focuses on approaches demonstrated to be effective through empirical research rather than through anecdote or professional experience alone.

### **Types of Interventions**

#### **Relational**

Builds trust based on consistency in developing the relationship.

#### **Behavioral**

Focuses solely on behaviors rather than emotional, mental health imperatives, e.g., monitoring substance abuse behaviors by drug testing.

#### **Cognitive-Behavioral**

Focuses on thought processes and thinking errors.

#### **Mentoring**

Appropriate, trained, adult mentors form relationships with youth to provide guidance and serve as a role model. Some research indicates consistent mentoring programs, especially with females, may impact the neurotransmitters in the brain and repair attachment disorders.

#### **Support Groups**

Groups of youth who are facilitated and structured to provide peer support on general or specific topic issues causing difficulty in youth's life.

#### **Psycho-Educational Groups**

Supportive, educational, and facilitated/structured groups that address specific needs of youth, e.g., retail fraud/decision-making group.

#### **Female-Responsive Services Principles**

The National Institute of Corrections (NIC) has researched the needs for girls within the justice system and has identified essential areas, which need to be addressed in order to adequately treat girls.

#### **Female-Responsive Programming<sup>39</sup>**

The following is a synopsis of NIC's value statement regarding female-responsive services :

- Inclusive of race, ethnicity, class, sexual orientation, and individual life experience simultaneously;

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<sup>39</sup> US Department of Justice, National Institute of Corrections <https://nicic.gov/tags/gender-responsive>

- Relational and seek to support the development of healthy relationships;
- Restorative in that girls need to not only make amends to those they have harmed, but also need to address the root cause of their behavior, which may be grounded in their own victimization;
- Designed to restore relationships;
- Paying attention to societal influences through teaching them critical thought;
- Multileveled reflecting their place in the community, nationally, and on a global basis;
- Holistic and sustainable over time.

### **Female-Specific Groups**

Supportive, educational, time-limited, process/activity-based, and facilitated/structured groups that address one or all of the six developmental domains (intellectual, emotional, relational/familial, spiritual, sexual, and physical) utilizing female-specific principles as identified by the NIC.

### **Additional Interventions**

#### **Information and Referral**

Specific needs-driven information and referral services within the community to assist in addressing an identified need.

#### **Contracts**

May be behavioral, e.g., “no self-harming for self-mutilators.” Contracts are used to obtain compliance in preventing further inappropriate or life-threatening behaviors.

## **22.10. OTHER RESOURCES**

### **Education/Schools**

Local schools have a wealth of resources that assist students with mental health issues.

#### **Local Intermediate School Districts (ISDs)**

Play a vital role in addressing mental health issues within the student population through offering special education programming and staff. ISDs offer specialized schooling for handicapped or developmentally challenged children in addition to a variety of special education trainings. Social workers, interventionists, and special education staff are available in most ISD locations.

#### **Individualized Education Programs (IEPs)**

The federal Individuals with Disabilities Education Act (IDEA) entitles students with disabilities eligible for special education programs and services in Michigan a Free Appropriate Public Education (FAPE). In Michigan, special education programs and services are available for eligible students from birth through age 25. Eligibility is determined through a comprehensive evaluation process and is specific to one of 13 categories determined by the Michigan Administrative Rules for Special Education (MARSE). After eligibility is determined, and with the consent of the student’s parent/guardian, state and federal laws require that a written IEP be developed, and reviewed at least annually, to meet a student’s unique special education needs.

Providing case management services to a youth with a disability presents an additional challenge. If the youth has an IEP through their school, it is important to know the content of the IEP. Information contained in the IEP may assist them to achieve the case plan objectives.

The IEP is the written documentation of an eligible student's individualized education program. Important parts of the IEP include:

- A statement of the student's Present Level of Academic Achievement and Functional Performance (PLAAFP). The PLAAFP provides data about what the student can do at this time;
- How the student's disability affects the student's involvement and progress in the general curriculum;
- Eligibility: The student's eligibility, as determined by a comprehensive evaluation, will help focus programming specific to the student's identified disability/disabilities;
- A list of the annual goals and short-term objectives;
- All special education related services and supplementary aids and programs and services are listed;
- Specific timelines for the delivery of programs and services;
- A statement about the Least Restrictive Environment (LRE) – written rationale for placement outside general education must be included;
- A statement of the needed transition services for students beginning no later than age 16 (or younger if determined appropriate by the student's IEP team) and annually thereafter.

The development and implementation of an IEP is a team effort that involves both special education and general education school personnel, the student's parents and IEP Team, and the student. The focus is on the individual student's disability-related needs and the interventions and supports necessary to address those unique needs within the entire school environment.

### **Juvenile Mental Health Courts**

As previously mentioned, a family division of circuit court may adopt or institute a juvenile mental health court. MCL 600.1091. A mental health court is a court-supervised treatment program for individuals who are diagnosed by a mental health professional with having a serious mental illness, serious emotional disturbance, co-occurring disorder, or developmental disability. MCL 600.1090(e).

Even if your court does not have a mental health court, you may have access to treatment providers. Consult with your supervisor and/or court administrator regarding treatment programs you may be able to access in your area.

### **Agencies**

Several nonprofit agencies offer mental health services within local communities. It is important to become familiar with resources in your area.

## **Web Resources**

[Civic Research Institute, Inc.](#)

[American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders \(DSM-V\).](#)

[Autism Speaks.](#)

[National Institute of Mental Health.](#)

[Substance Abuse and Mental Health Services Administration.](#)

## **Questions for Review:**

What are ACEs?

What are the types of disorders you are likely to encounter in children who come within the jurisdiction of the court?

What are the characteristics of these various disorders?

How can you identify whether a youth may have such a disorder?

What is a substance use disorder?

What is a co-occurring disorder?

What are other types of disorders?

What are some strategies you may use to help youth with mental health issues?

What is Evidence-Based Practice (EBP)?

What are characteristics of female-specific programming?

Where can you find resources on mental health?