

Juvenile Arraignment in District Court Checklist¹

- Note:** When the prosecuting attorney authorizes the filing of a complaint and warrant charging a juvenile with a specified juvenile violation² instead of approving the filing of a petition in the family division of the circuit court, the juvenile in custody must be taken to the magistrate for arraignment on the charge. [MCR 6.907\(A\)](#).
- Ensure that a verbatim record is made of the arraignment. [MCR 6.104\(F\)](#).
- Verify that the prosecuting attorney made a good-faith effort to notify the juvenile's parent(s) of the arraignment. [MCR 6.907\(A\)](#).
- Release the juvenile if arraignment has not commenced:
 - within 24 hours of the arrest of the juvenile; or
 - within 24 hours after the prosecuting attorney authorized the complaint and warrant during special adjournment under [MCR 3.935\(A\)\(3\)](#), provided the juvenile is being detained in a juvenile facility.³ [MCR 6.907\(A\)\(1\)-\(2\)](#).
- Determine whether a parent, guardian, or an adult relative of the juvenile is present. Arraignment may be conducted without the presence of a parent, guardian, or adult relative provided the local funding unit's appointment authority appoints an attorney to appear at arraignment with the juvenile or

¹ For more detailed information on this topic, see the Michigan Judicial Institute's *Criminal Proceedings Benchbook, Vol. 1*.

² See [MCR 6.903\(H\)](#) for the definition of *specified juvenile violation*.

³ See [MCR 6.907\(B\)](#) for information on temporary detention pending arraignment.

provided an attorney has been retained and appears with the juvenile. [MCR 6.907\(C\)\(1\)](#).

- If the juvenile is not represented by an attorney, advise him/her of the right to the assistance of an attorney. [MCR 6.905\(A\)](#).
- If the juvenile has previously waived the right to an attorney, reaffirm that the juvenile continues to not want an attorney. [MCR 6.905\(A\)](#).
- Unless the juvenile has a retained attorney, or has waived the right to an attorney, refer the matter to the local indigent criminal defense system's appointing authority to appoint an attorney to represent the juvenile. [MCR 6.905\(B\)](#).
- If the juvenile seeks self-representation, determine whether to permit waiver of attorney representation. Waiver of attorney representation is permissible if:
 - An attorney is appointed to give the juvenile advice on the waiver of counsel;
 - The magistrate or the court finds that the juvenile is literate and is competent to conduct a defense;
 - The magistrate or the court advises the juvenile of the dangers and of the disadvantages of self-representation;
 - The magistrate or the court finds on the record that the waiver is voluntarily and understandingly made; and
 - The court appoints standby counsel to assist the juvenile at trial and at the juvenile sentencing hearing. [MCR 6.905\(C\)](#).
- Advise the juvenile of the nature of each charged offense, the maximum penalty and any mandatory minimum sentence for each offense. Advise the juvenile whether imposition of an adult sentence is required if the juvenile is convicted of the offense. [MCR 6.104\(E\)](#).
- Inform the juvenile of their right to a probable cause conference and a preliminary examination. [MCL 766.4](#).
- Except as provided for traditional waiver cases under [MCL 712A.4](#),⁴ and unless the parties agree to waive the probable cause conference,⁵ set a date for the probable cause conference to be held not less than 7 days or more than 14 days after the date of the arraignment. [MCL 766.4\(1\)](#).

⁴ See [MCL 766.4\(1\)](#).

- Consolidation for Codefendants:** In cases in which the complaint lists codefendants, a *joint* probable cause conference generally must be conducted for those defendants who have been arrested and arraigned at least 72 hours before the conference.⁶ [MCL 766.4\(5\)](#); [MCR 6.108\(E\)](#).
- Except as provided for traditional waiver cases under [MCL 712A.4](#),⁷ and unless the juvenile waives a preliminary examination with the consent of the prosecutor, schedule the preliminary examination for a date not less than five days or more than seven days after the date of the probable cause conference. [MCL 766.4\(1\)](#).⁸
- Consolidation for Codefendants:** In cases in which the complaint lists codefendants, a *joint* preliminary examination generally must be conducted for those defendants who have been arrested and arraigned at least 72 hours before the conference.⁹ [MCL 766.4\(5\)](#); [MCR 6.110\(A\)](#).
- Immediate Commencement of Exam to Preserve Victim's Testimony:** If requested by the prosecutor, the preliminary examination must commence immediately for the sole purpose of taking and preserving the testimony of a victim if the victim is present. [MCL 766.4\(4\)](#); [MCR 6.110\(B\)\(2\)](#).
- Inform the juvenile and the parent, guardian, or adult relative of the juvenile, if present, of the preliminary examination date. If a parent, guardian, or an adult relative is not present at the arraignment, direct the attorney for the juvenile to advise a parent or guardian of the juvenile of the scheduled preliminary examination. [MCR 6.907\(C\)\(2\)](#).

⁵“The probable cause conference may be waived by agreement between the prosecuting attorney and the attorney for the defendant. The parties shall notify the court of the waiver agreement and whether the parties will be conducting a preliminary examination, waiving the examination, or entering a plea.” [MCL 766.4\(2\)](#).

⁶ Consolidation is not required if “the prosecuting attorney consents to a severance, a defendant seeks severance by motion and the [judge] finds severance to be required by law, or 1 of the defendants is unavailable and does not appear at the hearing.” [MCL 766.4\(5\)](#).

⁷ See [MCL 766.4\(1\)](#).

⁸[MCR 6.907\(C\)\(2\)](#) provides that “[t]he magistrate shall set a date for the juvenile’s preliminary examination within the next 14 days, less time given and used by the prosecuting attorney under special adjournment pursuant to [MCR 3.935\(A\)\(3\)](#), up to three days’ credit.” However, [MCR 6.907](#) has not been amended to reflect the amendments to [MCL 766.4](#) that were effectuated by 2014 PA 123, effective May 20, 2014, and applicable to cases in which the defendant is arraigned in district court on or after January 1, 2015.

⁹ Consolidation is not required if “the prosecuting attorney consents to a severance, a defendant seeks severance by motion and the [judge] finds severance to be required by law, or 1 of the defendants is unavailable and does not appear at the hearing.” [MCL 766.4\(5\)](#).

- The juvenile may waive a preliminary examination if the accused is represented by an attorney and the waiver is made and signed by the juvenile in open court. Determine and place on the record that the waiver was freely, understandingly, and voluntarily given. [MCR 6.911\(A\)](#).
- If a plea agreement is reached between the parties, proceed to take the plea.¹⁰ [NOTE: A district court magistrate may not accept a felony plea.¹¹]
 - Verify that a circuit court judge has been assigned to the case for purposes of sentencing and other post-plea matters.
 - Verify that the parties know the identity of the assigned circuit court judge.
 - Proceed to take the plea. [MCL 766.4\(3\)](#).
- Advise the juvenile of a right to bail as provided for an adult accused. [MCR 6.909\(A\)\(1\)](#).
- Determine whether to order a juvenile released to a parent or guardian on the basis of any lawful condition, including that bail be posted. [MCR 6.909\(A\)\(1\)](#).
- Determine whether to detain the juvenile without bail. If the proof is evident or if the presumption is great that the juvenile committed the offense, bail may be denied:
 - To a juvenile charged with first-degree murder, second-degree murder, or
 - To a juvenile charged with first-degree criminal sexual conduct, or armed robbery,
 - Who is likely to flee, or
 - Who clearly presents a danger to others. [MCR 6.909\(A\)\(2\)](#).
- If the juvenile is denied release, determine where the juvenile will be lodged while awaiting his/her preliminary examination and/or trial. [MCR 6.909\(B\)\(1\)](#).

¹⁰ A district judge has the authority to accept a felony plea and *must* take a plea as provided by court rule if a plea agreement is reached between the parties. [MCL 766.4\(3\)](#). However, “[s]entencing for a felony shall be conducted by a circuit judge, who shall be assigned and whose name shall be available to the litigants, pursuant to court rule, before the plea is taken.” *Id.*

¹¹ See [MCL 766.1](#); [MCL 600.8511](#).

- Unless a juvenile's conduct is a menace to other juveniles or the juvenile cannot safely be housed in a juvenile facility, a juvenile charged with a crime and denied bail must be placed in a juvenile facility. If a juvenile is lodged in a facility for adult offenders, the juvenile must be maintained separately from the adults. [MCR 6.909\(B\)\(2\)](#); [MCR 6.909\(B\)\(4\)](#); [MCL 764.27a](#).
- A juvenile may not be placed in an institution operated by the family division of circuit court unless the family division consents to the placement or the circuit court orders the placement. [MCR 6.909\(B\)\(3\)](#).
- Confirm that the defendant's biometric data has been collected¹² as required by law. [MCL 28.243](#).

¹² See [MCL 28.243](#) for information on the collection of biometric data, which includes fingerprints.

