

Procedures for Handling Juvenile Life-Without-Parole (LWOP) Sentencings and Resentencings: See *Miller v Alabama* and its Progeny,¹ [MCL 769.25](#)/[MCL 769.25a](#),² and *People v Skinner*.³

Resentencings in Pending Cases and Sentencings in New Cases: [MCL 769.25](#)

This table applies to pending cases that were not final for purposes of direct review at the time that *Miller* was decided. See [MCL 769.25\(1\)](#). [MCL 769.25a](#) provides further guidance for applying [MCL 769.25](#) retroactively.

<u>Prosecutor Seeks LWOP</u>	<u>Prosecutor Does Not Seek LWOP</u>
<p>The prosecutor may file a motion seeking imposition of LWOP if defendant was under age 18 at the time of a LWOP offense. MCL 769.25(2). The motion must specify the grounds on which LWOP is sought. MCL 769.25(3). Motion must be filed within 21 days of conviction if the offense qualifies under MCL 769.25(1)(a).</p>	<p>If the prosecutor does not timely file a motion seeking LWOP (see MCL 769.25(3)), or if the court decides against sentencing the defendant to LWOP, the court must impose a term-of-years sentence as provided in MCL 769.25(9) (minimum not less than 25 or more than 40 years and maximum not less than 60 years). MCL 769.25(4).</p>
<p>The defendant must file a response to the prosecution’s motion within 14 days after receiving notice of the motion. MCL 769.25(5).</p>	<p>No action on the part of the defendant is required under MCL 769.25 if the prosecutor does not seek a LWOP sentence.</p>

¹ *Miller v Alabama*, 567 US 460 (2012). Under *Miller*, a juvenile who was under the age of 18 at the time of the commission of an offense cannot be sentenced to *mandatory* life imprisonment without parole. See also *Montgomery v Louisiana*, 577 US 190 (2016) (holding that *Miller* applies retroactively to cases on collateral review).

² [MCL 769.25](#) establishes procedures for sentencing or resentencing a juvenile who was under the age of 18 at the time of the commission of an offense calling for the mandatory imposition of a life-without-parole sentence. [MCL 769.25](#) does not violate the Sixth Amendment because neither the statute nor the Eighth Amendment requires a judge to find any particular fact beyond those found by the jury and indicated by its verdict before imposing life without parole; instead, life without parole is authorized by the jury’s verdict alone and does not require that the court articulate aggravating factors in support of LWOP. *Skinner*, 502 Mich at 97. [MCL 769.25a](#) provides further guidance for applying [MCL 769.25](#) collaterally after *Miller* was given retroactive effect.

³ *People v Skinner*, 502 Mich 89 (2018). Under *Skinner*, the decision to sentence a juvenile to LWOP must be made by a judge; the decision is reviewed for an abuse of discretion. *Id.* at 137.

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<p>The court must conduct a hearing on the motion as part of the sentencing process. MCL 769.25(6). At a hearing held under MCL 769.25(6), the court must indicate the aggravating and mitigating circumstances it considered and its reasons in support of the sentence imposed. MCL 769.25(7). The court may consider evidence presented at trial and at the sentencing hearing. MCL 769.25(7).</p>	<p>MCL 769.25(4) and MCL 769.25a(4)(c) require a court to sentence a defendant to a term of years if the prosecutor did <i>not</i> file a timely motion for LWOP. No additional requirements for sentencing/resentencing in the absence of such a motion are found in MCL 769.25 or MCL 769.25a. MCL 769.25.</p>
<p>Any victim must be afforded the right, under the Crime Victim’s Rights Act, to appear before the court and make an oral impact statement at any sentencing or resentencing. MCL 769.25(8).</p>	<p>Any victim must be afforded the right, under the Crime Victim’s Rights Act, to appear before the court and make an oral impact statement at any sentencing or resentencing. MCL 769.25(8).</p>
<p>“[T]here is a rebuttable presumption against the imposition of juvenile LWOP sentences in Michigan and . . . it is the prosecution’s burden to overcome this presumption by clear and convincing evidence at a <i>Miller</i> hearing.” <i>People v Taylor</i>, 510 Mich 112, 129 (2022).</p> <p>At the hearing, the trial court must consider the factors listed in <i>Miller v Alabama</i>, 567 US 460 (2012), and may consider any other criteria relevant to its decision, including the individual’s record while incarcerated. MCL 769.25(6).</p>	<p>While “trial courts must consider a juvenile defendant’s youth to be a mitigating factor when sentencing them to term-of-years sentences under MCL 769.25[,]” they are not required to “articulate on the record how a defendant’s youth affected the decision.” <i>People v Boykin</i>, 510 Mich 171, 178 (2022).</p> <p>“[T]he court should be guided by a balancing of the [<i>People v Snow</i>, 386 Mich 586, 592 (1972)] objectives [reformation of the offender; protection of society; punishment of the offender; and deterrence of others from committing like offenses] and in that context is required to take into account the attributes of youth, such as those described in <i>Miller</i>.” <i>People v Wines</i>, 323 Mich App 343, 352 (2018), rev’d in part on other grounds 506 Mich 954 (2020).</p>

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<p>Although “MCL 769.25 does not require the trial court to make any particular factual finding before it can impose a life-without-parole sentence,” <i>Skinner</i>, 502 Mich at 119, the court must specify on the record the aggravating and mitigating circumstances it considered and the reasons supporting the sentence imposed. MCL 769.25(7). Evidence presented at trial may be considered together with any evidence presented at the sentencing hearing. MCL 769.25(7).</p> <p>The trial court is not required to explicitly find that a juvenile is or is not “rare” or “uncommon” before it can impose LWOP. <i>Skinner II</i>, 502 Mich at 137.</p>	<p>“Courts sentencing juvenile defendants to a term-of-years sentence under MCL 769.25a are required only to make a record demonstrating that the court considered the defendant’s youth and treated it as a mitigating factor.” <i>People v Copeland</i>, ___ Mich App ___, ___ (2024) (noting that “courts sentencing juvenile defendants to a term of years have discretion to consider the <i>Miller</i> factors when fashioning an appropriate sentence, which in turn ‘enhances an appellate court’s ability to review the proportionality’ of the sentence,” quoting <i>Boykin</i>, 510 Mich at 194 n 9). See also <i>People v Eads</i>, ___ Mich App ___, ___ (2025) (holding that considering the attributes of youth “as <i>aggravating</i> factors in support of a significant departure sentence [is] plainly contrary to <i>Miller</i> and its progeny”).</p>
<p>“[T]he Michigan Constitution requires that 18-year-olds convicted of first-degree murder receive the same individualized sentencing procedure under MCL 769.25 as juveniles who have committed first-degree murder, instead of being subjected to a mandatory life-without-parole sentence like other older adults.” <i>People v Parks</i>, 510 Mich 225, 244 (2022).¹</p> <p>Further, “application of a <i>mandatory</i> sentence of LWOP under MCL 750.316 to [defendants who were 19 or 20 years old at the time of the offense] constitutes unconstitutionally harsh and disproportionate punishment and thus ‘cruel’ punishment in violation of Const 1963, art 1, § 16.” <i>People v Taylor</i>, ___ Mich ___, ___ (2025), rev’g <i>People v Czarnecki (On Remand, On Reconsideration)</i>, ___ Mich App ___ (2023). The decision in <i>Taylor</i> “also applies retroactively to all relevant criminal cases on collateral review.” <i>Taylor</i>, ___ Mich at ___.</p>	<p>“Pursuant to the statutory scheme created by the Legislature, if the prosecutor does not seek LWOP for a juvenile defendant convicted of one of the enumerated offenses in MCL 769.25(2), then the default sentence is a term of years.” <i>People v Taylor</i>, 510 Mich 112, 132 (2022), citing MCL 769.25(4).</p> <p>“A sentence is reasonable if it adheres to the ‘principle of proportionality,’ which requires the sentence to be ‘proportionate to the seriousness of the circumstances surrounding the offense and the offender.’” <i>People v Campbell</i>, ___ Mich App ___, ___ (2025), quoting <i>People v Steanhouse</i>, 500 Mich 453, 474 (2017) (quotation marks and citation omitted).</p>

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<p>If the court rejects LWOP, the court must exercise its discretion and sentence the defendant to a term of imprisonment for which the maximum term cannot be less than 60 years and the minimum term cannot be less than 25 years or more than 40 years. MCL 769.25(9).</p>	<p>The court must exercise its discretion and sentence the defendant to a term of imprisonment for which the maximum term cannot be less than 60 years and the minimum term cannot be less than 25 years or more than 40 years. MCL 769.25(9).</p>
<p>Defendant must be given credit for time already served but must not receive any good time credits, special good time credits, disciplinary credits, or any other credits that reduce the minimum or maximum sentence. MCL 769.25(10).</p>	<p>Defendant must be given credit for time already served but must not receive any good time credits, special good time credits, disciplinary credits, or any other credits that reduce the minimum or maximum sentence. MCL 769.25(10).</p>

1. *People v Poole*, ___ Mich ___, ___ (2025). *Poole* held that *Parks*, 510 Mich 225 (2022), was retroactive “to cases where the period for direct review had expired when *Parks* was decided” and overruled the state retroactivity analysis in *People v Carp*, 496 Mich 440 (2014).