

# Designated Cases: Determining Sentence or Disposition Checklist<sup>1</sup>

- Determine whether the juvenile is represented by an attorney. See [MCR 3.915\(A\)](#). If not, advise the juvenile of the right to the assistance of an attorney at each stage of the proceedings on the formal calendar, and appoint an attorney if appropriate. [MCR 3.915\(A\)\(1\)-\(2\)](#).
  - If the juvenile waives the right to the assistance of an attorney, the waiver must be made in open court; make findings and place on the record that the waiver was voluntarily and understandingly made. [MCR 3.915\(A\)\(3\)](#).
- Determine whether to enter a juvenile disposition under [MCL 712A.18](#), impose an adult sentence, or delay imposition of an adult sentence. See [MCR 3.955\(A\)](#); [MCL 712A.2d\(8\)](#); [MCL 712A.18\(1\)\(o\)](#).
  - Enter an order of disposition unless the prosecutor proves by a preponderance of the evidence that, on the basis of the factors in [MCR 3.955\(A\)](#) (see below), the best interests of the public would be served by sentencing the juvenile as an adult. [MCR 3.955\(B\)](#).
  - Give the juvenile, the juvenile's lawyer, the prosecutor, and the victim an opportunity to advise the court of any circumstances they believe should be considered in deciding whether to enter an order of disposition or to impose or delay imposition of sentence. [MCR 3.955\(A\)](#).
  - Consider the following factors, giving greater weight to the seriousness of the offense and the juvenile's prior record:

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<sup>1</sup>Instruments of restraint . . . may not be used on a juvenile during a court proceeding unless the court finds that the use of restraints is necessary due to one of the" factors set forth in [MCR 3.906\(A\)\(1\)-\(3\)](#). [MCR 3.906\(A\)](#). A determination that restraints are necessary must be made in compliance with [MCR 3.906\(B\)](#), and any use of restraints must comply with [MCR 3.906\(C\)](#).

- the seriousness of the offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim. [MCL 712A.18\(1\)\(o\)\(i\)](#); [MCR 3.955\(A\)\(1\)](#).
- the juvenile's culpability in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines. [MCL 712A.18\(1\)\(o\)\(ii\)](#); [MCR 3.955\(A\)\(2\)](#).
- the juvenile's prior record of delinquency, including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior. [MCL 712A.18\(1\)\(o\)\(iii\)](#); [MCR 3.955\(A\)\(3\)](#).
- the juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming. [MCL 712A.18\(1\)\(o\)\(iv\)](#); [MCR 3.955\(A\)\(4\)](#).
- the adequacy of the punishment or programming available in the juvenile justice system. [MCL 712A.18\(1\)\(o\)\(v\)](#); [MCR 3.955\(A\)\(5\)](#).
- the dispositional options available for the juvenile. [MCL 712A.18\(1\)\(o\)\(vi\)](#); [MCR 3.955\(A\)\(6\)](#).
- If the juvenile is convicted of a violation or conspiracy to commit a violation of [MCL 333.7403\(2\)\(a\)\(i\)](#), impose the alternative sentence permitted under that section if the best interests of the public would be served. [MCL 712A.18\(1\)\(o\)](#).
- Ensure that the sentence or disposition complies with the Crime Victim's Rights Act (CVRA), [MCL 780.751](#) *et seq.*, if applicable. [MCR 3.955\(A\)](#).

### **Entry of Juvenile Disposition**

- If entering a disposition, hold a dispositional hearing and comply with the procedures set out in [MCR 3.943](#). [MCR 3.955\(E\)](#).
- Advise the juvenile of their appellate rights set forth in [MCR 3.937](#). [MCR 3.937\(A\)](#).

- Refer to the Michigan Judicial Institute's *Dispositional Hearing Checklist* for these procedures.

### **Imposition of Adult Sentence**

- Hold the sentencing hearing in accordance with the procedures set out in [MCR 6.425](#). [MCR 3.955\(C\)](#).
- Enter a judgment of sentence. [MCL 712A.18\(1\)\(o\)](#).
  - If a sentence of imprisonment is imposed, ensure that the juvenile receives credit against the sentence for time served before sentencing. [MCL 712A.18\(1\)\(o\)](#).
- For more information on adult sentencing, see the Michigan Judicial Institute's *Criminal Proceedings Benchbook, Volume 2*, Chapter 3.

### **Delayed Imposition of Adult Sentence**

- Hold the sentencing hearing in accordance with the procedures set out in [MCR 6.425](#). [MCR 3.955\(C\)](#).
- If appropriate, delay imposing a sentence of imprisonment under [MCL 712A.18\(1\)\(o\)](#) for a period not longer than the period during which the court has jurisdiction over the juvenile under [MCL 712A.1 et seq.](#), by entering an order of disposition delaying imposition of sentence and placing the juvenile on probation upon appropriate terms and conditions, including any disposition under [MCL 712A.18](#). [MCL 712A.18\(1\)\(o\)](#). See also [MCR 3.955\(D\)](#).
- Schedule annual review hearing. See [MCL 712A.18i\(3\)](#); [MCL 712A.18\(1\)\(o\)](#); [MCR 3.956\(A\)\(1\)](#).

### ***Probation Violation Following Delayed Imposition of Sentence***

- If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found to have violated probation by being convicted of a felony or a misdemeanor punishable by imprisonment for more than one year, or adjudicated as responsible for an offense that if committed by an adult would be a felony or a misdemeanor punishable by imprisonment for more than one year, the court must revoke probation and sentence the juvenile to imprisonment for a term that does not exceed the penalty that could have been imposed for the offense for which the juvenile was originally convicted and placed on probation. [MCL 712A.18i\(9\)](#); [MCR 3.956\(B\)\(1\)](#).

- If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found to have violated probation other than as set out in [MCL 712A.18i\(9\)](#) and [MCR 3.956\(B\)\(1\)](#), the court may impose sentence or may order any of the following for the juvenile:
  - a change of placement. [MCL 712A.18i\(10\)\(a\)](#); [MCR 3.956\(B\)\(2\)\(a\)](#).
  - community service. [MCL 712A.18i\(10\)\(b\)](#); [MCR 3.956\(B\)\(2\)\(b\)](#).
  - substance abuse counseling. [MCL 712A.18i\(10\)\(c\)](#); [MCR 3.956\(B\)\(2\)\(c\)](#).
  - mental health counseling. [MCL 712A.18i\(10\)\(d\)](#); [MCR 3.956\(B\)\(2\)\(d\)](#).
  - participation in a vocational-technical education program. [MCL 712A.18i\(10\)\(e\)](#); [MCR 3.956\(B\)\(2\)\(e\)](#).
  - incarceration in a county jail for not more than 30 days if the present county jail facility would meet all requirements under federal law and regulations for housing juveniles, and if the court has consulted with the sheriff to determine when the sentence will begin to ensure that space will be available for the juvenile. [MCR 3.956\(B\)\(2\)\(f\)](#); see also [MCL 712A.18i\(10\)\(f\)](#).
    - ensure that the juvenile is placed in a room or ward out of sight and sound from adult prisoners. [MCL 712A.18i\(10\)\(f\)](#); [MCR 3.956\(B\)\(2\)\(f\)](#).
  - other participation or performance as the court considers necessary. [MCL 712A.18i\(10\)\(g\)](#); [MCR 3.956\(B\)\(2\)\(g\)](#).
- If a sentence of imprisonment is imposed, ensure that the juvenile receives credit for the time served on probation. [MCL 712A.18i\(11\)](#); [MCR 3.956\(B\)\(4\)](#).

For court forms related to juvenile actions, see the [One Court of Justice website](#).