

OVERVIEW

Every youth receiving Michigan Department of Health and Human Services (MDHHS) services by court order is entitled to a hearing to determine if the youth should remain under the court's jurisdiction. The result of these reviews/hearings can be an order for discharge or for continued supervision which may include an order for change of the placement or case service plan.

The juvenile justice specialist (JJS) is to work closely with families and service and treatment providers in the preparation of reports for court progress reviews, and in the development of aftercare or reentry plans to be presented to the court. It is mandatory for the JJS to attend all court scheduled hearings/reviews.

DEFINITIONS

Release

Termination of a residential placement by order of the committing or referring court.

Discharge

Termination of wardship as ordered by the committing or referring court. Results in closing of the relevant program, for example youth justice, and closing of the youth justice case.

CRIMINAL COURT

Youth 14 years of age or older may be tried in criminal courts as a result of an automatic or traditional waiver, MCL 712A.4(1) which occurs if the youth has been charged with an offense listed in MCL.769.1(1)(a)(I); See [JJM 210, Waiver Proceedings & Pre-Sentence Investigations](#).

YOUTH COMPETENCY HEARING

A competency evaluation can be requested by court motion, the youth, youth's attorney or prosecuting attorney. A recommendation for a competency evaluation can occur at any point **prior** to adjudication. See [JJM 210, Waiver Proceedings & Pre-Sentence Investigations](#), *Youth Competency* for criteria to evaluate prior to a recommendation that the court should order a competency evaluation. See [MDHHS-PUB-1213 Juvenile Competency](#)

[Evaluation/Restoration Process Flow Chart](#), for time frames and purposes of hearings.

PRELIMINARY HEARING

The preliminary hearing is held to determine whether the petition should be dismissed, the matter should be diverted, heard on the consent calendar or to continue the preliminary hearing. Michigan Court Rule, 3.935(B)(3). The court may request the JJS to submit a court report and attend the hearing prior to a referral or commitment order.

PRETRIAL HEARING

The JJS must consult with local court policies for responsibilities related to a pretrial hearing.

A pretrial hearing is held to review:

- Information and evidence that the parties must provide one another before trial, and the information and evidence that the parties may obtain after filing a motion.
- Technical rules for filing written motions in a delinquency case, and when a court is required to conduct an evidentiary hearing.
- Constitutional, statutory, and court rule requirements for the admissibility of identification testimony, youth confessions, and evidence seized by police.
- Youth competency requirements.
- Requirements necessary to raise an alibi or insanity defense.
- Youth's right to jury trial and trial by judge.
- Closing delinquency proceedings, ordering special protections for a witness, and venue issues.

ADJUDICATION HEARING

An adjudication hearing is held to determine whether a youth has committed a criminal law, civil infraction, or status offense. This may include a trial, plea, or dismissal.

**JJS
Responsibilities**

An adjudication hearing may require a court report containing the following:

- Current charges.
- Family history.
- Permanency plan.
- Treatment needs and recommendations.
- Placement recommendations.
- Conditions of Placement Agreement.

**CONSENT
CALENDAR
HEARING**

A consent calendar is an informal docket of cases the court has determined should not proceed on the formal calendar, prior to disposition, but that the protective and supportive action by the court will serve the best interests of the youth and the public. A case cannot be placed on the consent calendar unless the prosecutor, the youth, and the parent, guardian, or legal custodian agree to have the case placed on the consent calendar.

An order of disposition must not be entered while the youth is placed on a consent calendar and terms of completion may not exceed six-calendar months. Probate Code of 1939, 1939 PA 288, MCL 712A.2f(9)(c).

See [JJM 222, Case Management of Consent Calendar and Dual Wards](#) for detailed guidance on consent calendar case management requirements.

**DISPOSITIONAL OR
SENTENCING
HEARING**

The dispositional hearing determines what measures the court will take concerning the youth. MCR 3.943(A). If it is determined the youth has committed an offense, the court may then order a disposition as provided by MCL 712A.18.

The number of days between the plea of admission or trial and disposition is within the court's discretion. Except for good cause, the interval may not be for more than 35-calendar days between

the plea of admission or trial and disposition when the youth is detained. MCR 3.943(B).

When a youth is charged as an adult see [JJM 210, Waiver Proceedings & Pre-Sentence Investigations](#), for responsibilities on pre-sentence investigation report prior to sentencing hearing.

JJS Responsibilities

Pursuant to MCR 3.907(B), the JJS is responsible for providing a written dispositional recommendation to the court that includes the following:

- Michigan Juvenile Justice Assessment System (MJJAS) overall risk score.
- Recommended level of supervision. Examples include secure, non-secure or community placement.
- Condition of Placement Agreement.
- Specific terms and conditions of probation.

The JJS may need to prepare for adjudication and disposition or sentencing to occur on the same day. See JJS responsibilities in *Adjudication Hearing* item for additional reporting requirements.

DISPOSITIONAL REVIEW HEARING

Dispositional review hearings are held to:

- Review the progress of the youth, the youth's parent(s), or guardian/custodian.
- Provide the opportunity to review any reports and hear testimony from the JJS and other persons providing services to the youth or the youth's family.
- Determine the appropriateness of the case services plan by assessing the following areas:
 - Appropriateness of services.
 - Parent/legal guardian/custodian participation in services.
 - Appropriateness of placement.
 - Youth's participation in services.

- Youth's behavior in the current placement.
- Progress of treatment.
- Permanency planning.
- Supplement or amend an order in delinquency cases as long as the youth remains under the jurisdiction of the court. MCR 3.945(A)(1).
- Meet federal guidelines for Title IV-E funding. 42 U.S.C. 675(5)(B).

Out-of-Home Placement

If the youth is placed in out-of-home care the court must hold the **first** dispositional review hearing no later than every 182-calendar days after being removed from their home.

After the first dispositional review hearing, review hearings must be held no later than every 91-calendar days for the first year that the youth is subject to the court's jurisdiction.

After the first year a review hearing shall be held no later than 182-calendar days from the immediately preceding review hearings until the case is dismissed. MCL 712A.19(3).

The court must continue to approve or disapprove of a youth's placement at each dispositional review and permanency planning hearing held for every youth when placed in a Qualified Residential Treatment Program (QRTP). MCL 722.123a(6).

In the case of a youth who is placed in a QRTP for more than 12 consecutive months or 18 nonconsecutive months, or, in the case of a youth who has not attained age 13, for more than 6 consecutive or nonconsecutive months, the department shall obtain the signed approval of the director of the department for the continued placement of the youth in that setting. MCL 722.123a(7).

In-Home Placement

A review hearing shall be held not more than 182-calendar days from the date a petition is filed to give the court jurisdiction over the youth, and at least every 91-calendar days for the first year that the youth is subject to the court's jurisdiction.

After the first year a review hearing shall be held no later than 182-calendar days from the immediately preceding review hearings until the case is dismissed.

Note: A hearing may be held more frequently at the court's discretion. MCL 712A.19(2).

JJS Responsibilities

Submit to the court an Initial Service Plan (ISP), Updated Service Plan (USP), or Supplemental Updated Service Plan (SUSP), as indicated in [JJM 230, Juvenile Justice Service Plans](#). The court may also require a written summary report.

Escalation of Placement

A review hearing is required before a youth is moved to a more physically restrictive type of placement unless the court in its dispositional order has provided for a more physically restrictive type of placement or the youth and a parent consent to the new placement in a writing filed with the court. MCR 3.945(A)(2)(b).

A youth, who has been ordered placed in a youth facility, may be released only with the approval of the court. MCR 3.945(A)(2)(b).

EXTEND COURT JURISDICTION

To extend jurisdiction to age 21 for youth whose commitments were for a Class I or Class II offense, for example, a life offense or a serious felony versus person, a hearing must be held, unless adjourned for good cause, as near as possible, but before, the youth's 19th birthday.

Not less than 14-calendar days before a review hearing is conducted, the youth and parent/guardian/custodian must be given notice of the hearing and informed that the court may extend jurisdiction. MCR 3.945(B)(1). MDHHS must prepare a commitment report for presentation at the hearing. MCR 3.945(B)(3). The USP may serve as the commitment report.

When a youth is tried and sentenced in the same manner as an adult, the court of jurisdiction may place a youth on probation and commit the youth to MDHHS under Youth Rehabilitation Services Act, 1974 PA 150, as amended, MCL 803.301 et seq.

RELEASE HEARING

When a youth is being released from placement the JJS must explain to the court the plan for continued supervision in the community based on a written determination from the residential facility staff that the youth has been rehabilitated and is no threat to the community.

The court must approve releases and may determine the approval process for release from the department/institution for all court wards, MCL 712A.18c(4) and Act 150 public wards, MCL 803.307(1).

A youth, who has been ordered placed in a youth facility, may be released only with the approval of the court. MCR 3.945(A)(2)(b).

The JJS must consult with local court policies for responsibilities related to a pretrial hearing.

**PROBATION
VIOLATION**

Determination of whether to file a violation of probation, may include the following:

- Whether alternatives can be sought based on the nature of the offense. See [JJM 470, Detention Alternatives, Detention & Jail Requirements](#) for further options to determine what is the most appropriate option for the youth.
- Severity of the offense.
- Frequency that the youth has violated their probation previously.

Upon receipt of a supplemental petition alleging a probation violation the court may order the youth to appear for a violation or detention hearing. MCR 3.944(A).

Violation Hearing

Violation hearings determine if the youth has violated conditions of community placement, probation and/or conditions of release (technical or by committing a new offense). Violation hearings are held on motion of the court upon petition of any interested person. MCR 3.944(A)(1).

Detention Hearing

If a court orders the youth be apprehended, a hearing must take place within 24 hours after the youth has been taken into court custody. MCR 3.944(A)(1)(b).

JJS Responsibilities

See; [JJM 470, Detention Alternatives, Detention & Jail Requirements.](#)

TERMINATION OF JURISDICTION

The discharge/termination hearing is to evaluate the youth's preparedness for discharge from jurisdiction prior to age of automatic discharge.

The JJS in the county of commitment/referral or county with case management responsibility who recommends discharge/termination from court jurisdiction must submit the required document to the committing court, documenting the reasons for the termination request. If the youth is in a training school the JJS is to consult with the training school staff regarding discharge and is to send the jointly developed report and recommendation to the committing court with a copy to the training school. (The same procedure must be used when a youth has escaped from the training school.)

The JJS must comply with the Michigan court rules when processing a termination from court wardship. Although court youths are referred to the agency for care and supervision, the court retains jurisdiction from the time of referral to the time of discharge.

At least three months prior to the youth's 19th birthday the court must conduct a final review hearing of the youth's commitment. MCR 6.938(A).

All 1974 PA 150 youth must be automatically discharged by the court at 19 years of age unless the committing offense was a Class I or II offense, or the youth was sentenced by an adult court and the committing court extends jurisdiction to age 21 years. The youth is then automatically discharged from state wardship at 21 years of age, MCL 803.307(7)(2). See *extending court jurisdiction* in this item for requirements to extend jurisdiction.

Discharge recommendations may be approved or denied by the committing court based on the JJS's report, without a formal hearing or as determined by the committing court. A hearing may be scheduled if the committing court determines that there is insufficient information upon which to base a final decision. The committing court will send written notification of its decision to the JJS, youth, youth's caregiver, and prosecutor. The JJS must notify the victim of the discharge. All cases, services and payments relating to the P.A. 150 wardship are closed at discharge. The discharge must be noted in the electronic case management system as a closed case with the reason for closure.

Note: Dual wardships will revert to abuse/neglect legal status if the youth is under age 19 years of age at the time of discharge of Act 150 wardship.

The JJS must petition the committing court for discharge for:

- Age - four months before their 19th birthday or 21st birthday.
- Satisfactory adjustment:
 - Youth who are at low risk of recidivism based on most recent MJJAS assessment and have completed at least three months of aftercare services.
 - Youth who are at moderate risk and have completed at least six months of aftercare services in the community.
- A youth who is involved in a department-funded program, an intensive counseling program, educational program, or employment training program which would be interrupted if the youth was discharged, and youth and family request continuation of jurisdiction, the discharge petition may be delayed until age 19 or 21 as indicated above or until the natural conclusion of the program if sooner than the automatic discharge age.
- National service - A youth must be petitioned for discharge if they been accepted into the armed services or a service agency such as Peace Corps or AmeriCorps.
- A youth who has been sentenced to jail or adult probation.
- Move to another state - The JJS may recommend discharge of a youth who has moved to another state after receiving a

satisfactory report from the other state through the interstate services procedures.

- Maximum Benefit (supervisor approval needed) - A youth who has been in the community at least six months, has not responded to services, and would gain no additional benefit from continued jurisdiction, may be discharged on that basis. The JJS may make such recommendation to the committing court for **youth** who are at least 18 years of age and whose discharge will not cause a risk of harm to the community. All resources to assist the youth in completing treatment goals must be exhausted before this option can be used.
- Death - The JJS is to send a notice of discharge to the committing/referring court.

The JJS may petition the court for termination of jurisdiction over the youth by completing the following:

- A request for discharge of wardship submitted on the [Request and Order to Terminate Court Jurisdiction, JC 36](#).
- A written report detailing the youth's placement history, adjustment, current status, and supporting information for request to terminate jurisdiction must be provided for the court hearing. A minimum of three copies are required.

Note: Do not attach the report to the petition.

JJS Responsibilities

Pursuant to MCR 3.945(B)(4)(a)-(g), submit to the court, prepared in collaboration with the institution or agencies involved in providing services to the youth, an updated case service plan containing:

- The extent and nature of the youth's participation in education, counseling, or work programs.
- The youth's willingness to accept responsibility for prior behavior.
- The youth's behavior in their current placement.
- The prior record and character of the youth and their physical and mental maturity.

- The youth's potential for violent conduct as demonstrated by prior behavior.
- The recommendations of the institution, agency, or facility charged with the youth's care, for the youth's release or continued custody.
- Other information the prosecuting attorney or youth may submit.

Court Hearing

The JJS is to petition the court for a final review hearing to be held no less than three months before the end of the youth's probation and commitment/referral. MCL 712A.18i(7).

Prepare and submit to the court a report demonstrating the youth has been rehabilitated and is not a risk to public safety. At that hearing the JJS is to present to the court a USP prepared in collaboration with the institution, or agencies involved in providing services to the youth. The report is to indicate the extent to which the youth has been rehabilitated and is or is not a risk to public safety.

Submit copies of the current MJJAS Reentry assessment and JJ Strengths and Needs assessment to the court.

Without Court Hearing

The JJS must submit a request for discharge of wardship on the [Request and Order to Terminate Court Jurisdiction, JC 36](#).

A written report detailing the youth's placement history, adjustment, current status, and supporting information for request to terminate jurisdiction may be requested by the local court.

LEGAL BASE

Federal

The Social Security Act, 42 USC 675.

The status of each child in foster care is reviewed at least every six months by a court or through an administrative review. This review assesses the child's safety, the necessity and appropriateness of their placement, compliance with the case plan, and progress in

addressing the reasons for their placement. The goal is to project a date for the child's return home, adoption, or legal guardianship. For children with another planned permanent living arrangement, the review also ensures the foster care setting follows the reasonable and prudent parent standard and checks that the child has opportunities to engage in age-appropriate activities, consulting with the child about these activities as appropriate.

State

The Probate Code of 1939, 1939 PA 288, as amended, MCL 712A.25(9)(c).

If it appears to the court that the juvenile has engaged in conduct that would subject the juvenile to the jurisdiction of the court, the court shall issue a written consent calendar case plan. All of the following apply to a consent calendar case plan:

The period for a juvenile to complete the terms of a consent calendar case plan must not exceed 3 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.

The Probate Code, 1939 PA 288, as amended, MCL 712A.4(1).

If a youth 14 years of age or older is accused of an act that if committed by an adult would be a felony, the judge of the family division of circuit court in the county in which the offense is alleged to have been committed may waive jurisdiction under this section upon motion of the prosecuting attorney. After waiver, the youth may be tried in the court having general criminal jurisdiction of the offense.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18(1).

If it determined the youth committed an offense, the court may order disposition that is appropriate to the welfare of the youth and society.

If the court finds that a youth concerning whom a petition is filed is not within this chapter, the court shall enter an order dismissing the petition. Except as otherwise provided in subsection (10), if the court finds that a youth is within this chapter, the court shall order the youth returned to his or her parent if the return of the youth to his or her parent would not cause a substantial risk of harm to the youth or society.

Youth Rehabilitation Services Act, 1974 PA 150 as amended, MCL 803.301 et seq.

When a youth is tried and sentenced in the same manner as an adult, the court of jurisdiction may place a youth on probation and commit the youth to MDHHS.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18d(1).

The court must consider several factors in determining whether jurisdiction over a youth shall continue.

The Probate Code, 1939 PA 288, as amended, MCL 712A.19(2).

When a youth remains in his or her home and remains under court jurisdiction a review hearing shall be held no later than 182 days after petition is filed and then 91 days after for the first year.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18c(4).

If the court has retained jurisdiction over a child under this section, the child may be released only with the approval of the court. Except as otherwise provided in section 18d, the child shall be automatically released upon reaching 19 years of age.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18i(7).

The court shall conduct a final review of the youth's probation not less than 3 months before the end of the probation period. If the court determines at this review that the best interests of the public would be served by imposing any other sentence provided by law for an adult offender, the court may impose the sentence.

Youth Rehabilitation Services Act, 1974 PA 150 as amended, MCL 803.307(1).

A youth accepted by a youth agency remains a public ward until discharged from public wardship with the approval of any of the following and, if placed in an institution, shall remain until released with the approval of any of the following circumstances set forth in MCL 803.307.

**Youth Rehabilitation Services Act, 1974 PA 150 as amended
MCL 803.307(7)(2).**

A youth accepted as a public ward will be automatically discharged from public wardship at 19 years of age unless specified otherwise. A youth committed for certain serious offenses under MCL 712A.18 will be discharged at age 21. Similarly, a youth committed under specific criminal procedure provisions will also be discharged 21 years of age

Child Care Organizations Act, 1973 PA 116, MCL 722.123a(6).

At each dispositional review hearing and permanency planning hearing held with respect to the child, the court shall approve or disapprove the qualified residential treatment program placement.

Child Care Organizations Act, 1973 PA 116, MCL 722.123a(7).

In the case of a child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months, the department shall obtain the signed approval of the director of the department for the continued placement of the child in that setting.

**Michigan Court
Rule****Michigan Court Rules, 3.907(B).**

The results of the risk and needs assessment, along with a written dispositional recommendation, must be filed with the court and provided to the juvenile, the juvenile's attorney, and the prosecuting attorney at least 7 days before the dispositional hearing. The recommendation must include the overall risk score, type and level of supervision, length of supervision, and specific terms and conditions, including review frequency and early termination requirements.

Michigan Court Rules, 3.935(B)(3).

The court shall determine whether the petition should be dismissed, whether the matter should be referred to alternate services pursuant to the Youth Diversion Act, MCL 722.821 et 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.

Michigan Court Rules, 3.943(A).

A dispositional hearing is conducted to determine what measures the court will take with respect to a youth and, when applicable, any other person, once the court has determined following trial or plea that the youth has committed an offense.

Michigan Court Rules, 3.945(B)(1).

When a youth committed under MCL 712A.18(1)(e) for certain offenses remains under court jurisdiction after turning 18, the court must hold a hearing to decide whether to extend jurisdiction until age 21, according to MCL 712A.18d. A commitment review hearing should be held close to, but before, the youth's 19th birthday, unless postponed for good cause. Notice of the hearing must be given at least 14 days in advance to the prosecuting attorney, the committing agency or institution superintendent, the youth, and, if known, the youth's parent, guardian, or legal custodian. The notice must state that the court may extend jurisdiction to age 21 and inform the youth and the parent, guardian, or legal custodian of the youth's right to an attorney.

Michigan Court Rules, 3.943(B).

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

Michigan Court Rules, 3.945(A)(1).

At a dispositional review hearing, the court can modify or amend the dispositional order or treatment plan to include any disposition allowed by MCL 712A.18 and MCL 712A.18a or other applicable laws. The court must periodically review dispositional orders in delinquency cases where the youth is placed outside the home, with reviews scheduled by the court or requested by a party, probation officer, or caseworker. The victim has the right to make a statement or submit a written statement for the hearing. The Michigan Rules of Evidence, except those concerning privileges, do not apply

Michigan Court Rules, 3.945(A)(2)(b).

A review hearing is required before a youth is moved to a more physically restrictive type of placement unless the court in its dispositional order has provided for a more physically restrictive type of placement. A review hearing is not required if the youth and

a parent consent to the new placement in a writing filed with the court. A youth, who has been ordered placed in a youth facility, may be released only with the approval of the court.

Michigan Court Rules, 3.944(a)(1)(a).

Upon receipt of a sworn supplemental petition alleging that the youth has violated any condition of probation, the court may direct that the youth be notified pursuant to MCR 3.920 to appear for a hearing on the alleged violation, which notice must include a copy of the probation violation petition and a notice of the youth's rights as provided in subrule (C)(1).

Michigan Court Rules, 3.944(A)(1)(b).

Order that the youth be apprehended and brought to the court for a detention hearing, which must be commenced within 24 hours after the youth has been taken into court custody, excluding Sundays and holidays as defined in MCR 8.110 (D)(2).

Michigan Court Rules, 3.944(A)(2)(b).

When a youth is apprehended pursuant to court order as provided in subrule (A)(1)(b), the officer must notify the custodial parent, guardian, or legal custodian that the youth has been taken into custody, time and place of the detention hearing, if known, and of the need for the presence of the parent, guardian, or legal custodian at the detention hearing.

Michigan Court Rules, 6.938(A).

The court must conduct a final review of the youth's probation and commitment not less than 3 months before the end of the period that the youth is on probation and committed to the state institution or agency. If the court determines at this review that the best interests of the public would be served by imposing any other sentence provided by law for an adult offender, the court may impose that sentence.

Michigan Court Rules, 3.945(B)(4)(a)-(g).

The court must extend jurisdiction over the youth until the age of 21, unless the youth proves by a preponderance of the evidence that the youth has been rehabilitated and does not present a serious risk to public safety. In making the determination, the court must consider the following factors:

- (a) the extent and nature of the youth's participation in education, counseling, or work programs;
- (b) the youth's willingness to accept responsibility for prior behavior;
- (c) the youth's behavior in the current placement;
- (d) the youth's prior record, character, and physical and mental maturity;
- (e) the youth's potential for violent conduct, as demonstrated by prior behavior;
- (f) the recommendations of the institution, agency, or facility charged with the youth's care regarding the appropriateness of the youth's release or continued custody; and
- (g) any other information the prosecuting attorney or the youth submits.

Michigan Court Rules, 3.945(B)(3).

The Michigan Rules of Evidence do not apply, other than those with respect to privileges. The institution, agency, or facility must prepare a report for use at the hearing to extend jurisdiction. The report must contain information required by MCL 803.225. The court must consider this information in determining whether to extend jurisdiction beyond the age of 19.

POLICY CONTACT

Policy clarification questions may be submitted by juvenile justice supervisors and management to Juvenile-Justice-Policy@michigan.gov.