

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.18i Delay in sentencing.

Sec. 18i.

(1) A delay in sentencing does not deprive the court of jurisdiction to sentence the juvenile under section 18(1)(o) of this chapter any time during the delay.

(2) If the court has entered an order of disposition under section 18(1)(o) of this chapter delaying imposition of sentence, the court shall conduct an annual review of the probation, including but not limited to the services being provided to the juvenile, the juvenile's placement, and the juvenile's progress in that placement. In conducting this review, the court shall examine any annual report prepared under section 3 of the juvenile facilities act, 1988 PA 73, MCL 803.223, and any report prepared upon the court's order by the officer or agency supervising probation. The court may order changes in the juvenile's probation based on the review including but not limited to imposition of sentence.

(3) If the court entered an order of disposition under section 18(1)(o) of this chapter delaying imposition of sentence, the court shall conduct a review hearing to determine whether the juvenile has been rehabilitated and whether the juvenile presents a serious risk to public safety. If the court determines that the juvenile has not been rehabilitated or that the juvenile presents a serious risk to public safety, jurisdiction over the juvenile shall be continued or the court may impose sentence. In making this determination, the court shall consider the following:

(a) The extent and nature of the juvenile's participation in education, counseling, or work programs.

(b) The juvenile's willingness to accept responsibility for prior behavior.

(c) The juvenile's behavior in his or her current placement.

(d) The prior record and character of the juvenile and his or her physical and mental maturity.

(e) The juvenile's potential for violent conduct as demonstrated by prior behavior.

(f) The recommendations of any institution or agency charged with the juvenile's care for the juvenile's release or continued custody.

(g) Other information the prosecuting attorney or juvenile may submit.

(4) A review hearing shall be scheduled and held unless adjourned for good cause as near as possible to, but before, the juvenile's nineteenth birthday. If an institution or agency to which the juvenile was committed believes that the juvenile has been rehabilitated and that the juvenile does not present a serious risk to public safety, the institution or agency may petition the court to conduct a review hearing any time before the juvenile becomes 19 years of age or, if the court has continued jurisdiction, any time before the juvenile becomes 21 years of age.

(5) Not less than 14 days before a review hearing is to be conducted, the prosecuting attorney, juvenile, and, if addresses are known, the juvenile's parent or guardian shall be notified. The notice shall state that the court may extend jurisdiction over the juvenile or impose sentence and shall advise the juvenile and the juvenile's parent or guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(6) A commitment report prepared as provided in section 5 of the juvenile facilities act, 1988 PA 73, MCL 803.225, and any report prepared upon the court's order by the officer or agency supervising probation may be used by the court at a review hearing held under this section.

(7) The court shall conduct a final review of the juvenile'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. In making its determination, the court shall consider the criteria specified in subsection (3) and all of the following criteria:

(a) The effect of treatment on the juvenile's rehabilitation.

(b) Whether the juvenile is likely to be dangerous to the public if released.

(c) The best interests of the public welfare and the protection of public security.

(8) Not less than 14 days before a final review hearing under subsection (7) is to be conducted, the prosecuting attorney, juvenile, and, if addresses are known, the juvenile's parent or guardian shall be notified. The notice shall state that the court may impose a sentence upon the juvenile and shall advise the juvenile and the juvenile's parent or guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(9) If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation by being convicted of a felony or a misdemeanor punishable by imprisonment for more than 1 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 1 year, the court shall 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.

(10) If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation other than as provided in subsection (9), the court may impose sentence or may order any of the following for the juvenile:

- (a) A change of placement.
- (b) Community service.
- (c) Substance use disorder counseling.
- (d) Mental health counseling.
- (e) Participation in a vocational-technical education program.
- (f) Incarceration in a county jail for not more than 30 days as provided in this chapter. A juvenile shall be placed in a room or ward out of sight and sound from adult prisoners.
- (g) Other participation or performance as the court considers necessary.

(11) If a sentence of imprisonment is imposed under this section, the juvenile shall receive credit for the period of time served on probation.

History: Add. 1996, Act 244, Eff. Aug. 1, 1996 ;-- Am. 2019, Act 102, Eff. Oct. 1, 2021 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021

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