

## INTRODUCTION

This brochure is an overview of Michigan's juvenile court process. It will acquaint you with the schedule of hearings, and terms used in delinquency cases. (*Italicized terms are defined at the back of the pamphlet.*)

## JUVENILE COURT PHILOSOPHY

Minors violating misdemeanor or felony laws before they turn 17 may be brought into the juvenile justice system. Delinquency cases are not "criminal". The philosophy of the Family Court's Juvenile Division is rehabilitation and treatment for the delinquent youth, not punishment.

## JUVENILE COURT PROCESS

**Petition:** After a police investigation, a prosecuting attorney reviews the reports and facts to decide whether court action is required. If so, the prosecutor issues a *petition*, listing the offense(s) with which the juvenile is charged. The *petition* is filed with the Circuit Court's Family Division, which officially starts the court process.

**Preliminary Inquiry:** The first court hearing in a juvenile prosecution, similar to an adult court arraignment. A prosecutor might not attend this hearing. The juvenile is informed of the charged offenses, and his/her constitutional rights. The juvenile's family can file for a court-appointed attorney at this hearing. The Family Court's Juvenile Division can:

- warn the juvenile and dismiss the *petition* when appropriate in non-victim rights cases;
- refer the child for voluntary counseling;
- place the juvenile on informal probation (*diversion* or *consent calendar*) if the juvenile qualifies and it is appropriate because it serves the juvenile's and the public's best interests; or
- schedule further hearings on the court's "formal docket".

If the juvenile will admit responsibility for the offense(s), the court will schedule a "plea & *disposition*" hearing. The youth may be released to his/her parents' care with terms or conditions, or may be held at the Youth Facility if release into the public would endanger the youth or the public.

**Pre-Trial Conference:** If the juvenile does not initially admit responsibility for the offense, a pre-trial conference will be scheduled. A prosecuting attorney and the juvenile's attorney meet regarding whether the juvenile will plead to the charged offense(s) or different offense(s), or if the case will go to trial. Crime victims are encouraged to attend pre-trial conferences so the prosecutor can discuss options for resolving the case.

**Adjudication:** A case may be *adjudicated* by a guilty plea or trial verdict that the juvenile committed an offense. In a jury or judge trial, the prosecution must prove the juvenile's responsibility beyond a reasonable doubt. The juvenile is not required to prove his/her innocence.

**Disposition:** The *disposition* is similar to an adult court "sentencing". A probation agent's report summarizes the youth's background and need for services, and recommends terms of disposition. The judge considers this information and decides the final terms of the disposition. The judge has wide latitude, but must order services and programs appropriate for the welfare of the juvenile and society. Typical dispositions include probation, counseling, letter of apology to victim, community service, *restitution* etc.

The judge can:

- warn the juvenile and/or parents and terminate the court's jurisdiction;
- place the juvenile on in-home probation with parents, relatives or guardians;
- place the juvenile in foster care subject to the court's *jurisdiction*;
- order community service by the juvenile;

- send the juvenile to a private or public institution or agency for the treatment and rehabilitation of juvenile offenders;
- order health care for the juvenile;
- order participation in programs (e.g., counseling, school, drug or alcohol treatment);
- place the juvenile in a juvenile boot camp;
- order the parents to participate in treatment and/or refrain from conduct harmful to the juvenile;
- order a period of probation with probation rules to follow;
- order the juvenile & parent(s) supervising the child at the time of the incident to pay full *restitution* to the victims of the delinquency behavior;
- order payment of a crime victim rights assessment fee, and reimbursement of court-appointed attorney fees and other court service expenses.

Crime victims are encouraged to attend disposition hearings. Victims may deliver verbal or written impact statements. The statement may explain physical, psychological or emotional harm suffered by the victim; explain economic loss or property damage suffered; request *restitution*; and recommend appropriate terms of *disposition*.

## ACT 150 WARDS

Typically, an adjudicated juvenile is made a temporary "county ward" and is supervised by the court's probation department. Occasionally, youths need more intensive services and are made temporary "state wards". These so-called "Act 150" cases are supervised by the Michigan Department of Human Services, and may involve placement in residential treatment programs.

The court holds review hearings at least every 6 months to monitor progress on probation, until he/she completes all programming or turns 19 years old (when they "age out" of the juvenile justice system). Victims may attend Act 150 review hearings.

## TREATING JUVENILES AS ADULTS

In rare cases where a 14-16 year old juvenile is charged with a felony, the Family Court's exclusive *jurisdiction* can be waived, and the juvenile can be treated or sentenced the same as an adult.

**Automatic Waiver:** A juvenile may be charged by a prosecutor with a *specified juvenile violation* on a complaint and warrant in District Court, rather than on a *petition* in Juvenile Court. If probable cause is found that the youth committed the offense(s), the case is bound over to Circuit Court for trial or entry of a plea. All "auto-waiver" convictions must be sentenced in the same manner as an adult (except that assault with intent to rob while armed, bank or safe robbery, home invasion first degree, assault GBH or escape can result in juvenile probation as an Act 150 ward).

**Traditional Waiver:** If a juvenile is charged with any felony, the prosecutor may (within 14 days of filing the *petition*) request that the Family Court judge waive that court's *jurisdiction* and let the case be handled in adult court. The Family Court judge must initially determine that probable cause exists that the juvenile committed the charged felony. Later, the judge must determine that the interests of the juvenile and the public would be served by granting the motion. (Factors include the seriousness of the offense in terms of community protection, the youth's culpability in committing the offense, the youth's delinquency record, the youth's programming history, and the adequacy of punishment vs. rehabilitation programming available in the juvenile justice system.) In most "traditional waiver" cases, the youth has already exhausted the rehabilitation services available in the juvenile justice system. After waiver, the juvenile is tried in adult court. If convicted, he/she must be sentenced as an adult. A "juvenile sentence" is not allowed.

**Designated Case:** A delinquency case where the prosecuting attorney designates, or asks the court to designate the case for trial in Family Court in the same manner as an adult.

Convictions for designated offenses have the same effect and liabilities as if they had been obtained in an adult court. At sentencing, the judge may:

- enter a typical juvenile *disposition* order,
- impose a sentence that could be entered against an adult convicted of the same crime (including probation), if the interests of the public would be served,
- delay imprisonment as a conditional term of *disposition*.

### TRAFFIC OFFENSES

The Family Division has *jurisdiction* over misdemeanor and felony violations of the Motor Vehicle Code committed by minors. Civil infraction violations are handled in the District Court.

### APPEALS

Appeals from Family Court are heard in the Michigan Court of Appeals.

### AUTHORITY OVER ADULTS

The Family Division can enter orders over adults that affect the physical, mental or moral well-being of a juvenile under its *jurisdiction* --- generally parents, guardians or adult members of the youth's household. These orders must be incidental to the *jurisdiction* the court had over the youth. The parent or guardian of a youth over which the court has *jurisdiction* must attend all court hearings, unless excused for good cause. The court can also order the parent(s) with supervisory responsibility of the juvenile at the time of the delinquent behavior to be jointly/severally liable for restitution to the victims.

### EXPUNGMENT OF RECORDS

Most adjudicated delinquency offenses are expunged when the person turns 30. The Family Court must expunge *diversion* or *consent calendar* records within a month after the person turns 18. Life offenses, criminal traffic violations and *reportable juvenile offenses* are never expunged.

### VICTIM RIGHTS

Crime victims have the same basic rights, whether the crime or offense is committed by adults or juveniles. This includes the victim's constitutional and statutory rights to full restitution. Please see our Victim Rights brochure for a summary of those rights and procedures. Victims are encouraged to attend all hearings because the status of the case can change then, and the victim's input and opinion are important.

### COMMON JUVENILE COURT TERMS

**ADJUDICATION:** A juvenile court "conviction" from a plea or a trial verdict. If adjudicated on an offense, the court "takes *jurisdiction*" of the youth, and can enter a *disposition* order.

**CONSENT CALENDAR:** An informal probation, usually for first-time offenders. If all probation terms are completed, the case has authority to dismiss the petition; if not, the court can transfer the case to the formal calendar for a pre-trial conference, formal plea, trial, etc. In victim rights cases, the court must notify the prosecutor if consent calendar may be approved so the victim can be consulted and the prosecutor can advise the court if he approves. Consent calendar status can be granted over a prosecutor's and/or victim's objection.

**DETENTION/TREATMENT:** Facilities operated by the Family Court or state where juveniles may be detained pending hearings or following *disposition*. Juveniles may be placed in detention after *disposition* for treatment services.

**DISPOSITION:** The juvenile court equivalent of a sentence in an adult criminal case.

**DIVERSION:** An informal supervision of the youth prior to the court authorizing a *petition*. *Consent calendar* is a form of diversion.

**JURISDICTION:** The court's authority to enter orders affecting a delinquent youth up to their 19<sup>th</sup> birthday, and his/her parents or household.

**PETITION:** Charging document in a juvenile delinquency case, issued by a prosecutor. It lists the offenses the youth has allegedly committed.

**REPORTABLE JUVENILE OFFENSE:** Offense that requires fingerprinting --- murder or attempted murder, serious assaults (assault w/ intent to murder, commit great bodily harm, main, or rob), arson of a dwelling, B&E, home invasion 1<sup>st</sup> degree, larceny in a building, car theft, car jacking, kidnapping, CSC 1<sup>st</sup>-3<sup>rd</sup> degree, robbery, possession or delivery of 650 grams or more of a schedule 1 or 2 narcotic.

**RESTITUTION:** Repayment of economic losses to a victim of an adjudicated juvenile's course of delinquent conduct. Restitution typically includes the value of lost property or the cost to repair damaged property, medical or physical therapy expenses, and work loss (including attendance at court hearings). The parent responsible for supervising the juvenile at the time of the delinquent conduct can be ordered to pay restitution if the juvenile is found to be unable to do so personally. Victim rights laws require that "full restitution" be awarded to victims.

**SPECIFIED JUVENILE VIOLATION:** Crime for which a youth, convicted in a designated case, could be sentenced to prison --- murder; serious assaults (assault w/ intent to murder, commit great bodily harm, main, or rob); arson of a dwelling; home invasion 1<sup>st</sup> degree; car jacking; kidnapping; CSC 1<sup>st</sup> degree; armed robbery; bank/safe robbery; escape from a medium- or high-security juvenile facility; manufacture, sale, delivery or possession of 650 grams of a schedule 1 or 2 narcotic; or attempt, solicitation, conspiracy to commit the crimes.

**STATUS OFFENSE:** A non-delinquency violation of law giving the Family Court *jurisdiction* over a minor. Status offenders are habitual runaways from home, truants from school, and incorrigible youths. Parents may be petitioners. Courts cannot place status offenders in detention due to the status offense conduct, but may detain youths due to willful violations of court orders where less restrictive alternatives are not appropriate.

**TRANSFER CASE:** Petitions are issued by the prosecutor in the county where the offenses occurred, but cases may transfer to the Family Court in the county where the juvenile lives for *adjudication* and *disposition* with the consent of both counties' courts. The county-of-residence is responsible for monitoring and rehabilitating their youths.



# JUVENILE DELIQUENCY CASES



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