

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.18d Juvenile committed under MCL 712A.18(1)(e); review hearing; burden of proof; determination; notice; legal counsel; costs; commitment reports; section nonapplicable to juvenile convicted of crime under chapter.

Sec. 18d.

(1) If a juvenile is committed under section 18(1)(e) of this chapter for an offense that, if committed by an adult, would be a violation or attempted violation of section 72, 83, 84, 86, 88, 89, 91, 110a(2), 186a, 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, 530, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.84, 750.86, 750.88, 750.89, 750.91, 750.110a, 750.186a, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, 750.530, and 750.531 of the Michigan Compiled Laws, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws, 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. In making this determination, the court shall consider all of 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 juvenile's prior record and character 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 the institution, agency, or facility charged with the child's care for the juvenile's release or continued custody.

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

(2) The juvenile has the burden of proving by a preponderance of the evidence that he or she has been rehabilitated and does not present a serious risk to public safety.

(3) Unless adjourned for good cause, a review hearing shall be scheduled and held as near as possible to, but before, the juvenile's nineteenth birthday. If the institution, agency, or facility to which the juvenile was committed believes the juvenile has been rehabilitated and does not present a serious risk to public safety, the institution, agency, or facility 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 under subsection (1), any time before the juvenile becomes 21 years of age.

(4) Not less than 14 days before a review hearing is to be conducted, the prosecuting attorney, the 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 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.

(5) The institution, agency, or facility charged with the care of the juvenile shall prepare commitment reports as provided in section 5 of the juvenile facilities act, Act No. 73 of the Public Acts of 1988, being section 803.225 of the Michigan Compiled Laws, for use by the court at a review hearing held under this section.

(6) This section does not apply to a juvenile convicted under this chapter for committing a crime.

History: Add. 1988, Act 54, Eff. Oct. 1, 1988 ;-- Am. 1994, Act 192, Eff. Oct. 1, 1994 ;-- Am. 1996, Act 257, Eff. Jan. 1, 1997

Compiler's Notes: Section 3 of Act 54 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 174 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Popular Name: Probate Code

Popular Name: Juvenile Code