

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

***** 712A.2d.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2024 *****

712A.2d.amended Juvenile to be tried as adult; designation by prosecuting attorney or court; factors; probable cause hearing; setting case for trial; proceedings as criminal proceedings; disposition or imposition of sentence; "specified juvenile violation" defined.

Sec. 2d. (1) In a petition or amended petition alleging that a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for a specified juvenile violation, the prosecuting attorney may designate the case as a case in which the juvenile is to be tried in the same manner as an adult. An amended petition making a designation under this subsection must be filed only by leave of the court.

(2) In a petition alleging that a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for an offense other than a specified juvenile violation, the prosecuting attorney may request that the court designate the case as a case in which the juvenile is to be tried in the same manner as an adult. The court may designate the case following a hearing if it determines that the best interests of the juvenile and the public would be served by the juvenile being tried in the same manner as an adult. In determining whether the best interests of the juvenile and the public would be served, the court shall consider all of the following factors, giving greater weight to the seriousness of the alleged offense and the juvenile's prior delinquency record than to the other factors:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines and the use of a firearm or other dangerous weapon.

(b) 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.

(c) The juvenile's prior record of delinquency that would be a crime if committed by an adult.

(d) The juvenile's programming history, including, but not limited to, any out-of-home placement or treatment and the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the programming available to rehabilitate and hold accountable the juvenile in the juvenile justice system and the juvenile's amenability to treatment.

(f) The dispositional options available for the juvenile.

(g) The juvenile's developmental maturity, emotional health, and mental health.

(h) If the juvenile is a member of a federally recognized Indian tribe, culturally honoring traditional values of the juvenile's tribe.

(i) The impact on any victim.

(3) If a case is designated under this section, the case must be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction unless a probable cause hearing is required under subsection (4).

(4) If the petition in a case designated under this section alleges an offense that if committed by an adult would be a felony or punishable by imprisonment for more than 1 year, the court shall conduct a probable cause hearing not later than 14 days after the case is designated to determine whether there is probable cause to believe the offense was committed and whether there is probable cause to believe the juvenile committed the offense. This hearing may be combined with the designation hearing under subsection (2) for an offense other than a specified juvenile offense. A probable cause hearing under this section is the equivalent of the preliminary examination in a court of general criminal jurisdiction and satisfies the requirement for that hearing. A probable cause hearing must be conducted by a judge other than the judge who will try the case if the juvenile is tried in the same manner as an adult.

(5) If the court determines there is probable cause to believe the offense alleged in the petition was committed and probable cause to believe the juvenile committed the offense, the case must be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction.

(6) If the court determines that an offense did not occur or there is not probable cause to believe the juvenile committed the offense, the court shall dismiss the petition. If the court determines there is probable cause to believe another offense was committed and there is probable cause to believe the juvenile committed that offense, the court may further determine whether the case should be designated as a case in which the juvenile should be tried in the same manner as an adult as provided in subsection (2). If the court designates the case, the case must be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction.

(7) If a case is designated under this section, the proceedings are criminal proceedings and must afford all procedural protections and guarantees to which the juvenile would be entitled if being tried for the offense in a court of general criminal jurisdiction. A plea of guilty or nolo contendere or a verdict of guilty must result in entry of a judgment of conviction. The conviction must have the same effect and liabilities as if it had been obtained in a court of general criminal jurisdiction.

(8) Following a judgment of conviction, the court shall enter a disposition or impose a sentence authorized under section 18(1)(o) of this chapter.

(9) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(b) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(c) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the juvenile escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the department or a county juvenile agency.

(ii) A high-security facility operated by a private agency under contract with the department or a county juvenile agency.

(d) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).

(i) Any other offense arising out of the same transaction as an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).

History: Add. 1996, Act 244, Eff. Aug. 1, 1996;—Am. 1998, Act 478, Eff. Jan. 12, 1999;—Am. 2020, Act 389, Eff. Apr. 4, 2021;—Am. 2023, Act 291, Eff. Oct. 1, 2024.

Popular name: Probate Code

Popular name: Juvenile Code