

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

769.1b Review hearing for juvenile placed on probation and committed; determination; considerations; time of review hearing; notice; legal counsel; costs; commitment reports; final review; imposition of sentence for adult offender; notice; cost of appointed counsel; credit for time served.

Sec. 1b. (1) If a juvenile is placed on probation and committed under section 1(3) or (4) of this chapter to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, 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 commit the juvenile to the department of corrections as provided in this section. 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 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 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.

(2) 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 the 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, that institution or agency may petition the court to conduct a review hearing at any time before the juvenile becomes 19 years of age or, if the court has continued jurisdiction under subsection (1), at any time before the juvenile becomes 21 years of age.

(3) 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 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.

(4) The institution or agency charged with the care of the juvenile shall prepare commitment reports as provided in section 5 of the juvenile facilities act, 1988 PA 73, MCL 803.225, for use by the court at a review hearing held under this section.

(5) The court shall conduct a final review of the juvenile's probation and commitment under section 1(3) or (4) of this chapter not less than 3 months before the end of the period that the juvenile is on probation and committed to the 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 the sentence. In making its determination, the court shall consider the criteria specified in subsection (1) 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.

(6) Not less than 14 days before a final review hearing under subsection (5) 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 under subsection (5) 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.

(7) After a sentence is imposed under subsection (1) or (5), the juvenile shall receive credit for the period of time served on probation and committed to an agency or institution under section 1(3) or (4) of this chapter.

History: Add. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1996, Act 247, Eff. Jan. 1, 1997;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 78 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 181 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."