

§3301. Preliminary investigation, informal adjustment and petition initiation

1. Preliminary investigation. When a juvenile accused of having committed a juvenile crime is referred to a juvenile community corrections officer, the juvenile community corrections officer shall, except in cases in which an investigation is conducted pursuant to Title 5, section 200-A, conduct a preliminary investigation to determine whether the interests of the juvenile or of the community require that further action be taken.

On the basis of the preliminary investigation, the juvenile community corrections officer shall:

A. Decide that action requiring ongoing supervision is not required either in the interests of the public or of the juvenile; [PL 1999, c. 260, Pt. A, §6 (AMD).]

B. Make whatever informal adjustment is practicable without a petition; or [PL 1981, c. 679, §6 (AMD).]

C. Request a petition to be filed. [PL 1977, c. 520, §1 (NEW).]
[PL 1999, c. 624, Pt. B, §8 (AMD).]

2. No further action.
[PL 1977, c. 664, §21 (RP).]

3. Informal adjustment.
[PL 1977, c. 664, §21 (RP).]

4. Request for filing of petition.
[PL 1977, c. 664, §21 (RP).]

5. Juvenile community corrections officer alternatives. On the basis of the preliminary investigation, the juvenile community corrections officer shall choose one of the following alternatives:

A. Decide that action requiring ongoing supervision is not required either in the interests of the public or of the juvenile. If the juvenile community corrections officer determines that the facts in the report prepared for the community corrections officer by the referring officer pursuant to section 3203-A, subsection 3 are sufficient to file a petition, but in the community corrections officer's judgment the interest of the juvenile and the public will be served best by providing the juvenile with services voluntarily accepted by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, the juvenile community corrections officer may refer the juvenile for that care and treatment and not request that a petition be filed; [PL 1999, c. 624, Pt. B, §9 (AMD).]

B. Make whatever informal adjustment is practicable without a petition. The juvenile community corrections officer may effect whatever informal adjustment is agreed to by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated, including a restitution contract with the victim of the crime and the performance of community service. Informal adjustments may extend no longer than 6 months and may not be commenced unless:

(1) The juvenile community corrections officer determines that the juvenile and the juvenile's parents, guardian or legal custodian, if the juvenile is not emancipated, were advised of their constitutional rights, including the right to an adjudicatory hearing, the right to be represented by counsel and the right to have counsel appointed by the court if indigent;

(2) The facts establish prima facie jurisdiction, except that any admission made in connection with this informal adjustment may not be used in evidence against the juvenile if a petition based on the same facts is later filed; and

(3) Written consent to the informal adjustment is obtained from the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated; [PL 1999, c. 624, Pt. B, §9 (AMD).]

C. If the juvenile community corrections officer determines that the facts are sufficient for the filing of a petition, the juvenile community corrections officer shall request the prosecuting attorney to file a petition; or [PL 1999, c. 624, Pt. B, §9 (AMD).]

D. If the juvenile community corrections officer makes a determination pursuant to paragraph A or B, the community corrections officer shall notify the juvenile and the juvenile's parents, guardian or legal custodian at least 2 weeks prior to the date for which they are summonsed. [PL 1999, c. 624, Pt. B, §9 (AMD).]

[PL 1999, c. 624, Pt. B, §9 (AMD).]

5-A. Community resolution teams.

[PL 2007, c. 96, §3 (RP).]

6. Review by attorney for the State. If the juvenile community corrections officer decides not to request the attorney for the State to file a petition, the juvenile community corrections officer shall inform the attorney for the State, the complainant, the law enforcement officer and the victim of the decision and of the reasons for the decision as soon as practicable. The juvenile community corrections officer shall advise the complainant, the law enforcement officer and the victim that they may submit their complaint to the attorney for the State for review.

If the juvenile community corrections officer makes a determination pursuant to subsection 5, paragraph A or B and decides not to request the attorney for the State to file a petition for a violation of Title 22, section 2389, subsection 2 or Title 28-A, section 2052, the juvenile community corrections officer shall inform the Secretary of State of the violation. The Secretary of State shall suspend for a period of 30 days that juvenile's license or permit to operate a motor vehicle, right to operate a motor vehicle and right to apply for and obtain a license. After the suspension is terminated, any record of the suspension is confidential and may be released only to a law enforcement officer or the courts for prosecution of violations of Title 29-A, section 2412-A.

The attorney for the State on that attorney's own motion or upon receiving a request for review by the law enforcement officer, the complainant or the victim, shall consider the facts of the case, consult with the juvenile community corrections officer who made the initial decision and then make a final decision as to whether to file the petition. The attorney for the State shall notify the juvenile community corrections officer of the final decision within 30 days of being informed by the juvenile community corrections officer of the initial decision. If a juvenile community corrections officer has not yet made an initial decision, the attorney for the State may file a petition at any time more than 30 days after the juvenile community corrections officer has been given notice pursuant to section 3203-A.

If the attorney for the State files a petition, the court, upon the motion of the attorney for the State, the motion of the juvenile or the court's own motion, may assign counsel for the juvenile. The assignment must be reviewed at the juvenile's first appearance before the court.

[PL 2021, c. 326, §4 (AMD).]

6-A. Records confidential.

[PL 2019, c. 525, §12 (RP).]

7. Nonapplication of section. The provisions of this section do not apply to a juvenile charged with either of the juvenile crimes defined in section 3103, subsection 1, paragraph E or F, and a petition may be filed without recommendation by a juvenile community corrections officer. The provisions of section 3203-A apply in the case of a juvenile charged with either of the juvenile crimes defined in section 3103, subsection 1, paragraph E or F.

[PL 2019, c. 525, §13 (AMD).]

SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1977, c. 664, §§21,22 (AMD). PL 1979, c. 127, §119 (AMD). PL 1979, c. 681, §15 (AMD). PL 1981, c. 204, §1 (AMD). PL 1981, c. 392, §§4,5 (AMD). PL 1981, c. 679, §§6,7 (AMD). PL 1985, c. 439, §11 (AMD). PL 1985, c. 737, §A38 (AMD). PL 1989, c. 502, §A41 (AMD). PL 1989, c. 599, §7 (AMD). PL 1997, c. 350, §1 (AMD). PL 1997, c. 421, §§A2,3 (AMD). PL 1997, c. 645, §9 (AMD). PL 1999, c. 167, §1 (AMD). PL 1999, c. 260, §§A6-8 (AMD). PL 1999, c. 266, §§1-3 (AMD). PL 1999, c. 624, §§B8-12 (AMD). PL 1999, c. 790, §A54 (AFF). PL 2003, c. 305, §5 (AMD). PL 2005, c. 487, §1 (AMD). PL 2005, c. 507, §9 (AMD). PL 2007, c. 96, §3 (AMD). PL 2007, c. 196, §2 (AMD). PL 2011, c. 580, §1 (AMD). PL 2019, c. 525, §§12, 13 (AMD). PL 2021, c. 326, §4 (AMD).

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