

Advocating for Youth Checklist: Trial, Adjudication & Disposition

This checklist describes what happens when a youth with mental health issues is charged with a crime and the steps a legal guardian, parent, or advocate can take.

Trial

What happens

- A youth's delinquency case will most likely be heard in juvenile court.
- In most instances, the general public is not permitted in the courtroom during a youth's trial.
- The youth has the right to be considered innocent until proven delinquent (akin to being proven guilty in the adult system).
- The youth has the right, under state law, to a trial by a six person jury. This means that the youth can choose whether he or she wants a group of six community members to decide the case or whether he or she would prefer that the judge hear the case and make the decision.
- If the case goes to trial and the allegations are proven beyond a reasonable doubt, the judge will enter a finding that the youth is "delinquent." If the allegations are not proven beyond a reasonable doubt, the judge will enter a finding of "not delinquent" and the youth will be released.

What you should do

- Provide information to the youth's defense lawyer so that the lawyer may prepare. Give the lawyer contact information for and information from individuals who have worked with the youth, such as a school counselor, pastor or minister, pediatrician, or therapist.
- If you think a psychological or psychiatric evaluation of the youth would be worthwhile, talk to the youth's lawyer about this issue.
- Ask the youth's lawyer to evaluate the availability and appropriateness of a disposition (the final outcome of a case in the juvenile justice system) that allows for the implementation of home-based behavioral health services.
- Discuss with the youth's lawyer, while preparing the case, the effect of the outcome on the youth's juvenile record.

The information in this checklist has been adapted from the book Just for Youth: Advocating for Youths in the Massachusetts Department of Youth Services (3rd Ed., 2010) by the Mental Health Legal Advisors Committee of Massachusetts. The checklist and Just for Youth are available online at http://www.mhlac.org/DYS_Resources.htm.

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- Discuss with the youth's lawyer the possible options of going to trial or accepting a plea bargain.
- Plan to attend the trial to support the youth.

Disposition

What happens

- After a trial or plea bargain, the judge will determine the disposition — the final outcome of a case in the juvenile justice system. In this phase, the judge determines whether the youth will spend time in confinement or remain in the community.
- The prosecutor, the probation office, and the youth's lawyer will all make presentations regarding the disposition. The youth's lawyer presents the youth's position.

What you should do

- Provide information to the youth's lawyer so that the lawyer may prepare for the disposition phase. In this phase, the youth's lawyer will seek to provide the court with a full picture of the youth and his needs, including his mental health, substance abuse, and special education needs, if any.
- If you haven't already done so, give the lawyer the contact information for and information from individuals who have worked with the youth, such as a school counselor, pastor or minister, pediatrician, or therapist.
- For youth with mental health or substance abuse treatment needs, the sentencing phase is critical. At sentencing, a youth can seek appropriate mental health and substance abuse services. Talk to the youth's lawyer if you believe that the youth needs such services.
- If it might be worthwhile for the youth to undergo a psychological or psychiatric evaluation in order to help the judge decide the disposition, talk to the youth's lawyer about this issue. This evaluation is known as a "15(e)" evaluation, from Mass. Gen. Laws, ch. 123, § 15(e).
- Ask the youth's lawyer to evaluate the availability and appropriateness of a disposition or outcome that allows for receipt of home-based behavioral health services. There is growing consensus among mental health clinicians that community and home-based services that wrap around a youth are more effective than facility-based treatment in addressing mental health problems and rehabilitating youth. In Massachusetts, MassHealth recipients under age 21 with serious emotional disturbance are eligible for behavioral health services in the community including Mobile Crisis Intervention, In-Home Behavioral Services, Family Support and Training, Therapeutic Mentoring, In-Home Therapy, and Crisis Stabilization. See Chapter 19 of Just for Youth: Advocating for Youth in the Massachusetts Department of Youth Services, at <http://www.mhlac.org/justforyouth.html>.