

DURATION OF CONSENT CALENDAR CASE PLANS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5393 as reported from committee

Sponsor: Rep. Kara Hope

Committee: Criminal Justice

Complete to 2-13-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5393 would amend Chapter XIIA of the Probate Code, commonly known as the juvenile code, to provide that the period for a juvenile to complete the terms of a consent calendar plan must not exceed *six months*, unless the court determines that a longer period is needed for the juvenile to complete a specific treatment program and includes that determination as part of the consent calendar case record.¹

The provision the bill would amend, which says that the period for a juvenile to complete the terms of a consent calendar case plan must not exceed *three months* unless the court makes the determination described above, was added to the code by a recent public act and does not take effect until October 1, 2024.² House Bill 5393 also would take effect on that date.

MCL 712A.2f

BACKGROUND:

The Michigan Task Force on Juvenile Justice Reform was created by Executive Order 2021-6 as a bipartisan advisory body in the Department of Health and Human Services³ to “lead a data-driven analysis of [Michigan’s] juvenile justice system and recommend proven practices and strategies for reform grounded in data, research, and fundamental constitutional principles.” In particular, in the words of its final report,⁴ the task force was “charged with developing recommendations to improve state law, policy, and appropriations guided by the following objectives:

- Safely reduce placement in detention and residential placement and associated costs.
- Increase the safety and well-being of youth impacted by the juvenile justice system.
- Reduce racial and ethnic disparities among youth impacted by the juvenile justice system.
- Improve the efficiency and effectiveness of the state’s and counties’ juvenile justice systems.
- Increase accountability and transparency within the juvenile justice system.
- Better align practices with research and constitutional mandates.”

¹ The consent calendar is an informal docket of cases the court has determined should not proceed on the formal calendar but that the protective and supportive action by the court will serve the best interests of a juvenile and the public. Under both current law and the bill, a case cannot be placed on the consent calendar unless the prosecutor, the juvenile, and the juvenile’s parent, guardian, or legal custodian agree to have the case placed on the consent calendar.

² <http://legislature.mi.gov/doc.aspx?2023-SB-0428>

³ <https://www.legislature.mi.gov/documents/2021-2022/executiveorder/pdf/2021-EO-06.pdf>

⁴ <https://micounties.org/wp-content/uploads/Michigan-Taskforce-on-Juvenile-Justice-Reform-Final-Report.pdf>

The task force issued its final report on July 18, 2022.⁵

Among its unanimous recommendations was to “Align pre-court diversion and consent calendar conditions with research and developmental science.” A specific recommendation for achieving this was to “Limit the length of time that a youth can be placed on pre-court diversion to no longer than three months, *and to no longer than six months for youth on the consent calendar*, unless the court determines, and articulates on the record, a longer period is needed for youth to complete a specific treatment program” (emphasis added). Among other things, the goal of these and related recommendations was to provide a statewide standard for diversion and consent calendar decisions in order to create more equitable access to diversion across the state. The task force had found that different jurisdictions varied widely in their policies and practices concerning diversion and consent calendar eligibility, decision-making authority, and oversight.

Bills to implement most of the task force’s legislative recommendations were passed in 2023 as Public Acts 287 to 305. Some of these bills made amendments to the same section of law to do different things, and in coordinating those changes, the general maximum length of time for a consent calendar plan was changed from the recommended six months to three months.

Of note, three months is the default maximum time period the bills provide (and the task force recommended) for a minor to complete the terms of a precourt diversion agreement. However, according to committee testimony on House Bill 5393, the longer six-month period was recommended as appropriate for consent calendar plans because they may involve assaultive crimes, which precourt diversions typically do not, and so may require more time to complete and more monitoring by the court.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

POSITIONS:

Representatives of the following entities testified in support of the bill (2-6-24):

- State Court Administrative Office
- Michigan Association of Family Court Administrators

The following entities indicated support for the bill (2-6-24):

- Department of Health and Human Services
- Michigan Center for Youth Justice

Legislative Analyst: Rick Yuille
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

⁵ <https://www.michigan.gov/whitmer/news/press-releases/2022/07/18/task-force-on-juvenile-justice-reform-approves-blueprint-for-transforming-juvenile-justice>