

Rule 32. Disposition and Judgment

(a) Disposition hearing. If the respondent has pleaded guilty, or has been found guilty or in need of supervision, the judicial officer shall proceed to hold a disposition hearing. Such disposition hearing may be held immediately if all parties consent and waive preparation of the predisposition report, unless the case involves a victim of crime. If the case involves a victim of crime the disposition hearing shall be set to allow a reasonable period of time for the preparation of a victim impact statement, and to incorporate it into the predisposition report. If the victim does not elect to submit a victim impact statement then the predisposition report may be waived and the disposition hearing may be held immediately. If the disposition hearing is not held immediately, and the respondent is detained or in shelter care pending the disposition hearing, the judicial officer shall schedule a disposition to be held within 15 days, and shall adjourn the proceedings to await the preparation of a predisposition report.

(b) Predisposition investigation.

(1) When made. The Director of Court Social Services ("CSS") or a qualified agency designated by the judicial officer shall make a predisposition investigation and report to the judicial officer before the entry of a dispositional order unless this requirement is waived by the judicial officer with the consent of all parties. The report shall not be submitted to or considered by the judicial officer, or its contents disclosed to anyone, unless the respondent has pleaded guilty or has been found guilty or in need of supervision.

(2) Report. The report of the predisposition investigation shall contain any prior juvenile record of the respondent and such information about the respondent's characteristics, family, environment and the circumstances affecting the respondent's behavior as may be helpful in determining the need for treatment and a proper disposition of the case. If the judicial officer has ordered a physical or mental examination to be conducted pursuant to D.C. Code § 16-2315, the report shall include a copy of the examination. Any victim impact statement that has been submitted to CSS shall be included in the report. The original report and any other material to be disclosed shall be furnished to the judicial officer and copies thereof shall be furnished to counsel for the respondent and to the Office of the Attorney General ("OAG") at least three business days prior to the disposition hearing.

(3) Notice to the Department of Youth Rehabilitation Services ("DYRS") or other agency/department responsible for supervision. As soon as practicable during the preparation of the predisposition report, but in no instance less than three (3) business days prior to the disposition hearing, the Director of CSS shall notify the Administrator of DYRS or other agency responsible for supervision if the predisposition report will recommend or is likely to recommend that the legal custody of respondent be transferred to DYRS or other agency responsible for supervision pursuant to D.C. Code § 16-2320(c)(2). A copy of the report constitutes sufficient notice to the Administrator under this subsection.

(4) Copy of Report to the Department of Youth Rehabilitation Services ("DYRS") or other agency/department responsible for supervision. If the predisposition report will recommend or is likely to recommend that the legal custody of respondent be transferred to DYRS or other agency responsible for supervision pursuant to D.C. Code § 16-2320(c)(2), a copy of the report and any other materials to be presented by the Director of CSS to the judicial officer shall be furnished also to the Administrator of the DYRS or

other agency responsible for supervision at least three (3) business days prior to the disposition hearing.

(c) Disposition.

(1) Entry of dispositional order. The dispositional order shall be entered without unreasonable delay. Before entering a dispositional order the judicial officer shall afford the respondent or the respondent's counsel an opportunity to comment on the predisposition report and, in the Court's discretion, to introduce testimony or other information relating to any alleged factual inaccuracy in the report. The judicial officer shall also afford counsel an opportunity to speak on behalf of the respondent and shall address the respondent personally, and the respondent's parent, guardian, or custodian, if present, and ask if they wish to make a statement in the respondent's behalf or to present any information that might affect the dispositional order. The OAG shall have an equivalent opportunity to address the Court and present information pertinent to disposition. The Court may also hear from victims of crime or members of their immediate family.

(2) Notification of right to appeal. After entering a dispositional order in a case which has gone to a factfinding hearing on a plea of not guilty or in which a conditional plea pursuant to SCR-Juvenile 11(a)(2) has been entered, the judicial officer shall advise the respondent of the right to appeal and of the right of a person who is unable to pay the cost of an appeal for leave to appeal in forma pauperis.

(d) Judgment. The judgment shall set forth the plea, the findings, the adjudication, and the dispositional order. If the dispositional order involves placement of the respondent outside the respondent's home, in an institution or elsewhere, it shall include a statement of reasons why such placement is necessary. If the respondent is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly. The judgment shall be signed by the judicial officer and entered by the clerk of the Family Court.

(e) Withdrawal of plea of guilty. A motion to withdraw a plea of guilty may be made only before a dispositional order is entered; but to correct manifest injustice the judicial officer after entering a dispositional order may set aside the judgment and permit the respondent to withdraw the plea.

(f) Probation and other dispositional orders.

(1) Probation. Upon an adjudication of delinquency or need of supervision, the respondent may be placed on probation as provided by D.C. Code § 16-2320.

(2) Copy of probation order. A copy of the probation order with terms and conditions specified therein shall be furnished to the respondent, the respondent's parent, guardian, or custodian, the respondent's attorney, counsel for the government and the Director of Court Social Services. The order shall set forth the date upon which the respondent's probation shall expire and the respondent's rights with respect to the sealing of records upon fulfillment of the conditions specified in D.C. Code § 16-2335.

(3) Copy of other dispositional orders. Where the disposition involves an order other than probation, a copy of such order shall be furnished to the respondent, the respondent's parent, guardian, or custodian, the respondent's attorney, the Director of Social Services, and to the person or agency to whose custody the respondent has been committed, if any. Any commitment order shall set forth the date upon which the commitment shall expire and the respondent's rights with respect to the sealing of records upon fulfillment of the conditions specified in D.C. Code § 16-2335.

(4) Notice of termination of dispositional orders. Upon the automatic termination of any dispositional order, or in cases where the Family Court terminates a dispositional order prior to the stated termination date thereof, written notice of termination shall be furnished to the respondent, the respondent's parent, guardian or custodian, and the respondent's attorney. At that time the respondent and the respondent's attorney shall again be notified of the respondent's right to move for the sealing of records as provided in D.C. Code § 16-2335. An application for sealing shall be enclosed with the notice of termination.

(g) Review of disposition. If the dispositional order involves placement of the respondent in an institution, hospital, or agency upon specified conditions, the judicial officer may order that a report concerning implementation of the stated conditions be prepared by the institution, hospital or agency responsible for care and supervision of the respondent, and filed with the Family Court within 30 days after entry of the dispositional order, and a copy sent to counsel. If such report does not reflect full implementation of the original dispositional order, counsel for the respondent may request that the Family Court set a date for a prompt hearing and order notice sent to all parties, including the institution, hospital or agency in whose custody the respondent was placed by the dispositional order.

(h) Periodic evaluations. The Director of CSS or DYRS, whichever is responsible for the supervision of the disposition order, shall conduct a periodic evaluation of the child to determine if rehabilitative progress has been made and if the services provided to the child have been effective, and to determine, in conjunction with the child, the child's attorney and the OAG, what steps, if any, should be taken to ensure the rehabilitation and welfare of the child and the safety of the child and the safety of the public. At least one evaluation shall be conducted during the course of the probation or commitment. A report containing the periodic evaluation's findings and the bases for those findings shall be furnished to the judicial officer and copies thereof shall be furnished to counsel for the respondent and to the OAG within 10 business days of the completion of the evaluation.

(i) Revocation of probation.

(1) Referral to Director of Court Social Services. Complaints alleging that a minor on probation has violated a term or condition of probation shall be referred to the Director of Social Services. If any of the acts alleged in the complaint amount to a delinquent act which must be recommended for petitioning under the intake criteria of SCR-Juvenile 103, the Director of Social Services shall refer the complaint to the OAG with a recommendation that a new petition alleging a delinquent act be filed. If the acts alleged in the complaint may be recommended for petitioning as delinquent acts under the intake criteria of SCR-Juvenile 103, or if they merely violate the terms or conditions of probation without constituting delinquent acts, the Director of Social Services may attempt to adjust the matter informally, or may refer the complaint to the OAG with a recommendation either that a delinquency petition be filed or that a probation revocation petition be filed or both. In such cases, the OAG may proceed upon the basis of a new delinquency petition or upon the basis of a probation revocation petition or both, but evidence of any delinquent act denied by the respondent must be established by proof beyond a reasonable doubt.

(2) Probation revocation petition. A petition alleging a violation of the terms or conditions of probation shall recite the date that the respondent was placed on probation, the terms of probation alleged to have been violated, the acts giving rise to the violation and the dates thereof, and the time and manner in which notice of the terms of probation was given. Upon the filing of a petition to revoke, the OAG shall serve a copy of the

petition on the respondent's counsel and the Director of CSS. Notice of the hearing date and a copy of the petition shall be served by the judicial officer or the Clerk on the respondent, and notice of the hearing date shall be served by the judicial officer or the Clerk on the respondent's counsel, the OAG and the Director of CSS. If the respondent has been taken into custody, the provisions of D.C. Code §§ 16-2309 through 16-2312 shall apply. No child shall be detained for violation of probation prior to the filing of a revocation petition.

(3) Hearing. The judicial officer shall not revoke probation except after a hearing at which the respondent and the respondent's attorney shall be present. The OAG shall present evidence on behalf of its petition unless the OAG's presence is waived by the judicial officer. A copy of the petition and notice of the hearing shall be furnished as in delinquency and need of supervision cases generally. If the alleged violation of probation is established by a preponderance of the evidence according to the rules of evidence governing factfinding hearings, or if a delinquent act is established by proof beyond a reasonable doubt, the judicial officer may continue the respondent on probation or may make any other order of disposition that is authorized by D.C. Code § 16-2320(c). If no violation of probation or delinquent act is satisfactorily established, the judicial officer may continue the respondent on probation for the duration of the original probation order.

(j) Production of statements at disposition and probation revocation hearings.

(1) In general. SCR-Juvenile 26.2(a)-(d), and (f) applies at a disposition hearing and at a hearing to revoke probation under this Rule.

(2) Sanctions for failure to produce statement. If a party elects not to comply with an order under SCR-Juvenile 26.2(a) to deliver a statement to the moving party, the judicial officer may not consider the testimony of a witness whose statement is withheld.