

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.18p Providing information relating to competency; submission of report by qualified forensic mental health examiner; extension; copies of report to be provided to certain individuals.

Sec. 18p.

(1) The court shall order the prosecuting attorney to provide to the juvenile's attorney all information related to competency and shall order the prosecuting attorney and juvenile's attorney to submit to the qualified juvenile forensic mental health examiner any information considered relevant to the competency evaluation, including, but not limited to:

- (a) The names and addresses of all attorneys involved.
- (b) Information about the alleged offense.
- (c) Any information about the juvenile's background in the prosecuting attorney's possession.

(2) Except as prohibited by federal law, the court shall require the juvenile's attorney to provide any available records of the juvenile or other information relevant to the evaluation, including, but not limited to, any of the following:

- (a) Psychiatric records.
- (b) School records.
- (c) Medical records.
- (d) Child protective services records.

(3) The requirement to provide records or information under subsection (1) or (2) does not limit, waive, or abrogate the work product doctrine or the attorney-client privilege, and release of records and information under subsection (1) or (2) is subject to the work product doctrine and the attorney-client privilege.

(4) All information required under subsections (1) and (2) must be provided to the qualified juvenile forensic mental health examiner within 10 days after the court issues the order for the competency evaluation. If possible, the information required under this section shall be received before the juvenile's competency evaluation or the commencement of the competency evaluation in an outpatient setting.

(5) A qualified juvenile forensic mental health examiner who conducts a competency evaluation shall submit a written report to the court not later than 30 days from receipt of the court order requiring the competency evaluation. The evaluation shall be based on a juvenile adjudicative competence interview (JACI) or another interview method approved by the court. The report shall contain, but not be limited to, the following:

(a) A description of the nature, content, and extent of the examination, including, but not limited to, all of the following:

- (i) A description of assessment procedures, techniques, and tests used.
- (ii) Available medical, educational, and court records reviewed.
- (iii) Social, clinical, developmental, and legal history as available.
- (b) A clinical assessment that includes, but is not limited to, the following:

(i) A mental status examination.

(ii) The diagnosis and functional impact of mental illness, developmental disability, or cognitive impairment. If the juvenile is taking medication, the impact of the medication on the juvenile's mental state and behavior.

- (iii) An assessment of the juvenile's intelligence.
- (iv) The juvenile's age, maturity level, developmental stage, and decision-making abilities.
- (v) Whether the juvenile has any other factor that affects competence.

(c) A description of abilities and deficits in the following mental competency functions related to the juvenile's competence to proceed:

(i) The ability to factually as well as rationally understand and appreciate the nature and object of the proceedings, including, but not limited to, all of the following:

(A) An ability to understand the role of the participants in the court process, including, the roles of the judge, the juvenile's attorney, the prosecuting attorney, the probation officer, witnesses, and the jury, and to understand the adversarial nature of the process.

- (B) An ability to appreciate the charges and understand the seriousness of the charges.
- (C) An ability to understand and realistically appraise the likely outcomes.
- (D) An ability to extend thinking into the future.

(ii) The ability to render meaningful assistance to the juvenile's attorney in the preparation of the case, including, but not limited to, all of the following:

(A) An ability to disclose to an attorney a reasonably coherent description of facts and events pertaining to the charge, as perceived by the juvenile.

- (B) An ability to consider the impact of his or her action on others.

(C) Verbal articulation abilities or the ability to express himself or herself in a reasonable and coherent manner.

(D) Logical decision-making abilities, particularly multifactored problem-solving or the ability to take several factors into consideration in making a decision.

(E) An ability to reason about available options by weighing the consequences, including weighing pleas, waivers, and strategies.

(F) An ability to display appropriate courtroom behavior.

(6) The qualified juvenile forensic mental health examiner shall provide the court with an opinion about the juvenile's competency to proceed. If the qualified juvenile forensic mental health examiner determines that the juvenile is incompetent to proceed, the qualified juvenile forensic mental health examiner shall comment on the nature of any psychiatric or psychological disorder or cognitive impairment, the prognosis, and the services needed to restore the juvenile to competency, if possible, within a projected time frame.

(7) The court in its discretion may, for good cause, grant the qualified juvenile forensic mental health examiner a 30-day extension in filing the competency evaluation report.

(8) Copies of the written report shall be provided by the court to the juvenile's attorney, the prosecuting attorney, and any guardian ad litem for the juvenile not later than 5 working days after receipt of the report by the court.

History: Add. 2012, Act 541, Eff. Mar. 28, 2013

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