

**§3313. Criteria for withholding an institutional disposition**

**1. Standard.** The court shall enter an order of disposition for a juvenile who has been adjudicated as having committed a juvenile crime without imposing placement in a secure institution as disposition unless, having regard to the nature and circumstances of the crime and the history, character and condition of the juvenile, it finds that the confinement of the juvenile is necessary for protection of the public because:

A. There is undue risk that, during the period of a suspended sentence or probation, the juvenile will commit another crime; [PL 1979, c. 663, §118 (AMD).]

B. The juvenile is in need of correctional treatment that can be provided most effectively by the juvenile's commitment to an institution; or [PL 2019, c. 525, §26 (AMD).]

C. A lesser sentence will depreciate the seriousness of the juvenile's conduct. [PL 1977, c. 520, §1 (NEW).]

[PL 2019, c. 525, §26 (AMD).]

**2. Additional consideration.** The following grounds, while not controlling the discretion of the court, must be accorded weight against ordering placement in a secure institution:

A. The juvenile's conduct neither caused nor threatened serious harm; [PL 1977, c. 520, §1 (NEW).]

B. The juvenile did not contemplate that the juvenile's conduct would cause or threaten serious harm; [PL 2019, c. 525, §26 (AMD).]

C. The juvenile acted under a strong provocation; [PL 1977, c. 520, §1 (NEW).]

D. There were substantial grounds tending to excuse or justify the juvenile's conduct, though failing to establish a defense; [PL 1977, c. 520, §1 (NEW).]

E. The victim of the juvenile's conduct induced or facilitated the commission of the conduct; [PL 2019, c. 525, §26 (AMD).]

F. The juvenile has made or has agreed to pay restitution to the victim of the juvenile's conduct for the damage or injury that the victim sustained in an amount that the court has determined is within the juvenile's ability to pay pursuant to section 3314-C; [PL 2021, c. 326, §6 (RPR).]

G. The juvenile has not previously been adjudicated to have committed a juvenile crime or has led a law-abiding life for a substantial period of time prior to the conduct that formed the basis for the present adjudication; [PL 2019, c. 525, §26 (AMD).]

H. The juvenile's conduct was the result of circumstances unlikely to recur; [PL 1977, c. 520, §1 (NEW).]

I. The character and attitudes of the juvenile indicate that the juvenile is unlikely to commit another juvenile crime; [PL 2019, c. 525, §26 (AMD).]

J. The juvenile is particularly likely to respond affirmatively to probation; [PL 2021, c. 326, §7 (AMD).]

K. The confinement of the juvenile would entail excessive hardship to the juvenile or the juvenile's dependents; [PL 2021, c. 326, §8 (AMD).]

L. The juvenile had not attained 14 years of age at the time of the alleged conduct; and [PL 2021, c. 326, §9 (NEW).]

M. The juvenile crime would be considered a Class D or Class E crime if committed by an adult and, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying juvenile criminal episode giving rise to the adjudication did not

generate probable cause to believe the juvenile had committed what would be considered a Class A, Class B or Class C crime if committed by an adult. [PL 2021, c. 326, §10 (NEW).]  
[PL 2021, c. 326, §§6-10 (AMD).]

**3. Statement of reasons accompanying disposition for juvenile adjudicated of murder or a Class A, Class B or Class C crime.** In a disposition for a juvenile crime that if committed by an adult would be murder or a Class A, Class B or Class C crime, the court shall state on the record and in open court the court's reasons for ordering or not ordering placement of the juvenile in a secure institution. [PL 1995, c. 690, §5 (NEW).]

#### SECTION HISTORY

PL 1977, c. 520, §1 (NEW). PL 1979, c. 663, §§118,119 (AMD). PL 1995, c. 690, §5 (AMD).  
PL 2019, c. 474, §1 (AMD). PL 2019, c. 525, §26 (AMD). PL 2021, c. 326, §§6-10 (AMD).

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