

Practice Standards

December, 2012

Section XIII, Standards for Representation of Youth in Youth Court

4. YOUTH WHO ARE SUBJECT TO THE JURISDICTION OF THE DISTRICT COURT

A. To be eligible for assignment to represent youth who are prosecuted either under Section 41-5-206, MCA (filing in district court prior to formal proceedings in youth court) or Section 41-5-1602, MCA, (extended jurisdiction juvenile prosecution), counsel shall be qualified to represent adults charged with similar offenses and shall, in addition, demonstrate proficiency or receive training on the handling of juvenile transfer cases, including supervised on-the-job training if appropriate.

B. In preparing for the transfer hearing or for a designation of extended jurisdiction, counsel of record shall:

- a. Be aware of the statutory findings the court must make before transferring jurisdiction and the case law governing these findings;
- b. Fully advise the youth of his or her right to a hearing and the possible consequence of transfer to youth court or remaining in the district court;
- c. Investigate the offense with which the youth is charged sufficiently to address the question of whether the nature of the offense warrants prosecution in district court;
- d. Investigate the issue of community protection by interviewing the youth's agents, teachers, counselors, psychologists, community members, probation officers, religious affiliates, employers, or any others who have knowledge of the youth and can speak to his or her lack of dangerousness;
- e. Investigate the needs and stated interest of the youth, as well as the youth's circumstances;
- f. Provide the youth with full information and legal advice sufficient for the youth to make decisions concerning the transfer issue;
- g. Prepare to present evidence and testimony to prevent transfer, including testimony by people who can provide helpful insight into the youth's character and who have a positive personal and/or professional view of the youth; and,
- h. Consider obtaining an independent evaluation from a defense expert.