



Michigan Supreme Court
State Court Administrative Office
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To: JIS District Court Administrators
From: JIS District Court Team
Date: May 24, 2010
Subject: **New Procedure** for Delayed Sentencing under MCL 771.1

Please distribute to appropriate staff

The State Court Administrators Office has determined that cases dismissed after a delayed sentence under MCL 771.1 should be counted as reopened for Caseload. We have changed the recommended procedure for processing these cases accordingly. This change in processing only applies at the time of dismissal. The change in procedure should be implemented immediately and replaces the instructions found on page 3-52 of the 2007 Traffic/Criminal/Probation User Guide.

If you have any questions, please contact the District Court Help Desk at (888) 339-1547 or DCSHELPDESK@courts.mi.gov

Processing 771.1 Delayed Sentence Cases

MCL 771.1 - Delayed Sentence: "...the court may delay sentencing the defendant for not more than 1 year to give the defendant an opportunity to prove to the court his or her eligibility for probation or other leniency compatible with the ends of justice and the defendant's rehabilitation..." (Emphasis added). Delayed sentence cases are reported as disposed on the caseload report based upon the method by which the case was adjudicated: plea, jury verdict, bench verdict. Delayed sentence cases are **public records**.

Plea or Trial

On the Disposition (DSP) screen, enter the proceeding code, date of the plea or trial, plea code (if required), disposition code and judge. Enter an **X** in the *Delayed* field. Also add term of probation, probation officer and any other miscellaneous information needed by the court.

Sentencing

If the defendant is eventually sentenced to the charge, on the Disposition (DSP) screen, enter proceeding code (**SH** for sentencing), date of sentencing, judge and any other miscellaneous information needed by the court.

Nolle Prosequi filed by Prosecutor

If the prosecutor files a Nolle Prosequi after the period of delayed sentence, **the original conviction disposition must be set aside prior to entering the Nolle Prosequi**. Use the Scheduling (SCH) or Disposition (DSP) screen to set aside the current dispositions, being count specific. **NOTE:** If multiple counts are being dismissed, set aside all dispositions **before** entering new dispositions. This will prevent a case from being counted multiple times as a reopened case.

On the Disposition screen (DSP), enter the proceeding code, date of proceeding, judge and disposition code **25**. You may enter a code in the *Dism* field, comments in the *Other Actions* field and/or any other information needed by the court. Close the case.

Tip: A conviction that is delayed is considered a guilty disposition. If a charge is abstractable, the abstract will automatically generate.