

232.54 Termination, modification, or vacation and substitution of dispositional order.

1. At any time prior to its expiration, a dispositional order may be terminated, modified, or vacated and another dispositional order substituted therefor only in accordance with the following provisions:

a. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph “a”, “b”, or “c”, and upon the motion of a child, a child’s parent or guardian, a child’s guardian ad litem, a person supervising the child under a dispositional order, a county attorney, or upon its own motion, the court may terminate the order and discharge the child, modify the order, or vacate the order and substitute another order pursuant to the provisions of section 232.52. Notice shall be afforded all parties, and a hearing shall be held at the request of any party.

b. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs “d” and “e”, the court shall grant a motion of the person to whom custody has been transferred for termination of the order and discharge of the child, for modification of the order by imposition of less restrictive conditions, or for vacation of the order and substitution of a less restrictive order unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court’s own motion.

c. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph “d”, or “e”, or “f”, the court shall grant a motion of a person or agency to whom custody has been transferred for modification of the order by transfer to an equally restrictive placement, unless there is clear and convincing evidence that there has not been a change of circumstance sufficient to grant the motion. Notice shall be afforded all parties, and a hearing shall be held at the request of any party or upon the court’s own motion.

d. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph “d”, “e”, or “f”, the court may, after notice and hearing, either grant or deny a motion of the child, the child’s parent or guardian, or the child’s guardian ad litem, to terminate the order and discharge the child, to modify the order either by imposing less restrictive conditions or by transfer to an equally or less restrictive placement, or to vacate the order and substitute a less restrictive order. A motion may be made pursuant to this paragraph no more than once every six months.

e. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraphs “d” and “e”, the court may, after notice and a hearing at which there is presented clear and convincing evidence to support such an action, either grant or deny a motion by a county attorney or by a person or agency to whom custody has been transferred, to modify an order by imposing more restrictive conditions or to vacate the order and substitute a more restrictive order.

f. With respect to a temporary transfer order made pursuant to section 232.52, subsection 10, if the court finds that removal of a child from the state training school is necessary to safeguard the child’s physical or emotional health and is in the best interests of the child, the court shall grant the director’s motion for a substitute dispositional order to place the child in a facility which has been designated to be an alternative placement site for the state training school.

g. With respect to a juvenile court dispositional order entered regarding a child who has received a youthful offender deferred sentence under section 907.3A, the dispositional order may be terminated prior to the child reaching the age of eighteen upon motion of the child, the person or agency to whom custody of the child has been transferred, or the county attorney following a hearing before the juvenile court if it is shown by clear and convincing evidence that it is in the best interests of the child and the community to terminate the order. The hearing may be waived if all parties to the proceeding agree. The dispositional order regarding a child who has received a youthful offender deferred sentence may also be terminated prior to the child reaching the age of eighteen upon motion of the county attorney, if the waiver of the child to district court was conditioned upon the terms of an agreement between the county attorney and the child, and the child violates the terms of the agreement after the waiver order has been entered. The district court shall discharge the child’s youthful offender status upon receiving a termination order under this section.

h. With respect to a dispositional order entered regarding a child who has received a youthful offender deferred sentence under section 907.3A, the juvenile court may, in the case of a child who violates the terms of the order, modify or terminate the order in accordance with the following:

(1) After notice and hearing at which the facts of the child's violation of the terms of the order are found, the juvenile court may refuse to modify the order, modify the order and impose a more restrictive order, or, after an assessment of the child by a juvenile court officer in consultation with the judicial district department of correctional services and if the child is age fourteen or over, terminate the order and return the child to the supervision of the district court under chapter 907.

(2) The juvenile court shall only terminate an order under this paragraph "h" if after considering the best interests of the child and the best interests of the community the court finds that the child should be returned to the supervision of the district court.

(3) A youthful offender over whom the juvenile court has terminated the dispositional order under this paragraph "h" shall be treated in the manner of an adult who has been arrested for a violation of probation under section 908.11 for sentencing purposes only.

i. With respect to a dispositional order requiring a child to register as a sex offender pursuant to chapter 692A, the juvenile court shall determine whether the child shall remain on the sex offender registry prior to termination of the dispositional order.

2. Notice requirements of this section shall be satisfied by providing reasonable notice to the persons required to be provided notice for adjudicatory hearings under section 232.37, except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. At a hearing under this section all relevant and material evidence shall be admitted.

[C79, 81, §232.54]

90 Acts, ch 1239, §9; 95 Acts, ch 92, §2; 97 Acts, ch 126, §28; 98 Acts, ch 1100, §25; 2001 Acts, ch 135, §27; 2009 Acts, ch 41, §237; 2009 Acts, ch 119, §37

Referred to in §232.2, 232.9, 232.11, 232.22, 232.52, 232.53, 692A.106, 907.3A