

new MIP law

3 messages

Liz Stankewitz <liz@cheboygancounty.net>
Reply-To: madcm@googlegroups.com
To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Wed, Feb 7, 2018 at 2:44 PM

I'm looking for input- on an MIP 2nd, the statute allows for 30 days jail – however – can the 30 days be assessed upon sentencing OR can they only be given 30 days jail IF they have violated probation, failed to complete substance abuse treatment and/or screening or pay fines?

(b) If a violation of this subsection occurs after 1 prior judgment, the minor is guilty of a misdemeanor. A

misdemeanor under this subdivision is punishable by imprisonment for not more than 30 days if the court

finds that the minor violated an order of probation, failed to successfully complete any treatment, screening,

or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$200.00, or both. A court may order a minor under this subdivision

to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA

368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform

community service, and to undergo substance abuse screening and assessment at his or her own expense as

described in subsection (5).

Here's the scenario – Defendant pleads guilty to an MIP 1st on 01/06/2016. Defendant pleads guilty to an MIP 1st on 12/11/2016. Defendant is placed on probation for that offense and ordered to do substance abuse treatment and pay fines among other things. Defendant violates probation by failing to report, failing to pay and failing to attend treatment. Defendant comes before the court on 2/5/18 charged with and pled to an MIP 2nd. Can the defendant be sentenced to jail time OR would he have to violate the MIP 2nd probation to be given a jail sentence?

Thanks for your input!

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Wiewiora, John <WiewioraJo@co.muskegon.mi.us>

Wed, Feb 7, 2018 at 3:52 PM

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Looking at the current charge, which occurred on 2/5/18, Defendant's sentence falls under subsection (c) as he has two prior judgments, even if one of those was under a deferred sentence and was later dismissed (see (4)). He can only be put in jail for up to 60 days if he fails to comply with court ordered probation, substance abuse screening, or community service, on the current charge. You cannot give him jail on the new charge based on his violating a court order on a prior charge. If the prosecutor only charged him with, and he pled to, a 2nd offense under (b) even though he had two prior judgments, the answer would be the same except that the jail sentence upon violation of the sentence would only carry up to 30 days.

From: madcm@googlegroups.com [<mailto:madcm@googlegroups.com>] **On Behalf Of** Liz Stankewitz

Sent: Wednesday, February 07, 2018 2:44 PM

To: madcm@googlegroups.com

Subject: new MIP law

[Quoted text hidden]

[Quoted text hidden]

Milroy,Michael <michael.milroy@kentcountymi.gov>

Wed, Feb 7, 2018 at 4:48 PM

Reply-To: madcm@googlegroups.com

To: "madcm@googlegroups.com" <madcm@googlegroups.com>

Good Afternoon,

As I have applied the MIP statute, it is only the subsequent convictions of MIP that open the possibility of imprisonment. The imprisonment is then conditional, based upon a violation of an order of probation, failure to complete treatment/screening/community service or payment of fines. Imprisonment is not an option at the original plea and sentencing stage.

In your case, jail time cannot be given as a sentence following the plea on February 5, to MIP 2d. If placed on probation your defendant may be subject to jail time if the probation order is violated.

Michael J. Milroy

Magistrate

63rd District Court

From: madcm@googlegroups.com [<mailto:madcm@googlegroups.com>] **On Behalf Of** Liz Stankewitz

Sent: Wednesday, February 07, 2018 2:44 PM

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Subject: new MIP law

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