

SUBSTITUTE FOR
HOUSE BILL NO. 4695

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding sections 1097 and 1098.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1097. (1) IN ORDER TO CONTINUE TO PARTICIPATE IN AND
2 SUCCESSFULLY COMPLETE A MENTAL HEALTH COURT PROGRAM, AN INDIVIDUAL
3 SHALL COMPLY WITH ALL COURT ORDERS, VIOLATIONS OF WHICH MAY BE
4 SANCTIONED AT THE COURT'S DISCRETION.

5 (2) IF THE PARTICIPANT IS ACCUSED OF A NEW CRIME, THE JUDGE
6 SHALL HAVE THE DISCRETION TO TERMINATE THE PARTICIPANT'S
7 PARTICIPATION IN THE MENTAL HEALTH COURT PROGRAM.

8 (3) THE COURT SHALL REQUIRE THAT A PARTICIPANT PAY ALL COURT
9 FINES, COURT COSTS, COURT FEES, RESTITUTION, AND ASSESSMENTS AND

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1 PAY ALL, OR MAKE SUBSTANTIAL CONTRIBUTIONS TOWARD PAYMENT OF, THE
2 COSTS OF THE TREATMENT AND THE MENTAL HEALTH COURT PROGRAM SERVICES
3 PROVIDED TO THE PARTICIPANT, INCLUDING, BUT NOT LIMITED TO, THE
4 COSTS OF DRUG OR ALCOHOL TESTING OR COUNSELING. HOWEVER, [EXCEPT AS
5 OTHERWISE PROVIDED BY LAW,] IF THE COURT
6 DETERMINES THAT THE PAYMENT OF COURT FINES, COURT FEES, OR DRUG OR
7 ALCOHOL TESTING EXPENSES UNDER THIS SUBSECTION WOULD BE A
8 SUBSTANTIAL HARDSHIP FOR THE INDIVIDUAL OR WOULD INTERFERE WITH THE
9 INDIVIDUAL'S TREATMENT, THE COURT MAY WAIVE ALL OR PART OF THOSE
10 COURT FINES, COURT FEES, OR DRUG OR ALCOHOL TESTING EXPENSES.

11 SEC. 1098. (1) UPON COMPLETION OR TERMINATION OF THE MENTAL
12 HEALTH COURT PROGRAM, THE COURT SHALL FIND ON THE RECORD OR PLACE A
13 WRITTEN STATEMENT IN THE COURT FILE INDICATING WHETHER THE
14 PARTICIPANT COMPLETED THE PROGRAM SUCCESSFULLY OR WHETHER THE
15 INDIVIDUAL'S PARTICIPATION IN THE PROGRAM WAS TERMINATED AND, IF IT
16 WAS TERMINATED, THE REASON FOR THE TERMINATION.

17 (2) IF AN INDIVIDUAL IS PARTICIPATING IN A MENTAL HEALTH COURT
18 UNDER SECTION 11 OF CHAPTER II OF THE CODE OF CRIMINAL PROCEDURE,
19 1927 PA 175, MCL 762.11, SECTION 7411 OF THE PUBLIC HEALTH CODE,
20 1978 PA 368, MCL 333.7411, SECTION 4A OF CHAPTER IX OF THE CODE OF
21 CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.4A, OR SECTION 350A OR 430
22 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.350A AND 750.430,
23 THE COURT SHALL PROCEED UNDER THE APPLICABLE SECTION OF LAW. [UNLESS THE
MEMORANDUM OF UNDERSTANDING UNDER SECTION 1091 ALLOWS FOR AN INDIVIDUAL
TO OBTAIN 2 DISCHARGES AND DISMISSALS UNDER THIS SUBSECTION, THERE]
24 MAY ONLY BE 1 DISCHARGE OR DISMISSAL UNDER THIS SUBSECTION.

25 (3) EXCEPT AS PROVIDED IN [SUBSECTIONS (2) AND (4)], THE COURT,
WITH THE
26 AGREEMENT OF THE PROSECUTOR AND IN CONFORMITY WITH THE TERMS AND
27 CONDITIONS OF THE MEMORANDUM OF UNDERSTANDING UNDER SECTION 1091,

1 MAY DISCHARGE AND DISMISS THE PROCEEDINGS AGAINST AN INDIVIDUAL WHO
2 MEETS ALL OF THE FOLLOWING CRITERIA:

3 (A) THE INDIVIDUAL HAS PARTICIPATED IN A MENTAL HEALTH COURT
4 FOR THE FIRST TIME.

5 (B) THE INDIVIDUAL HAS SUCCESSFULLY COMPLETED THE TERMS AND
6 CONDITIONS OF THE MENTAL HEALTH COURT PROGRAM.

7 (C) THE INDIVIDUAL IS NOT REQUIRED BY LAW TO BE SENTENCED TO A
8 CORRECTIONAL FACILITY FOR THE CRIMES TO WHICH HE OR SHE HAS PLED
9 GUILTY.

10 (D) THE INDIVIDUAL HAS NOT PREVIOUSLY BEEN SUBJECT TO MORE
11 THAN 1 OF THE FOLLOWING:

12 (i) ASSIGNMENT TO THE STATUS OF YOUTHFUL TRAINEE UNDER SECTION
13 11 OF CHAPTER II OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175,
14 MCL 762.11.

15 (ii) THE DISMISSAL OF CRIMINAL PROCEEDINGS AGAINST THE
16 INDIVIDUAL UNDER SECTION 7411 OF THE PUBLIC HEALTH CODE, 1978 PA
17 368, MCL 333.7411, SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL
18 PROCEDURE, 1927 PA 175, MCL 769.4A, OR SECTION 350A OR 430 OF THE
19 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.350A AND 750.430.

20 (4) THE COURT MAY ORDER A DISCHARGE AND DISMISSAL OF A
21 DOMESTIC VIOLENCE OFFENSE ONLY IF ALL OF THE FOLLOWING
22 CIRCUMSTANCES APPLY:

23 (A) THE INDIVIDUAL HAS NOT PREVIOUSLY HAD PROCEEDINGS
24 DISMISSED UNDER SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL
25 PROCEDURE, 1927 PA 175, MCL 769.4A.

26 (B) THE DOMESTIC VIOLENCE OFFENSE IS ELIGIBLE TO BE DISMISSED
27 UNDER SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE,

1 1927 PA 175, MCL 769.4A.

2 (C) THE INDIVIDUAL FULFILLS THE TERMS AND CONDITIONS IMPOSED
3 UNDER SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE,
4 1927 PA 175, MCL 769.4A, AND THE DISCHARGE AND DISMISSAL OF
5 PROCEEDINGS ARE PROCESSED AND REPORTED UNDER SECTION 4A OF CHAPTER
6 IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.4A.

7 (5) A DISCHARGE AND DISMISSAL UNDER SUBSECTION (3) SHALL BE
8 WITHOUT ADJUDICATION OF GUILT OR, FOR A JUVENILE, WITHOUT
9 ADJUDICATION OF RESPONSIBILITY AND ARE NOT A CONVICTION OR A
10 FINDING OF RESPONSIBILITY FOR PURPOSES OF THIS SECTION OR FOR
11 PURPOSES OF DISQUALIFICATIONS OR DISABILITIES IMPOSED BY LAW UPON
12 CONVICTION OF A CRIME OR, FOR A JUVENILE, A FINDING OF
13 RESPONSIBILITY. THERE MAY ONLY BE 1 DISCHARGE AND DISMISSAL UNDER
14 SUBSECTION (3) FOR AN INDIVIDUAL. THE COURT SHALL SEND A RECORD OF
15 THE DISCHARGE AND DISMISSAL TO THE CRIMINAL JUSTICE INFORMATION
16 CENTER OF THE DEPARTMENT OF STATE POLICE, AND THE DEPARTMENT OF
17 STATE POLICE SHALL ENTER THAT INFORMATION INTO THE LAW ENFORCEMENT
18 INFORMATION NETWORK WITH AN INDICATION OF PARTICIPATION BY THE
19 INDIVIDUAL IN A MENTAL HEALTH COURT. ALL RECORDS OF THE PROCEEDINGS
20 REGARDING THE PARTICIPATION OF THE INDIVIDUAL IN THE MENTAL HEALTH
21 COURT UNDER SUBSECTION (3) ARE CLOSED TO PUBLIC INSPECTION FROM THE
22 DATE OF DEFERRAL AND ARE EXEMPT FROM PUBLIC DISCLOSURE UNDER THE
23 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, BUT
24 SHALL BE OPEN TO THE COURTS OF THIS STATE, ANOTHER STATE, OR THE
25 UNITED STATES, THE DEPARTMENT OF CORRECTIONS, LAW ENFORCEMENT
26 PERSONNEL, AND PROSECUTORS ONLY FOR USE IN THE PERFORMANCE OF THEIR
27 DUTIES OR TO DETERMINE WHETHER AN EMPLOYEE OF THE COURT,

1 DEPARTMENT, LAW ENFORCEMENT AGENCY, OR PROSECUTOR'S OFFICE HAS
2 VIOLATED HIS OR HER CONDITIONS OF EMPLOYMENT OR WHETHER AN
3 APPLICANT MEETS CRITERIA FOR EMPLOYMENT WITH THE COURT, DEPARTMENT,
4 LAW ENFORCEMENT AGENCY, OR PROSECUTOR'S OFFICE. THE RECORDS AND
5 IDENTIFICATIONS DIVISION OF THE DEPARTMENT OF STATE POLICE SHALL
6 RETAIN A NONPUBLIC RECORD OF AN ARREST, COURT PROCEEDINGS, AND THE
7 DISCHARGE AND DISMISSAL UNDER THIS SUBSECTION.

8 (6) EXCEPT AS PROVIDED IN SUBSECTION (2), (3), OR (4), IF AN
9 INDIVIDUAL HAS SUCCESSFULLY COMPLETED PROBATION OR OTHER COURT
10 SUPERVISION, THE COURT SHALL DO THE FOLLOWING:

11 (A) IF THE COURT HAS NOT ALREADY ENTERED AN ADJUDICATION OF
12 GUILT OR RESPONSIBILITY, ENTER AN ADJUDICATION OF GUILT OR, IN THE
13 CASE OF A JUVENILE, ENTER A FINDING OR ADJUDICATION OF
14 RESPONSIBILITY.

15 (B) IF THE COURT HAS NOT ALREADY SENTENCED THE INDIVIDUAL,
16 PROCEED TO SENTENCING OR, IN THE CASE OF A JUVENILE, DISPOSITION
17 PURSUANT TO THE AGREEMENT.

18 (C) SEND A RECORD OF THE CONVICTION AND SENTENCE OR THE
19 FINDING OR ADJUDICATION OF RESPONSIBILITY AND DISPOSITION TO THE
20 CRIMINAL JUSTICE INFORMATION CENTER OF THE DEPARTMENT OF STATE
21 POLICE.

22 (7) FOR A PARTICIPANT WHOSE PARTICIPATION IS TERMINATED OR WHO
23 FAILS TO SUCCESSFULLY COMPLETE THE MENTAL HEALTH COURT PROGRAM, THE
24 COURT SHALL ENTER AN ADJUDICATION OF GUILT, OR, IN THE CASE OF A
25 JUVENILE, A FINDING OF RESPONSIBILITY, IF THE ENTRY OF GUILT OR
26 ADJUDICATION OF RESPONSIBILITY WAS DELAYED OR DEFERRED UNDER
27 SECTION 1094, AND SHALL THEN PROCEED TO SENTENCING OR DISPOSITION

1 OF THE INDIVIDUAL FOR THE ORIGINAL CHARGES TO WHICH THE INDIVIDUAL
2 PLED GUILTY OR, IN THE CASE OF A JUVENILE, TO WHICH THE JUVENILE
3 ADMITTED RESPONSIBILITY PRIOR TO ADMISSION TO THE MENTAL HEALTH
4 COURT. EXCEPT FOR PROGRAM TERMINATION DUE TO THE COMMISSION OF A
5 NEW CRIME, FAILURE TO COMPLETE A MENTAL HEALTH COURT PROGRAM SHALL
6 NOT BE A PREJUDICIAL FACTOR IN SENTENCING. ALL RECORDS OF THE
7 PROCEEDINGS REGARDING THE PARTICIPATION OF THE INDIVIDUAL IN THE
8 MENTAL HEALTH COURT SHALL REMAIN CLOSED TO PUBLIC INSPECTION AND
9 EXEMPT FROM PUBLIC DISCLOSURE AS PROVIDED IN SUBSECTION (5).

10 Enacting section 1. This amendatory act does not take effect
11 unless all of the following bills of the 97th Legislature are
12 enacted into law:

13 (a) House Bill No. 4694.

14 (b) House Bill No. 4696.

15 (c) House Bill No. 4697.