



SENATE BILL No. 705

June 17, 1993, Introduced by Senator CISKY and referred
to the Committee on Judiciary.

A bill to amend section 7411 of Act No. 368 of the Public
Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 144 of the Public Acts of 1988, being sec-
tion 333.7411 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7411 of Act No. 368 of the Public Acts
2 of 1978, as amended by Act No. 144 of the Public Acts of 1988,
3 being section 333.7411 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 7411. (1) When an individual who has not previously
6 been convicted of an offense under this article or under any
7 statute of the United States or of any state relating to narcotic
8 drugs, coca leaves, marihuana, or stimulant, depressant, or
9 hallucinogenic drugs, pleads guilty to or is found guilty of

1 possession of a controlled substance under section 7403(2)(a)(v),
2 7403(2)(b), (c), or (d), or of use of a controlled substance
3 under section 7404, or possession or use of an imitation con-
4 trolled substance under section 7341 for a second time, the
5 court, without entering a judgment of guilt with the consent of
6 the accused, may defer further proceedings and place the individ-
7 ual on probation upon terms and conditions THAT SHALL INCLUDE,
8 BUT ARE NOT LIMITED TO, PAYMENT OF A PROBATION SUPERVISION FEE AS
9 PRESCRIBED IN SECTION 3C OF CHAPTER XI OF THE CODE OF CRIMINAL
10 PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTION
11 771.3C OF THE MICHIGAN COMPILED LAWS. Upon violation of a term
12 or condition, the court may enter an adjudication of guilt and
13 proceed as otherwise provided. Upon fulfillment of the terms and
14 conditions, the court shall discharge the individual and dismiss
15 the proceedings. Discharge and dismissal under this section
16 shall be without adjudication of guilt and is not a conviction
17 for purposes of this section or for purposes of disqualifications
18 or disabilities imposed by law upon conviction of a crime,
19 including the additional penalties imposed for second or subse-
20 quent convictions under section 7413. There may be only
21 1 discharge and dismissal under this section as to an
22 individual. The records and identifications division of the
23 department of state police shall retain a nonpublic record of an
24 arrest and discharge or dismissal under this section. This
25 record shall be furnished to a court or police agency upon
26 request for the purpose of showing that a defendant in a criminal
27 action involving the possession or use of a controlled substance,

1 or an imitation controlled substance as defined in section 7341,
2 covered in this article has already once utilized this section.
3 For purposes of this section, a person subjected to a civil fine
4 for a first violation of section 7341(4) shall not be considered
5 to have previously been convicted of an offense under this
6 article.

7 (2) Except as provided in subsection (3), if an individual
8 is convicted of a violation of this article, other than a viola-
9 tion of section 7401(2)(a)(i) to (iv) or section 7403(2)(a)(i) to
10 (iv), the court as part of the sentence, during the period of
11 confinement or the period of probation, or both, may require the
12 individual to attend a course of instruction or rehabilitation
13 program approved by the department on the medical, psychological,
14 and social effects of the misuse of drugs. The court may order
15 the individual to pay a fee, as approved by the director, for the
16 instruction or program. Failure to complete the instruction or
17 program shall be considered a violation of the terms of
18 probation.

19 (3) If an individual is convicted of a second violation of
20 section 7341(4), before imposing sentence under subsection (1),
21 the court shall order the person to undergo screening and assess-
22 ment by a person or agency designated by the office of substance
23 abuse services, to determine whether the person is likely to ben-
24 efit from rehabilitative services, including alcohol or drug edu-
25 cation and alcohol or drug treatment programs. As part of the
26 sentence imposed under subsection (1), the court may order the
27 person to participate in and successfully complete 1 or more

1 appropriate rehabilitative programs. The person shall pay for
2 the costs of the screening, assessment, and rehabilitative
3 services. Failure to complete a program shall be considered a
4 violation of the terms of the probation.

5 Section 2. This amendatory act shall not take effect unless
6 all of the following bills of the 87th Legislature are enacted
7 into law:

8 (a) Senate Bill No. ____ or House Bill No. ____ (request
9 no. 03634'93).

10 (b) Senate Bill No. ____ or House Bill No. ____ (request
11 no. 03634'93 a).