

1 DETERMINATION UNDER THIS SUBSECTION, THE COURT SHALL CONSIDER ALL
2 OF THE FOLLOWING:

3 (A) THE NATURE AND SERIOUSNESS OF THE CRIME WITH WHICH THE
4 INDIVIDUAL IS CHARGED.

5 (B) THE INDIVIDUAL'S PRIOR CRIMINAL RECORD.

6 (C) THE INDIVIDUAL'S PRIOR MENTAL HEALTH RECORD.

7 (D) THE LIKELIHOOD THAT THE INDIVIDUAL WOULD BENEFIT FROM
8 MENTAL HEALTH TREATMENT OR SERVICES.

9 (E) OTHER INFORMATION CONSIDERED RELEVANT BY THE COURT.

10 (2) THE COURT MAY REQUIRE THE INDIVIDUAL DESCRIBED IN SUB-
11 SECTION (1) TO SUBMIT TO A MEDICAL EXAMINATION OR PSYCHIATRIC OR
12 PSYCHOLOGICAL EVALUATION CONDUCTED BY A COMMUNITY MENTAL HEALTH
13 SERVICES PROGRAM FOR PURPOSES OF THIS SECTION. UPON THE MOTION
14 OF A PARTY OR UPON THE COURT'S OWN INITIATIVE, THE COURT MAY
15 REQUIRE AN INDIVIDUAL DESCRIBED IN SUBSECTION (1) TO SUBMIT TO A
16 MEDICAL EXAMINATION OR PSYCHIATRIC OR PSYCHOLOGICAL EVALUATION
17 CONDUCTED BY A MENTAL HEALTH PROFESSIONAL OR A PROVIDER OF MENTAL
18 HEALTH SERVICES OTHER THAN A COMMUNITY MENTAL HEALTH SERVICES
19 PROGRAM TO OBTAIN AN INDEPENDENT INITIAL EVALUATION OR AN INDE-
20 PENDENT SECOND OPINION.

21 (3) THE COURT SHALL INFORM THE INDIVIDUAL AND HIS OR HER
22 ATTORNEY THAT THE INDIVIDUAL MAY REFUSE TO PARTICIPATE IN A PRO-
23 GRAM OF TREATMENT OR SERVICES OFFERED UNDER THIS SECTION AND
24 INSTEAD ALLOW THE CRIMINAL PROCEEDING TO PROCEED.

25 (4) IF THE INDIVIDUAL DOES NOT INFORM THE COURT THAT HE OR
26 SHE DOES NOT WISH TO PARTICIPATE IN A MENTAL HEALTH TREATMENT OR
27 SERVICES PROGRAM AS PROVIDED IN SUBSECTION (1), THE COURT SHALL

1 PRESENT TO THE INDIVIDUAL A CONTRACT TO BE SIGNED BY THE
2 INDIVIDUAL AND THE COURT. THE CONTRACT MAY CONTAIN TERMS AND
3 CONDITIONS THAT ARE BASED ON, BUT NOT LIMITED TO, 1 OR MORE OF
4 THE FACTORS SET FORTH IN SUBSECTION (1)(A) TO (E).

5 (5) BY SIGNING THE CONTRACT, THE INDIVIDUAL AGREES TO ALL OF
6 THE FOLLOWING:

7 (A) FOR THE TERM OF THE CONTRACTUAL PERIOD, TO ABIDE BY THE
8 TERMS OF ANY COURT ORDER ENTERED WITH RESPECT TO HIS OR HER
9 CASE.

10 (B) TO REMAIN IN SUBSTANTIAL COMPLIANCE WITH HIS OR HER
11 INDIVIDUAL PLAN OF SERVICES AS DEVELOPED PURSUANT TO SECTION 712
12 OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1712, OR, IF THE
13 INDIVIDUAL RECEIVES SERVICES FROM A PROVIDER OF MENTAL HEALTH
14 SERVICES OTHER THAN A COMMUNITY MENTAL HEALTH SERVICES PROGRAM,
15 THE INDIVIDUAL'S PLAN OF SERVICES DEVELOPED BY HIS OR HER
16 PROVIDER.

17 (C) TO REMAIN IN COMPLIANCE WITH ANY RELATED ORDER OF THE
18 COURT.

19 (D) NOT TO VIOLATE ANY CRIMINAL LAW OR ORDINANCE OF THE
20 UNITED STATES, THIS STATE, OR A POLITICAL SUBDIVISION OF THIS
21 STATE.

22 (6) BY SIGNING THE CONTRACT, THE COURT AGREES TO STAY FUR-
23 THER ADJUDICATION OF THE UNDERLYING CRIMINAL CHARGE AND TO DIS-
24 MISS THE CHARGE AT THE CONCLUSION OF THE CONTRACTUAL PERIOD IF
25 THE INDIVIDUAL ABIDES BY THE TERMS OF THE CONTRACT OR AT THE CON-
26 CLUSION OF 1 YEAR AFTER THE CONTRACT IS SIGNED IF THE INDIVIDUAL

1 HAS ABIDED BY THE TERMS OF THE CONTRACT DURING THAT YEAR,
2 WHICHEVER IS SOONER.

3 (7) IF A CONTRACT HAS BEEN SIGNED UNDER SUBSECTION (4), THE
4 COURT SHALL STAY THE CRIMINAL CASE FOR NOT MORE THAN 1 YEAR.

5 (8) THE INDIVIDUAL'S PROVIDER OF MENTAL HEALTH SERVICES OR
6 THE PERSON IN CHARGE OF IMPLEMENTING THE INDIVIDUAL'S PLAN OF
7 SERVICES DESCRIBED IN SECTION 712 OF THE MENTAL HEALTH CODE, 1974
8 PA 258, MCL 330.1712, SHALL NOTIFY THE COURT IF THE INDIVIDUAL
9 FAILS TO COMPLY WITH HIS OR HER INDIVIDUAL PLAN OF SERVICES. IF
10 THE COURT IS INFORMED AT ANY TIME DURING THE CONTRACTUAL PERIOD
11 THAT THE INDIVIDUAL HAS NOT ABIDED BY THE TERMS OF THE CONTRACT,
12 THE COURT MAY HOLD A HEARING TO DETERMINE WHETHER THE INDIVIDUAL
13 HAS ABIDED BY THE TERMS OF THE CONTRACT. IF THE COURT FINDS BY A
14 PREPONDERANCE OF THE EVIDENCE THAT THE INDIVIDUAL HAS NOT ABIDED
15 BY THE TERMS OF THE CONTRACT, THE COURT MAY RESCIND THE CONTRACT
16 AND RENEW ADJUDICATION OF THE CRIMINAL CASE. IF THE COURT
17 CHOOSES NOT TO RESCIND THE CONTRACT, THE CONTRACT REMAINS IN
18 EFFECT AND IS BINDING ON ALL OF THE PARTIES.

19 (9) IF THE COURT RESCINDS THE CONTRACT DURING THE PERIOD OF
20 TREATMENT OR SERVICES UNDER SUBSECTION (8), THE COURT SHALL PRO-
21 VIDE A WRITTEN NOTICE OF THE RESCISSION TO THE INDIVIDUAL AND HIS
22 OR HER ATTORNEY AND TO THE PROSECUTING ATTORNEY.

23 (10) AT THE CONCLUSION OF THE CONTRACTUAL PERIOD, THE COURT
24 SHALL COMPLY WITH THE TERMS OF THE CONTRACT.

25 (11) STATEMENTS MADE BY A DEFENDANT TO A PSYCHIATRIST, PSY-
26 CHOLOGIST, OR OTHER MENTAL HEALTH PROFESSIONAL WHO CONDUCTS AN
27 EXAMINATION OF AN INDIVIDUAL UNDER THIS SECTION ARE NOT

1 ADMISSIBLE DURING ANY CRIMINAL PROCEEDING INVOLVING THE ALLEGED
2 CRIMINAL CONDUCT ON ANY ISSUE OTHER THAN THE INDIVIDUAL'S MENTAL
3 ILLNESS, INSANITY, OR DIMINISHED CAPACITY AT THE TIME OF THE
4 ALLEGED OFFENSE.

5 (12) AS USED IN THIS SECTION:

6 (A) "COMMUNITY MENTAL HEALTH SERVICES PROGRAM" MEANS THAT
7 TERM AS DEFINED IN SECTION 100A OF THE MENTAL HEALTH CODE, 1974
8 PA 258, MCL 330.1100A.

9 (B) "DEVELOPMENTAL DISABILITY" MEANS THAT TERM AS DEFINED IN
10 SECTION 100A OF THE MENTAL HEALTH CODE, 1974 PA 258,
11 MCL 330.1100A.

12 (C) "MENTAL HEALTH PROFESSIONAL" MEANS THAT TERM AS DEFINED
13 IN SECTION 100B OF THE MENTAL HEALTH CODE, 1974 PA 258,
14 MCL 330.1100B.

15 (D) "SERIOUS EMOTIONAL DISTURBANCE" MEANS THAT TERM AS
16 DEFINED IN SECTION 100D OF THE MENTAL HEALTH CODE, 1974 PA 258,
17 MCL 330.1100D.

18 (E) "SERIOUS MENTAL ILLNESS" MEANS THAT TERM AS DEFINED IN
19 SECTION 100D OF THE MENTAL HEALTH CODE, 1974 PA 258,
20 MCL 330.1100D.

21 Enacting section 1. This amendatory act does not take
22 effect unless Senate Bill No. _____ or House Bill No. 5045
23 (request no. 00564'99 *) of the 90th Legislature is enacted into
24 law.