

# Legislative Analysis

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## DRUG TREATMENT COURTS

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### House Bills 5399 and 5401

**Sponsor: Rep. Andrew Meisner**

### House Bill 5400

**Sponsor: Rep. Alexander C. Lipsey**

**Committee: Judiciary**

**Complete to 2-23-04**

## A SUMMARY OF HOUSE BILLS 5399-5401 AS INTRODUCED 12-30-03

The bills would amend the Revised Judicature Act to create a state Drug Treatment Court Advisory Board, mandate data collection practices, and allow for the creation of drug treatment courts in state circuit and district courts to serve juvenile and adult offenders. The bills are tie-barred to each other, meaning that a particular bill could not take effect unless all three bills were enacted. Specifically, the bills would do the following:

House Bill 5399 would add a new section to the Revised Judicature Act (RJA), (MCL 600.1084), to create a state Drug Treatment Court Advisory Board within the State Court Administrators Office.

The bill would establish a board membership of 14, with 7 of the members coming from state agencies as specified in the bill, and the others being appointed by the chief justice of the Michigan Supreme Court as specified in the bill. The bill would establish the terms of office, the manner in which vacancies would be filled, and how often meetings would occur. Board members would serve without compensation, but could be reimbursed for actual and necessary expenses incurred in the performance of official duties.

The board would be required to do the following:

- Advise the State Court Administrator (SCA) as to the promotion of and creation of drug treatment courts and other problem-solving courts in the state.
- Advise the SCA regarding the allocation of funds from the Drug Treatment Court Fund created in Section 185 of the RJA.
- Develop criteria for monitoring the effectiveness of drug treatment courts in the state.

- Address the availability of substance abuse programs in the communities where drug treatment courts exist or are planned.
- Educate trial judges on the need for, and effectiveness of, drug courts.
- Not later than six months after the first meeting of the board, create guidelines for the operation of drug treatment courts that included standardized statewide guidelines to measure effectiveness and recidivism rates; standardized statewide guidelines for data collection priorities under provisions proposed by House Bill 5400; guidelines for grant allocation; and eligibility criteria for defendants.

House Bill 5400 would also add a new section to the Revised Judicature Act (MCL 600.1081) to require a drug treatment court to collect and maintain the following information on each offender participating in a drug treatment court program:

- Prior criminal convictions, incarceration, or probation and any drug or alcohol treatment received in connection with conviction, incarceration, or probation.
- Employment history, educational record, and income.
- Gender, race, or ethnicity and family and marital status, including any child custody and child support obligations.
- The number of health and addicted babies born to female participants in the program.
- History of any previous participation in drug or alcohol treatment or a drug or alcohol treatment court program, including information on the offender's success or failure in the programs.
- Instances of drug or alcohol use recidivism as specified in the bill. Recidivism would have to be attempted to be measured at intervals of one, two, and five years after successful graduation from a drug treatment court program. Providing the above information could be made a condition of probation.
- Instances of arrest, including rearrest during or after successful completion of or failed participation in a drug treatment court program a program.

The information would have to be collected and maintained in a standardized format according to applicable guidelines established by the state Drug Treatment Court Advisory Board created under proposed provisions of House Bill 5399. Information collected under the bill would be exempt from disclosure under the Freedom of Information Act.

House Bill 5401 would add a new chapter (Chapter 10A) and a new section to the Revised Judicature Act (MCL 600.1060) to allow drug treatment courts to be created in

the state's circuit and district courts. The family division of a circuit court could create a juvenile drug treatment court and/or a family drug treatment court for cases involving a juvenile over whom the court has jurisdiction under provisions of the Probate Code. A circuit or district court could create a drug treatment court appropriate to the felony or misdemeanor offenses within their respective jurisdictions. The ability to create a drug treatment court would not prevent the creation of other problem-solving courts.

A drug treatment court would have to provide for an immediate and highly structured judicial intervention and monitoring process that used a system of immediate and graduated sanctions and incentives for substance abuse treatment for eligible defendants that brought together court personnel, law enforcement personnel, substance abuse professionals, mental health providers, and others in order to isolate and address the costly and negative impact that drug and alcohol addiction has on the criminal justice system and on communities. A range of pretrial intervention services, including drug or alcohol testing upon arrest and clinical assessment, would also have to be provided. A drug treatment court could order a defendant to perform community service as part of supervised treatment and/or as a means of restitution. In addition, a program would have to be structured so that parents or legal guardians of juvenile offenders were involved in the offenders' treatment programs to the greatest extent possible.

In other provisions, the bill would provide for the following:

- Require a family drug treatment court to provide a structured judicial intervention and monitoring process that used a system of immediate and graduated sanctions and incentives aimed at substance abuse treatment and achieving sobriety, becoming responsible adults, and holding families together via a collaborative effort between court, public health, treatment, and child welfare practitioners.
- Detail ten key components that a drug treatment court would have to be based on and would have to implement, such as integrating alcohol and drug treatment services with justice system case processing, monitoring abstinence, and ongoing judicial interaction with each participant.
- Require compliance with all state and federal due process requirements. Testimony, evidence, or other information presented in a drug treatment court could not be used against the offender in a subsequent prosecution for the same drug offense.
- Require the prosecuting attorney and drug treatment court judge to develop criteria to determine offender participation. A prosecutor could refer an offender to the court, and the judge would have to make the determination of eligibility. The bill would also exclude from eligibility an offender ineligible under federal guidelines, offenders convicted of a violent or assaultive crime in the preceding five years (unless the judge, prosecutor, and defense attorney agreed to allow participation), and an offender who was subject to mandatory incarceration or otherwise ineligible for diversionary programs.

- Allow a drug treatment court to charge an offender a reasonable portion of the costs associated with participation in a drug court treatment program, taking into consideration an offender's ability to pay. Costs for participation could be waived or reduced for indigent offenders.
- Require a drug treatment court to create a community advisory board to advise the drug treatment court on the availability of services needed for the success of participants, to communicate with service providers, and to seek out new funding for the court. The members, appointed by the judge for that court would include parents, teachers, law enforcement officers, business persons, faith community members, local elected officials, members of the local substance abuse coordinating agency, as well as others.

**FISCAL IMPACT:**

The bills would have a relatively minor fiscal impact on the Judiciary through costs of board expenses and statutory requirements for data collection.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.