

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1428

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 1060 and 1062 (MCL 600.1060 and 600.1062), as
added by 2004 PA 224.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1060. As used in this chapter:

2 (a) "Dating relationship" means that term as defined in
3 section 2950.

4 (b) "Domestic violence offense" means any crime alleged to
5 have been committed by an individual against his or her spouse or
6 former spouse, an individual with whom he or she has a child in
7 common, an individual with whom he or she has had a dating
8 relationship, or an individual who resides or has resided in the
9 same household.

1 (c) "Drug treatment court" means a court supervised treatment
2 program for individuals who abuse or are dependent upon any
3 controlled substance or alcohol. A drug treatment court ~~should~~
4 **SHALL** comply with the 10 key components promulgated by the national
5 association of drug court professionals, which include all of the
6 following essential characteristics:

7 (i) Integration of alcohol and other drug treatment services
8 with justice system case processing.

9 (ii) Use of a nonadversarial approach by prosecution and
10 defense that promotes public safety while protecting any
11 participant's due process rights.

12 (iii) Identification of eligible participants early with prompt
13 placement in the program.

14 (iv) Access to a continuum of alcohol, drug, and other related
15 treatment and rehabilitation services.

16 (v) Monitoring of participants effectively by frequent alcohol
17 and other drug testing to ensure abstinence from drugs or alcohol.

18 (vi) Use of a coordinated strategy with a regimen of graduated
19 sanctions and rewards to govern the court's responses to
20 participants' compliance.

21 (vii) Ongoing close judicial interaction with each participant
22 and supervision of progress for each participant.

23 (viii) Monitoring and evaluation of the achievement of program
24 goals and the program's effectiveness.

25 (ix) Continued interdisciplinary education in order to promote
26 effective drug court planning, implementation, and operation.

27 (x) The forging of partnerships among other drug courts,

1 public agencies, and community-based organizations to generate
2 local support.

3 (d) "Participant" means an individual who is admitted into a
4 drug treatment court.

5 (e) "Prosecutor" means the prosecuting attorney of the county,
6 the city attorney, the village attorney, or the township attorney.

7 (f) "Traffic offense" means a violation of the Michigan
8 vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of
9 a local ordinance substantially corresponding to a violation of
10 that act, that involves the operation of a vehicle and, at the time
11 of the violation, is a felony or misdemeanor.

12 (g) "Violent offender" means an individual who meets either of
13 the following criteria:

14 (i) Is currently charged with or has pled guilty to, or, if a
15 juvenile, is currently alleged to have committed or has admitted
16 responsibility for, an offense involving the death of or a serious
17 bodily injury to any individual, or the carrying, possessing, or
18 use of a firearm or other dangerous weapon by that individual,
19 whether or not any of these circumstances are an element of the
20 offense, or is criminal sexual conduct of any degree.

21 (ii) Has 1 or more prior convictions for, or, if a juvenile,
22 has 1 or more prior findings of responsibility for, a felony
23 involving the use or attempted use of force against another
24 individual with the intent to cause death or serious bodily harm.

25 Sec. 1062. (1) The circuit court in any judicial circuit or
26 the district court in any judicial district may adopt or institute
27 a drug treatment court, pursuant to statute or court rules.

1 However, the circuit or district court shall not adopt or institute
2 a drug treatment court unless the circuit or district court enters
3 into a memorandum of understanding with each participating county
4 prosecuting attorney in the circuit or district court district, a
5 representative of the criminal defense bar, and a representative or
6 representatives of community treatment providers. The memorandum of
7 understanding also may include other parties considered necessary,
8 such as any other prosecutor in the circuit or district court
9 district, local law enforcement, the probation departments in that
10 circuit or district, the local substance abuse coordinating agency
11 for that circuit or district, a domestic violence service provider
12 program that receives funding from the state domestic violence
13 prevention and treatment board, and community corrections agencies
14 in that circuit or district. The memorandum of understanding shall
15 describe the role of each party.

16 (2) The family division of circuit court in any judicial
17 circuit may adopt or institute a juvenile drug treatment court,
18 pursuant to statute or court rules. However, the family division of
19 circuit court shall not adopt or institute a juvenile drug
20 treatment court unless the family division of circuit court enters
21 into a memorandum of understanding with each participating county
22 prosecuting attorney in the circuit or district court district, a
23 representative of the criminal defense bar **SPECIALIZING IN JUVENILE**
24 **LAW**, and a representative or representatives of community treatment
25 providers. The memorandum of understanding also may include other
26 parties considered necessary, such as any other prosecutor in the
27 circuit or district court district, local law enforcement, the

1 probation departments in that circuit, the local substance abuse
2 coordinating agency for that circuit, a domestic violence service
3 provider program that receives funding from the state domestic
4 violence prevention and treatment board, and community corrections
5 agencies in that circuit. The memorandum of understanding shall
6 describe the role of each party. A juvenile drug treatment court is
7 subject to the same procedures and requirements provided in this
8 chapter for drug treatment courts created under subsection (1),
9 except as specifically provided otherwise in this chapter.

10 (3) A court that is adopting a drug treatment court shall
11 participate in training as required by the state court
12 administrative office and the bureau of justice assistance of the
13 United States department of justice.

14 (4) A COURT THAT HAS ADOPTED A DRUG TREATMENT COURT PURSUANT
15 TO THIS SECTION MAY ACCEPT PARTICIPANTS FROM ANY OTHER JURISDICTION
16 IN THIS STATE BASED UPON EITHER THE RESIDENCE OF THE PARTICIPANT IN
17 THE RECEIVING JURISDICTION OR THE UNAVAILABILITY OF A DRUG
18 TREATMENT COURT IN THE JURISDICTION WHERE THE PARTICIPANT IS
19 CHARGED. THE TRANSFER IS NOT VALID UNLESS IT IS AGREED TO BY ALL OF
20 THE FOLLOWING:

21 (A) THE DEFENDANT OR RESPONDENT.

22 (B) THE ATTORNEY REPRESENTING THE DEFENDANT OR RESPONDENT.

23 (C) THE JUDGE OF THE TRANSFERRING COURT AND THE PROSECUTOR OF
24 THE CASE.

25 (D) THE JUDGE OF THE RECEIVING DRUG TREATMENT COURT AND THE
26 PROSECUTOR OF A COURT FUNDING UNIT OF THE DRUG TREATMENT COURT.