

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.