

SENATE BILL No. 1428

September 13, 2006, Introduced by Senator CROPSEY and referred to the Committee on Judiciary.

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

1 relationship, or an individual who resides or has resided in the
2 same household.

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

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

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

14 (iii) Identification of eligible participants early with prompt
15 placement in the program.

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

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

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

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

25 (viii) Monitoring and evaluation of the achievement of program
26 goals and the program's effectiveness.

27 (ix) Continued interdisciplinary education in order to promote

1 effective drug court planning, implementation, and operation.

2 (x) The forging of partnerships among other drug courts,
3 public agencies, and community-based organizations to generate
4 local support.

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

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

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

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

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

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

27 Sec. 1062. (1) The circuit court in any judicial circuit or

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

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

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

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

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

24 (A) THE DEFENDANT.

25 (B) THE JUDGE, PROSECUTING ATTORNEY, AND DEFENSE ATTORNEY OF
26 THE TRANSFERRING COURT.

27 (C) THE JUDGE AND THE PROSECUTING ATTORNEY OF THE RECEIVING

1 DRUG TREATMENT COURT.