

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1354

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 1062 and 1068 (MCL 600.1062 and 600.1068),
section 1062 as amended by 2006 PA 620 and section 1068 as added by
2004 PA 224.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1062. (1) The circuit court in any judicial circuit or
2 the district court in any judicial district may adopt or institute
3 a drug treatment court, pursuant to statute or court rules.
4 However, **IF THE DRUG TREATMENT COURT WILL INCLUDE IN ITS PROGRAM**
5 **INDIVIDUALS WHO MAY BE ELIGIBLE FOR DISCHARGE AND DISMISSAL OF AN**
6 **OFFENSE, DELAYED SENTENCE, OR DEVIATION FROM THE SENTENCING**
7 **GUIDELINES,** the circuit or district court shall not adopt or

1 institute a ~~THE~~ drug treatment court unless the circuit or district
2 court enters into a memorandum of understanding with each
3 participating ~~county~~ prosecuting attorney in the circuit or
4 district court district, a representative of the criminal defense
5 bar, and a representative or representatives of community treatment
6 providers. The memorandum of understanding also may include other
7 parties considered necessary, such as any other prosecutor in the
8 circuit or district court district, local law enforcement, the
9 probation departments in that circuit or district, the local
10 substance abuse coordinating agency for that circuit or district, a
11 domestic violence service provider program that receives funding
12 from the state domestic violence prevention and treatment board,
13 and community corrections agencies in that circuit or district. The
14 memorandum of understanding shall describe the role of each party.

15 (2) The family division of circuit court in any judicial
16 circuit may adopt or institute a juvenile drug treatment court,
17 pursuant to statute or court rules. However, **IF THE DRUG TREATMENT**
18 **COURT WILL INCLUDE IN ITS PROGRAM INDIVIDUALS WHO MAY BE ELIGIBLE**
19 **FOR DISCHARGE OR DISMISSAL OF AN OFFENSE, OR A DELAYED SENTENCE,**
20 the family division of circuit court shall not adopt or institute a
21 juvenile drug treatment court unless the family division of circuit
22 court enters into a memorandum of understanding with each
23 participating county prosecuting attorney in the circuit or
24 district court district, a representative of the criminal defense
25 bar specializing in juvenile law, 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 is not valid unless it is agreed to by all of
22 the following:

23 (a) The defendant or respondent.

24 (b) The attorney representing the defendant or respondent.

25 (c) The judge of the transferring court and the prosecutor of
26 the case.

27 (d) The judge of the receiving drug treatment court and the

1 prosecutor of a court funding unit of the drug treatment court.

2 Sec. 1068. (1) If the individual being considered for
3 admission to a drug treatment court is charged in a criminal case
4 or, in the case of a juvenile, is alleged to have engaged in
5 activity that would constitute a criminal act if committed by an
6 adult, his or her admission is subject to all of the following
7 conditions:

8 (a) The offense or offenses allegedly committed by the
9 individual must be related to the abuse, illegal use, or possession
10 of a controlled substance or alcohol.

11 (b) The individual, if an adult, must plead guilty to the
12 charge or charges on the record. The individual, if a juvenile,
13 must admit responsibility for the violation or violations that he
14 or she is accused of having committed.

15 (c) The individual must waive, in writing, the right to a
16 speedy trial, the right to representation at drug treatment court
17 review hearings by an attorney, and, with the agreement of the
18 prosecutor, the right to a preliminary examination.

19 (d) The individual must sign a written agreement to
20 participate in the drug treatment court.

21 (2) ~~The~~ **IN THE CASE OF AN INDIVIDUAL WHO WILL BE ELIGIBLE FOR**
22 **DISCHARGE AND DISMISSAL OF AN OFFENSE, DELAYED SENTENCE, OR**
23 **DEVIATION FROM THE SENTENCING GUIDELINES, THE** prosecutor must
24 approve of the admission of the individual into the drug treatment
25 court in conformity with the memorandum of understanding under
26 section 1062.

27 (3) An individual shall not be admitted to, or remain in, a

1 drug treatment court pursuant to an agreement that would permit a
2 discharge or dismissal of a traffic offense upon successful
3 completion of the drug treatment court program.

4 (4) In addition to rights accorded a victim under the **WILLIAM**
5 **VAN REGENMORTER** crime victim's rights act, 1985 PA 87, MCL 780.751
6 to 780.834, the drug treatment court must permit any victim of the
7 offense or offenses of which the individual is charged, any victim
8 of a prior offense of which that individual was convicted, and
9 members of the community in which either the offenses were
10 committed or in which the defendant resides to submit a written
11 statement to the court regarding the advisability of admitting the
12 individual into the drug treatment court.

13 (5) An individual who has waived his or her right to a
14 preliminary examination and has pled guilty or, in the case of a
15 juvenile, has admitted responsibility, as part of his or her
16 application to a drug treatment court and who is not admitted to a
17 drug treatment court, shall be permitted to withdraw his or her
18 plea and is entitled to a preliminary examination or, in the case
19 of a juvenile, shall be permitted to withdraw his or her admission
20 of responsibility.