

SENATE BILL No. 1354

June 1, 2010, Introduced by Senators SWITALSKI, CHERRY and BISHOP and referred to the Committee on Judiciary.

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
8 institute a ~~THE~~ drug treatment court unless the circuit or district

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

14 (2) The family division of circuit court in any judicial
15 circuit may adopt or institute a juvenile drug treatment court,
16 pursuant to statute or court rules. However, the family division of
17 circuit court shall not adopt or institute a juvenile drug
18 treatment court unless the family division of circuit court enters
19 into a memorandum of understanding with each participating county
20 prosecuting attorney in the circuit or district court district, a
21 representative of the criminal defense bar specializing in juvenile
22 law, and a representative or representatives of community treatment
23 providers. The memorandum of understanding also may include other
24 parties considered necessary, such as any other prosecutor in the
25 circuit or district court district, local law enforcement, the
26 probation departments in that circuit, the local substance abuse
27 coordinating agency for that circuit, a domestic violence service

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

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

12 (4) A court that has adopted a drug treatment court pursuant
13 to this section may accept participants from any other jurisdiction
14 in this state based upon either the residence of the participant in
15 the receiving jurisdiction or the unavailability of a drug
16 treatment court in the jurisdiction where the participant is
17 charged. The transfer is not valid unless it is agreed to by all of
18 the following:

19 (a) The defendant or respondent.

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

21 (c) The judge of the transferring court and the prosecutor of
22 the case.

23 (d) The judge of the receiving drug treatment court and the
24 prosecutor of a court funding unit of the drug treatment court.

25 Sec. 1068. (1) If the individual being considered for
26 admission to a drug treatment court is charged in a criminal case
27 or, in the case of a juvenile, is alleged to have engaged in

1 activity that would constitute a criminal act if committed by an
2 adult, his or her admission is subject to all of the following
3 conditions:

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

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

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

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

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

23 (3) An individual shall not be admitted to, or remain in, a
24 drug treatment court pursuant to an agreement that would permit a
25 discharge or dismissal of a traffic offense upon successful
26 completion of the drug treatment court program.

27 (4) In addition to rights accorded a victim under the **WILLIAM**

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

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