

SENATE BILL No. 630

September 8, 2011, Introduced by Senators JONES, SCHUITMAKER, GLEASON, MARLEAU, BIEDA, PROOS and PAPPAGEORGE and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 1070 (MCL 600.1070), as added by 2004 PA 224.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1070. (1) Upon admitting an individual into a drug
2 treatment court, all of the following apply:

3 (a) For an individual who is admitted to a drug treatment
4 court based upon having criminal charges currently filed against
5 him or her, the court shall accept the plea of guilty or, in the
6 case of a juvenile, the admission of responsibility.

7 (b) For an individual who pled guilty to, or admitted
8 responsibility for, criminal charges for which he or she was

1 admitted into the drug treatment court, the court shall do either
2 of the following:

3 (i) In the case of an individual who pled guilty to an offense
4 that is not a traffic offense and who may be eligible for discharge
5 and dismissal ~~pursuant to~~ **UNDER** the agreement with the court and
6 prosecutor upon successful completion of the drug treatment court
7 program, the court shall not enter a judgment of guilt or, in the
8 case of a juvenile, shall not enter an adjudication of
9 responsibility.

10 (ii) In the case of an individual who pled guilty to a traffic
11 offense or who pled guilty to an offense but may not be eligible
12 for discharge and dismissal ~~pursuant to~~ **UNDER** the agreement with
13 the court and prosecutor upon successful completion of the drug
14 treatment court program, the court shall enter a judgment of guilt
15 or, in the case of a juvenile, shall enter an adjudication of
16 responsibility.

17 (c) ~~Pursuant to~~ **UNDER** the agreement with the individual and
18 the prosecutor, the court may either defer further proceedings as
19 provided in section 1 of chapter XI of the code of criminal
20 procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as
21 applicable in that case ~~pursuant to~~ **UNDER** that agreement, and place
22 the individual on probation or other court supervision in the drug
23 treatment court program with terms and conditions according to the
24 agreement and as ~~deemed~~ **CONSIDERED** necessary by the court.

25 (2) The court shall maintain jurisdiction over the drug
26 treatment court participant as provided in this act until final
27 disposition of the case, but not longer than the probation period

1 fixed under section 2 of chapter XI of the code of criminal
2 procedure, 1927 PA 175, MCL 771.2. In the case of a juvenile
3 participant, the court may obtain jurisdiction over any parents or
4 guardians of the juvenile in order to assist in ensuring the
5 juvenile's continued participation and successful completion of the
6 drug treatment court, and may issue and enforce any appropriate and
7 necessary order regarding the parent or guardian of a juvenile
8 participant.

9 (3) The drug treatment court shall cooperate with, and act in
10 a collaborative manner with, the prosecutor, defense counsel,
11 treatment providers, the local substance abuse coordinating agency
12 for that circuit or district, probation departments, and, to the
13 extent possible, local law enforcement, the department of
14 corrections, and community corrections agencies.

15 (4) The drug treatment court may require an individual
16 admitted into the court to pay a reasonable drug court fee that is
17 reasonably related to the cost to the court for administering the
18 drug treatment court program as provided in the memorandum of
19 understanding under section 1062. The clerk of the drug treatment
20 court shall transmit the fees collected to the treasurer of the
21 local funding unit at the end of each month.

22 (5) The drug treatment court may request that the department
23 of state police provide to the court information contained in the
24 law enforcement information network pertaining to an individual
25 applicant's criminal history for purposes of determining the
26 individual's compliance with all court orders. The department of
27 state police shall provide the information requested by a drug

1 treatment court under this subsection.

2 (6) THE DEPARTMENT OF STATE POLICE SHALL RETAIN A NONPUBLIC
3 RECORD OF AN ARREST, DIVERSION, AND DISCHARGE OF DISMISSAL UNDER
4 THIS SECTION. THE NONPUBLIC RECORD SHALL BE FURNISHED TO ANY OF THE
5 FOLLOWING:

6 (A) A COURT, LAW ENFORCEMENT AGENCY, OR PROSECUTING ATTORNEY'S
7 OFFICE UPON REQUEST FOR THE PURPOSE OF SHOWING THAT A DEFENDANT IN
8 A CRIMINAL ACTION INVOLVING THE POSSESSION OR USE OF A CONTROLLED
9 SUBSTANCE, OR AN IMITATION CONTROLLED SUBSTANCE AS THAT TERM IS
10 DEFINED IN SECTION 7341 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
11 333.7341, HAS ALREADY ONCE UTILIZED DIVERSION UNDER SECTION 7411 OF
12 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7411.

13 (B) THE DEPARTMENT OF CORRECTIONS OR A LAW ENFORCEMENT AGENCY,
14 UPON THE REQUEST OF THE DEPARTMENT OR THE LAW ENFORCEMENT AGENCY,
15 IF THE FOLLOWING CONDITIONS ARE MET, AS APPLICABLE:

16 (i) AT THE TIME OF THE REQUEST, THE INDIVIDUAL IS AN EMPLOYEE
17 OF THE DEPARTMENT OR THE LAW ENFORCEMENT AGENCY OR AN APPLICANT FOR
18 EMPLOYMENT WITH THE DEPARTMENT OR LAW ENFORCEMENT AGENCY.

19 (ii) IF THE INDIVIDUAL IS AN EMPLOYEE OF THE DEPARTMENT OF
20 CORRECTIONS OR A LAW ENFORCEMENT AGENCY AND THE COURT PLACED THE
21 INDIVIDUAL ON PROBATION AFTER DECEMBER 31, 2002, THE DATE ON WHICH
22 THE COURT PLACED THE INDIVIDUAL ON PROBATION.

23 (7) A NONPUBLIC RECORD FURNISHED AS DESCRIBED IN SUBSECTION
24 (6) SHALL BE USED BY THE DEPARTMENT OF CORRECTIONS OR LAW
25 ENFORCEMENT AGENCY UNDER SUBSECTION (6) (B) ONLY TO DETERMINE
26 WHETHER AN EMPLOYEE HAS VIOLATED HIS OR HER CONDITIONS OF
27 EMPLOYMENT OR WHETHER AN APPLICANT MEETS CRITERIA FOR EMPLOYMENT,

1 AS APPLICABLE.