

Act No. 274
Public Acts of 2013
Approved by the Governor
December 30, 2013
Filed with the Secretary of State
December 30, 2013
EFFECTIVE DATE: December 30, 2013

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Reps. Cotter, Graves, Johnson, McCready, Heise, Haines, MacMaster, Walsh, Howrylak, O'Brien, Hovey-Wright, Leonard, Abed, Banks, Barnett, Brown, Brunner, Callton, Cavanagh, Cochran, Crawford, Daley, Darany, Denby, Dianda, Driskell, Durhal, Faris, Geiss, Goike, Greimel, Haugh, Haveman, Irwin, Jacobsen, Jenkins, Kelly, Kesto, Kivela, Knezek, Kosowski, Kowall, Kurtz, LaFontaine, Lamonte, Lane, Lauwers, Lyons, MacGregor, McCann, Muxlow, Oakes, Olumba, Pagel, Pettalia, Poleski, Potvin, Price, Rendon, Roberts, Robinson, Rutledge, Santana, Schor, Segal, Shirkey, Singh, Slavens, Smiley, Somerville, Talabi, Tlaib, VerHeulen, Victory, Yonker and Zorn

ENROLLED HOUSE BILL No. 4694

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9947) by adding a chapter heading and sections 1090, 1091, 1092, and 1093.

The People of the State of Michigan enact:

CHAPTER 10B. MENTAL

HEALTH COURT

Sec. 1090. As used in this chapter:

(a) "Co-occurring disorder" means having 1 or more disorders relating to the use of alcohol or other controlled substances of abuse as well as any serious mental illness, serious emotional disturbance, or developmental disability. A diagnosis of co-occurring disorders occurs when at least 1 disorder of each type can be established independent of the other and is not simply a cluster of symptoms resulting from 1 disorder.

(b) "Court funding unit" means that term as defined in section 151e of the revised judicature act of 1961, 1961 PA 236, MCL 600.151e.

(c) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a.

(d) "Domestic violence offense" means any crime alleged to have been committed by an individual against his or her spouse or former spouse, an individual with whom he or she has a child in common, an individual with whom he or she has had a dating relationship, or an individual who resides or has resided in the same household.

(e) "Mental health court" means any of the following:

(i) A court-supervised treatment program for individuals who are diagnosed by a mental health professional with having a serious mental illness, serious emotional disturbance, co-occurring disorder, or developmental disability.

(ii) Programs designed to adhere to the 10 essential elements of a mental health court promulgated by the bureau of justice assistance that include all of the following characteristics:

(A) A broad-based group of stakeholders representing the criminal justice system, mental health system, substance abuse treatment system, any related systems, and the community guide the planning and administration of the court.

(B) Eligibility criteria that address public safety and a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for defendants with mental illnesses, and that take into account the relationship between mental illness and a defendant's offenses, while allowing the individual circumstances of each case to be considered.

(C) Participants are identified, referred, and accepted into mental health courts, and then linked to community-based service providers as quickly as possible.

(D) Terms of participation are clear, promote public safety, facilitate the defendant's engagement in treatment, are individualized to correspond to the level of risk that each defendant presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program.

(E) In accordance with the Michigan indigent defense commission act, 2013 PA 93, MCL 780.981 to 780.1003, provide legal counsel to indigent defendants to explain program requirements, including voluntary participation, and guides defendants in decisions about program involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns about a defendant's competency whenever they arise.

(F) Connect participants to comprehensive and individualized treatment supports and services in the community and strive to use, and increase the availability of, treatment and services that are evidence based.

(G) Health and legal information are shared in a manner that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights as defendants. Information gathered as part of the participants' court-ordered treatment program or services are safeguarded from public disclosure in the event that participants are returned to traditional court processing.

(H) A team of criminal justice and mental health staff and treatment providers receives special, ongoing training and assists mental health court participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process.

(I) Criminal justice and mental health staff collaboratively monitor participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery.

(J) Data are collected and analyzed to demonstrate the impact of the mental health court, its performance is assessed periodically, and procedures are modified accordingly, court processes are institutionalized, and support for the court in the community is cultivated and expanded.

(f) "Participant" means an individual who is admitted into a mental health court.

(g) "Serious emotional disturbance" means that term as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(h) "Serious mental illness" means that term as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(i) "Violent offender" means an individual who is currently charged with, or has been convicted of, an offense involving the death of, or a serious bodily injury to, any individual, whether or not any of these circumstances are an element of the offense, or with criminal sexual conduct in any degree.

Sec. 1091. (1) The circuit court or the district court in any judicial circuit or a district court in any judicial district may adopt or institute a mental health court pursuant to statute or court rules. However, if the mental health court will include in its program individuals who may be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines, the circuit or district court shall not adopt or institute the mental health court unless the circuit or district court enters into a memorandum of understanding with each participating prosecuting attorney in the circuit or district court district, a representative or representatives of the community mental health services programs, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, including, but not limited to, a representative or representatives of the local court funding unit or a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board. The memorandum of understanding shall describe the role of each party.

(2) A family division of circuit court in any judicial circuit may adopt or institute a juvenile mental health court pursuant to statute or court rules. The creation or existence of a mental health court does not change the statutes or

court rules concerning discharge or dismissal of an offense, or a delayed sentence or deferred entry of judgment. A family division of circuit court adopting or instituting a juvenile mental health court shall enter into a memorandum of understanding with all participating prosecuting authorities in the circuit or district court, a representative or representatives of the community mental health services program, a representative of the criminal defense bar specializing in juvenile law, and a representative or representatives of community treatment providers that describes the roles and responsibilities of each party to the memorandum of understanding. The memorandum of understanding also may include other parties considered necessary, including, but not limited to, a representative or representatives of the local court funding unit or a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board. The memorandum of understanding shall describe the role of each party. A juvenile mental health court is subject to the same procedures and requirements provided in this chapter for a mental health court created under subsection (1), except as specifically provided otherwise in this chapter.

(3) A court that has adopted a mental health court under this section may accept participants from any other jurisdiction in this state based upon the residence of the participant in the receiving jurisdiction, the nonavailability of a mental health court in the jurisdiction where the participant is charged, and the availability of financial resources for both operations of the mental health court program and treatment services. A mental health court may refuse to accept participants from other jurisdictions.

Sec. 1092. A mental health court may hire or contract with licensed or accredited treatment providers, in consultation with the local community mental health service provider, and other such appropriate persons to assist the mental health court in fulfilling its requirements under this chapter.

Sec. 1093. (1) Each mental health court shall determine whether an individual may be admitted to the mental health court. No individual has a right to be admitted into a mental health court. Admission into a mental health court program is at the discretion of the court based on the individual's legal or clinical eligibility. An individual may be admitted to mental health court regardless of prior participation or prior completion status. However, in no case shall a violent offender be admitted into mental health court.

(2) In addition to admission to a mental health court under this chapter, an individual who is eligible for admission under this chapter may also be admitted to a mental health court under any of the following circumstances:

(a) The individual has been assigned the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(b) The individual has had criminal proceedings against him or her deferred and has been placed on probation under any of the following:

(i) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(ii) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(iii) Section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430.

(3) To be admitted to a mental health court, an individual shall cooperate with and complete a preadmission screening and evaluation assessment and shall submit to any future evaluation assessment as directed by the mental health court. A preadmission screening and evaluation assessment shall include all of the following:

(a) A review of the individual's criminal history. A review of the law enforcement information network may be considered sufficient for purposes of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the individual to submit a statement as to whether or not he or she has previously been admitted to a mental health court and the results of his or her participation in the prior program or programs.

(b) An assessment of the risk of danger or harm to the individual, others, or the community.

(c) A mental health assessment, clinical in nature, and using standardized instruments that have acceptable reliability and validity, meeting diagnostic criteria for a serious mental illness, serious emotional disturbance, co-occurring disorder, or developmental disability.

(d) A review of any special needs or circumstances of the individual that may potentially affect the individual's ability to receive mental health or substance abuse treatment and follow the court's orders.

(e) For a juvenile, an assessment of the juvenile's family situation, including, to the extent practicable, a comparable review of any guardians or parents.

(4) Except as otherwise permitted in this chapter, any statement or other information obtained as a result of participating in a preadmission screening and evaluation assessment under subsection (3) is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.

(5) The court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for the purposes of determining an individual's eligibility for admission into the mental health court and general criminal history review.

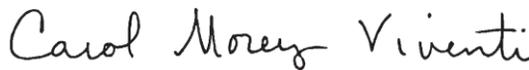
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 97th Legislature are enacted into law:

- (a) House Bill No. 4695.
- (b) House Bill No. 4696.
- (c) House Bill No. 4697.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 4695 was filed with the Secretary of State December 30, 2013, and became 2013 PA 275, Imd. Eff. Dec. 30, 2013.

House Bill No. 4696 was filed with the Secretary of State December 30, 2013, and became 2013 PA 276, Imd. Eff. Dec. 30, 2013.

House Bill No. 4697 was filed with the Secretary of State December 30, 2013, and became 2013 PA 277, Imd. Eff. Dec. 30, 2013.