

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4694

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(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:

1 CHAPTER 10B.

2 MENTAL HEALTH COURT

3 SEC. 1090. AS USED IN THIS CHAPTER:

4 (A) "CO-OCCURRING DISORDER" MEANS HAVING 1 OR MORE DISORDERS
5 RELATING TO THE USE OF ALCOHOL OR OTHER CONTROLLED SUBSTANCES OF
6 ABUSE AS WELL AS ANY SERIOUS MENTAL ILLNESS, SERIOUS EMOTIONAL
7 DISTURBANCE, OR DEVELOPMENTAL DISABILITY. A DIAGNOSIS OF CO-

1 OCCURRING DISORDERS OCCURS WHEN AT LEAST 1 DISORDER OF EACH TYPE
2 CAN BE ESTABLISHED INDEPENDENT OF THE OTHER AND IS NOT SIMPLY A
3 CLUSTER OF SYMPTOMS RESULTING FROM 1 DISORDER.

4 (B) "COURT FUNDING UNIT" MEANS THAT TERM AS DEFINED IN SECTION
5 151E OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
6 600.151E.

7 (C) "DEVELOPMENTAL DISABILITY" MEANS THAT TERM AS DEFINED IN
8 SECTION 100A OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100A.

9 (D) "DOMESTIC VIOLENCE OFFENSE" MEANS ANY CRIME ALLEGED TO
10 HAVE BEEN COMMITTED BY AN INDIVIDUAL AGAINST HIS OR HER SPOUSE OR
11 FORMER SPOUSE, AN INDIVIDUAL WITH WHOM HE OR SHE HAS A CHILD IN
12 COMMON, AN INDIVIDUAL WITH WHOM HE OR SHE HAS HAD A DATING
13 RELATIONSHIP, OR AN INDIVIDUAL WHO RESIDES OR HAS RESIDED IN THE
14 SAME HOUSEHOLD.

15 (E) "MENTAL HEALTH COURT" MEANS ANY OF THE FOLLOWING:

16 (i) A COURT-SUPERVISED TREATMENT PROGRAM FOR INDIVIDUALS WHO
17 ARE DIAGNOSED BY A MENTAL HEALTH PROFESSIONAL WITH HAVING A SERIOUS
18 MENTAL ILLNESS, SERIOUS EMOTIONAL DISTURBANCE, CO-OCCURRING
19 DISORDER, OR DEVELOPMENTAL DISABILITY.

20 (ii) PROGRAMS DESIGNED TO ADHERE TO THE 10 ESSENTIAL ELEMENTS
21 OF A MENTAL HEALTH COURT PROMULGATED BY THE BUREAU OF JUSTICE
22 ASSISTANCE THAT INCLUDE ALL OF THE FOLLOWING CHARACTERISTICS:

23 (A) A BROAD-BASED GROUP OF STAKEHOLDERS REPRESENTING THE
24 CRIMINAL JUSTICE SYSTEM, MENTAL HEALTH SYSTEM, SUBSTANCE ABUSE
25 TREATMENT SYSTEM, ANY RELATED SYSTEMS, AND THE COMMUNITY GUIDE THE
26 PLANNING AND ADMINISTRATION OF THE COURT.

27 (B) ELIGIBILITY CRITERIA THAT ADDRESS PUBLIC SAFETY AND A

1 COMMUNITY'S TREATMENT CAPACITY, IN ADDITION TO THE AVAILABILITY OF
2 ALTERNATIVES TO PRETRIAL DETENTION FOR DEFENDANTS WITH MENTAL
3 ILLNESSES, AND THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN
4 MENTAL ILLNESS AND A DEFENDANT'S OFFENSES, WHILE ALLOWING THE
5 INDIVIDUAL CIRCUMSTANCES OF EACH CASE TO BE CONSIDERED.

6 (C) PARTICIPANTS ARE IDENTIFIED, REFERRED, AND ACCEPTED INTO
7 MENTAL HEALTH COURTS, AND THEN LINKED TO COMMUNITY-BASED SERVICE
8 PROVIDERS AS QUICKLY AS POSSIBLE.

9 (D) TERMS OF PARTICIPATION ARE CLEAR, PROMOTE PUBLIC SAFETY,
10 FACILITATE THE DEFENDANT'S ENGAGEMENT IN TREATMENT, ARE
11 INDIVIDUALIZED TO CORRESPOND TO THE LEVEL OF RISK THAT EACH
12 DEFENDANT PRESENTS TO THE COMMUNITY, AND PROVIDE FOR POSITIVE LEGAL
13 OUTCOMES FOR THOSE INDIVIDUALS WHO SUCCESSFULLY COMPLETE THE
14 PROGRAM.

15 (E) IN ACCORDANCE WITH THE MICHIGAN INDIGENT DEFENSE
16 COMMISSION ACT, 2013 PA 93, MCL 780.981 TO 780.1003, PROVIDE LEGAL
17 COUNSEL TO INDIGENT DEFENDANTS TO EXPLAIN PROGRAM REQUIREMENTS,
18 INCLUDING VOLUNTARY PARTICIPATION, AND GUIDES DEFENDANTS IN
19 DECISIONS ABOUT PROGRAM INVOLVEMENT. PROCEDURES EXIST IN THE MENTAL
20 HEALTH COURT TO ADDRESS, IN A TIMELY FASHION, CONCERNS ABOUT A
21 DEFENDANT'S COMPETENCY WHENEVER THEY ARISE.

22 (F) CONNECT PARTICIPANTS TO COMPREHENSIVE AND INDIVIDUALIZED
23 TREATMENT SUPPORTS AND SERVICES IN THE COMMUNITY AND STRIVE TO USE,
24 AND INCREASE THE AVAILABILITY OF, TREATMENT AND SERVICES THAT ARE
25 EVIDENCE BASED.

26 (G) HEALTH AND LEGAL INFORMATION ARE SHARED IN A MANNER THAT
27 PROTECTS POTENTIAL PARTICIPANTS' CONFIDENTIALITY RIGHTS AS MENTAL

1 HEALTH CONSUMERS AND THEIR CONSTITUTIONAL RIGHTS AS DEFENDANTS.
2 INFORMATION GATHERED AS PART OF THE PARTICIPANTS' COURT-ORDERED
3 TREATMENT PROGRAM OR SERVICES ARE SAFEGUARDED FROM PUBLIC
4 DISCLOSURE IN THE EVENT THAT PARTICIPANTS ARE RETURNED TO
5 TRADITIONAL COURT PROCESSING.

6 (H) A TEAM OF CRIMINAL JUSTICE AND MENTAL HEALTH STAFF AND
7 TREATMENT PROVIDERS RECEIVES SPECIAL, ONGOING TRAINING AND ASSISTS
8 MENTAL HEALTH COURT PARTICIPANTS ACHIEVE TREATMENT AND CRIMINAL
9 JUSTICE GOALS BY REGULARLY REVIEWING AND REVISING THE COURT
10 PROCESS.

11 (I) CRIMINAL JUSTICE AND MENTAL HEALTH STAFF COLLABORATIVELY
12 MONITOR PARTICIPANTS' ADHERENCE TO COURT CONDITIONS, OFFER
13 INDIVIDUALIZED GRADUATED INCENTIVES AND SANCTIONS, AND MODIFY
14 TREATMENT AS NECESSARY TO PROMOTE PUBLIC SAFETY AND PARTICIPANTS'
15 RECOVERY.

16 (J) DATA ARE COLLECTED AND ANALYZED TO DEMONSTRATE THE IMPACT
17 OF THE MENTAL HEALTH COURT, ITS PERFORMANCE IS ASSESSED
18 PERIODICALLY, AND PROCEDURES ARE MODIFIED ACCORDINGLY, COURT
19 PROCESSES ARE INSTITUTIONALIZED, AND SUPPORT FOR THE COURT IN THE
20 COMMUNITY IS CULTIVATED AND EXPANDED.

21 (F) "PARTICIPANT" MEANS AN INDIVIDUAL WHO IS ADMITTED INTO A
22 MENTAL HEALTH COURT.

23 (G) "SERIOUS EMOTIONAL DISTURBANCE" MEANS THAT TERM AS DEFINED
24 IN SECTION 100D OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL
25 330.1100D.

26 (H) "SERIOUS MENTAL ILLNESS" MEANS THAT TERM AS DEFINED IN
27 SECTION 100D OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100D.

1 (I) "VIOLENT OFFENDER" MEANS AN INDIVIDUAL WHO IS CURRENTLY
2 CHARGED WITH, OR HAS BEEN CONVICTED OF, AN OFFENSE INVOLVING THE
3 DEATH OF, OR A SERIOUS BODILY INJURY TO, ANY INDIVIDUAL, WHETHER OR
4 NOT ANY OF THESE CIRCUMSTANCES ARE AN ELEMENT OF THE OFFENSE, OR
5 WITH CRIMINAL SEXUAL CONDUCT IN ANY DEGREE.

6 SEC. 1091. (1) THE CIRCUIT COURT OR THE DISTRICT COURT IN ANY
7 JUDICIAL CIRCUIT OR A DISTRICT COURT IN ANY JUDICIAL DISTRICT MAY
8 ADOPT OR INSTITUTE A MENTAL HEALTH COURT PURSUANT TO STATUTE OR
9 COURT RULES. HOWEVER, IF THE MENTAL HEALTH COURT WILL INCLUDE IN
10 ITS PROGRAM INDIVIDUALS WHO MAY BE ELIGIBLE FOR DISCHARGE AND
11 DISMISSAL OF AN OFFENSE, DELAYED SENTENCE, OR DEVIATION FROM THE
12 SENTENCING GUIDELINES, THE CIRCUIT OR DISTRICT COURT SHALL NOT
13 ADOPT OR INSTITUTE THE MENTAL HEALTH COURT UNLESS THE CIRCUIT OR
14 DISTRICT COURT ENTERS INTO A MEMORANDUM OF UNDERSTANDING WITH EACH
15 PARTICIPATING PROSECUTING ATTORNEY IN THE CIRCUIT OR DISTRICT COURT
16 DISTRICT, A REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY
17 MENTAL HEALTH SERVICES PROGRAMS, A REPRESENTATIVE OF THE CRIMINAL
18 DEFENSE BAR, AND A REPRESENTATIVE OR REPRESENTATIVES OF COMMUNITY
19 TREATMENT PROVIDERS. THE MEMORANDUM OF UNDERSTANDING ALSO MAY
20 INCLUDE OTHER PARTIES CONSIDERED NECESSARY, INCLUDING, BUT NOT
21 LIMITED TO, A REPRESENTATIVE OR REPRESENTATIVES OF THE LOCAL COURT
22 FUNDING UNIT OR A DOMESTIC VIOLENCE SERVICE PROVIDER PROGRAM THAT
23 RECEIVES FUNDING FROM THE STATE DOMESTIC VIOLENCE PREVENTION AND
24 TREATMENT BOARD. THE MEMORANDUM OF UNDERSTANDING SHALL DESCRIBE THE
25 ROLE OF EACH PARTY.

26 (2) A FAMILY DIVISION OF CIRCUIT COURT IN ANY JUDICIAL CIRCUIT
27 MAY ADOPT OR INSTITUTE A JUVENILE MENTAL HEALTH COURT PURSUANT TO

1 STATUTE OR COURT RULES. THE CREATION OR EXISTENCE OF A MENTAL
2 HEALTH COURT DOES NOT CHANGE THE STATUTES OR COURT RULES CONCERNING
3 DISCHARGE OR DISMISSAL OF AN OFFENSE, OR A DELAYED SENTENCE OR
4 DEFERRED ENTRY OF JUDGMENT. A FAMILY DIVISION OF CIRCUIT COURT
5 ADOPTING OR INSTITUTING A JUVENILE MENTAL HEALTH COURT SHALL ENTER
6 INTO A MEMORANDUM OF UNDERSTANDING WITH ALL PARTICIPATING
7 PROSECUTING AUTHORITIES IN THE CIRCUIT OR DISTRICT COURT, A
8 REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY MENTAL HEALTH
9 SERVICES PROGRAM, A REPRESENTATIVE OF THE CRIMINAL DEFENSE BAR
10 SPECIALIZING IN JUVENILE LAW, AND A REPRESENTATIVE OR
11 REPRESENTATIVES OF COMMUNITY TREATMENT PROVIDERS THAT DESCRIBES THE
12 ROLES AND RESPONSIBILITIES OF EACH PARTY TO THE MEMORANDUM OF
13 UNDERSTANDING. THE MEMORANDUM OF UNDERSTANDING ALSO MAY INCLUDE
14 OTHER PARTIES CONSIDERED NECESSARY, INCLUDING, BUT NOT LIMITED TO,
15 A REPRESENTATIVE OR REPRESENTATIVES OF THE LOCAL COURT FUNDING UNIT
16 OR A DOMESTIC VIOLENCE SERVICE PROVIDER PROGRAM THAT RECEIVES
17 FUNDING FROM THE STATE DOMESTIC VIOLENCE PREVENTION AND TREATMENT
18 BOARD. THE MEMORANDUM OF UNDERSTANDING SHALL DESCRIBE THE ROLE OF
19 EACH PARTY. A JUVENILE MENTAL HEALTH COURT IS SUBJECT TO THE SAME
20 PROCEDURES AND REQUIREMENTS PROVIDED IN THIS CHAPTER FOR A MENTAL
21 HEALTH COURT CREATED UNDER SUBSECTION (1), EXCEPT AS SPECIFICALLY
22 PROVIDED OTHERWISE IN THIS CHAPTER.

23 (3) A COURT THAT HAS ADOPTED A MENTAL HEALTH COURT UNDER THIS
24 SECTION MAY ACCEPT PARTICIPANTS FROM ANY OTHER JURISDICTION IN THIS
25 STATE BASED UPON THE RESIDENCE OF THE PARTICIPANT IN THE RECEIVING
26 JURISDICTION, THE NONAVAILABILITY OF A MENTAL HEALTH COURT IN THE
27 JURISDICTION WHERE THE PARTICIPANT IS CHARGED, AND THE AVAILABILITY

1 OF FINANCIAL RESOURCES FOR BOTH OPERATIONS OF THE MENTAL HEALTH
2 COURT PROGRAM AND TREATMENT SERVICES. A MENTAL HEALTH COURT MAY
3 REFUSE TO ACCEPT PARTICIPANTS FROM OTHER JURISDICTIONS.

4 SEC. 1092. A MENTAL HEALTH COURT MAY HIRE OR CONTRACT WITH
5 LICENSED OR ACCREDITED TREATMENT PROVIDERS, IN CONSULTATION WITH
6 THE LOCAL COMMUNITY MENTAL HEALTH SERVICE PROVIDER, AND OTHER SUCH
7 APPROPRIATE PERSONS TO ASSIST THE MENTAL HEALTH COURT IN FULFILLING
8 ITS REQUIREMENTS UNDER THIS CHAPTER.

9 SEC. 1093. (1) EACH MENTAL HEALTH COURT SHALL DETERMINE
10 WHETHER AN INDIVIDUAL MAY BE ADMITTED TO THE MENTAL HEALTH COURT.
11 NO INDIVIDUAL HAS A RIGHT TO BE ADMITTED INTO A MENTAL HEALTH
12 COURT. ADMISSION INTO A MENTAL HEALTH COURT PROGRAM IS AT THE
13 DISCRETION OF THE COURT BASED ON THE INDIVIDUAL'S LEGAL OR CLINICAL
14 ELIGIBILITY. AN INDIVIDUAL MAY BE ADMITTED TO MENTAL HEALTH COURT
15 REGARDLESS OF PRIOR PARTICIPATION OR PRIOR COMPLETION STATUS.
16 HOWEVER, IN NO CASE SHALL A VIOLENT OFFENDER BE ADMITTED INTO
17 MENTAL HEALTH COURT.

18 (2) IN ADDITION TO ADMISSION TO A MENTAL HEALTH COURT UNDER
19 THIS CHAPTER, AN INDIVIDUAL WHO IS ELIGIBLE FOR ADMISSION UNDER
20 THIS CHAPTER MAY ALSO BE ADMITTED TO A MENTAL HEALTH COURT UNDER
21 ANY OF THE FOLLOWING CIRCUMSTANCES:

22 (A) THE INDIVIDUAL HAS BEEN ASSIGNED THE STATUS OF YOUTHFUL
23 TRAINEE UNDER SECTION 11 OF CHAPTER II OF THE CODE OF CRIMINAL
24 PROCEDURE, 1927 PA 175, MCL 762.11.

25 (B) THE INDIVIDUAL HAS HAD CRIMINAL PROCEEDINGS AGAINST HIM OR
26 HER DEFERRED AND HAS BEEN PLACED ON PROBATION UNDER ANY OF THE
27 FOLLOWING:

1 (i) SECTION 7411 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
2 333.7411.

3 (ii) SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL
4 PROCEDURE, 1927 PA 175, MCL 769.4A.

5 (iii) SECTION 350A OR 430 OF THE MICHIGAN PENAL CODE, 1931 PA
6 328, MCL 750.350A AND 750.430.

7 (3) TO BE ADMITTED TO A MENTAL HEALTH COURT, AN INDIVIDUAL
8 SHALL COOPERATE WITH AND COMPLETE A PREADMISSION SCREENING AND
9 EVALUATION ASSESSMENT AND SHALL SUBMIT TO ANY FUTURE EVALUATION
10 ASSESSMENT AS DIRECTED BY THE MENTAL HEALTH COURT. A PREADMISSION
11 SCREENING AND EVALUATION ASSESSMENT SHALL INCLUDE ALL OF THE
12 FOLLOWING:

13 (A) A REVIEW OF THE INDIVIDUAL'S CRIMINAL HISTORY. A REVIEW OF
14 THE LAW ENFORCEMENT INFORMATION NETWORK MAY BE CONSIDERED
15 SUFFICIENT FOR PURPOSES OF THIS SUBDIVISION UNLESS A FURTHER REVIEW
16 IS WARRANTED. THE COURT MAY ACCEPT OTHER VERIFIABLE AND RELIABLE
17 INFORMATION FROM THE PROSECUTION OR DEFENSE TO COMPLETE ITS REVIEW
18 AND MAY REQUIRE THE INDIVIDUAL TO SUBMIT A STATEMENT AS TO WHETHER
19 OR NOT HE OR SHE HAS PREVIOUSLY BEEN ADMITTED TO A MENTAL HEALTH
20 COURT AND THE RESULTS OF HIS OR HER PARTICIPATION IN THE PRIOR
21 PROGRAM OR PROGRAMS.

22 (B) AN ASSESSMENT OF THE RISK OF DANGER OR HARM TO THE
23 INDIVIDUAL, OTHERS, OR THE COMMUNITY.

24 (C) A MENTAL HEALTH ASSESSMENT, CLINICAL IN NATURE, AND USING
25 STANDARDIZED INSTRUMENTS THAT HAVE ACCEPTABLE RELIABILITY AND
26 VALIDITY, MEETING DIAGNOSTIC CRITERIA FOR A SERIOUS MENTAL ILLNESS,
27 SERIOUS EMOTIONAL DISTURBANCE, CO-OCCURRING DISORDER, OR

1 DEVELOPMENTAL DISABILITY.

2 (D) A REVIEW OF ANY SPECIAL NEEDS OR CIRCUMSTANCES OF THE
3 INDIVIDUAL THAT MAY POTENTIALLY AFFECT THE INDIVIDUAL'S ABILITY TO
4 RECEIVE MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT AND FOLLOW THE
5 COURT'S ORDERS.

6 (E) FOR A JUVENILE, AN ASSESSMENT OF THE JUVENILE'S FAMILY
7 SITUATION, INCLUDING, TO THE EXTENT PRACTICABLE, A COMPARABLE
8 REVIEW OF ANY GUARDIANS OR PARENTS.

9 (4) EXCEPT AS OTHERWISE PERMITTED IN THIS CHAPTER, ANY
10 STATEMENT OR OTHER INFORMATION OBTAINED AS A RESULT OF
11 PARTICIPATING IN A PREADMISSION SCREENING AND EVALUATION ASSESSMENT
12 UNDER SUBSECTION (3) IS CONFIDENTIAL AND IS EXEMPT FROM DISCLOSURE
13 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
14 15.246, AND SHALL NOT BE USED IN A CRIMINAL PROSECUTION, UNLESS IT
15 REVEALS CRIMINAL ACTS OTHER THAN, OR INCONSISTENT WITH, PERSONAL
16 DRUG USE.

17 (5) THE COURT MAY REQUEST THAT THE DEPARTMENT OF STATE POLICE
18 PROVIDE TO THE COURT INFORMATION CONTAINED IN THE LAW ENFORCEMENT
19 INFORMATION NETWORK PERTAINING TO AN INDIVIDUAL APPLICANT'S
20 CRIMINAL HISTORY FOR THE PURPOSES OF DETERMINING AN INDIVIDUAL'S
21 ELIGIBILITY FOR ADMISSION INTO THE MENTAL HEALTH COURT AND GENERAL
22 CRIMINAL HISTORY REVIEW.

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

26 (a) House Bill No. 4695.

27 (b) House Bill No. 4696.

1 (c) House Bill No. 4697.