

# HOUSE BILL No. 5049

October 2, 2013, Introduced by Rep. Singh and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending section 1209 (MCL 600.1209), as added by 2012 PA 335.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1209. (1) Upon completion or termination of the veterans  
2 treatment court program, the court shall find on the record or  
3 place a written statement in the court file as to whether the  
4 participant completed the program successfully or whether the  
5 individual's participation in the program was terminated and, if it  
6 was terminated, the reason for the termination.

7           (2) If a participant successfully completes probation or other  
8 court supervision and the participant's proceedings were deferred  
9 or the participant was sentenced under section 1206, the court  
10 shall comply with the agreement made with the participant upon

1 admission into the veterans treatment court, or the agreement as it  
2 was altered after admission by the court with approval of the  
3 participant and the prosecutor for that jurisdiction as provided in  
4 subsections (3) to (8).

5 (3) If an individual is participating in a veterans treatment  
6 court under a statute listed in section 1203(2), the court shall  
7 proceed under the applicable section of law. There shall be not  
8 more than 1 discharge or dismissal under this subsection.

9 (4) Except as provided in subsection (5), the court, with the  
10 agreement of the prosecutor and in conformity with the terms and  
11 conditions of the memorandum of understanding under section  
12 1201(2), may discharge and dismiss the proceedings against an  
13 individual who meets all of the following criteria:

14 (a) The individual has participated in a veterans treatment  
15 court for the first time.

16 (b) The individual has successfully completed the terms and  
17 conditions of the veterans treatment court program.

18 (c) The individual is not required by law to be sentenced to a  
19 correctional facility for the crimes to which he or she has pled  
20 guilty.

21 (d) The individual is not currently charged with and has not  
22 pled guilty to a traffic offense.

23 (e) The individual has not previously been subject to more  
24 than 1 of any of the following:

25 (i) Assignment to the status of youthful trainee under section  
26 11 of chapter II of the code of criminal procedure, 1927 PA 175,  
27 MCL 762.11.

1           (ii) The dismissal of criminal proceedings against him or her  
2 under section 7411 of the public health code, 1978 PA 368, MCL  
3 333.7411, section 4a of chapter IX of the code of criminal  
4 procedure, 1927 PA 175, MCL 769.4a, or section 350a or 430 of the  
5 Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430.

6           (5) The court may grant a discharge and dismissal of a  
7 domestic violence offense only if all of the following  
8 circumstances apply:

9           (a) The individual has not previously had proceedings  
10 dismissed under section 4a of chapter IX of the code of criminal  
11 procedure, 1927 PA 175, MCL 769.4a.

12           (b) The domestic violence offense is eligible to be dismissed  
13 under section 4a of chapter IX of the code of criminal procedure,  
14 1927 PA 175, MCL 769.4a.

15           (c) The individual fulfills the terms and conditions imposed  
16 under section 4a of chapter IX of the code of criminal procedure,  
17 1927 PA 175, MCL 769.4a, and the discharge and dismissal of  
18 proceedings are processed and reported under section 4a of chapter  
19 IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

20           (6) A discharge and dismissal under subsection (4) shall be  
21 without adjudication of guilt and is not a conviction for purposes  
22 of this section or for purposes of disqualifications or  
23 disabilities imposed by law upon conviction of a crime. There shall  
24 be not more than 1 discharge and dismissal under subsection (4) for  
25 an individual. The court shall send a record of the discharge and  
26 dismissal to the criminal justice information center of the  
27 department of state police, and the department of state police

1 shall enter that information into the L.E.I.N. with an indication  
2 of participation by the individual in a veterans treatment court.  
3 ~~All~~ **UNLESS THE COURT ENTERS A JUDGMENT OF GUILT, ALL** records of the  
4 proceedings regarding the participation of the individual in the  
5 veterans treatment court under subsection (4) are closed to public  
6 inspection and are exempt from public disclosure under the freedom  
7 of information act, 1976 PA 442, MCL 15.231 to 15.246, but shall be  
8 open to the courts of this state, another state, or the United  
9 States, the department of corrections, law enforcement personnel,  
10 and prosecutors only for use in the performance of their duties or  
11 to determine whether an employee of the court, department, law  
12 enforcement agency, or prosecutor's office has violated his or her  
13 conditions of employment or whether an applicant meets criteria for  
14 employment with the court, department, law enforcement agency, or  
15 prosecutor's office. The records and identifications division of  
16 the department of state police shall retain a nonpublic record of  
17 an arrest and the discharge and dismissal under this subsection.

18 (7) Except as provided in subsection (3), (4), or (5), if an  
19 individual has successfully completed probation or other court  
20 supervision, the court shall do the following:

21 (a) If the court has not already entered an adjudication of  
22 guilt or responsibility, enter an adjudication of guilt.

23 (b) If the court has not already sentenced the individual,  
24 proceed to sentencing.

25 (c) Send a record of the conviction and sentence or the  
26 finding or adjudication of responsibility and disposition to the  
27 criminal justice information center of the department of state

1 police. The department of state police shall enter that information  
2 into the L.E.I.N. with an indication of successful participation by  
3 the individual in a veterans treatment court.

4 (8) For a participant whose participation is terminated or who  
5 fails to successfully complete the veterans treatment court  
6 program, the court shall enter an adjudication of guilt if the  
7 entering of guilt was deferred or sentencing was delayed under  
8 section 1206 and shall then proceed to sentencing or disposition of  
9 the individual for the original charges to which the individual  
10 pled guilty prior to admission to the veterans treatment court.  
11 Upon sentencing or disposition of the individual, the court shall  
12 send a record of that sentence or disposition and the individual's  
13 unsuccessful participation in the veterans treatment court to the  
14 criminal justice information center of the department of state  
15 police, and the department of state police shall enter that  
16 information into the L.E.I.N., with an indication that the  
17 individual unsuccessfully participated in a veterans treatment  
18 court.