

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4695

A bill to amend 1961 PA 236, entitled
"Revised judiciary act of 1961,"
(MCL 600.101 to 600.9947) by adding sections 1097 and 1098.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1097. (1) IN ORDER TO CONTINUE TO PARTICIPATE IN AND
2 SUCCESSFULLY COMPLETE A MENTAL HEALTH COURT PROGRAM, AN INDIVIDUAL
3 SHALL COMPLY WITH ALL COURT ORDERS, VIOLATIONS OF WHICH MAY BE
4 SANCTIONED AT THE COURT'S DISCRETION.

5 (2) IF THE PARTICIPANT IS ACCUSED OF A NEW CRIME, THE JUDGE
6 SHALL HAVE THE DISCRETION TO TERMINATE THE PARTICIPANT'S
7 PARTICIPATION IN THE MENTAL HEALTH COURT PROGRAM.

8 (3) THE COURT SHALL REQUIRE THAT A PARTICIPANT PAY ALL COURT
9 FINES, COURT COSTS, COURT FEES, RESTITUTION, AND ASSESSMENTS AND

1 PAY ALL, OR MAKE SUBSTANTIAL CONTRIBUTIONS TOWARD PAYMENT OF, THE
2 COSTS OF THE TREATMENT AND THE MENTAL HEALTH COURT PROGRAM SERVICES
3 PROVIDED TO THE PARTICIPANT, INCLUDING, BUT NOT LIMITED TO, THE
4 COSTS OF DRUG OR ALCOHOL TESTING OR COUNSELING. HOWEVER, EXCEPT AS
5 OTHERWISE PROVIDED BY LAW, IF THE COURT DETERMINES THAT THE PAYMENT
6 OF COURT FINES, COURT FEES, OR DRUG OR ALCOHOL TESTING EXPENSES
7 UNDER THIS SUBSECTION WOULD BE A SUBSTANTIAL HARDSHIP FOR THE
8 INDIVIDUAL OR WOULD INTERFERE WITH THE INDIVIDUAL'S TREATMENT, THE
9 COURT MAY WAIVE ALL OR PART OF THOSE COURT FINES, COURT FEES, OR
10 DRUG OR ALCOHOL TESTING EXPENSES. THE COST OF TREATMENT SHALL BE
11 GOVERNED BY CHAPTER 8 OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL
12 330.1800 TO 330.1842, IF APPLICABLE.

13 (4) THE RESPONSIBLE MENTAL HEALTH AGENCY SHALL NOTIFY THE
14 COURT OF A PARTICIPANT'S FORMAL OBJECTION TO HIS OR HER WRITTEN
15 INDIVIDUAL PLAN OF SERVICES DEVELOPED UNDER SECTION 712(2) OF THE
16 MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1712. HOWEVER, THE COURT
17 IS NOT OBLIGATED TO TAKE ANY ACTION IN RESPONSE TO A NOTICE
18 RECEIVED UNDER THIS SUBSECTION.

19 SEC. 1098. (1) UPON COMPLETION OR TERMINATION OF THE MENTAL
20 HEALTH COURT PROGRAM, THE COURT SHALL FIND ON THE RECORD OR PLACE A
21 WRITTEN STATEMENT IN THE COURT FILE INDICATING WHETHER THE
22 PARTICIPANT COMPLETED THE PROGRAM SUCCESSFULLY OR WHETHER THE
23 INDIVIDUAL'S PARTICIPATION IN THE PROGRAM WAS TERMINATED AND, IF IT
24 WAS TERMINATED, THE REASON FOR THE TERMINATION.

25 (2) IF AN INDIVIDUAL IS PARTICIPATING IN A MENTAL HEALTH COURT
26 UNDER SECTION 11 OF CHAPTER II OF THE CODE OF CRIMINAL PROCEDURE,
27 1927 PA 175, MCL 762.11, SECTION 7411 OF THE PUBLIC HEALTH CODE,

1 1978 PA 368, MCL 333.7411, SECTION 4A OF CHAPTER IX OF THE CODE OF
2 CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.4A, OR SECTION 350A OR 430
3 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.350A AND 750.430,
4 THE COURT SHALL PROCEED UNDER THE APPLICABLE SECTION OF LAW. THERE
5 MAY ONLY BE 1 DISCHARGE OR DISMISSAL UNDER THIS SUBSECTION.

6 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), THE COURT, WITH THE
7 AGREEMENT OF THE PROSECUTOR AND IN CONFORMITY WITH THE TERMS AND
8 CONDITIONS OF THE MEMORANDUM OF UNDERSTANDING UNDER SECTION 1091,
9 MAY DISCHARGE AND DISMISS THE PROCEEDINGS AGAINST AN INDIVIDUAL WHO
10 MEETS ALL OF THE FOLLOWING CRITERIA:

11 (A) THE INDIVIDUAL HAS PARTICIPATED IN A MENTAL HEALTH COURT
12 FOR THE FIRST TIME.

13 (B) THE INDIVIDUAL HAS SUCCESSFULLY COMPLETED THE TERMS AND
14 CONDITIONS OF THE MENTAL HEALTH COURT PROGRAM.

15 (C) THE INDIVIDUAL IS NOT REQUIRED BY LAW TO BE SENTENCED TO A
16 CORRECTIONAL FACILITY FOR THE CRIMES TO WHICH HE OR SHE HAS PLED
17 GUILTY.

18 (D) THE INDIVIDUAL HAS NOT PREVIOUSLY BEEN SUBJECT TO MORE
19 THAN 1 OF THE FOLLOWING:

20 (i) ASSIGNMENT TO THE STATUS OF YOUTHFUL TRAINEE UNDER SECTION
21 11 OF CHAPTER II OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175,
22 MCL 762.11.

23 (ii) THE DISMISSAL OF CRIMINAL PROCEEDINGS AGAINST THE
24 INDIVIDUAL UNDER SECTION 7411 OF THE PUBLIC HEALTH CODE, 1978 PA
25 368, MCL 333.7411, SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL
26 PROCEDURE, 1927 PA 175, MCL 769.4A, OR SECTION 350A OR 430 OF THE
27 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.350A AND 750.430.

1 (4) THE COURT MAY ORDER A DISCHARGE AND DISMISSAL OF A
2 DOMESTIC VIOLENCE OFFENSE ONLY IF ALL OF THE FOLLOWING
3 CIRCUMSTANCES APPLY:

4 (A) THE INDIVIDUAL HAS NOT PREVIOUSLY HAD PROCEEDINGS
5 DISMISSED UNDER SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL
6 PROCEDURE, 1927 PA 175, MCL 769.4A.

7 (B) THE DOMESTIC VIOLENCE OFFENSE IS ELIGIBLE TO BE DISMISSED
8 UNDER SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE,
9 1927 PA 175, MCL 769.4A.

10 (C) THE INDIVIDUAL FULFILLS THE TERMS AND CONDITIONS IMPOSED
11 UNDER SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE,
12 1927 PA 175, MCL 769.4A, AND THE DISCHARGE AND DISMISSAL OF
13 PROCEEDINGS ARE PROCESSED AND REPORTED UNDER SECTION 4A OF CHAPTER
14 IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.4A.

15 (5) A DISCHARGE AND DISMISSAL UNDER SUBSECTION (3) SHALL BE
16 WITHOUT ADJUDICATION OF GUILT OR, FOR A JUVENILE, WITHOUT
17 ADJUDICATION OF RESPONSIBILITY AND ARE NOT A CONVICTION OR A
18 FINDING OF RESPONSIBILITY FOR PURPOSES OF THIS SECTION OR FOR
19 PURPOSES OF DISQUALIFICATIONS OR DISABILITIES IMPOSED BY LAW UPON
20 CONVICTION OF A CRIME OR, FOR A JUVENILE, A FINDING OF
21 RESPONSIBILITY. THERE MAY ONLY BE 1 DISCHARGE AND DISMISSAL UNDER
22 SUBSECTION (3) FOR AN INDIVIDUAL. THE COURT SHALL SEND A RECORD OF
23 THE DISCHARGE AND DISMISSAL TO THE CRIMINAL JUSTICE INFORMATION
24 CENTER OF THE DEPARTMENT OF STATE POLICE, AND THE DEPARTMENT OF
25 STATE POLICE SHALL ENTER THAT INFORMATION INTO THE LAW ENFORCEMENT
26 INFORMATION NETWORK WITH AN INDICATION OF PARTICIPATION BY THE
27 INDIVIDUAL IN A MENTAL HEALTH COURT. ALL RECORDS OF THE PROCEEDINGS

1 REGARDING THE PARTICIPATION OF THE INDIVIDUAL IN THE MENTAL HEALTH
2 COURT UNDER SUBSECTION (3) ARE CLOSED TO PUBLIC INSPECTION FROM THE
3 DATE OF DEFERRAL AND ARE EXEMPT FROM PUBLIC DISCLOSURE UNDER THE
4 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, BUT
5 SHALL BE OPEN TO THE COURTS OF THIS STATE, ANOTHER STATE, OR THE
6 UNITED STATES, THE DEPARTMENT OF CORRECTIONS, LAW ENFORCEMENT
7 PERSONNEL, AND PROSECUTORS ONLY FOR USE IN THE PERFORMANCE OF THEIR
8 DUTIES OR TO DETERMINE WHETHER AN EMPLOYEE OF THE COURT,
9 DEPARTMENT, LAW ENFORCEMENT AGENCY, OR PROSECUTOR'S OFFICE HAS
10 VIOLATED HIS OR HER CONDITIONS OF EMPLOYMENT OR WHETHER AN
11 APPLICANT MEETS CRITERIA FOR EMPLOYMENT WITH THE COURT, DEPARTMENT,
12 LAW ENFORCEMENT AGENCY, OR PROSECUTOR'S OFFICE. THE RECORDS AND
13 IDENTIFICATIONS DIVISION OF THE DEPARTMENT OF STATE POLICE SHALL
14 RETAIN A NONPUBLIC RECORD OF AN ARREST, COURT PROCEEDINGS, AND THE
15 DISCHARGE AND DISMISSAL UNDER THIS SUBSECTION.

16 (6) EXCEPT AS PROVIDED IN SUBSECTION (2), (3), OR (4), IF AN
17 INDIVIDUAL HAS SUCCESSFULLY COMPLETED PROBATION OR OTHER COURT
18 SUPERVISION, THE COURT SHALL DO THE FOLLOWING:

19 (A) IF THE COURT HAS NOT ALREADY ENTERED AN ADJUDICATION OF
20 GUILT OR RESPONSIBILITY, ENTER AN ADJUDICATION OF GUILT OR, IN THE
21 CASE OF A JUVENILE, ENTER A FINDING OR ADJUDICATION OF
22 RESPONSIBILITY.

23 (B) IF THE COURT HAS NOT ALREADY SENTENCED THE INDIVIDUAL,
24 PROCEED TO SENTENCING OR, IN THE CASE OF A JUVENILE, DISPOSITION
25 PURSUANT TO THE AGREEMENT.

26 (C) SEND A RECORD OF THE CONVICTION AND SENTENCE OR THE
27 FINDING OR ADJUDICATION OF RESPONSIBILITY AND DISPOSITION TO THE

1 CRIMINAL JUSTICE INFORMATION CENTER OF THE DEPARTMENT OF STATE
2 POLICE.

3 (7) FOR A PARTICIPANT WHOSE PARTICIPATION IS TERMINATED OR WHO
4 FAILS TO SUCCESSFULLY COMPLETE THE MENTAL HEALTH COURT PROGRAM, THE
5 COURT SHALL ENTER AN ADJUDICATION OF GUILT, OR, IN THE CASE OF A
6 JUVENILE, A FINDING OF RESPONSIBILITY, IF THE ENTRY OF GUILT OR
7 ADJUDICATION OF RESPONSIBILITY WAS DELAYED OR DEFERRED UNDER
8 SECTION 1094, AND SHALL THEN PROCEED TO SENTENCING OR DISPOSITION
9 OF THE INDIVIDUAL FOR THE ORIGINAL CHARGES TO WHICH THE INDIVIDUAL
10 PLED GUILTY OR, IN THE CASE OF A JUVENILE, TO WHICH THE JUVENILE
11 ADMITTED RESPONSIBILITY PRIOR TO ADMISSION TO THE MENTAL HEALTH
12 COURT. EXCEPT FOR PROGRAM TERMINATION DUE TO THE COMMISSION OF A
13 NEW CRIME, FAILURE TO COMPLETE A MENTAL HEALTH COURT PROGRAM SHALL
14 NOT BE A PREJUDICIAL FACTOR IN SENTENCING. ALL RECORDS OF THE
15 PROCEEDINGS REGARDING THE PARTICIPATION OF THE INDIVIDUAL IN THE
16 MENTAL HEALTH COURT SHALL REMAIN CLOSED TO PUBLIC INSPECTION AND
17 EXEMPT FROM PUBLIC DISCLOSURE AS PROVIDED IN SUBSECTION (5).

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

21 (a) House Bill No. 4694.

22 (b) House Bill No. 4696.

23 (c) House Bill No. 4697.