

# HOUSE BILL No. 4694

May 7, 2013, Introduced by Reps. Cotter, Graves, Johnson, McCready, Heise, Haines, MacMaster, Walsh, Howrylak, O'Brien, Hovey-Wright and Leonard and referred to the Committee on Judiciary.

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:

### CHAPTER 10B.

#### MENTAL HEALTH COURT

#### SEC. 1090. AS USED IN THIS CHAPTER:

##### (A) "MENTAL HEALTH COURT" MEANS ANY OF THE FOLLOWING:

(i) A COURT-SUPERVISED TREATMENT PROGRAM FOR INDIVIDUALS WHO  
ARE DIAGNOSED BY A LICENSED CLINICIAN WITH HAVING A MENTAL  
DISORDER, A CO-OCCURRING DISORDER, OR A DEVELOPMENTAL DISABILITY AS  
DEFINED IN SECTION 1100A OF THE MENTAL HEALTH CODE, 1974 PA 258,  
MCL 330.1100A.

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

4           (A) A BROAD-BASED GROUP OF STAKEHOLDERS REPRESENTING THE  
5 CRIMINAL JUSTICE, MENTAL HEALTH, SUBSTANCE ABUSE TREATMENT, AND  
6 RELATED SYSTEMS AND THE COMMUNITY GUIDE THE PLANNING AND  
7 ADMINISTRATION OF THE COURT.

8           (B) ELIGIBILITY CRITERIA THAT ADDRESS PUBLIC SAFETY AND A  
9 COMMUNITY'S TREATMENT CAPACITY, IN ADDITION TO THE AVAILABILITY OF  
10 ALTERNATIVES TO PRETRIAL DETENTION FOR DEFENDANTS WITH MENTAL  
11 ILLNESSES, AND THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN  
12 MENTAL ILLNESS AND A DEFENDANT'S OFFENSES, WHILE ALLOWING THE  
13 INDIVIDUAL CIRCUMSTANCES OF EACH CASE TO BE CONSIDERED.

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

17           (D) TERMS OF PARTICIPATION ARE CLEAR, PROMOTE PUBLIC SAFETY,  
18 FACILITATE THE DEFENDANT'S ENGAGEMENT IN TREATMENT, ARE  
19 INDIVIDUALIZED TO CORRESPOND TO THE LEVEL OF RISK THAT EACH  
20 DEFENDANT PRESENTS TO THE COMMUNITY, AND PROVIDE FOR POSITIVE LEGAL  
21 OUTCOMES FOR THOSE INDIVIDUALS WHO SUCCESSFULLY COMPLETE THE  
22 PROGRAM.

23           (E) PROVIDE LEGAL COUNSEL TO DEFENDANTS TO EXPLAIN PROGRAM  
24 REQUIREMENTS, INCLUDING VOLUNTARY PARTICIPATION, AND GUIDES  
25 DEFENDANTS IN DECISIONS ABOUT PROGRAM INVOLVEMENT. PROCEDURES EXIST  
26 IN THE MENTAL HEALTH COURT TO ADDRESS, IN A TIMELY FASHION,  
27 CONCERNS ABOUT A DEFENDANT'S COMPETENCY WHENEVER THEY ARISE.

1 (F) CONNECT PARTICIPANTS TO COMPREHENSIVE AND INDIVIDUALIZED  
2 TREATMENT SUPPORTS AND SERVICES IN THE COMMUNITY AND STRIVE TO USE,  
3 AND INCREASE THE AVAILABILITY OF, TREATMENT AND SERVICES THAT ARE  
4 EVIDENCE BASED.

5 (G) HEALTH AND LEGAL INFORMATION ARE SHARED IN A MANNER THAT  
6 PROTECTS POTENTIAL PARTICIPANTS' CONFIDENTIALITY RIGHTS AS MENTAL  
7 HEALTH CONSUMERS AND THEIR CONSTITUTIONAL RIGHTS AS DEFENDANTS.  
8 INFORMATION GATHERED AS PART OF THE PARTICIPANTS' COURT-ORDERED  
9 TREATMENT PROGRAM OR SERVICES ARE SAFEGUARDED FROM PUBLIC  
10 DISCLOSURE IN THE EVENT THAT PARTICIPANTS ARE RETURNED TO  
11 TRADITIONAL COURT PROCESSING.

12 (H) A TEAM OF CRIMINAL JUSTICE AND MENTAL HEALTH STAFF AND  
13 TREATMENT PROVIDERS RECEIVES SPECIAL, ONGOING TRAINING AND ASSISTS  
14 MENTAL HEALTH COURT PARTICIPANTS ACHIEVE TREATMENT AND CRIMINAL  
15 JUSTICE GOALS BY REGULARLY REVIEWING AND REVISING THE COURT  
16 PROCESS.

17 (I) CRIMINAL JUSTICE AND MENTAL HEALTH STAFF COLLABORATIVELY  
18 MONITOR PARTICIPANTS' ADHERENCE TO COURT CONDITIONS, OFFER  
19 INDIVIDUALIZED GRADUATED INCENTIVES AND SANCTIONS, AND MODIFY  
20 TREATMENT AS NECESSARY TO PROMOTE PUBLIC SAFETY AND PARTICIPANTS'  
21 RECOVERY.

22 (J) DATA ARE COLLECTED AND ANALYZED TO DEMONSTRATE THE IMPACT  
23 OF THE MENTAL HEALTH COURT, ITS PERFORMANCE IS ASSESSED  
24 PERIODICALLY, AND PROCEDURES ARE MODIFIED ACCORDINGLY, COURT  
25 PROCESSES ARE INSTITUTIONALIZED, AND SUPPORT FOR THE COURT IN THE  
26 COMMUNITY IS CULTIVATED AND EXPANDED.

27 (B) "PARTICIPANT" MEANS AN INDIVIDUAL WHO IS ADMITTED INTO A

1 MENTAL HEALTH COURT.

2 (C) "VIOLENT OFFENDER" MEANS AN INDIVIDUAL WHO HAS BEEN  
3 CONVICTED OF AN OFFENSE INVOLVING THE DEATH OF, OR A SERIOUS BODILY  
4 INJURY TO, ANY INDIVIDUAL, WHETHER OR NOT ANY OF THESE  
5 CIRCUMSTANCES ARE AN ELEMENT OF THE OFFENSE.

6 SEC. 1091. (1) A CIRCUIT COURT IN ANY JUDICIAL CIRCUIT OR A  
7 DISTRICT COURT IN ANY JUDICIAL DISTRICT MAY ADOPT OR INSTITUTE A  
8 MENTAL HEALTH COURT PURSUANT TO STATUTE OR COURT RULES. THE  
9 CREATION OR EXISTENCE OF A MENTAL HEALTH COURT DOES NOT CHANGE  
10 STATUTES OR COURT RULES CONCERNING DISCHARGE AND DISMISSAL OF AN  
11 OFFENSE, DELAYED SENTENCE OR DEFERRED ENTRY OF JUDGMENT, OR  
12 DEVIATION FROM THE SENTENCING GUIDELINES. A CIRCUIT OR DISTRICT  
13 COURT ADOPTING OR INSTITUTING THE MENTAL HEALTH COURT SHALL ENTER  
14 INTO A MEMORANDUM OF UNDERSTANDING WITH ALL PARTICIPATING  
15 PROSECUTING AUTHORITIES IN THE CIRCUIT OR DISTRICT COURT, A  
16 REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY MENTAL HEALTH  
17 DEPARTMENT, A REPRESENTATIVE OF THE CRIMINAL DEFENSE BAR, AND A  
18 REPRESENTATIVE OR REPRESENTATIVES OF COMMUNITY TREATMENT PROVIDERS  
19 THAT DESCRIBES THE ROLES AND RESPONSIBILITIES OF EACH PARTY. THE  
20 MEMORANDUM OF UNDERSTANDING ALSO MAY INCLUDE OTHER PARTIES  
21 CONSIDERED NECESSARY.

22 (2) A FAMILY DIVISION OF CIRCUIT COURT IN ANY JUDICIAL CIRCUIT  
23 MAY ADOPT OR INSTITUTE A JUVENILE MENTAL HEALTH COURT PURSUANT TO  
24 STATUTE OR COURT RULES. THE CREATION OR EXISTENCE OF A MENTAL  
25 HEALTH COURT DOES NOT CHANGE THE STATUTES OR COURT RULES CONCERNING  
26 DISCHARGE OR DISMISSAL OF AN OFFENSE, OR A DELAYED SENTENCE OR  
27 DEFERRED ENTRY OF JUDGMENT. A FAMILY DIVISION OF CIRCUIT COURT

1 ADOPTING OR INSTITUTING A JUVENILE MENTAL HEALTH COURT SHALL ENTER  
2 INTO A MEMORANDUM OF UNDERSTANDING WITH ALL PARTICIPATING  
3 PROSECUTING AUTHORITIES IN THE CIRCUIT OR DISTRICT COURT, A  
4 REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY MENTAL HEALTH  
5 DEPARTMENT, A REPRESENTATIVE OF THE CRIMINAL DEFENSE BAR  
6 SPECIALIZING IN JUVENILE LAW, AND A REPRESENTATIVE OR  
7 REPRESENTATIVES OF COMMUNITY TREATMENT PROVIDERS THAT DESCRIBES THE  
8 ROLES AND RESPONSIBILITIES OF EACH PARTY. THE MEMORANDUM OF  
9 UNDERSTANDING ALSO MAY INCLUDE OTHER PARTIES CONSIDERED NECESSARY.  
10 A JUVENILE MENTAL HEALTH COURT IS SUBJECT TO THE SAME PROCEDURES  
11 AND REQUIREMENTS PROVIDED IN THIS CHAPTER FOR A MENTAL HEALTH COURT  
12 CREATED UNDER SUBSECTION (1), EXCEPT AS SPECIFICALLY PROVIDED  
13 OTHERWISE IN THIS CHAPTER.

14 (3) A COURT THAT HAS ADOPTED A MENTAL HEALTH COURT UNDER THIS  
15 SECTION MAY ACCEPT PARTICIPANTS FROM ANY OTHER JURISDICTION IN THIS  
16 STATE BASED UPON THE RESIDENCE OF THE PARTICIPANT IN THE RECEIVING  
17 JURISDICTION, THE NONAVAILABILITY OF A MENTAL HEALTH COURT IN THE  
18 JURISDICTION WHERE THE PARTICIPANT IS CHARGED, AND THE AVAILABILITY  
19 OF FINANCIAL RESOURCES FOR BOTH OPERATIONS OF THE MENTAL HEALTH  
20 COURT PROGRAM AND TREATMENT SERVICES. A MENTAL HEALTH COURT MAY  
21 REFUSE TO ACCEPT PARTICIPANTS FROM OTHER JURISDICTIONS.

22 SEC. 1092. A MENTAL HEALTH COURT MAY HIRE OR CONTRACT WITH  
23 LICENSED OR ACCREDITED TREATMENT PROVIDERS, IN CONSULTATION WITH  
24 THE LOCAL COMMUNITY MENTAL HEALTH SERVICE PROVIDER, AND OTHER SUCH  
25 APPROPRIATE PERSONS TO ASSIST THE MENTAL HEALTH COURT IN FULFILLING  
26 ITS REQUIREMENTS UNDER THIS CHAPTER.

27 SEC. 1093. (1) EACH MENTAL HEALTH COURT SHALL DETERMINE

1 WHETHER AN INDIVIDUAL MAY BE ADMITTED TO THE MENTAL HEALTH COURT.  
2 NO INDIVIDUAL HAS A RIGHT TO BE ADMITTED INTO A MENTAL HEALTH  
3 COURT. ADMISSION INTO A MENTAL HEALTH COURT PROGRAM IS AT THE  
4 DISCRETION OF THE COURT BASED ON THE INDIVIDUAL'S LEGAL OR CLINICAL  
5 ELIGIBILITY. AN INDIVIDUAL MAY BE ADMITTED TO MENTAL HEALTH COURT  
6 REGARDLESS OF PRIOR PARTICIPATION OR PRIOR COMPLETION STATUS.  
7 HOWEVER, IN NO CASE SHALL A VIOLENT OFFENDER BE ADMITTED INTO  
8 MENTAL HEALTH COURT.

9 (2) IN ADDITION TO ADMISSION TO A MENTAL HEALTH COURT UNDER  
10 THIS CHAPTER, AN INDIVIDUAL WHO IS ELIGIBLE FOR ADMISSION UNDER  
11 THIS CHAPTER MAY ALSO BE ADMITTED TO A MENTAL HEALTH COURT UNDER  
12 ANY OF THE FOLLOWING CIRCUMSTANCES:

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

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

19 (i) SECTION 7411 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL  
20 333.7411.

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

23 (iii) SECTION 350A OR 430 OF THE MICHIGAN PENAL CODE, 1931 PA  
24 328, MCL 750.350A AND 750.430.

25 (3) TO BE ADMITTED TO A MENTAL HEALTH COURT, AN INDIVIDUAL  
26 SHALL COOPERATE WITH AND COMPLETE A PREADMISSION SCREENING AND  
27 EVALUATION ASSESSMENT AND SHALL SUBMIT TO ANY FUTURE EVALUATION

1 ASSESSMENT AS DIRECTED BY THE MENTAL HEALTH COURT. A PREADMISSION  
2 SCREENING AND EVALUATION ASSESSMENT SHALL INCLUDE ALL OF THE  
3 FOLLOWING:

4 (A) A REVIEW OF THE INDIVIDUAL'S CRIMINAL HISTORY. A REVIEW OF  
5 THE LAW ENFORCEMENT INFORMATION NETWORK MAY BE CONSIDERED  
6 SUFFICIENT FOR PURPOSES OF THIS SUBDIVISION UNLESS A FURTHER REVIEW  
7 IS WARRANTED. THE COURT MAY ACCEPT OTHER VERIFIABLE AND RELIABLE  
8 INFORMATION FROM THE PROSECUTION OR DEFENSE TO COMPLETE ITS REVIEW  
9 AND MAY REQUIRE THE INDIVIDUAL TO SUBMIT A STATEMENT AS TO WHETHER  
10 OR NOT HE OR SHE HAS PREVIOUSLY BEEN ADMITTED TO A MENTAL HEALTH  
11 COURT AND THE RESULTS OF HIS OR HER PARTICIPATION IN THE PRIOR  
12 PROGRAM OR PROGRAMS.

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

15 (C) A MENTAL HEALTH ASSESSMENT, CLINICAL IN NATURE, MEETING  
16 DIAGNOSTIC CRITERIA FOR A MENTAL DISORDER, OR A CO-OCCURRING  
17 DISORDER, OR A DEVELOPMENTAL DISORDER AS THAT TERM IS DEFINED IN  
18 SECTION 1100A OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL  
19 330.1100A.

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

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

27 (4) EXCEPT AS OTHERWISE PERMITTED IN THIS CHAPTER, ANY

1 STATEMENT OR OTHER INFORMATION OBTAINED AS A RESULT OF  
2 PARTICIPATING IN A PREADMISSION SCREENING AND EVALUATION ASSESSMENT  
3 UNDER SUBSECTION (3) IS CONFIDENTIAL AND IS EXEMPT FROM DISCLOSURE  
4 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO  
5 15.246, AND SHALL NOT BE USED IN A CRIMINAL PROSECUTION, UNLESS IT  
6 REVEALS CRIMINAL ACTS OTHER THAN, OR INCONSISTENT WITH, PERSONAL  
7 DRUG USE.

8 (5) THE COURT MAY REQUEST THAT THE DEPARTMENT OF STATE POLICE  
9 PROVIDE TO THE COURT INFORMATION CONTAINED IN THE LAW ENFORCEMENT  
10 INFORMATION NETWORK PERTAINING TO AN INDIVIDUAL APPLICANT'S  
11 CRIMINAL HISTORY FOR THE PURPOSES OF DETERMINING AN INDIVIDUAL'S  
12 ELIGIBILITY FOR ADMISSION INTO THE MENTAL HEALTH COURT AND GENERAL  
13 CRIMINAL HISTORY REVIEW.

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

17 (a) Senate Bill No.\_\_\_\_ or House Bill No. 4696(request no.  
18 02579'13).

19 (b) Senate Bill No.\_\_\_\_ or House Bill No. 4695(request no.  
20 02580'13).

21 (c) Senate Bill No.\_\_\_\_ or House Bill No. 4697(request no.  
22 02581'13).