

HOUSE BILL No. 4695

May 7, 2013, Introduced by Reps. Haines, Cotter, Graves, Johnson, McCready, Heise, MacMaster, Walsh, Howrylak, O'Brien 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 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
10 PAY ALL, OR MAKE SUBSTANTIAL CONTRIBUTIONS TOWARD PAYMENT OF, THE

1 COSTS OF THE TREATMENT AND THE MENTAL HEALTH COURT PROGRAM SERVICES
2 PROVIDED TO THE PARTICIPANT, INCLUDING, BUT NOT LIMITED TO, THE
3 COSTS OF DRUG OR ALCOHOL TESTING OR COUNSELING. HOWEVER, IF THE
4 COURT DETERMINES THAT THE PAYMENT OF COURT FINES, COURT FEES, OR
5 DRUG OR ALCOHOL TESTING EXPENSES UNDER THIS SUBSECTION WOULD BE A
6 SUBSTANTIAL HARDSHIP FOR THE INDIVIDUAL OR WOULD INTERFERE WITH THE
7 INDIVIDUAL'S TREATMENT, THE COURT MAY WAIVE ALL OR PART OF THOSE
8 COURT FINES, COURT FEES, OR DRUG OR ALCOHOL TESTING EXPENSES.

9 SEC. 1098. (1) UPON COMPLETION OR TERMINATION OF THE MENTAL
10 HEALTH COURT PROGRAM, THE COURT SHALL FIND ON THE RECORD OR PLACE A
11 WRITTEN STATEMENT IN THE COURT FILE INDICATING WHETHER THE
12 PARTICIPANT COMPLETED THE PROGRAM SUCCESSFULLY OR WHETHER THE
13 INDIVIDUAL'S PARTICIPATION IN THE PROGRAM WAS TERMINATED AND, IF IT
14 WAS TERMINATED, THE REASON FOR THE TERMINATION.

15 (2) FOR A PARTICIPANT WHO SUCCESSFULLY COMPLETES PROBATION OR
16 OTHER COURT SUPERVISION AND WHOSE PROCEEDINGS WERE DELAYED OR
17 DEFERRED, THE COURT SHALL COMPLY WITH THE AGREEMENT MADE WITH THE
18 PARTICIPANT UPON ADMISSION INTO THE MENTAL HEALTH COURT OR THE
19 AGREEMENT AS IT WAS ALTERED AFTER ADMISSION BY THE COURT WITH
20 APPROVAL OF THE PARTICIPANT AND THE PROSECUTOR FOR THAT
21 JURISDICTION.

22 (3) IF AN INDIVIDUAL IS PARTICIPATING IN A MENTAL HEALTH COURT
23 UNDER SECTION 11 OF CHAPTER II OF THE CODE OF CRIMINAL PROCEDURE,
24 1927 PA 175, MCL 762.11, SECTION 7411 OF THE PUBLIC HEALTH CODE,
25 1978 PA 368, MCL 333.7411, SECTION 4A OF CHAPTER IX OF THE CODE OF
26 CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.4A, OR SECTION 350A OR 430
27 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.350A AND 750.430,

1 THE COURT SHALL PROCEED UNDER THE APPLICABLE SECTION OF LAW. THERE
2 MAY ONLY BE 1 DISCHARGE OR DISMISSAL UNDER THIS SUBSECTION.

3 (4) EXCEPT AS PROVIDED IN SUBSECTION (5), THE COURT, WITH THE
4 AGREEMENT OF THE PROSECUTOR AND IN CONFORMITY WITH THE TERMS AND
5 CONDITIONS OF THE MEMORANDUM OF UNDERSTANDING UNDER SECTION 1091,
6 MAY DISCHARGE AND DISMISS THE PROCEEDINGS AGAINST AN INDIVIDUAL WHO
7 MEETS ALL OF THE FOLLOWING CRITERIA:

8 (A) THE INDIVIDUAL HAS PARTICIPATED IN A MENTAL HEALTH COURT
9 FOR THE FIRST TIME.

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

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

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

17 (i) ASSIGNMENT TO THE STATUS OF YOUTHFUL TRAINEE UNDER SECTION
18 11 OF CHAPTER II OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175,
19 MCL 762.11.

20 (ii) THE DISMISSAL OF CRIMINAL PROCEEDINGS AGAINST THE
21 INDIVIDUAL UNDER SECTION 7411 OF THE PUBLIC HEALTH CODE, 1978 PA
22 368, MCL 333.7411, SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL
23 PROCEDURE, 1927 PA 175, MCL 769.4A, OR SECTION 350A OR 430 OF THE
24 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.350A AND 750.430.

25 (5) THE COURT MAY ORDER A DISCHARGE AND DISMISSAL OF A
26 DOMESTIC VIOLENCE OFFENSE ONLY IF ALL OF THE FOLLOWING
27 CIRCUMSTANCES APPLY:

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

4 (B) THE DOMESTIC VIOLENCE OFFENSE IS ELIGIBLE TO BE DISMISSED
5 UNDER SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE,
6 1927 PA 175, MCL 769.4A.

7 (C) THE INDIVIDUAL FULFILLS THE TERMS AND CONDITIONS IMPOSED
8 UNDER SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE,
9 1927 PA 175, MCL 769.4A, AND THE DISCHARGE AND DISMISSAL OF
10 PROCEEDINGS ARE PROCESSED AND REPORTED UNDER SECTION 4A OF CHAPTER
11 IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.4A.

12 (6) A DISCHARGE AND DISMISSAL UNDER SUBSECTION (4) SHALL BE
13 WITHOUT ADJUDICATION OF GUILT OR, FOR A JUVENILE, WITHOUT
14 ADJUDICATION OF RESPONSIBILITY AND ARE NOT A CONVICTION OR A
15 FINDING OF RESPONSIBILITY FOR PURPOSES OF THIS SECTION OR FOR
16 PURPOSES OF DISQUALIFICATIONS OR DISABILITIES IMPOSED BY LAW UPON
17 CONVICTION OF A CRIME OR, FOR A JUVENILE, A FINDING OF
18 RESPONSIBILITY. THERE MAY ONLY BE 1 DISCHARGE AND DISMISSAL UNDER
19 SUBSECTION (4) FOR AN INDIVIDUAL. THE COURT SHALL SEND A RECORD OF
20 THE DISCHARGE AND DISMISSAL TO THE CRIMINAL JUSTICE INFORMATION
21 CENTER OF THE DEPARTMENT OF STATE POLICE, AND THE DEPARTMENT OF
22 STATE POLICE SHALL ENTER THAT INFORMATION INTO THE LAW ENFORCEMENT
23 INFORMATION NETWORK WITH AN INDICATION OF PARTICIPATION BY THE
24 INDIVIDUAL IN A MENTAL HEALTH COURT. ALL RECORDS OF THE PROCEEDINGS
25 REGARDING THE PARTICIPATION OF THE INDIVIDUAL IN THE MENTAL HEALTH
26 COURT UNDER SUBSECTION (4) ARE CLOSED TO PUBLIC INSPECTION AND ARE
27 EXEMPT FROM PUBLIC DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT,

1 1976 PA 442, MCL 15.231 TO 15.246, BUT SHALL BE OPEN TO THE COURTS
2 OF THIS STATE, ANOTHER STATE, OR THE UNITED STATES, THE DEPARTMENT
3 OF CORRECTIONS, LAW ENFORCEMENT PERSONNEL, AND PROSECUTORS ONLY FOR
4 USE IN THE PERFORMANCE OF THEIR DUTIES OR TO DETERMINE WHETHER AN
5 EMPLOYEE OF THE COURT, DEPARTMENT, LAW ENFORCEMENT AGENCY, OR
6 PROSECUTOR'S OFFICE HAS VIOLATED HIS OR HER CONDITIONS OF
7 EMPLOYMENT OR WHETHER AN APPLICANT MEETS CRITERIA FOR EMPLOYMENT
8 WITH THE COURT, DEPARTMENT, LAW ENFORCEMENT AGENCY, OR PROSECUTOR'S
9 OFFICE. THE RECORDS AND IDENTIFICATIONS DIVISION OF THE DEPARTMENT
10 OF STATE POLICE SHALL RETAIN A NONPUBLIC RECORD OF AN ARREST AND
11 THE DISCHARGE AND DISMISSAL UNDER THIS SUBSECTION.

12 (7) EXCEPT AS PROVIDED IN SUBSECTION (3), (4), OR (5), IF AN
13 INDIVIDUAL HAS SUCCESSFULLY COMPLETED PROBATION OR OTHER COURT
14 SUPERVISION, THE COURT SHALL DO THE FOLLOWING:

15 (A) IF THE COURT HAS NOT ALREADY ENTERED AN ADJUDICATION OF
16 GUILT OR RESPONSIBILITY, ENTER AN ADJUDICATION OF GUILT OR, IN THE
17 CASE OF A JUVENILE, ENTER A FINDING OR ADJUDICATION OF
18 RESPONSIBILITY.

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

22 (C) SEND A RECORD OF THE CONVICTION AND SENTENCE OR THE
23 FINDING OR ADJUDICATION OF RESPONSIBILITY AND DISPOSITION TO THE
24 CRIMINAL JUSTICE INFORMATION CENTER OF THE DEPARTMENT OF STATE
25 POLICE.

26 (8) FOR A PARTICIPANT WHOSE PARTICIPATION IS TERMINATED OR WHO
27 FAILS TO SUCCESSFULLY COMPLETE THE MENTAL HEALTH COURT PROGRAM, THE

1 COURT SHALL ENTER AN ADJUDICATION OF GUILT, OR, IN THE CASE OF A
2 JUVENILE, A FINDING OF RESPONSIBILITY, IF THE ENTRY OF GUILT OR
3 ADJUDICATION OF RESPONSIBILITY WAS DELAYED OR DEFERRED UNDER
4 SECTION 1094, AND SHALL THEN PROCEED TO SENTENCING OR DISPOSITION
5 OF THE INDIVIDUAL FOR THE ORIGINAL CHARGES TO WHICH THE INDIVIDUAL
6 PLED GUILTY OR, IN THE CASE OF A JUVENILE, TO WHICH THE JUVENILE
7 ADMITTED RESPONSIBILITY PRIOR TO ADMISSION TO THE MENTAL HEALTH
8 COURT. ALL RECORDS OF THE PROCEEDINGS REGARDING THE PARTICIPATION
9 OF THE INDIVIDUAL IN THE MENTAL HEALTH COURT SHALL REMAIN CLOSED TO
10 PUBLIC INSPECTION AND EXEMPT FROM PUBLIC DISCLOSURE AS PROVIDED IN
11 SUBSECTION (6).

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

15 (a) Senate Bill No.____ or House Bill No. 4694(request no.
16 01934'13).

17 (b) Senate Bill No.____ or House Bill No. 4696(request no.
18 02579'13).

19 (c) Senate Bill No.____ or House Bill No. 4697(request no.
20 02581'13).