

Act No. 221
Public Acts of 2013
Approved by the Governor
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Reps. Cotter, Heise, O'Brien and Nesbitt

ENROLLED HOUSE BILL No. 4967

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 1076 (MCL 600.1076), as amended by 2012 PA 547.

The People of the State of Michigan enact:

Sec. 1076. (1) Upon completion or termination of the drug treatment court program, the court shall find on the record or place a written statement in the court file as to whether the participant completed the program successfully or whether the individual's participation in the program was terminated and, if it was terminated, the reason for the termination.

(2) For a participant who successfully completes probation or other court supervision and whose proceedings were deferred or who was sentenced under section 1070, the court shall comply with the agreement made with the participant upon admission into the drug treatment court, or the agreement as it was altered after admission by the court with approval of the participant and the prosecutor for that jurisdiction as provided in subsections (3) to (8).

(3) If an individual is participating in a drug treatment court under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, or section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430, the court shall proceed under the applicable section of law. There may only be 1 discharge or dismissal under this subsection.

(4) Except as provided in subsection (5), the court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1062, may discharge and dismiss the proceedings against an individual who meets all of the following criteria:

- (a) The individual has participated in a drug treatment court for the first time.
- (b) The individual has successfully completed the terms and conditions of the drug treatment court program.
- (c) The individual is not required by law to be sentenced to a correctional facility for the crimes to which he or she has pled guilty.
- (d) The individual is not currently charged with and has not pled guilty to a traffic offense.

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

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

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

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

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

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

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

(6) A discharge and dismissal under subsection (4) shall be without adjudication of guilt or, for a juvenile, without adjudication of responsibility and are not a conviction or a finding of responsibility for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or, for a juvenile, a finding of responsibility. There may only be 1 discharge and dismissal under subsection (4) for an individual. The court shall send a record of the discharge and dismissal to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the law enforcement information network with an indication of participation by the individual in a drug treatment court. All records of the proceedings regarding the participation of the individual in the drug treatment court under subsection (4) are closed to public inspection, and are exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

(a) If the court has not already entered an adjudication of guilt or responsibility, enter an adjudication of guilt or, in the case of a juvenile, enter a finding or adjudication of responsibility.

(b) If the court has not already sentenced the individual, proceed to sentencing or, in the case of a juvenile, disposition pursuant to the agreement.

(c) Send a record of the conviction and sentence or the finding or adjudication of responsibility and disposition to the criminal justice information center of the department of state police. The department of state police shall enter that information into the law enforcement information network with an indication of successful participation by the individual in a drug treatment court.

(8) For a participant whose participation is terminated or who fails to successfully complete the drug treatment court program, the court shall enter an adjudication of guilt, or, in the case of a juvenile, a finding of responsibility, if the entering of guilt or adjudication of responsibility was deferred under section 1070, and shall then proceed to sentencing or disposition of the individual for the original charges to which the individual pled guilty or, if a juvenile, to which the juvenile admitted responsibility prior to admission to the drug treatment court. Upon sentencing or disposition of the individual, the court shall send a record of that sentence or disposition and the individual's unsuccessful participation in the drug treatment court to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the law enforcement information network, with an indication that the individual unsuccessfully participated in a drug treatment court.

(9) All court proceedings under this section shall be open to the public. Except as provided in subsection (10), if the record of proceedings as to the defendant is deferred under this section, the record of proceedings during the period of deferral shall be closed to public inspection.

(10) Unless the court enters a judgment of guilt or an adjudication of responsibility under this section, the department of state police shall retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge under this section. However, the nonpublic record shall be open to the following individuals and entities for the purposes noted:

(a) The courts of this state, law enforcement personnel, the department of corrections, and prosecuting attorneys for use only in the performance of their duties or to determine whether an employee of the court, law enforcement agency, department of corrections, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, law enforcement agency, department of corrections, or prosecutor's office.

(b) The courts of this state, law enforcement personnel, and prosecuting attorneys for the purpose of showing that a defendant has already once availed himself or herself of this section.

(c) The department of human services for enforcing child protection laws and vulnerable adult protection laws or ascertaining the preemployment criminal history of any individual who will be engaged in the enforcement of child protection laws or vulnerable adult protection laws.

Enacting section 1. This amendatory act takes effect January 1, 2014.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor