

Act No. 275
Public Acts of 2013
Approved by the Governor
December 30, 2013
Filed with the Secretary of State
December 30, 2013
EFFECTIVE DATE: December 30, 2013

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

**Introduced by Reps. Haines, Cotter, Graves, Johnson, McCready, Heise, MacMaster, Walsh, Howrylak,
O'Brien and Leonard**

ENROLLED HOUSE BILL No. 4695

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," (MCL 600.101 to 600.9947) by adding sections 1097 and 1098.

The People of the State of Michigan enact:

Sec. 1097. (1) In order to continue to participate in and successfully complete a mental health court program, an individual shall comply with all court orders, violations of which may be sanctioned at the court's discretion.

(2) If the participant is accused of a new crime, the judge shall have the discretion to terminate the participant's participation in the mental health court program.

(3) The court shall require that a participant pay all court fines, court costs, court fees, restitution, and assessments and pay all, or make substantial contributions toward payment of, the costs of the treatment and the mental health court program services provided to the participant, including, but not limited to, the costs of drug or alcohol testing or counseling. However, except as otherwise provided by law, if the court determines that the payment of court fines, court fees, or drug or alcohol testing expenses under this subsection would be a substantial hardship for the individual or would interfere with the individual's treatment, the court may waive all or part of those court fines, court fees, or drug or alcohol testing expenses. The cost of treatment shall be governed by chapter 8 of the mental health code, 1974 PA 258, MCL 330.1800 to 330.1842, if applicable.

(4) The responsible mental health agency shall notify the court of a participant's formal objection to his or her written individual plan of services developed under section 712(2) of the mental health code, 1974 PA 258, MCL 330.1712. However, the court is not obligated to take any action in response to a notice received under this subsection.

Sec. 1098. (1) Upon completion or termination of the mental health court program, the court shall find on the record or place a written statement in the court file indicating 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) If an individual is participating in a mental health 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.

(3) Except as provided in subsection (4), the court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1091, may discharge and dismiss the proceedings against an individual who meets all of the following criteria:

(a) The individual has participated in a mental health court for the first time.

(b) The individual has successfully completed the terms and conditions of the mental health 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 has not previously been subject to more than 1 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 the individual 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.

(4) The court may order 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.

(5) A discharge and dismissal under subsection (3) 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 (3) 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 mental health court. All records of the proceedings regarding the participation of the individual in the mental health court under subsection (3) are closed to public inspection from the date of deferral and are exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, but shall be open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest, court proceedings, and the discharge and dismissal under this subsection.

(6) Except as provided in subsection (2), (3), or (4), 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.

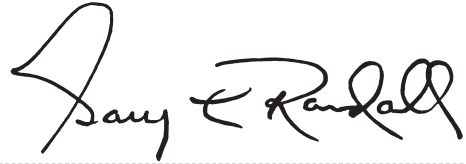
(c) Send a record of the conviction and sentence or the finding or adjudication of responsibility and disposition to the criminal justice information center of the department of state police.

(7) For a participant whose participation is terminated or who fails to successfully complete the mental health court program, the court shall enter an adjudication of guilt, or, in the case of a juvenile, a finding of responsibility, if the entry of guilt or adjudication of responsibility was delayed or deferred under section 1094, and shall then proceed to sentencing or disposition of the individual for the original charges to which the individual pled guilty or, in the case of a juvenile, to which the juvenile admitted responsibility prior to admission to the mental health court. Except for program termination due to the commission of a new crime, failure to complete a mental health court program shall not be a prejudicial factor in sentencing. All records of the proceedings regarding the participation of the individual in the mental health court shall remain closed to public inspection and exempt from public disclosure as provided in subsection (5).

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

- (a) House Bill No. 4694.
- (b) House Bill No. 4696.
- (c) House Bill No. 4697.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor