

Act No. 590
Public Acts of 2018
Approved by the Governor
December 27, 2018
Filed with the Secretary of State
December 28, 2018
EFFECTIVE DATE: March 28, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Calley and LaGrand

ENROLLED HOUSE BILL No. 5806

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 chapter 10C.

The People of the State of Michigan enact:

CHAPTER 10C

Sec. 1099b. As used in this chapter:

(a) “Co-occurring disorder” means having 1 or more disorders relating to the use of alcohol or other controlled substances of abuse as well as any serious mental illness, serious emotional disturbance, or developmental disability. A diagnosis of co-occurring disorders occurs when at least 1 disorder of each type can be established independent of the other and is not simply a cluster of symptoms resulting from 1 disorder.

(b) “Court funding unit” means that term as defined in section 151e.

(c) “Developmental disability” means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a.

(d) “Domestic violence offense” means any crime alleged to have been committed by a juvenile against a family member, an individual with whom the juvenile has a child in common, an individual with whom the juvenile has had a dating relationship, or an individual who resides or has resided in the same household as the juvenile.

(e) “Juvenile mental health court” means all of the following:

(i) A court-supervised treatment program for juveniles who are diagnosed by a mental health professional with having a serious emotional disturbance, co-occurring disorder, or developmental disability.

(ii) Programs designed to adhere to the 7 common characteristics of a juvenile mental health court as described under section 1099c(3).

(iii) Programs designed to adhere to the 10 essential elements of a mental health court promulgated by the Bureau of Justice Assistance, or amended, that include all of the following characteristics:

(A) A broad-based group of stakeholders representing the criminal justice system, the juvenile justice system, the mental health system, the substance abuse treatment system, any related systems, and the community guide the planning and administration of the court.

(B) Eligibility criteria that address public safety and a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for juveniles with mental illnesses, and that take into account the relationship between mental illness and a juvenile's offenses, while allowing the individual circumstances of each case to be considered.

(C) Participants are identified, referred, and accepted into mental health courts, and then linked to community-based service providers as quickly as possible.

(D) Terms of participation are clear, promote public safety, facilitate the juvenile's engagement in treatment, are individualized to correspond to the level of risk that each juvenile presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program.

(E) In accordance with the Michigan indigent defense commission act, 2013 PA 93, MCL 780.981 to 780.1003, provide legal counsel to juvenile respondents to explain program requirements, including voluntary participation, and guide juveniles in decisions about program involvement. Procedures exist in the juvenile mental health court to address, in a timely fashion, concerns about a juvenile's competency whenever they arise.

(F) Connect participants to comprehensive and individualized treatment supports and services in the community and strive to use, and increase the availability of, treatment and services that are evidence based.

(G) Health and legal information are shared in a manner that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights. Information gathered as part of the participants' court-ordered treatment program or services is safeguarded from public disclosure in the event that participants are returned to traditional court processing.

(H) A team of criminal justice, if applicable, juvenile justice, and mental health staff and treatment providers receives special, ongoing training and assists mental health court participants to achieve treatment and criminal and juvenile justice goals by regularly reviewing and revising the court process.

(I) Criminal and juvenile justice and mental health staff collaboratively monitor participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery.

(J) Data are collected and analyzed to demonstrate the impact of the juvenile mental health court, its performance is assessed periodically, procedures are modified accordingly, court processes are institutionalized, and support for the court in the community is cultivated and expanded.

(f) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is 1 of the following:

(i) A physician.

(ii) A psychologist.

(iii) A registered professional nurse licensed or otherwise authorized to engage in the practice of nursing under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(iv) A licensed master's social worker licensed or otherwise authorized to engage in the practice of social work at the master's level under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.

(v) A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(vi) A marriage and family therapist licensed or otherwise authorized to engage in the practice of marriage and family therapy under part 169 of the public health code, 1978 PA 368, MCL 333.16901 to 333.16915.

(g) "Participant" means a juvenile who is admitted into a juvenile mental health court.

(h) "Serious emotional disturbance" means that term as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(i) "Serious mental illness" means that term as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(j) "Violent offender" means a juvenile who is adjudicated on or has been, within the preceding 5 years, adjudicated on 1 or more of the following offenses:

(i) First degree murder.

(ii) Second degree murder.

(iii) Criminal sexual conduct in the first, second, or third degree.

(iv) Assault with intent to do great bodily harm less than murder in violation of section 84 of the Michigan penal code, 1931 PA 328, MCL 750.84.

Sec. 1099c. (1) A family division of circuit court in any judicial circuit may adopt or institute a juvenile mental health court pursuant to statute or court rules. The creation or existence of a juvenile mental health court does not alter or affect the law or court rules concerning discharge or dismissal of an offense, or adjudication. A family division of circuit

court adopting or instituting a juvenile mental health court shall enter into a memorandum of understanding with all participating prosecuting authorities in the circuit, a representative or representatives of the community mental health services program, a representative of the bar specializing in juvenile law, and a representative or representatives of community treatment providers that describes the roles and responsibilities of each party to the memorandum of understanding. The memorandum of understanding also may include other parties considered necessary, including, but not limited to, a representative or representatives of the local court funding unit or a domestic violence service provider program that receives funding from the Michigan domestic and sexual violence prevention and treatment board.

(2) A court that has adopted a juvenile mental health court under this section may accept participants from any other jurisdiction in this state based upon the residence of the participant in the receiving jurisdiction. A juvenile mental health court may refuse to accept participants from other jurisdictions.

(3) A court that has adopted a juvenile mental health court under this section shall comply with the 7 common characteristics of a juvenile mental health court published by Policy Research Associates, including all of the following:

- (a) Regularly scheduled special docket.
- (b) Less formal style of interaction among court officials and participants.
- (c) Age-appropriate screening and assessment for trauma, substance use, and mental disorder.
- (d) Team management of a participant's treatment and supervision.
- (e) System-wide accountability enforced by the juvenile mental health court.
- (f) Use of graduated incentives and sanctions.
- (g) Defined criteria for program success.

(4) Beginning January 1, 2019, a juvenile mental health court operating in this state, or a circuit court in any judicial circuit or the district court in any judicial district seeking to adopt or institute a juvenile mental health court, must be certified by the state court administrative office. The state court administrative office shall establish the procedure for certification. Approval and certification under this subsection of a juvenile mental health court is required to begin or to continue the operation of a juvenile mental health court under this chapter. The state court administrative office shall not recognize and include a juvenile mental health court that is not certified under this subsection on the statewide official list of juvenile mental health courts. The state court administrative office shall include a juvenile mental health court certified under this subsection on the statewide official list of juvenile mental health courts. A juvenile mental health court that is not certified under this subsection shall not perform any of the functions of a juvenile mental health court, including, but not limited to, any of the following functions:

- (a) Charging a fee under section 1099h.
- (b) Discharging and dismissing a case as provided in section 1099k.
- (c) Receiving funding under section 1099m.

Sec. 1099d. A juvenile mental health court shall hire, contract, or work in conjunction with mental health professionals, in consultation with the local community mental health service provider, and other such appropriate persons to assist the juvenile mental health court in fulfilling its requirements under this chapter.

Sec. 1099e. (1) Each juvenile mental health court shall determine whether a juvenile may be admitted. No juvenile has a right to be admitted into a juvenile mental health court. Admission into a juvenile mental health court program is at the discretion of the court based on the juvenile's legal and clinical eligibility. A court has the discretion to consider a juvenile's prior participation or completion status in a juvenile mental health court. A juvenile may be admitted to juvenile mental health court, regardless of prior participation or prior completion status. However, a violent offender must not be admitted into juvenile mental health court.

(2) Admission to a juvenile mental health court does not disqualify a juvenile for any other dispositional options available under state law or court rule.

(3) To be admitted to a juvenile mental health court, a juvenile shall cooperate with and complete a preadmission screening and assessment and shall submit to any future assessment as directed by the juvenile mental health court. A preadmission screening and assessment must include all of the following:

(a) A review of the juvenile's delinquency history. A review of the law enforcement information network may be considered sufficient for purposes of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the juvenile to submit a statement as to whether or not he or she has previously been admitted to a juvenile mental health court and the results of his or her participation in the prior program or programs.

(b) An assessment of the risk of danger or harm to the juvenile, others, and the community using standardized instruments that have acceptable reliability and validity.

(c) A mental health assessment, performed by a mental health professional, for an evaluation of a serious mental illness, serious emotional disturbance, co-occurring disorder, or developmental disability.

(d) A review of the juvenile's family situation, special needs, or circumstances that may potentially affect the juvenile's ability to receive mental health or substance abuse treatment and follow the court's orders, including input from family, caregivers, or other collateral supports.

(4) Except as otherwise permitted in this chapter, any statement or other information obtained as a result of participating in a preadmission screening and assessment under subsection (3) is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and must not be used in any future juvenile delinquency proceeding.

(5) The court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to a juvenile criminal history for the purposes of determining a juvenile's eligibility for admission into the juvenile mental health court.

Sec. 1099f. (1) If the juvenile is alleged to have engaged in activity that would constitute a criminal act if committed by an adult, his or her admission to juvenile mental health court is subject to all of the following conditions:

(a) The juvenile admits responsibility for the violation or violations that he or she is accused of having committed.

(b) The parent, legal guardian, or legal custodian, and juvenile are required to sign all documents for the juvenile's admission in the juvenile mental health court, including a written agreement to participate in the juvenile mental health court.

(2) Nothing in this chapter shall be construed to preclude a court from providing mental health services to a juvenile before he or she admits responsibility and is accepted into the juvenile mental health court.

(3) A juvenile who has admitted responsibility, as part of his or her referral process to a juvenile mental health court, and who is subsequently not admitted to a juvenile mental health court may withdraw his or her admission of responsibility.

(4) This section does not apply to status offenses.

Sec. 1099g. In addition to rights accorded a victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the juvenile mental health court shall permit any victim of the offense or offenses for which the juvenile has been petitioned to submit a written statement to the court regarding the advisability of admitting the juvenile into the juvenile mental health court.

Sec. 1099h. Upon admitting a juvenile into a juvenile mental health court, all of the following apply:

(a) The court shall enter an adjudication upon acceptance of a juvenile's admittance of responsibility to the offense.

(b) Unless a memorandum of understanding made pursuant to section 1088 between a receiving juvenile mental health court and the court of original jurisdiction provides otherwise, the original court of jurisdiction maintains jurisdiction over the juvenile mental health court participant as provided in this chapter until final disposition of the case. The court may receive jurisdiction over the juvenile's parents or guardians under section 6 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.6, in order to assist in ensuring the juvenile's continued participation and successful completion of the juvenile mental health court and may issue and enforce any appropriate and necessary order regarding the parent or guardian.

(c) The juvenile mental health court may require a juvenile and his or her parent, legal guardian, or legal custodian admitted into the court to pay a reasonable juvenile mental health court fee that is reasonably related to the cost to the court for administering the juvenile mental health court program as provided in the memorandum of understanding. The juvenile mental health court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

Sec. 1099i. (1) A juvenile mental health court shall provide a juvenile mental health court participant with all of the following:

(a) Consistent and close monitoring of the juvenile's treatment and recovery.

(b) If found necessary or appropriate, periodic and random testing for the presence of any nonprescribed controlled substance or alcohol as well as compliance with or effectiveness of prescribed medication using to the extent practicable the best available, accepted, and scientifically valid methods.

(c) Periodic judicial reviews of the participant's circumstances and progress in the program.

(d) A regimen or strategy of individualized and graduated but immediate rewards for compliance and sanctions for noncompliance, including, but not limited to, the possibility of detainment.

(e) Mental health services, substance use disorder services, education, and vocational opportunities as appropriate and practical.

(2) Upon a juvenile's completion of the required juvenile mental health court program participation, an exit evaluation should be conducted in order to assess the juvenile's continuing need for mental health, developmental disability, or substance abuse services.

(3) Any statement or other information obtained as a result of participating in assessment, treatment, or testing while in a juvenile mental health court is confidential and is exempt from disclosure under the United States Constitution and state constitution of 1963 and the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and must not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal controlled substance use.

Sec. 1099j. (1) In order to continue to participate in and successfully complete a juvenile mental health court program, a juvenile shall comply with all court orders, violations of which may be sanctioned at the court's discretion.

(2) If the juvenile is accused of a new offense, the judge has the discretion to terminate the juvenile's participation in the juvenile mental health court program. If the juvenile is adjudicated on or convicted of 1 or more of the offenses listed under section 1099b(j) that was committed after he or she was admitted into the juvenile mental health court program, the juvenile must be immediately discharged from the program as unsuccessful.

(3) The court shall require that a juvenile pay all court fines, costs, court fees, restitution, and assessments. 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 juvenile and the juvenile's family or would interfere with the juvenile's treatment, the court may waive all or part of those court fines, court fees, or drug or alcohol testing expenses except those required by statute.

(4) The responsible mental health provider 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. 1099k. (1) Upon a participant's completion or termination of the juvenile 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 juvenile's participation in the program was terminated and, if it was terminated, the reason for the termination.

(2) The court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1099c, may discharge and dismiss the proceedings.

(3) Except as provided in subsection (2), if a juvenile has successfully completed probation or other court supervision, the court shall do the following:

(a) If the court has not already disposed of the juvenile, proceed to disposition pursuant to the agreement under which the juvenile was admitted into juvenile mental health court.

(b) Send a record of adjudication of responsibility and disposition to the department of state police and secretary of state, as applicable.

(4) Except for program termination due to the commission of a new offense, failure to complete a juvenile mental health court program must not be a prejudicial factor in disposition. All records of the proceedings regarding the participation of the juvenile in the juvenile mental health court must remain closed to public inspection and are exempt from public disclosure, including disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 1099l. (1) Each juvenile mental health court shall collect and provide data on each individual applicant and participant and the entire program as required by the state court administrative office. The state court administrative office shall provide appropriate training to all courts entering data, as directed by the supreme court.

(2) Each juvenile mental health court shall maintain files or databases on each individual participant in the program for review and evaluation as well as treatment, as directed by the state court administrative office. The information collected for evaluation purposes must include a minimum standard data set developed and specified by the state court administrative office.

(3) As directed by the supreme court, the state court administrative office shall provide standards for juvenile mental health courts in this state, including, but not limited to, developing a list of approved measurement instruments and indicators for data collection and evaluation. These standards must provide comparability between programs and their outcomes.

(4) The information collected under this section regarding individual applicants to juvenile mental health court programs for the purpose of application to that program and participants who have successfully completed juvenile mental health courts is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 1099m. (1) The supreme court is responsible for the expenditure of state funds for the establishment and operation of juvenile mental health courts.

(2) Each juvenile mental health court shall report quarterly to the state court administrative office in a manner prescribed by the state court administrative office on the state funds received and expended by that juvenile mental health court.

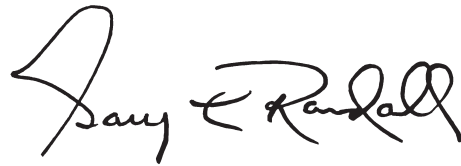
(3) The state court administrative office may establish an advisory committee. If established, this committee must be separate from and independent of the state's drug treatment court advisory committee.

(4) As directed by the supreme court, the state court administrative office shall, in conjunction with the department of health and human services, assure that training and technical assistance are available and provided to all juvenile mental health courts.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5807 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor