

SUBSTITUTE FOR
HOUSE BILL NO. 4522

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 1082 (MCL 600.1082), as amended by 2012 PA 334,
and by adding chapter 10D.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1082. (1) A state drug treatment court advisory committee
2 is created in the legislative council. The state drug treatment
3 court advisory committee consists of the following members:

4 (a) The state court administrator or ~~his or her~~ **the state**
5 **court administrator's** designee.

6 (b) ~~Seventeen~~ **Eighteen** members appointed jointly by the
7 speaker of the house of representatives and the senate majority
8 leader, as follows:

1 (i) A circuit court judge who has presided for at least 2 years
2 over a drug treatment court.

3 (ii) A district court judge who has presided for at least 2
4 years over a drug treatment court.

5 (iii) A judge of the family division of circuit court who has
6 presided for at least 2 years over a juvenile drug treatment court
7 program.

8 (iv) A circuit or district court judge who has presided for at
9 least 2 years over an alcohol treatment court.

10 (v) A circuit or district court judge who has presided over a
11 veterans treatment court.

12 **(vi) A circuit court judge who has presided over a family
13 treatment court.**

14 **(vii)** ~~(vi)~~—A court administrator who has worked for at least 2
15 years with a drug or alcohol treatment court.

16 **(viii)** ~~(vii)~~—A prosecuting attorney who has worked for at least 2
17 years with a drug or alcohol treatment court.

18 **(ix)** ~~(viii)~~—An individual representing law enforcement in a
19 jurisdiction that has had a drug or alcohol treatment court for at
20 least 2 years.

21 **(x)** ~~(ix)~~—An individual representing drug treatment providers
22 who has worked at least 2 years with a drug or alcohol treatment
23 court.

24 **(xi)** ~~(x)~~—An individual representing criminal defense attorneys,
25 who has worked for at least 2 years with drug or alcohol treatment
26 courts.

27 **(xii)** ~~(xi)~~—An individual who has successfully completed a drug
28 treatment court program.

1 **(xiii)** ~~(xii)~~—An individual who has successfully completed a
2 juvenile drug treatment court program.

3 **(xiv)** ~~(xiii)~~—An individual who is an advocate for the rights of
4 crime victims.

5 **(xv)** ~~(xiv)~~—An individual representing the Michigan ~~association~~
6 ~~of drug court professionals.~~**Association of Drug Court**
7 **Professionals.**

8 **(xvi)** ~~(xv)~~—An individual who is a probation officer and has
9 worked for at least 2 years for a drug or alcohol treatment court.

10 **(xvii)** ~~(xvi)~~—An individual representing a substance abuse
11 coordinating agency.

12 **(xviii)** ~~(xvii)~~—An individual representing domestic violence
13 service provider programs that receive funding from the state
14 domestic violence prevention and treatment board.

15 (2) Members of the advisory committee shall serve without
16 compensation. However, members of the advisory committee may be
17 reimbursed for their actual and necessary expenses incurred in the
18 performance of their duties as members of the advisory committee.

19 (3) Members of the advisory committee shall serve for terms of
20 4 years each, except that the members first appointed shall serve
21 terms as follows:

22 (a) The members appointed under subsection (1) (b) (i) to ~~(vi)~~
23 **(vii)** shall serve terms of 4 years each.

24 (b) The members appointed under subsection ~~(1) (b) (vii)~~
25 **(1) (b) (viii)** to ~~(xi)~~ **(xii)** shall serve terms of 3 years each.

26 (c) The members appointed under subsection ~~(1) (b) (xii)~~
27 **(1) (b) (xiii)** to ~~(xvi)~~ **(xviii)** shall serve terms of 2 years each.

28 (4) If a vacancy occurs in an appointed membership on the

1 advisory committee, the appointing authority shall make an
2 appointment for the unexpired term in the same manner as the
3 original appointment.

4 (5) The appointing authority may remove an appointed member of
5 the advisory committee for incompetency, dereliction of duty,
6 malfeasance, misfeasance, or nonfeasance in office, or any other
7 good cause.

8 (6) The first meeting of the advisory committee ~~shall~~**must** be
9 called by the speaker of the house of representatives and the
10 senate majority leader. At the first meeting, the advisory
11 committee shall elect from among its members a chairperson and
12 other officers as it considers necessary or appropriate. After the
13 first meeting, the advisory committee shall meet at least
14 quarterly, or more frequently at the call of the chairperson or if
15 requested by 9 or more members.

16 (7) A majority of the members of the advisory committee
17 constitute a quorum for the transaction of business at a meeting of
18 the advisory committee. A majority of the members present and
19 serving are required for official action of the advisory committee.

20 (8) The business that the advisory committee may perform ~~shall~~
21 **must** be conducted at a public meeting of the advisory committee
22 held in compliance with the open meetings act, 1976 PA 267, MCL
23 15.261 to 15.275.

24 (9) A writing prepared, owned, used, in the possession of, or
25 retained by the advisory committee in the performance of an
26 official function is subject to the freedom of information act,
27 1976 PA 442, MCL 15.231 to 15.246.

28 (10) The advisory committee shall monitor the effectiveness of
29 drug treatment courts, **family treatment courts**, and veterans

1 treatment courts and the availability of funding for those courts
2 and shall present annual recommendations to the legislature and
3 supreme court regarding proposed statutory changes regarding those
4 courts.

5 **CHAPTER 10D**

6 **Sec. 1099aa. As used in this chapter:**

7 (a) "Department" means the department of health and human
8 services.

9 (b) "Family-centered" means a treatment approach that is
10 designed to meet the needs of each member of a family, not just the
11 individual diagnosed with a substance abuse disorder, and
12 recognizes that families are diverse and can be made up of nuclear
13 family members, extended family members, fictive kin, and nonblood
14 relations. As used in this subdivision, "family" means all
15 individuals whom the child and parent define as family.

16 (c) "Family treatment court" means either of the following:

17 (i) A court-supervised treatment program for individuals with a
18 civil child abuse or neglect case and who are diagnosed with a
19 substance use disorder.

20 (ii) A program designed to adhere to the family treatment court
21 best practice standards promulgated by a national organization
22 representing the interest of drug and specialty court treatment
23 programs and the Center for Children and Family Futures, which
24 include all of the following:

25 (A) Early identification, screening, and assessment of
26 eligible participants, with prompt placement in the program.

27 (B) Integration of timely, high-quality, and appropriate
28 substance use disorder treatment services with justice system case
29 processing.

1 (C) Access to comprehensive case management, services, and
2 supports for families.

3 (D) Valid, reliable, random, and frequent drug testing.

4 (E) Therapeutic responses to improve parent, child, and family
5 functioning, ensure children's safety, permanency, and well-being,
6 support participant behavior change, and promote participant
7 accountability.

8 (F) Ongoing close judicial interaction with each participant.

9 (G) Collecting and reviewing data to monitor participant
10 progress, engage in a process of continuous quality improvement,
11 monitor adherence to best practice standards, and evaluate outcomes
12 using scientifically reliable and valid procedures.

13 (H) Continued interdisciplinary education in order to promote
14 effective family treatment court planning, implementation, and
15 operation.

16 (I) The forging of partnerships among other family treatment
17 courts, public agencies, and community-based organizations to
18 generate local support.

19 (J) A family-centered, culturally relevant, and trauma-
20 informed approach.

21 (K) Ensuring equity and inclusion.

22 (d) "Indian child's tribe" means that term as defined in
23 section 3 of the Michigan Indian family preservation act, chapter
24 XIIB of the probate code of 1939, 1939 PA 288, MCL 712B.3.

25 (e) "Lawyer-guardian ad litem" means that term as defined in
26 section 13a of chapter XIIA of the probate code of 1939, 1939 PA
27 288, MCL 712A.13a.

28 (f) "Participant" means an individual who is admitted into a
29 family treatment court.

1 (g) "Prosecutor" means the prosecuting attorney of the county,
2 attorney general, or attorney retained by the department.

3 (h) "Termination" means removal from the family treatment
4 court due to a new offense, noncompliance, absconding, voluntary
5 withdrawal, medical discharge, or death.

6 (i) "Violent offender" means an individual who is currently
7 charged with or has pled guilty to an offense involving the death
8 of or serious bodily injury to any individual, whether or not death
9 or serious bodily injury is an element of the offense, or an
10 offense that is criminal sexual conduct of any degree.

11 Sec. 1099bb. (1) The circuit court in any judicial circuit may
12 adopt or institute a family treatment court, pursuant to statute or
13 court rules. The circuit court shall not adopt or institute the
14 family treatment court unless the circuit court enters into a
15 memorandum of understanding with the prosecuting attorney, a
16 representative of the bar specializing in family or juvenile law, a
17 lawyer-guardian ad litem, a representative or representatives of
18 the department, and a representative or representatives of
19 community treatment providers. The memorandum of understanding may
20 also include other parties considered necessary, such as a court
21 appointed special advocate, local law enforcement, the local
22 substance abuse coordinating agency for that circuit court, a
23 mental health treatment provider, a domestic violence services
24 provider, an Indian child's tribe, or child and adolescent services
25 providers. The memorandum of understanding must describe the role
26 of each party.

27 (2) A court that is adopting a family treatment court shall
28 participate in training as required by the state court
29 administrative office.

1 (3) A family treatment court operating in this state, or a
2 circuit court in any judicial circuit seeking to adopt or institute
3 a family treatment court, must be certified by the state court
4 administrative office. The state court administrative office shall,
5 under the direction and supervision of the supreme court, establish
6 the procedure for certification. Approval and certification under
7 this subsection of a family treatment court by the state court
8 administrative office is required to begin or to continue the
9 operation of a family treatment court under this chapter. The state
10 court administrative office shall, under the direction and
11 supervision of the supreme court, include a family treatment court
12 certified under this subsection on the statewide official list of
13 family treatment courts. The state court administrative office
14 shall not recognize and include a family treatment court that is
15 not certified under this subsection on the statewide official list
16 of family treatment courts. A family treatment court that is not
17 certified under this subsection shall not perform any of the
18 functions of a family treatment court, including, but not limited
19 to, receiving funding under section 1099//.

20 Sec. 1099cc. A family treatment court may hire or contract
21 with licensed or accredited treatment providers in consultation and
22 cooperation with the local substance abuse coordinating agency, the
23 local community mental health service provider, and other such
24 appropriate persons to assist the family treatment court in
25 fulfilling its requirements under this chapter, including, but not
26 limited to, the investigation of an individual's background or
27 circumstances, the clinical evaluation of an individual for the
28 individual's admission into or participation in a family treatment
29 court, providing a recommended treatment modality and level of

1 care, and providing evidence-based, family-centered treatment using
2 an integrated, comprehensive continuum of care.

3 Sec. 1099dd. (1) A family treatment court shall determine
4 whether an individual may be admitted to the family treatment
5 court. An individual does not have a right to be admitted into a
6 family treatment court. Unless the family treatment court judge and
7 the prosecuting attorney, in consultation with any known victim in
8 the instant case, consent, a violent offender must not be admitted
9 into a family treatment court. An individual must not be admitted
10 to a family treatment court if either of the following applies:

11 (a) The individual is currently charged with first degree
12 murder in violation of section 316 of the Michigan penal code, 1931
13 PA 328, MCL 750.316, or criminal sexual conduct in the first,
14 second, or third degree in violation of section 520b, 520c, or 520d
15 of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c,
16 and 750.520d.

17 (b) The individual has been convicted of first degree murder
18 in violation of section 316 of the Michigan penal code, 1931 PA
19 328, MCL 750.316, criminal sexual conduct in the first degree in
20 violation of section 520b of the Michigan penal code, 1931 PA 328,
21 MCL 750.520b, or child sexually abusive activity in violation of
22 section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

23 (2) To be admitted into a family treatment court, admission
24 must be indicated as appropriate as a result of a preadmission
25 screening, evaluation, or assessment with an evidence-based
26 screening and assessment tool. An individual shall cooperate with
27 and complete a preadmission screening, evaluation, or assessment,
28 and shall agree to cooperate with any future evaluation or
29 assessment as directed by the family treatment court. A

1 preadmission screening, evaluation, or assessment must include all
2 of the following:

3 (a) A complete review of the individual's criminal history,
4 and a review of whether or not the individual has been admitted to,
5 has participated in, or is currently participating in a problem-
6 solving court. The court may accept verifiable and reliable
7 information from the prosecutor or the individual's attorney to
8 complete its review and may require the individual to submit a
9 statement as to whether or not the individual has previously been
10 admitted to a problem-solving court and the results of the
11 individual's participation in the prior program or programs.

12 (b) A complete review of the individual's child protective
13 services history.

14 (c) As much as practicable, a complete review of the
15 individual's civil record, including any records pertaining to
16 divorce, custody, personal protection order, and extreme risk
17 protection order proceedings.

18 (d) An assessment of the family situation, including any
19 nonrespondent parent and family support.

20 (e) An assessment of the risk of danger or harm to the
21 individual, the individual's children, or the community.

22 (f) As much as practicable, a complete review of the
23 individual's history regarding the use or abuse of any controlled
24 substance or alcohol and an assessment of whether the individual
25 abuses controlled substances or alcohol or is drug or alcohol
26 dependent. As much as practicable, the assessment must be a
27 clinical assessment.

28 (g) A review of any special needs or circumstances of the
29 individual that may potentially affect the individual's ability to

1 receive substance abuse treatment and follow the court's orders.

2 (3) The information received for an assessment under
3 subsection (2) is confidential and must not be used for any purpose
4 other than treatment and case planning.

5 (4) Except as otherwise permitted in this act, any statement
6 or other information obtained as a result of participating in a
7 preadmission screening, evaluation, or assessment under subsection
8 (2) is confidential and is exempt from disclosure under the freedom
9 of information act, 1976 PA 442, MCL 15.231 to 15.246, and must not
10 be used in a criminal prosecution, unless it reveals criminal acts
11 other than, or inconsistent with, personal drug use.

12 (5) The court may request that the department provide to the
13 court information about an individual applicant's child protective
14 services history to determine an individual's admission into the
15 family treatment court. The department shall provide the
16 information requested by a family treatment court under this
17 subsection and as required under section 7(1)(g) of the child
18 protection law, 1975 PA 238, MCL 722.627.

19 Sec. 1099ee. Before an individual is admitted into a family
20 treatment court, the court shall find on the record, or place a
21 statement in the court file establishing all of the following:

22 (a) That the individual has a substance use disorder and is an
23 appropriate candidate for participation in the family treatment
24 court as determined by the preadmission screening, evaluation, or
25 assessment.

26 (b) That the individual understands the consequences of
27 entering the family treatment court and agrees to comply with all
28 court orders and requirements of the family treatment court and
29 treatment providers.

1 (c) That either the individual is not a violent offender or,
2 subject to subdivisions (d) and (e), the family treatment court
3 judge, the lawyer-guardian ad litem, and the prosecuting attorney,
4 in consultation with any known victim in the instant case, consent
5 to the violent offender being admitted to the family treatment
6 court.

7 (d) The individual is not currently charged with first degree
8 murder or criminal sexual conduct in the first, second, or third
9 degree.

10 (e) The individual has never been convicted of first degree
11 murder, criminal sexual conduct in the first degree, or child
12 sexually abusive activity.

13 (f) That an individual has completed a preadmission screening,
14 evaluation, or assessment under section 1099dd and has agreed to
15 cooperate with any future evaluation or assessment as directed by
16 the family treatment court.

17 (g) The terms and conditions of the agreement between the
18 parties.

19 Sec. 1099ff. If the individual being considered for admission
20 to a family treatment court is adjudicated in a civil child neglect
21 and abuse case, the individual's admission is subject to all of the
22 following conditions:

23 (a) The allegations contained in the petition must be related
24 to the abuse, illegal use, or possession of a controlled substance
25 or alcohol.

26 (b) The individual must make an admission of responsibility to
27 the allegations on the record.

28 (c) The individual must sign a written agreement to
29 participate in the family treatment court.

1 Sec. 1099gg. (1) On admitting an individual into a family
2 treatment court, both of the following apply:

3 (a) For an individual who is admitted to a family treatment
4 court based on having an adjudicated child neglect or abuse case,
5 the court shall accept the admission of responsibility to the
6 allegations described in section 1099ff.

7 (b) The court may place the individual under court
8 jurisdiction in the family treatment court program with terms and
9 conditions as considered necessary by the court.

10 (2) The family treatment court shall cooperate with, and act
11 in a collaborative manner with, the prosecutor, representative of
12 the bar specializing in family or juvenile law, treatment
13 providers, lawyer-guardian ad litem, local substance abuse
14 coordinating agency, department, and, to the extent possible, court
15 appointed special advocate, local law enforcement, child and
16 adolescent services providers, domestic violence services
17 providers, Indian child's tribe, and community corrections
18 agencies.

19 (3) The family treatment court may require an individual
20 admitted into the court to pay a reasonable family treatment court
21 fee that is reasonably related to the cost to the court of
22 administering the family treatment court program as provided in the
23 memorandum of understanding under section 1099bb. The clerk of the
24 circuit court shall transmit the fees collected to the treasurer of
25 the local funding unit at the end of each month.

26 (4) The family treatment court may request that the department
27 provide the court with information about an admitted individual's
28 child protective services history and updates on the individual's
29 compliance with child protective services for the purpose of

1 determining an individual's progress in and compliance with the
2 family treatment court. The department shall provide the
3 information requested by a family treatment court under this
4 subsection and as required under section 7(1)(g) of the child
5 protection law, 1975 PA 283, MCL 722.627.

6 Sec. 1099hh. (1) A family treatment court shall provide a
7 family treatment court participant with all of the following:

8 (a) Consistent, continual, and close monitoring of the
9 participant and interaction among the court, treatment providers,
10 department, and participant.

11 (b) Mandatory periodic and random testing for the presence of
12 any controlled substance, alcohol, or other abused substance in a
13 participant's blood, urine, saliva, or breath, using to the extent
14 practicable the best available, accepted, and scientifically valid
15 methods.

16 (c) Periodic evaluation assessments of the participant's
17 circumstances and progress in the program.

18 (d) A regimen or strategy of appropriate and graduated but
19 immediate rewards for compliance and sanctions for noncompliance,
20 including, but not limited to, the possibility of incarceration or
21 confinement.

22 (e) Substance abuse treatment services, including, but not
23 limited to, family-centered treatment, relapse prevention services,
24 mental health treatment services, education, and vocational
25 opportunities as appropriate and practicable.

26 (2) Any statement or other information obtained as a result of
27 participating in an assessment, evaluation, treatment, or testing
28 while in a family treatment court is confidential and is exempt
29 from disclosure under the freedom of information act, 1976 PA 442,

1 MCL 15.231 to 15.246, and must not be used in a criminal
2 prosecution, unless it reveals criminal acts other than, or
3 inconsistent with, personal drug use.

4 Sec. 1099ii. (1) To continue to participate in and
5 successfully complete a family treatment court program, an
6 individual must do both of the following:

7 (a) Pay the family treatment court fee allowed under section
8 1099gg, as applicable.

9 (b) Comply with all court orders and case service plans,
10 violations of which may be sanctioned according to national and
11 state recognized family treatment court best practices and
12 standards.

13 (2) The family treatment court must be notified of any new
14 neglect and abuse allegations against the participant or if the
15 participant is accused of a crime. The judge shall consider whether
16 to terminate the participant's participation in the family
17 treatment court in conformity with the memorandum of understanding
18 under section 1099bb.

19 (3) The court shall require that a participant pay the fee
20 described in subsection (1)(a). However, if the court determines
21 that the payment of the fee would be a substantial hardship for the
22 participant or would interfere with the participant's substance
23 abuse treatment, the court may waive all or part of the fee.

24 Sec. 1099jj. (1) On completion of or termination from a family
25 treatment court program, the court shall find on the record or
26 place a written statement in the court file as to whether the
27 participant completed the program successfully or whether the
28 individual's participation in the program was terminated and, if it
29 was terminated, the reason for the termination.

1 (2) If a participant has successfully completed family
2 treatment court, the court shall send a notice of the family
3 treatment court completion and final disposition to the department.
4 The department shall record successful participation by the
5 individual in a family treatment court.

6 (3) If a participant was terminated from the family treatment
7 court, the court shall send a notice of the family treatment court
8 termination to the department. The department shall record the
9 termination of the individual from family treatment court.

10 (4) All court proceedings under this section must be open to
11 the public.

12 Sec. 1099kk. (1) Each family treatment court shall collect and
13 provide data on each individual applicant and participant in the
14 program as required by the state court administrative office.

15 (2) A family treatment court shall maintain files or databases
16 on each individual applicant or referral who is denied or refused
17 admission to the program, including the reasons for the denial or
18 rejection, the criminal history of the applicant, the preadmission
19 evaluation or assessment, and other demographic information as
20 required by the state court administrative office.

21 (3) A family treatment court shall maintain files or databases
22 on each individual participant in the program for review and
23 evaluation, as directed by the state court administrative office.
24 The information collected for evaluation purposes must include a
25 minimum standard data set developed and specified by the state
26 court administrative office. This information should be maintained
27 in the court files or otherwise accessible by the courts and the
28 state court administrative office and, as much as practicable,
29 should include all of the following:

1 (a) Location and contact information for each individual
2 participant, on admission and termination or completion of the
3 program for follow-up reviews, and third-party contact information.

4 (b) Significant transition point dates, including dates of
5 referral, enrollment, new court orders, violations, detentions,
6 changes in services or treatments provided, discharge for
7 completion or termination, any provision of after-care, and after-
8 program recidivism.

9 (c) The individual's precipitating adjudication and
10 significant factual information, source of referral, and all family
11 treatment court evaluations and assessments.

12 (d) Treatments provided, including the intensity of care or
13 dosage, and the outcome of each treatment.

14 (e) Other services or opportunities provided to the individual
15 and resulting use by the individual, such as education or
16 employment and the participation of and outcome for that
17 individual.

18 (f) Reasons for discharge, completion, or termination of the
19 program.

20 (g) Outcomes related to reunification and placement of a child
21 or children.

22 (4) As directed by the state court administrative office,
23 after an individual is discharged either on completion of or
24 termination from the program, the family treatment court should
25 conduct, as much as practicable, follow-up contacts with and
26 reviews of participants for key outcome indicators, such as
27 substance use, custody status of children, recidivism, and
28 employment, as frequently and for a period of time determined by
29 the state court administrative office based on the nature of the

1 family treatment court and the nature of the participant. The
2 follow-up contact and review of former participants is not an
3 extension of the court's jurisdiction over the individual.

4 (5) A family treatment court shall provide to the state court
5 administrative office all information requested by the state court
6 administrative office.

7 (6) The state court administrative office, under the direction
8 and supervision of the supreme court, is responsible for evaluating
9 and collecting data on the performance of family treatment courts
10 in this state as follows:

11 (a) Provide an annual review of the performance of family
12 treatment courts in this state to the minority and majority party
13 leaders in the senate and house of representatives, the state drug
14 treatment court advisory committee created under section 1082, the
15 governor, and the supreme court.

16 (b) Provide standards for family treatment courts in this
17 state, including, but not limited to, developing a list of approved
18 measurement instruments and indicators for data collection and
19 evaluation. These standards must provide comparability between
20 programs and their outcomes.

21 (c) Provide evaluation plans, including appropriate and
22 scientifically valid research designs that, as soon as practicable,
23 include the use of comparison and control groups.

24 (7) The information collected under this section regarding
25 individual applicants to family treatment court programs for the
26 purpose of application to that program and participants who have
27 successfully completed family treatment courts is exempt from
28 disclosure under the freedom of information act, 1976 PA 442, MCL
29 15.231 to 15.246.

1 Sec. 1099//. (1) The supreme court is responsible for the
2 expenditure of state funds for the establishment and operation of
3 family treatment courts. Federal funds provided to the state for
4 the operation of family treatment courts must be distributed by the
5 department or the appropriate state agency as otherwise provided by
6 law.

7 (2) The state treasurer may receive money or other assets from
8 any source for deposit into the appropriate state fund or funds for
9 the purposes described in subsection (1).

10 (3) Each family treatment court shall report quarterly to the
11 state court administrative office on the funds received and
12 expended by that family treatment court, in a manner prescribed by
13 the state court administrative office.