

# HOUSE BILL NO. 4522

May 04, 2023, Introduced by Reps. Breen, Hope, Byrnes, Glanville, Conlin, Brabec, Arbit, MacDonell, Andrews, Steckloff, Tyrone Carter, Liberati, Filler, Tsernoglou, Wilson, Hood, Dievendorf, Hill, Coffia, Snyder, Morse and Aiyash and referred to the Committee on Judiciary.

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

1 speaker of the house of representatives and the senate majority  
2 leader, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           (3) Members of the advisory committee shall serve for terms of  
22 4 years each, except that the members first appointed shall serve  
23 terms as follows:

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

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

28           (c) The members appointed under subsection ~~(1) (b) (xii)~~

1 (1) (b) (xiii) to ~~(xvii)~~ (xviii) shall serve terms of 2 years each.

2 (4) If a vacancy occurs in an appointed membership on the  
3 advisory committee, the appointing authority shall make an  
4 appointment for the unexpired term in the same manner as the  
5 original appointment.

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

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

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

22 (8) The business that the advisory committee may perform ~~shall~~  
23 **must** be conducted at a public meeting of the advisory committee  
24 held in compliance with the open meetings act, 1976 PA 267, MCL  
25 15.261 to 15.275.

26 (9) A writing prepared, owned, used, in the possession of, or  
27 retained by the advisory committee in the performance of an  
28 official function is subject to the freedom of information act,  
29 1976 PA 442, MCL 15.231 to 15.246.

1 (10) The advisory committee shall monitor the effectiveness of  
2 drug treatment courts, **family treatment courts**, and veterans  
3 treatment courts and the availability of funding for those courts  
4 and shall present annual recommendations to the legislature and  
5 supreme court regarding proposed statutory changes regarding those  
6 courts.

7 **CHAPTER 10D**

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

9 (a) "Department" means the department of health and human  
10 services.

11 (b) "Family treatment court" means either of the following:

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

15 (ii) A program designed to adhere to the family treatment court  
16 best practice standards promulgated by the National Association of  
17 Drug Court Professionals and the Center for Children and Family  
18 Futures, which include all of the following:

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

21 (B) Integration of timely, high-quality, and appropriate  
22 substance use disorder treatment services with justice system case  
23 processing.

24 (C) Access to comprehensive case management, services, and  
25 supports for families.

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

27 (E) Therapeutic responses to improve parent, child, and family  
28 functioning, ensure children's safety, permanency, and well-being,  
29 support participant behavior change, and promote participant

1 accountability.

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

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

7 (H) Continued interdisciplinary education in order to promote  
8 effective family treatment court planning, implementation, and  
9 operation.

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

13 (J) A family-centered, culturally relevant, and trauma-  
14 informed approach.

15 (K) Ensuring equity and inclusion.

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

19 (d) "Lawyer-guardian ad litem" means that term as defined in  
20 section 13a of chapter XIIA of the probate code of 1939, 1939 PA  
21 288, MCL 712A.13a.

22 (e) "Participant" means an individual who is admitted into a  
23 family treatment court.

24 (f) "Prosecutor" means the prosecuting attorney of the county,  
25 attorney general, or attorney retained by the department.

26 (g) "Termination" means removal from the family treatment  
27 court due to a new offense, noncompliance, absconding, voluntary  
28 withdrawal, medical discharge, or death.

29 (h) "Violent offender" means an individual who is currently

1 charged with or has pled guilty to an offense involving the death  
2 of or serious bodily injury to any individual, whether or not death  
3 or serious bodily injury is an element of the offense, or an  
4 offense that is criminal sexual conduct of any degree.

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

20       (2) A court that is adopting a family treatment court shall  
21 participate in training as required by the state court  
22 administrative office.

23       (3) A family treatment court operating in this state, or a  
24 circuit court in any judicial circuit seeking to adopt or institute  
25 a family treatment court, must be certified by the state court  
26 administrative office. The state court administrative office shall  
27 establish the procedure for certification. Approval and  
28 certification under this subsection of a family treatment court by  
29 the state court administrative office is required to begin or to

1 continue the operation of a family treatment court under this  
2 chapter. The state court administrative office shall include a  
3 family treatment court certified under this subsection on the  
4 statewide official list of family treatment courts. The state court  
5 administrative office shall not recognize and include a family  
6 treatment court that is not certified under this subsection on the  
7 statewide official list of family treatment courts. A family  
8 treatment court that is not certified under this subsection shall  
9 not perform any of the functions of a family treatment court,  
10 including, but not limited to, receiving funding under section  
11 1099//.

12       Sec. 1099cc. A family treatment court may hire or contract  
13 with licensed or accredited treatment providers in consultation and  
14 cooperation with the local substance abuse coordinating agency, the  
15 local community mental health service provider, and other such  
16 appropriate persons to assist the family treatment court in  
17 fulfilling its requirements under this chapter, including, but not  
18 limited to, the investigation of an individual's background or  
19 circumstances, the clinical evaluation of an individual for the  
20 individual's admission into or participation in a family treatment  
21 court, providing a recommended treatment modality and level of  
22 care, and providing evidence-based, family-centered treatment using  
23 an integrated, comprehensive continuum of care.

24       Sec. 1099dd. (1) A family treatment court shall determine  
25 whether an individual may be admitted to the family treatment  
26 court. An individual does not have a right to be admitted into a  
27 family treatment court.

28       (2) To be admitted into a family treatment court, admission  
29 must be indicated as appropriate as a result of a preadmission

1 screening, evaluation, or assessment with an evidence-based  
2 screening and assessment tool. An individual shall cooperate with  
3 and complete a preadmission screening, evaluation, or assessment,  
4 and shall agree to cooperate with any future evaluation or  
5 assessment as directed by the family treatment court. A  
6 preadmission screening, evaluation, or assessment must include all  
7 of the following:

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

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

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

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

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

29 (f) A review of any special needs or circumstances of the

1 individual that may potentially affect the individual's ability to  
2 receive substance abuse treatment and follow the court's orders.

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

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

13 (5) The court may request that the department provide to the  
14 court information pertaining to an individual applicant's child  
15 protective services history for the purposes of determining an  
16 individual's admission into the family treatment court. The  
17 department shall provide the information requested by a family  
18 treatment court under this subsection and as required under section  
19 7(1)(g) of the child protection law, 1975 PA 238, MCL 722.627.

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

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

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

1 treatment providers.

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

7 (d) That an individual has completed a preadmission screening,  
8 evaluation, or assessment under section 1099dd and has agreed to  
9 cooperate with any future evaluation or assessment as directed by  
10 the family treatment court.

11 (e) The terms and conditions of the agreement between the  
12 parties.

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

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

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

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

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

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

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

4 (2) The family treatment court shall cooperate with, and act  
5 in a collaborative manner with, the prosecutor, representative of  
6 the bar specializing in family or juvenile law, treatment  
7 providers, lawyer-guardian ad litem, local substance abuse  
8 coordinating agency, department, and, to the extent possible, court  
9 appointed special advocate, local law enforcement, child and  
10 adolescent services providers, Indian child's tribe, and community  
11 corrections agencies.

12 (3) The family treatment court may require an individual  
13 admitted into the court to pay a reasonable family treatment court  
14 fee that is reasonably related to the cost to the court of  
15 administering the family treatment court program as provided in the  
16 memorandum of understanding under section 1099bb. The clerk of the  
17 circuit court shall transmit the fees collected to the treasurer of  
18 the local funding unit at the end of each month.

19 (4) The family treatment court may request that the department  
20 provide to the court information pertaining to an individual  
21 applicant's child protective services history for the purposes of  
22 determining an individual's admission into the family treatment  
23 court. The department shall provide the information requested by a  
24 family treatment court under this subsection and as required under  
25 section 7(1)(g) of the child protection law, 1975 PA 283, MCL  
26 722.627.

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

29 (a) Consistent, continual, and close monitoring of the

1 participant and interaction among the court, treatment providers,  
2 department, and participant.

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

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

10 (d) A regimen or strategy of appropriate and graduated but  
11 immediate rewards for compliance and sanctions for noncompliance,  
12 including, but not limited to, the possibility of incarceration or  
13 confinement.

14 (e) Substance abuse treatment services, including, but not  
15 limited to, family-centered treatment, relapse prevention services,  
16 mental health treatment services, education, and vocational  
17 opportunities as appropriate and practicable.

18 (2) Any statement or other information obtained as a result of  
19 participating in an assessment, evaluation, treatment, or testing  
20 while in a family treatment court is confidential and is exempt  
21 from disclosure under the freedom of information act, 1976 PA 442,  
22 MCL 15.231 to 15.246, and must not be used in a criminal  
23 prosecution, unless it reveals criminal acts other than, or  
24 inconsistent with, personal drug use.

25 Sec. 1099ii. (1) To continue to participate in and  
26 successfully complete a family treatment court program, an  
27 individual must do all of the following:

28 (a) Pay the family treatment court fee allowed under section  
29 1099gg, as applicable.

1 (b) Comply with all court orders and case service plans,  
2 violations of which may be sanctioned according to national and  
3 state recognized family treatment court best practices and  
4 standards.

5 (2) The family treatment court must be notified of any new  
6 neglect and abuse allegations against the participant or if the  
7 participant is accused of a crime. The judge shall consider whether  
8 to terminate the participant's participation in the family  
9 treatment court in conformity with the memorandum of understanding  
10 under section 1099bb.

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

16 Sec. 1099jj. (1) On completion of or termination from a family  
17 treatment court program, the court shall find on the record or  
18 place a written statement in the court file as to whether the  
19 participant completed the program successfully or whether the  
20 individual's participation in the program was terminated and, if it  
21 was terminated, the reason for the termination.

22 (2) If a participant has successfully completed family  
23 treatment court, the court shall send a notice of the family  
24 treatment court completion and final disposition to the department.  
25 The department shall record successful participation by the  
26 individual in a family treatment court.

27 (3) For a participant whose participation is terminated from  
28 the family treatment court program, the court shall send a notice  
29 of the termination to the department and the department shall

1 record the termination.

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

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

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

13 (3) A family treatment court shall maintain files or databases  
14 on each individual participant in the program for review and  
15 evaluation, as directed by the state court administrative office.  
16 The information collected for evaluation purposes must include a  
17 minimum standard data set developed and specified by the state  
18 court administrative office. This information should be maintained  
19 in the court files or otherwise accessible by the courts and the  
20 state court administrative office and, as much as practicable,  
21 should include all of the following:

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

25 (b) Significant transition point dates, including dates of  
26 referral, enrollment, new court orders, violations, detentions,  
27 changes in services or treatments provided, discharge for  
28 completion or termination, any provision of after-care, and after-  
29 program recidivism.

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

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

6 (e) Other services or opportunities provided to the individual  
7 and resulting use by the individual, such as education or  
8 employment and the participation of and outcome for that  
9 individual.

10 (f) Reasons for discharge, completion, or termination of the  
11 program.

12 (g) Outcomes related to reunification and placement of a child  
13 or children.

14 (4) As directed by the state court administrative office,  
15 after an individual is discharged either on completion of or  
16 termination from the program, the family treatment court should  
17 conduct, as much as practicable, follow-up contacts with and  
18 reviews of participants for key outcome indicators, such as  
19 substance use, custody status of children, recidivism, and  
20 employment, as frequently and for a period of time determined by  
21 the state court administrative office based on the nature of the  
22 family treatment court and the nature of the participant. The  
23 follow-up contact and review of former participants is not an  
24 extension of the court's jurisdiction over the individual.

25 (5) A family treatment court shall provide to the state court  
26 administrative office all information requested by the state court  
27 administrative office.

28 (6) With the approval and at the discretion of the supreme  
29 court, the state court administrative office is responsible for

1 evaluating and collecting data on the performance of family  
2 treatment courts in this state as follows:

3 (a) Provide an annual review of the performance of family  
4 treatment courts in this state to the minority and majority party  
5 leaders in the senate and house of representatives, the state drug  
6 treatment court advisory committee created under section 1082, the  
7 governor, and the supreme court.

8 (b) Provide standards for family treatment courts in this  
9 state, including, but not limited to, developing a list of approved  
10 measurement instruments and indicators for data collection and  
11 evaluation. These standards must provide comparability between  
12 programs and their outcomes.

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

16 (7) The information collected under this section regarding  
17 individual applicants to family treatment court programs for the  
18 purpose of application to that program and participants who have  
19 successfully completed family treatment courts is exempt from  
20 disclosure under the freedom of information act, 1976 PA 442, MCL  
21 15.231 to 15.246.

22 Sec. 1099//. (1) The supreme court is responsible for the  
23 expenditure of state funds for the establishment and operation of  
24 family treatment courts. Federal funds provided to the state for  
25 the operation of family treatment courts must be distributed by the  
26 department or the appropriate state agency as otherwise provided by  
27 law.

28 (2) The state treasurer may receive money or other assets from  
29 any source for deposit into the appropriate state fund or funds for

1 the purposes described in subsection (1).

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