

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.1098 Successful completion or termination; findings on the record or statement in court file; applicable law; discharge and dismissal of proceedings; criteria; discharge and dismissal of domestic violence offense; circumstances; discharge and dismissal under subsection (3); duties of court upon successful completion of probation or court supervision; termination or failure of participant to complete program; duties of court; records closed to public inspection and exempt from disclosure.

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) is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. 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 must 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, enter an adjudication of guilt.
 - (b) If the court has not already sentenced the individual, proceed to sentencing pursuant to the agreement under which the individual was admitted into the mental health court.
 - (c) Send a record of the conviction, sentence, 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, if the entry of guilt was delayed or deferred under section 1094, and shall then proceed to sentencing of the individual for the original charges to which the individual pled guilty 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 must not be a prejudicial factor in sentencing. All records of the proceedings regarding the participation of the individual in the mental health court must remain closed to public inspection and exempt from public disclosure as provided in subsection (5).

History: Add. 2013, Act 275, Imd. Eff. Dec. 30, 2013;—Am. 2018, Act 591, Eff. Mar. 28, 2019.