

SUBSTITUTE FOR
HOUSE BILL NO. 4694

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding a chapter heading and sections
1090, 1091, 1092, and 1093.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER 10B.

MENTAL HEALTH COURT

SEC. 1090. 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 1 OR MORE MENTAL DISORDERS. 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 THE 1 DISORDER.

1 (B) "MENTAL HEALTH COURT" MEANS ANY OF THE FOLLOWING:

2 (i) A COURT-SUPERVISED TREATMENT PROGRAM FOR INDIVIDUALS WHO
3 ARE DIAGNOSED BY A MENTAL HEALTH PROFESSIONAL WITH HAVING A SERIOUS
4 MENTAL ILLNESS, A SERIOUS MENTAL DISTURBANCE, A CO-OCCURRING
5 DISORDER, OR A DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 1100A
6 OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100A.

7 (ii) PROGRAMS DESIGNED TO ADHERE TO THE 10 ESSENTIAL ELEMENTS
8 OF A MENTAL HEALTH COURT PROMULGATED BY THE BUREAU OF JUSTICE
9 ASSISTANCE THAT INCLUDE ALL OF THE FOLLOWING CHARACTERISTICS:

10 (A) A BROAD-BASED GROUP OF STAKEHOLDERS REPRESENTING THE
11 CRIMINAL JUSTICE, MENTAL HEALTH, SUBSTANCE ABUSE TREATMENT, AND
12 RELATED SYSTEMS AND THE COMMUNITY GUIDE THE PLANNING AND
13 ADMINISTRATION OF THE COURT.

14 (B) ELIGIBILITY CRITERIA THAT ADDRESS PUBLIC SAFETY AND A
15 COMMUNITY'S TREATMENT CAPACITY, IN ADDITION TO THE AVAILABILITY OF
16 ALTERNATIVES TO PRETRIAL DETENTION FOR DEFENDANTS WITH MENTAL
17 ILLNESSES, AND THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN
18 MENTAL ILLNESS AND A DEFENDANT'S OFFENSES, WHILE ALLOWING THE
19 INDIVIDUAL CIRCUMSTANCES OF EACH CASE TO BE CONSIDERED.

20 (C) PARTICIPANTS ARE IDENTIFIED, REFERRED, AND ACCEPTED INTO
21 MENTAL HEALTH COURTS, AND THEN LINKED TO COMMUNITY-BASED SERVICE
22 PROVIDERS AS QUICKLY AS POSSIBLE.

23 (D) TERMS OF PARTICIPATION ARE CLEAR, PROMOTE PUBLIC SAFETY,
24 FACILITATE THE DEFENDANT'S ENGAGEMENT IN TREATMENT, ARE
25 INDIVIDUALIZED TO CORRESPOND TO THE LEVEL OF RISK THAT EACH
26 DEFENDANT PRESENTS TO THE COMMUNITY, AND PROVIDE FOR POSITIVE LEGAL
27 OUTCOMES FOR THOSE INDIVIDUALS WHO SUCCESSFULLY COMPLETE THE

1 PROGRAM.

2 (E) IN ACCORDANCE WITH THE MICHIGAN INDIGENT DEFENSE
3 COMMISSION ACT, 2013 PA 93, MCL 780.981 TO 780.1003, PROVIDE LEGAL
4 COUNSEL TO INDIGENT DEFENDANTS TO EXPLAIN PROGRAM REQUIREMENTS,
5 INCLUDING VOLUNTARY PARTICIPATION, AND GUIDES DEFENDANTS IN
6 DECISIONS ABOUT PROGRAM INVOLVEMENT. PROCEDURES EXIST IN THE MENTAL
7 HEALTH COURT TO ADDRESS, IN A TIMELY FASHION, CONCERNS ABOUT A
8 DEFENDANT'S COMPETENCY WHENEVER THEY ARISE.

9 (F) CONNECT PARTICIPANTS TO COMPREHENSIVE AND INDIVIDUALIZED
10 TREATMENT SUPPORTS AND SERVICES IN THE COMMUNITY AND STRIVE TO USE,
11 AND INCREASE THE AVAILABILITY OF, TREATMENT AND SERVICES THAT ARE
12 EVIDENCE BASED.

13 (G) HEALTH AND LEGAL INFORMATION ARE SHARED IN A MANNER THAT
14 PROTECTS POTENTIAL PARTICIPANTS' CONFIDENTIALITY RIGHTS AS MENTAL
15 HEALTH CONSUMERS AND THEIR CONSTITUTIONAL RIGHTS AS DEFENDANTS.
16 INFORMATION GATHERED AS PART OF THE PARTICIPANTS' COURT-ORDERED
17 TREATMENT PROGRAM OR SERVICES ARE SAFEGUARDED FROM PUBLIC
18 DISCLOSURE IN THE EVENT THAT PARTICIPANTS ARE RETURNED TO
19 TRADITIONAL COURT PROCESSING.

20 (H) A TEAM OF CRIMINAL JUSTICE AND MENTAL HEALTH STAFF AND
21 TREATMENT PROVIDERS RECEIVES SPECIAL, ONGOING TRAINING AND ASSISTS
22 MENTAL HEALTH COURT PARTICIPANTS ACHIEVE TREATMENT AND CRIMINAL
23 JUSTICE GOALS BY REGULARLY REVIEWING AND REVISING THE COURT
24 PROCESS.

25 (I) CRIMINAL JUSTICE AND MENTAL HEALTH STAFF COLLABORATIVELY
26 MONITOR PARTICIPANTS' ADHERENCE TO COURT CONDITIONS, OFFER
27 INDIVIDUALIZED GRADUATED INCENTIVES AND SANCTIONS, AND MODIFY

1 TREATMENT AS NECESSARY TO PROMOTE PUBLIC SAFETY AND PARTICIPANTS'
2 RECOVERY.

3 (J) DATA ARE COLLECTED AND ANALYZED TO DEMONSTRATE THE IMPACT
4 OF THE MENTAL HEALTH COURT, ITS PERFORMANCE IS ASSESSED
5 PERIODICALLY, AND PROCEDURES ARE MODIFIED ACCORDINGLY, COURT
6 PROCESSES ARE INSTITUTIONALIZED, AND SUPPORT FOR THE COURT IN THE
7 COMMUNITY IS CULTIVATED AND EXPANDED.

8 (C) "PARTICIPANT" MEANS AN INDIVIDUAL WHO IS ADMITTED INTO A
9 MENTAL HEALTH COURT.

10 (D) "VIOLENT OFFENDER" MEANS AN INDIVIDUAL WHO MEETS EITHER OF
11 THE FOLLOWING CRITERIA:

12 (i) IS CURRENTLY CHARGED WITH OR HAS PLED GUILTY TO, OR, IF A
13 JUVENILE, IS CURRENTLY ALLEGED TO HAVE COMMITTED OR HAS ADMITTED
14 RESPONSIBILITY FOR, AN OFFENSE INVOLVING THE DEATH OF OR A SERIOUS
15 BODILY INJURY TO ANY INDIVIDUAL, OR THE CARRYING, POSSESSING, OR
16 USE OF A FIREARM OR OTHER DANGEROUS WEAPON BY THAT INDIVIDUAL,
17 WHETHER OR NOT ANY OF THESE CIRCUMSTANCES ARE AN ELEMENT OF THE
18 OFFENSE, OR IS CRIMINAL SEXUAL CONDUCT OF ANY DEGREE.

19 (ii) HAS 1 OR MORE PRIOR CONVICTIONS FOR, OR, IF A JUVENILE,
20 HAS 1 OR MORE PRIOR FINDINGS OF RESPONSIBILITY FOR, A FELONY
21 INVOLVING THE USE OR ATTEMPTED USE OF FORCE AGAINST ANOTHER
22 INDIVIDUAL WITH THE INTENT TO CAUSE DEATH OR SERIOUS BODILY HARM.

23 SEC. 1091. (1) THE CIRCUIT COURT OR THE DISTRICT COURT IN ANY
24 JUDICIAL CIRCUIT OR A DISTRICT COURT IN ANY JUDICIAL DISTRICT MAY
25 ADOPT OR INSTITUTE A MENTAL HEALTH COURT PURSUANT TO STATUTE OR
26 COURT RULES. HOWEVER, IF THE MENTAL HEALTH COURT WILL INCLUDE IN
27 ITS PROGRAM INDIVIDUALS WHO MAY BE ELIGIBLE FOR DISCHARGE AND

1 DISMISSAL OF AN OFFENSE, DELAYED SENTENCE, OR DEVIATION FROM THE
2 SENTENCING GUIDELINES, THE CIRCUIT OR DISTRICT COURT SHALL NOT
3 ADOPT OR INSTITUTE THE MENTAL HEALTH COURT UNLESS THE CIRCUIT OR
4 DISTRICT COURT ENTERS INTO A MEMORANDUM OF UNDERSTANDING WITH EACH
5 PARTICIPATING PROSECUTING ATTORNEY IN THE CIRCUIT OR DISTRICT COURT
6 DISTRICT, A REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY
7 MENTAL HEALTH SERVICES PROGRAMS, A REPRESENTATIVE OF THE CRIMINAL
8 DEFENSE BAR, AND A REPRESENTATIVE OR REPRESENTATIVES OF COMMUNITY
9 TREATMENT PROVIDERS. THE MEMORANDUM OF UNDERSTANDING ALSO MAY
10 INCLUDE OTHER PARTIES CONSIDERED NECESSARY, INCLUDING, BUT NOT
11 LIMITED TO, A REPRESENTATIVE OR REPRESENTATIVES OF THE LOCAL COURT
12 FUNDING UNIT. THE MEMORANDUM OF UNDERSTANDING SHALL DESCRIBE THE
13 ROLE OF EACH PARTY.

14 (2) A FAMILY DIVISION OF CIRCUIT COURT IN ANY JUDICIAL CIRCUIT
15 MAY ADOPT OR INSTITUTE A JUVENILE MENTAL HEALTH COURT PURSUANT TO
16 STATUTE OR COURT RULES. THE CREATION OR EXISTENCE OF A MENTAL
17 HEALTH COURT DOES NOT CHANGE THE STATUTES OR COURT RULES CONCERNING
18 DISCHARGE OR DISMISSAL OF AN OFFENSE, OR A DELAYED SENTENCE OR
19 DEFERRED ENTRY OF JUDGMENT. A FAMILY DIVISION OF CIRCUIT COURT
20 ADOPTING OR INSTITUTING A JUVENILE MENTAL HEALTH COURT SHALL ENTER
21 INTO A MEMORANDUM OF UNDERSTANDING WITH ALL PARTICIPATING
22 PROSECUTING AUTHORITIES IN THE CIRCUIT OR DISTRICT COURT, A
23 REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY MENTAL HEALTH
24 SERVICES PROGRAM, A REPRESENTATIVE OF THE CRIMINAL DEFENSE BAR
25 SPECIALIZING IN JUVENILE LAW, AND A REPRESENTATIVE OR
26 REPRESENTATIVES OF COMMUNITY TREATMENT PROVIDERS THAT DESCRIBES THE
27 ROLES AND RESPONSIBILITIES OF EACH PARTY. THE MEMORANDUM OF

1 UNDERSTANDING ALSO MAY INCLUDE OTHER PARTIES CONSIDERED NECESSARY,
2 INCLUDING, BUT NOT LIMITED TO, A REPRESENTATIVE OR REPRESENTATIVES
3 OF THE LOCAL COURT FUNDING UNIT, AS THAT TERM IS DEFINED IN SECTION
4 151E. A JUVENILE MENTAL HEALTH COURT IS SUBJECT TO THE SAME
5 PROCEDURES AND REQUIREMENTS PROVIDED IN THIS CHAPTER FOR A MENTAL
6 HEALTH COURT CREATED UNDER SUBSECTION (1), EXCEPT AS SPECIFICALLY
7 PROVIDED OTHERWISE IN THIS CHAPTER.

8 (3) A COURT THAT HAS ADOPTED A MENTAL HEALTH COURT UNDER THIS
9 SECTION MAY ACCEPT PARTICIPANTS FROM ANY OTHER JURISDICTION IN THIS
10 STATE BASED UPON THE RESIDENCE OF THE PARTICIPANT IN THE RECEIVING
11 JURISDICTION, THE NONAVAILABILITY OF A MENTAL HEALTH COURT IN THE
12 JURISDICTION WHERE THE PARTICIPANT IS CHARGED, AND THE AVAILABILITY
13 OF FINANCIAL RESOURCES FOR BOTH OPERATIONS OF THE MENTAL HEALTH
14 COURT PROGRAM AND TREATMENT SERVICES. A MENTAL HEALTH COURT MAY
15 REFUSE TO ACCEPT PARTICIPANTS FROM OTHER JURISDICTIONS.

16 SEC. 1092. A MENTAL HEALTH COURT MAY HIRE OR CONTRACT WITH
17 LICENSED OR ACCREDITED TREATMENT PROVIDERS, IN CONSULTATION WITH
18 THE LOCAL COMMUNITY MENTAL HEALTH SERVICE PROVIDER, AND OTHER SUCH
19 APPROPRIATE PERSONS TO ASSIST THE MENTAL HEALTH COURT IN FULFILLING
20 ITS REQUIREMENTS UNDER THIS CHAPTER.

21 SEC. 1093. (1) EACH MENTAL HEALTH COURT SHALL DETERMINE
22 WHETHER AN INDIVIDUAL MAY BE ADMITTED TO THE MENTAL HEALTH COURT.
23 NO INDIVIDUAL HAS A RIGHT TO BE ADMITTED INTO A MENTAL HEALTH
24 COURT. ADMISSION INTO A MENTAL HEALTH COURT PROGRAM IS AT THE
25 DISCRETION OF THE COURT BASED ON THE INDIVIDUAL'S LEGAL OR CLINICAL
26 ELIGIBILITY. AN INDIVIDUAL MAY BE ADMITTED TO MENTAL HEALTH COURT
27 REGARDLESS OF PRIOR PARTICIPATION OR PRIOR COMPLETION STATUS.

1 HOWEVER, IN NO CASE SHALL A VIOLENT OFFENDER BE ADMITTED INTO
2 MENTAL HEALTH COURT.

3 (2) IN ADDITION TO ADMISSION TO A MENTAL HEALTH COURT UNDER
4 THIS CHAPTER, AN INDIVIDUAL WHO IS ELIGIBLE FOR ADMISSION UNDER
5 THIS CHAPTER MAY ALSO BE ADMITTED TO A MENTAL HEALTH COURT UNDER
6 ANY OF THE FOLLOWING CIRCUMSTANCES:

7 (A) THE INDIVIDUAL HAS BEEN ASSIGNED THE STATUS OF YOUTHFUL
8 TRAINEE UNDER SECTION 11 OF CHAPTER II OF THE CODE OF CRIMINAL
9 PROCEDURE, 1927 PA 175, MCL 762.11.

10 (B) THE INDIVIDUAL HAS HAD CRIMINAL PROCEEDINGS AGAINST HIM OR
11 HER DEFERRED AND HAS BEEN PLACED ON PROBATION UNDER ANY OF THE
12 FOLLOWING:

13 (i) SECTION 7411 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
14 333.7411.

15 (ii) SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL
16 PROCEDURE, 1927 PA 175, MCL 769.4A.

17 (iii) SECTION 350A OR 430 OF THE MICHIGAN PENAL CODE, 1931 PA
18 328, MCL 750.350A AND 750.430.

19 (3) TO BE ADMITTED TO A MENTAL HEALTH COURT, AN INDIVIDUAL
20 SHALL COOPERATE WITH AND COMPLETE A PREADMISSION SCREENING AND
21 EVALUATION ASSESSMENT AND SHALL SUBMIT TO ANY FUTURE EVALUATION
22 ASSESSMENT AS DIRECTED BY THE MENTAL HEALTH COURT. A PREADMISSION
23 SCREENING AND EVALUATION ASSESSMENT SHALL INCLUDE ALL OF THE
24 FOLLOWING:

25 (A) A REVIEW OF THE INDIVIDUAL'S CRIMINAL HISTORY. A REVIEW OF
26 THE LAW ENFORCEMENT INFORMATION NETWORK MAY BE CONSIDERED
27 SUFFICIENT FOR PURPOSES OF THIS SUBDIVISION UNLESS A FURTHER REVIEW

1 IS WARRANTED. THE COURT MAY ACCEPT OTHER VERIFIABLE AND RELIABLE
2 INFORMATION FROM THE PROSECUTION OR DEFENSE TO COMPLETE ITS REVIEW
3 AND MAY REQUIRE THE INDIVIDUAL TO SUBMIT A STATEMENT AS TO WHETHER
4 OR NOT HE OR SHE HAS PREVIOUSLY BEEN ADMITTED TO A MENTAL HEALTH
5 COURT AND THE RESULTS OF HIS OR HER PARTICIPATION IN THE PRIOR
6 PROGRAM OR PROGRAMS.

7 (B) AN ASSESSMENT OF THE RISK OF DANGER OR HARM TO THE
8 INDIVIDUAL, OTHERS, OR THE COMMUNITY.

9 (C) A MENTAL HEALTH ASSESSMENT, CLINICAL IN NATURE, AND USING
10 STANDARDIZED INSTRUMENTS THAT HAVE ACCEPTABLE RELIABILITY AND
11 VALIDITY, MEETING DIAGNOSTIC CRITERIA FOR A MENTAL DISORDER, OR A
12 CO-OCCURRING DISORDER, OR A DEVELOPMENTAL DISORDER AS THAT TERM IS
13 DEFINED IN SECTION 1100A OF THE MENTAL HEALTH CODE, 1974 PA 258,
14 MCL 330.1100A.

15 (D) A REVIEW OF ANY SPECIAL NEEDS OR CIRCUMSTANCES OF THE
16 INDIVIDUAL THAT MAY POTENTIALLY AFFECT THE INDIVIDUAL'S ABILITY TO
17 RECEIVE MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT AND FOLLOW THE
18 COURT'S ORDERS.

19 (E) FOR A JUVENILE, AN ASSESSMENT OF THE JUVENILE'S FAMILY
20 SITUATION, INCLUDING, TO THE EXTENT PRACTICABLE, A COMPARABLE
21 REVIEW OF ANY GUARDIANS OR PARENTS.

22 (4) EXCEPT AS OTHERWISE PERMITTED IN THIS CHAPTER, ANY
23 STATEMENT OR OTHER INFORMATION OBTAINED AS A RESULT OF
24 PARTICIPATING IN A PREADMISSION SCREENING AND EVALUATION ASSESSMENT
25 UNDER SUBSECTION (3) IS CONFIDENTIAL AND IS EXEMPT FROM DISCLOSURE
26 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
27 15.246, AND SHALL NOT BE USED IN A CRIMINAL PROSECUTION, UNLESS IT

1 REVEALS CRIMINAL ACTS OTHER THAN, OR INCONSISTENT WITH, PERSONAL
2 DRUG USE.

3 (5) THE COURT MAY REQUEST THAT THE DEPARTMENT OF STATE POLICE
4 PROVIDE TO THE COURT INFORMATION CONTAINED IN THE LAW ENFORCEMENT
5 INFORMATION NETWORK PERTAINING TO AN INDIVIDUAL APPLICANT'S
6 CRIMINAL HISTORY FOR THE PURPOSES OF DETERMINING AN INDIVIDUAL'S
7 ELIGIBILITY FOR ADMISSION INTO THE MENTAL HEALTH COURT AND GENERAL
8 CRIMINAL HISTORY REVIEW.

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

12 (a) House Bill No. 4695.

13 (b) House Bill No. 4696.

14 (c) House Bill No. 4697.