

## MENTAL HEALTH COURT

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**House Bill 4694**  
**Sponsor: Rep. Kevin Cotter**

**House Bill 4696**  
**Sponsor: Rep. Gail Haines**

**House Bill 4695**  
**Sponsor: Rep. John Walsh**

**House Bill 4697**  
**Sponsor: Rep. Margaret O'Brien**

**Committee: Judiciary**  
**Complete to 6-5-13**

## A SUMMARY OF HOUSE BILLS 4694-4697 AS INTRODUCED 5-7-13

The bills would amend the Revised Judicature Act to add Chapter 10B, entitled "Mental Health Court." As a package, the bills would authorize the establishment of mental health courts. The bills are tie-barred to each other, meaning that no single bill could take effect unless all were enacted. A brief description of each bill follows.

House Bill 4694 would add Sections 1090-1093 to:

- Define "mental health court" as a court-supervised treatment program for individuals diagnosed by a licensed clinician as having a mental disorder, a co-occurring disorder, or a developmental disability (as defined by the Mental Health Code) or as a program designed to adhere to the 10 Essential Elements of a Mental Health Court promulgated by the Bureau of Justice Assistance that included certain characteristics listed in the bill.
- Allow a mental health court (hereinafter "court") for adults to be established by a circuit or district court and a juvenile mental health court by the family division of a circuit court under a memorandum of understanding with all participating prosecuting authorities in the circuit or district court and representatives of the community mental health department, criminal defense bar, and community treatment providers. The MOU would describe the roles and responsibilities of each party.
- Specify that a court would not change the statutes or court rules concerning discharge or dismissal of an offense, or a delayed sentence or deferred entry of judgment.
- Allow, but not require, a court to accept participants from any other jurisdiction in the state. In general, admittance into a court would be at the discretion of the court and based on the individual's legal or clinical eligibility. An individual could be admitted to a court more than once.
- Allow an individual eligible for admission into a court to be admitted if assigned the status of youthful trainee or if he or she has had certain criminal proceedings deferred and the individual has been placed on probation.

- Prohibit a violent offender from acceptance into a mental health court. The term would mean an individual who has been convicted of an offense involving the death of, or a serious bodily injury to, any individual, whether or not any of these circumstances are an element of the offense.
- Require as a condition for admittance into a mental health court that an individual cooperate with and complete a preadmission screening and evaluation assessment, and submit to any further assessment as directed by the court. (See the bill for preadmission screening and evaluation assessment requirements.)
- Except as permitted in Chapter 10B, make any statement or other information obtained as a result of participation in a preadmission screening and evaluation assessment confidential and exempt from disclosure under the Freedom of Information Act. It could not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.
- Allow the court to request the Department of State Police for information in the LEIN pertaining to an applicant's criminal history for the purpose of determining eligibility into the mental health court and general criminal history review.

House Bill 4696 would add Sections 1094-1096 to do the following:

- If charged in a criminal case, as a condition of admittance into a mental health court, require that an individual (1) if an adult, plead guilty, no contest, or be convicted of any criminal charge on the record, or if a juvenile, admit responsibility; (2) waive the right to a speedy trial and right to a preliminary examination at the plea; (3) sign a written agreement to participate in the court, with a parent or legal guardian to sign for a juvenile.
- If subsequently not admitted into a mental health court, allow the individual to withdraw the plea and be entitled to a preliminary examination; a juvenile could withdraw an admission of responsibility.
- Require the court to maintain jurisdiction over the participant until final disposition of the case, but not longer than the probation period allowed under the Code of Criminal Procedure. The court could obtain jurisdiction over a juvenile's parents or guardians in order to ensure the juvenile's continued participation and successful completion of the mental health court and could issue and enforce any appropriate and necessary order regarding the parent or guardian.
- Allow the court to require a participant to pay a reasonable mental health court fee reasonably related to the cost to the court for administering the program as provided in the MOU (described in HB 4694). The clerk of the court would transmit the fees collected to the treasurer of the local funding unit at the end of each month.
- Specify certain things that a mental health court would have to provide a participant, such as consistent and close monitoring and periodic evaluation assessments of the participant's situation and progress in the program.

- Specify that any statement or other information obtained as a result of participating in assessment, treatment, or testing while in a mental health court is confidential and exempt from disclosure under the Freedom of Information Act, and could not be used in a criminal prosecution unless it reveals criminal acts other than, or inconsistent with, personal drug use.

House Bill 4695 would add Sections 1097 and 1098 to do the following:

- Require a participant to comply with all court orders as a condition of continued participation in a program; violations could be sanctioned at the court's discretion.
- Allow a judge to terminate participation in the program if the participant is accused of a new crime.
- Require a participant to pay all court fines, court costs, court fees, restitution, and assessments and pay all, or make substantial contributions toward payment of, the costs of the treatment and the program services. A court could waive all or part of those costs, fees, or testing expenses if paying them would pose a substantial hardship.
- Require a court to indicate whether the participant completed the program successfully or, if participation had been terminated, the reason why.
- Require a court to comply with agreements made upon admission for a participant whose proceedings were delayed or deferred if probation or other court supervision was successfully completed.
- Establish criteria relating to cases involving a discharge or dismissal and specify that there may be only one discharge and dismissal under that provision.
- Allow a discharge and dismissal of a domestic violence offense under certain circumstances.
- Specify that all records regarding participation in a mental health court discharge and dismissal proceeding are closed to public inspection and exempt from public disclosure under the Freedom of Information Act. The records must be open to all state courts and other state and federal courts, the Department of Corrections, law enforcement personnel, and prosecutors, but only for limited purposes as detailed in the bill. A nonpublic record of an arrest and discharge and dismissal would have to be retained by the Department of State Police.
- For cases not involving deferrals or dismissals, require the court, when an individual successfully completes probation or other court supervision, to enter and send a record of the conviction and sentence (or finding or adjudication of responsibility) to the Criminal Justice Information Center of the Department of State Police.

- Specify the manner in which the court would enter an adjudication of guilt or responsibility and proceed to sentencing or disposition if not already done upon successful (or unsuccessful) completion of the program.
- Specify that all records of the proceedings regarding the participation of the individual in the mental health court would remain closed to public inspection and exempt from public disclosure.

House Bill 4697 would add Sections 1099 and 1099a to do the following:

- Require each mental health court to collect and provide data on each individual applicant and participant and the entire program as required by the State Court Administrative Office (SCAO). Training to do this would be provided by SCAO.
- Require the courts to maintain files or databases on each participant for review and evaluation, as well as treatment, as directed by SCAO, including a minimum standard data set developed and specified by SCAO.
- Require SCAO to provide standards for mental health courts, including developing a list of approved measurement instruments and indicators for data collection and evaluation that can provide comparability between programs and their outcomes.
- Exempt from disclosure under the Freedom of Information Act all information collected under the bill regarding applicants to and participants who successfully completed a mental health court.
- Place responsibility for the expenditure of state funds for the establishment and operation of mental health courts with the Michigan Supreme Court.
- Require quarterly reporting by mental health courts to SCAO regarding the state funds received and expended by that court.

**FISCAL IMPACT:**

A fiscal analysis is in process.

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Fiscal Analyst: Robin Risko

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.