



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4694 (Substitute S-1 as reported)
House Bill 4695 (Substitute S-1 as reported)
House Bill 4696 (Substitute S-1 as reported)
House Bill 4697 (Substitute H-1 as reported without amendment)
Sponsor: Representative Kevin Cotter (H.B. 4694)
Representative John Walsh (H.B. 4695)
Representative Gail Haines (H.B. 4696)
Representative Margaret O'Brien (H.B. 4697)

House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bills would add Chapter 10B (Mental Health Court) to the Revised Judicature Act.

House Bill 4694 (S-1) would do the following:

- Authorize circuit and district courts to adopt or institute a mental health court.
- Authorize the family division of circuit court (family court) to adopt or institute a juvenile mental health court.
- Allow a mental health court to accept participants from other Michigan jurisdictions under certain circumstances.
- Establish requirements for admission to a mental health court and require each mental health court to determine a person's eligibility.
- Allow a person's admission to a mental health court if he or she were subject to the dismissal and deferral of criminal charges under other provisions of law.
- Specify that information obtained in a preadmission screening and evaluation would be confidential and exempt from disclosure under the Freedom of Information Act (FOIA).

House Bill 4695 (S-1) would do the following:

- Require an individual's compliance with court orders for continued participation in a mental health court program, subject to sanctions including terminating participation in the program.
- Specify that a court would have to require a participant to pay certain costs, fines, fees, restitution, and assessments, unless waived by the court.
- Specify that the cost of treatment would be governed by Chapter 8 of the Mental Health Code, if applicable.
- Require the responsible mental health agency to notify the court of a participant's formal objection to his or her individual plan of services, but specify that the court would not be required to act in response to that notice.
- Provide for a person's disposition upon completion or termination of a mental health court program, including discharge and dismissal of criminal proceedings under certain circumstances.
- Allow only one discharge or dismissal.
- Require the court to send a record of the discharge and dismissal of criminal proceedings to the Michigan Department of State Police (MSP), which would have to enter the

information in the Law Enforcement Information Network (LEIN), indicating participation in the mental health court.

- Specify that records of a person's participation in mental health court would be confidential and exempt from disclosure under FOIA, but would be available to courts and law enforcement for certain purposes.
- Require a court to enter an adjudication of guilt or juvenile responsibility if a person failed to successfully complete a mental health court program, or his or her participation were terminated.

House Bill 4696 (S-1) would do the following:

- Establish conditions of admission to and participation in a mental health court, including a plea of guilty or no contest, a conviction, or an admission of responsibility.
- Specify the actions a court would have to take regarding a person who was admitted to a mental health court.
- Require a mental health court to provide certain services for a participant, including monitoring, drug and alcohol testing, and periodic evaluation.
- Specify that nothing in Chapter 10B would preclude a court from providing mental health services to a person before he or she was accepted into the mental health court.
- Specify that information from a person's participation in a mental health court would be confidential and exempt from disclosure under FOIA.

House Bill 4697 (H-1) would do the following:

- Require each mental health court to collect data on each individual applicant and participant, and the entire mental health court program, as required by the State Court Administrative Office (SCAO).
- Require each court to maintain files or databases on each participant, as directed by the SCAO.
- Specify that the Supreme Court would be responsible for the expenditure of State funds for mental health courts.
- Require the SCAO, in conjunction with the Department of Community Health, to ensure training and technical assistance for mental health courts.

All of the bills are tie-barred.

House Bill 4694 (H-2) would define "mental health court" as a court-supervised treatment program for individuals who are diagnosed by a mental health professional with having a serious mental illness, serious emotional disturbance, co-occurring disorder, or developmental disability. The term also would include programs designed to adhere to the 10 Essential Elements of a mental health court promulgated by the Bureau of Justice Assistance, that include certain characteristics specified in the bill.

The bill would define "serious mental illness", "serious emotional disturbance", and "developmental disability" as those terms are defined in the Mental Health Code.

The bill would define "co-occurring disorder" as having one or more disorders relating to the use of alcohol or other controlled substances of abuse as well as any serious mental illness, serious emotional disturbance, or developmental disability. The bill states, "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 1 disorder."

Proposed MCL 600.1090-600.1093 (H.B. 4694)
600.1097 & 600.1098 (H.B. 4695)
600.1094-600.1096 (H.B. 4696)
600.1099 & 600.1099a (H.B. 4697)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would provide statutory guidance for mental health courts in the State; however, the bills would not directly call for the creation of any mental health courts. As of FY 2013-14, the state has 18 mental health courts, of which 14 are receiving grant funding administered through the State Court Administrative Office. Mental health courts began in FY 2008-09 as a pilot project involving eight mental health courts. The project was funded jointly between the Judiciary budget and the Department of Community Health budget, with the Judiciary funding of \$550,000 coming from the Federal government via the American Recovery and Reinvestment Act (ARRA). In the FY 2012-13 budget, mental health courts were funded at \$2.1 million, both to offset the ARRA funding that was no longer available, and to expand the program in conjunction with the Governor's Public Safety Initiative to one additional location (Saginaw), bringing the total number of funded courts to nine. In the FY 2013-14 Judiciary budget, the program funding was further increased to \$4.1 million, which has allowed the number of mental health courts in the State to reach 18, with 14 of those courts receiving grant funding through the SCAO.

While the statutory guidance provided under the bills would not directly create any additional mental health courts, it is possible that the existence of such guidance, coupled with the successful operation of the pilot mental health courts over the last five years, could result in additional interest from local systems to begin establishing such courts. To the extent that additional courts were created, the SCAO could have increased administrative costs associated with training local court staff, and collecting and evaluating data. Whether these additional courts could receive grant funding through the SCAO would be contingent on future appropriations.

The bills would allow, but not mandate, mental health courts to charge an individual admitted to the court to pay a fee to offset or partially offset the cost of administering the program. The bills also would require mental health courts to require participants to pay court costs and fees, and other amounts; however, the bills would allow the courts to waive these amounts in some circumstances, such as if the costs would cause financial hardship. Historically, the population served by mental health courts has high percentages of indigence, so the collection of fees and costs could be infrequent. In some cases, an individual admitted to the court could have the ability to pay, but restitution to victims, penal fines, and court costs would take precedence over any program fees that would be required. The nine courts funded by SCAO grants during FY 2012-13 have not charged program fees.

There are currently four mental health courts in the State that are not receiving grant support through the SCAO. These courts are supported through partnerships between the local court system, community mental health agencies, and related organizations. However, in some cases they specifically admit only offenders who have health insurance or are Medicaid-eligible, which covers the cost of the mental health treatment required by the courts. In all 18 mental health courts, the courts first seek to have the mandated mental health treatment paid for through private insurance, Medicaid, or the local community mental health agency. However, for the 14 courts funded by the SCAO, a portion of the grant dollars is set aside to provide for needed treatment for which alternative payer is not available. The grant dollars not used for treatment cover the administrative costs for the local court system, such as case management.

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Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.