

SUBSTITUTE FOR
HOUSE BILL NO. 4696

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding sections 1094, 1095, and 1096.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1094. (1) IF THE INDIVIDUAL IS CHARGED IN A CRIMINAL CASE
2 OR, IN THE CASE OF A JUVENILE, IS ALLEGED TO HAVE ENGAGED IN
3 ACTIVITY THAT WOULD CONSTITUTE A CRIMINAL ACT IF COMMITTED BY AN
4 ADULT, HIS OR HER ADMISSION TO MENTAL HEALTH COURT IS SUBJECT TO
5 ALL OF THE FOLLOWING CONDITIONS:

6 (A) THE INDIVIDUAL, IF AN ADULT, MUST PLEAD GUILTY, NO
7 CONTEST, OR BE CONVICTED OF ANY CRIMINAL CHARGE ON THE RECORD. THE
8 INDIVIDUAL, IF A JUVENILE, ADMITS RESPONSIBILITY FOR THE VIOLATION
9 OR VIOLATIONS THAT HE OR SHE IS ACCUSED OF HAVING COMMITTED.

1 (B) AT THE PLEA, THE INDIVIDUAL WAIVES, IN WRITING, THE RIGHT
2 TO A SPEEDY TRIAL AND, WITH THE AGREEMENT OF THE PROSECUTOR, THE
3 RIGHT TO A PRELIMINARY EXAMINATION.

4 (C) THE INDIVIDUAL SIGNS A WRITTEN AGREEMENT TO PARTICIPATE IN
5 THE MENTAL HEALTH COURT. IF THE INDIVIDUAL IS A JUVENILE OR AN
6 INDIVIDUAL WHO HAS BEEN ASSIGNED A GUARDIAN, THE PARENT OR LEGAL
7 GUARDIAN IS REQUIRED TO SIGN ALL DOCUMENTS FOR THE INDIVIDUAL'S
8 ADMISSION IN THE MENTAL HEALTH COURT.

9 (2) AN INDIVIDUAL WHO HAS WAIVED HIS OR HER RIGHT TO A
10 PRELIMINARY EXAMINATION, WHO HAS PLED GUILTY OR NO CONTEST OR, IN
11 THE CASE OF A JUVENILE, HAS ADMITTED RESPONSIBILITY, AS PART OF HIS
12 OR HER REFERRAL PROCESS TO A MENTAL HEALTH COURT, AND WHO IS
13 SUBSEQUENTLY NOT ADMITTED TO A MENTAL HEALTH COURT MAY WITHDRAW HIS
14 OR HER PLEA AND IS ENTITLED TO A PRELIMINARY EXAMINATION OR, IN THE
15 CASE OF A JUVENILE, MAY WITHDRAW HIS OR HER ADMISSION OF
16 RESPONSIBILITY.

17 (3) IN ADDITION TO RIGHTS ACCORDED A VICTIM UNDER THE WILLIAM
18 VAN REGENMORTER CRIME VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751
19 TO 780.834, THE MENTAL HEALTH COURT SHALL PERMIT ANY VICTIM OF THE
20 OFFENSE OR OFFENSES OF WHICH THE INDIVIDUAL IS CHARGED OR, IN THE
21 CASE OF A JUVENILE, ANY VICTIM OF THE ACTIVITY THAT THE INDIVIDUAL
22 IS ALLEGED TO HAVE COMMITTED AND THAT WOULD CONSTITUTE A CRIMINAL
23 ACT IF COMMITTED BY AN ADULT, AS WELL AS ANY VICTIM OF A PRIOR
24 OFFENSE OF WHICH THAT INDIVIDUAL WAS CONVICTED OR, IN THE CASE OF A
25 JUVENILE, A PRIOR OFFENSE FOR WHICH THE INDIVIDUAL HAS BEEN FOUND
26 RESPONSIBLE, TO SUBMIT A WRITTEN STATEMENT TO THE COURT REGARDING
27 THE ADVISABILITY OF ADMITTING THE INDIVIDUAL INTO THE MENTAL HEALTH

1 COURT.

2 SEC. 1095. (1) UPON ADMITTING AN INDIVIDUAL INTO A MENTAL
3 HEALTH COURT, ALL OF THE FOLLOWING APPLY:

4 (A) FOR AN INDIVIDUAL WHO IS ADMITTED TO A MENTAL HEALTH COURT
5 BASED UPON HAVING CRIMINAL CHARGES CURRENTLY FILED AGAINST HIM OR
6 HER AND WHO HAS NOT ALREADY PLED GUILTY OR NO CONTEST OR, IN THE
7 CASE OF A JUVENILE, HAS NOT ADMITTED RESPONSIBILITY, THE COURT
8 SHALL ACCEPT THE PLEA OF GUILTY OR NO CONTEST OR, IN THE CASE OF A
9 JUVENILE, THE ADMISSION OF RESPONSIBILITY.

10 (B) FOR AN INDIVIDUAL WHO PLED GUILTY OR NO CONTEST TO, OR
11 ADMITTED RESPONSIBILITY FOR, CRIMINAL CHARGES FOR WHICH HE OR SHE
12 WAS ADMITTED INTO THE MENTAL HEALTH COURT, THE COURT SHALL DO
13 EITHER OF THE FOLLOWING:

14 (i) IN THE CASE OF AN INDIVIDUAL WHO PLED GUILTY OR NO CONTEST
15 TO CRIMINAL OFFENSES THAT ARE NOT TRAFFIC OFFENSES AND WHO MAY BE
16 ELIGIBLE FOR DISCHARGE AND DISMISSAL UNDER THE AGREEMENT FOR WHICH
17 HE OR SHE WAS ADMITTED INTO MENTAL HEALTH COURT UPON SUCCESSFUL
18 COMPLETION OF THE MENTAL HEALTH COURT PROGRAM, THE COURT SHALL NOT
19 ENTER A JUDGMENT OF GUILT OR, IN THE CASE OF A JUVENILE, SHALL NOT
20 ENTER AN ADJUDICATION OF RESPONSIBILITY.

21 (ii) IN THE CASE OF AN INDIVIDUAL WHO PLED GUILTY TO A TRAFFIC
22 OFFENSE OR WHO PLED GUILTY TO AN OFFENSE BUT MAY NOT BE ELIGIBLE
23 FOR DISCHARGE AND DISMISSAL PURSUANT TO THE AGREEMENT WITH THE
24 COURT AND PROSECUTOR UPON SUCCESSFUL COMPLETION OF THE MENTAL
25 HEALTH COURT PROGRAM, THE COURT SHALL ENTER A JUDGMENT OF GUILT OR,
26 IN THE CASE OF A JUVENILE, SHALL ENTER AN ADJUDICATION OF
27 RESPONSIBILITY.

1 (iii) PURSUANT TO THE AGREEMENT WITH THE INDIVIDUAL AND THE
2 PROSECUTOR, THE COURT MAY EITHER DELAY FURTHER PROCEEDINGS AS
3 PROVIDED IN SECTION 1 OF CHAPTER XI OF THE CODE OF CRIMINAL
4 PROCEDURE, 1927 PA 175, MCL 771.1, OR PROCEED TO SENTENCING, AS
5 APPLICABLE, AND PLACE THE INDIVIDUAL ON PROBATION OR OTHER COURT
6 SUPERVISION IN THE MENTAL HEALTH COURT PROGRAM WITH TERMS AND
7 CONDITIONS ACCORDING TO THE AGREEMENT AND AS CONSIDERED NECESSARY
8 BY THE COURT.

9 (2) THE COURT SHALL MAINTAIN JURISDICTION OVER THE MENTAL
10 HEALTH COURT PARTICIPANT AS PROVIDED IN THIS CHAPTER UNTIL FINAL
11 DISPOSITION OF THE CASE, BUT NOT LONGER THAN THE PROBATION PERIOD
12 FIXED UNDER SECTION 2 OF CHAPTER XI OF THE CODE OF CRIMINAL
13 PROCEDURE, 1927 PA 175, MCL 771.2. IN THE CASE OF A JUVENILE
14 PARTICIPANT, THE COURT MAY OBTAIN JURISDICTION OVER THE JUVENILE'S
15 PARENTS OR GUARDIANS IN ORDER TO ASSIST IN ENSURING THE JUVENILE'S
16 CONTINUED PARTICIPATION AND SUCCESSFUL COMPLETION OF THE MENTAL
17 HEALTH COURT AND MAY ISSUE AND ENFORCE ANY APPROPRIATE AND
18 NECESSARY ORDER REGARDING THE PARENT OR GUARDIAN.

19 (3) THE MENTAL HEALTH COURT MAY REQUIRE AN INDIVIDUAL ADMITTED
20 INTO THE COURT TO PAY A REASONABLE MENTAL HEALTH COURT FEE THAT IS
21 REASONABLY RELATED TO THE COST TO THE COURT FOR ADMINISTERING THE
22 MENTAL HEALTH COURT PROGRAM AS PROVIDED IN THE MEMORANDUM OF
23 UNDERSTANDING. THE CLERK OF THE MENTAL HEALTH COURT SHALL TRANSMIT
24 THE FEES COLLECTED TO THE TREASURER OF THE LOCAL FUNDING UNIT AT
25 THE END OF EACH MONTH.

26 SEC. 1096. (1) A MENTAL HEALTH COURT SHALL PROVIDE A MENTAL
27 HEALTH COURT PARTICIPANT WITH ALL OF THE FOLLOWING:

House Bill No. 4696 (H-1) as amended September 18, 2013

1 (A) CONSISTENT AND CLOSE MONITORING OF THE PARTICIPANT AND
2 INTERACTION AMONG THE COURT, TREATMENT PROVIDERS, PROBATION, AND
3 THE PARTICIPANT.

4 (B) IF DETERMINED BY THE MENTAL HEALTH COURT TO BE NECESSARY
5 OR APPROPRIATE, PERIODIC AND RANDOM TESTING FOR THE PRESENCE OF ANY
6 NONPRESCRIBED CONTROLLED SUBSTANCE OR ALCOHOL IN A PARTICIPANT'S
7 BLOOD, URINE, OR BREATH, USING TO THE EXTENT PRACTICABLE THE BEST
8 AVAILABLE, ACCEPTED, AND SCIENTIFICALLY VALID METHODS.

9 (C) PERIODIC EVALUATION ASSESSMENTS OF THE PARTICIPANT'S
10 CIRCUMSTANCES AND PROGRESS IN THE PROGRAM.

11 (D) A REGIMEN OR STRATEGY OF APPROPRIATE AND GRADUATED BUT
12 IMMEDIATE REWARDS FOR COMPLIANCE AND SANCTIONS FOR NONCOMPLIANCE,
13 INCLUDING, BUT NOT LIMITED TO, THE POSSIBILITY OF INCARCERATION OR
14 CONFINEMENT.

15 (E) MENTAL HEALTH SERVICES, SUBSTANCE USE DISORDER SERVICES,
16 EDUCATION, AND VOCATIONAL OPPORTUNITIES AS APPROPRIATE AND
17 PRACTICABLE.

[(2) UPON AN INDIVIDUAL'S COMPLETION OF THE REQUIRED MENTAL HEALTH
COURT PROGRAM PARTICIPATION, AN EXIT EVALUATION SHOULD BE CONDUCTED IN
ORDER TO ASSESS THE INDIVIDUAL'S CONTINUING NEED FOR MENTAL HEALTH,
DEVELOPMENTAL DISABILITY, OR SUBSTANCE ABUSE SERVICES.]

18 (3) ANY STATEMENT OR OTHER INFORMATION OBTAINED AS A RESULT OF
19 PARTICIPATING IN ASSESSMENT, TREATMENT, OR TESTING WHILE IN A
20 MENTAL HEALTH COURT IS CONFIDENTIAL AND IS EXEMPT FROM DISCLOSURE
21 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
22 15.246, AND SHALL NOT BE USED IN A CRIMINAL PROSECUTION, UNLESS IT
23 REVEALS CRIMINAL ACTS OTHER THAN, OR INCONSISTENT WITH, PERSONAL
24 CONTROLLED SUBSTANCE USE.

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

- 1 (a) House Bill No. 4694.
- 2 (b) House Bill No. 4695.
- 3 (c) House Bill No. 4697.