

HOUSE BILL No. 4696

May 7, 2013, Introduced by Reps. Walsh, Cotter, Graves, Johnson, McCready, Heise, Haines, MacMaster, Howrylak, O'Brien, Hovey-Wright and Leonard and referred to the Committee on Judiciary.

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.

10 (B) AT THE PLEA, THE INDIVIDUAL WAIVES, IN WRITING, THE RIGHT

1 TO A SPEEDY TRIAL AND, WITH THE AGREEMENT OF THE PROSECUTOR, THE
2 RIGHT TO A PRELIMINARY EXAMINATION.

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

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

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

18 (A) FOR AN INDIVIDUAL WHO IS ADMITTED TO A MENTAL HEALTH COURT
19 BASED UPON HAVING CRIMINAL CHARGES CURRENTLY FILED AGAINST HIM OR
20 HER AND WHO HAS NOT ALREADY PLED GUILTY OR NO CONTEST OR, IN THE
21 CASE OF A JUVENILE, HAS ADMITTED RESPONSIBILITY, THE COURT SHALL
22 ACCEPT THE PLEA OF GUILTY OR NO CONTEST OR, IN THE CASE OF A
23 JUVENILE, THE ADMISSION OF RESPONSIBILITY.

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

1 (i) IN THE CASE OF AN INDIVIDUAL WHO PLED GUILTY OR NO CONTEST
2 TO CRIMINAL OFFENSES THAT ARE NOT TRAFFIC OFFENSES AND WHO MAY BE
3 ELIGIBLE FOR DISCHARGE AND DISMISSAL UNDER THE AGREEMENT FOR WHICH
4 HE OR SHE WAS ADMITTED INTO MENTAL HEALTH COURT UPON SUCCESSFUL
5 COMPLETION OF THE MENTAL HEALTH COURT PROGRAM, THE COURT SHALL NOT
6 ENTER A JUDGMENT OF GUILT OR, IN THE CASE OF A JUVENILE, SHALL NOT
7 ENTER AN ADJUDICATION OF RESPONSIBILITY.

8 (ii) PURSUANT TO THE AGREEMENT WITH THE INDIVIDUAL AND THE
9 PROSECUTOR, THE COURT MAY EITHER DELAY FURTHER PROCEEDINGS AS
10 PROVIDED IN SECTION 1 OF CHAPTER XI OF THE CODE OF CRIMINAL
11 PROCEDURE, 1927 PA 175, MCL 771.1, OR PROCEED TO SENTENCING, AS
12 APPLICABLE, AND PLACE THE INDIVIDUAL ON PROBATION OR OTHER COURT
13 SUPERVISION IN THE MENTAL HEALTH COURT PROGRAM WITH TERMS AND
14 CONDITIONS ACCORDING TO THE AGREEMENT AND AS DEEMED NECESSARY BY
15 THE COURT.

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

26 (3) THE MENTAL HEALTH COURT MAY REQUIRE AN INDIVIDUAL ADMITTED
27 INTO THE COURT TO PAY A REASONABLE MENTAL HEALTH COURT FEE THAT IS

1 REASONABLY RELATED TO THE COST TO THE COURT FOR ADMINISTERING THE
2 MENTAL HEALTH COURT PROGRAM AS PROVIDED IN THE MEMORANDUM OF
3 UNDERSTANDING. THE CLERK OF THE MENTAL HEALTH COURT SHALL TRANSMIT
4 THE FEES COLLECTED TO THE TREASURER OF THE LOCAL FUNDING UNIT AT
5 THE END OF EACH MONTH.

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

8 (A) CONSISTENT AND CLOSE MONITORING OF THE PARTICIPANT AND
9 INTERACTION AMONG THE COURT, TREATMENT PROVIDERS, PROBATION, AND
10 THE PARTICIPANT.

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

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

18 (D) A REGIMEN OR STRATEGY OF APPROPRIATE AND GRADUATED BUT
19 IMMEDIATE REWARDS FOR COMPLIANCE AND SANCTIONS FOR NONCOMPLIANCE,
20 INCLUDING, BUT NOT LIMITED TO, THE POSSIBILITY OF INCARCERATION OR
21 CONFINEMENT.

22 (E) MENTAL HEALTH SERVICES, SUBSTANCE USE DISORDER SERVICES,
23 EDUCATION, AND VOCATIONAL OPPORTUNITIES AS APPROPRIATE AND
24 PRACTICABLE.

25 (2) ANY STATEMENT OR OTHER INFORMATION OBTAINED AS A RESULT OF
26 PARTICIPATING IN ASSESSMENT, TREATMENT, OR TESTING WHILE IN A
27 MENTAL HEALTH COURT IS CONFIDENTIAL AND IS EXEMPT FROM DISCLOSURE

1 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
2 15.246, AND SHALL NOT BE USED IN A CRIMINAL PROSECUTION, UNLESS IT
3 REVEALS CRIMINAL ACTS OTHER THAN, OR INCONSISTENT WITH, PERSONAL
4 DRUG USE.

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

8 (a) Senate Bill No.____ or House Bill No. 4694 (request no.
9 01934'13).

10 (b) Senate Bill No.____ or House Bill No. 4695 (request no.
11 02580'13).

12 (c) Senate Bill No.____ or House Bill No. 4697 (request no.
13 02581'13).