

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4523

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 1093 (MCL 600.1093), as amended by 2018 PA 591.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1093. (1) Each mental health court shall determine
2 whether an individual may be admitted to the mental health court.
3 ~~No~~**An** individual ~~has~~**does not have** a right to be admitted into a
4 mental health court. Admission into a mental health court program
5 is at the discretion of the court based on the individual's legal
6 or clinical eligibility. An individual may be admitted to mental
7 health court regardless of prior participation or prior completion
8 status. ~~However, in no case shall~~**Unless the mental health court**
9 **judge and the prosecuting attorney, in consultation with any known**

1 **victim in the instant case, consent,** a violent offender **must not** be
2 admitted into mental health court. **An individual must not be**
3 **admitted to a mental health court if either of the following**
4 **applies:**

5 (a) The individual is currently charged with first degree
6 murder in violation of section 316 of the Michigan penal code, 1931
7 PA 328, MCL 750.316, criminal sexual conduct in the first, second,
8 or third degree in violation of section 520b, 520c, or 520d of the
9 Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and
10 750.520d, or child sexually abusive activity in violation of
11 section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

12 (b) The individual has been convicted of first degree murder
13 in violation of section 316 of the Michigan penal code, 1931 PA
14 328, MCL 750.316, or criminal sexual conduct in the first degree in
15 violation of section 520b of the Michigan penal code, 1931 PA 328,
16 MCL 750.520b.

17 (2) In addition to admission to a mental health court under
18 this chapter, an individual who is eligible for admission under
19 this chapter may also be admitted to a mental health court under
20 any of the following circumstances:

21 (a) The individual has been assigned the status of youthful
22 trainee under section 11 of chapter II of the code of criminal
23 procedure, 1927 PA 175, MCL 762.11.

24 (b) The individual has had criminal proceedings against ~~him or~~
25 ~~her~~ **the individual** deferred and has been placed on probation under
26 any of the following:

27 (i) Section 7411 of the public health code, 1978 PA 368, MCL
28 333.7411.

29 (ii) Section 4a of chapter IX of the code of criminal

1 procedure, 1927 PA 175, MCL 769.4a.

2 (iii) Section 350a or 430 of the Michigan penal code, 1931 PA
3 328, MCL 750.350a and 750.430.

4 (3) To be admitted to a mental health court, an individual
5 ~~shall~~**must** cooperate with and complete a preadmission screening and
6 evaluation assessment and ~~shall~~**must** submit to any future
7 evaluation assessment as directed by the mental health court. A
8 preadmission screening and evaluation assessment must include all
9 of the following:

10 (a) A review of the individual's criminal history. A review of
11 the law enforcement information network may be considered
12 sufficient for purposes of this subdivision unless a further review
13 is warranted. The court may accept other verifiable and reliable
14 information from the prosecution or defense to complete its review
15 and may require the individual to submit a statement as to whether
16 or not ~~he or she~~**the individual** has previously been admitted to a
17 mental health court and the results of ~~his or her~~**the individual's**
18 participation in the prior program or programs.

19 (b) An assessment of the risk of danger or harm to the
20 individual, others, or the community.

21 (c) A mental health assessment, clinical in nature, and using
22 standardized instruments that have acceptable reliability and
23 validity, meeting diagnostic criteria for a serious mental illness,
24 serious emotional disturbance, co-occurring disorder, or
25 developmental disability.

26 (d) A review of any special needs or circumstances of the
27 individual that may potentially affect the individual's ability to
28 receive mental health or substance abuse treatment and follow the
29 court's orders.

1 (4) Except as otherwise permitted in this chapter, any
2 statement or other information obtained as a result of
3 participating in a preadmission screening and evaluation assessment
4 under subsection (3) is confidential and is exempt from disclosure
5 under the freedom of information act, 1976 PA 442, MCL 15.231 to
6 15.246, and must not be used in a criminal prosecution, unless it
7 reveals criminal acts other than, or inconsistent with, personal
8 drug use.

9 (5) The court may request that the department of state police
10 provide to the court information contained in the law enforcement
11 information network pertaining to an individual applicant's
12 criminal history for the purposes of determining an individual's
13 eligibility for admission into the mental health court and general
14 criminal history review.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.