

1 code, 1931 PA 328, MCL 750.81 and 750.81a, and the victim of the
2 assault is the offender's spouse or former spouse, an individual
3 who has had a child in common with the offender, an individual who
4 has or has had a dating relationship with the offender, or an
5 individual residing or having resided in the same household as the
6 offender, the court, without entering a judgment of guilt and with
7 the consent of the accused and of the prosecuting attorney in
8 consultation with the victim, may defer further proceedings and
9 place the accused on probation as provided in this section.

10 However, before deferring proceedings under this subsection, the
11 court shall contact the department of state police and determine
12 whether, according to the records of the department of state
13 police, the accused has previously been convicted of an assaultive
14 crime or has previously had proceedings deferred under this
15 section. If the search of the records reveals an arrest for an
16 assaultive crime but no disposition, the court shall contact the
17 arresting agency and the court that had jurisdiction over the
18 violation to determine the disposition of that arrest for purposes
19 of this section.

20 (2) ~~Upon~~**On** a violation of a term or condition of probation,
21 the court may enter an adjudication of guilt and proceed as
22 otherwise provided in this chapter.

23 (3) An order of probation entered under subsection (1) may
24 include any condition of probation authorized under section 3 of
25 chapter XI, including, but not limited to, requiring the accused to
26 participate in a mandatory counseling program. The court may order
27 the accused to pay the reasonable costs of the mandatory counseling
28 program. The court also may order the accused to participate in a
29 drug treatment court under chapter 10A of the revised judicature

1 act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088. The court may
2 order the defendant to be imprisoned for not more than 12 months at
3 the time or intervals, which may be consecutive or nonconsecutive
4 and within the period of probation, as the court determines.
5 However, the period of imprisonment must not exceed the maximum
6 period of imprisonment authorized for the offense if the maximum
7 period is less than 12 months. The court may permit day parole as
8 authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may
9 permit a work or school release from jail.

10 (4) The court shall enter an adjudication of guilt and proceed
11 as otherwise provided in this chapter if any of the following
12 circumstances exist:

13 (a) The accused commits an assaultive crime during the period
14 of probation.

15 (b) The accused violates an order of the court that the
16 accused receive counseling regarding the accused's violent
17 behavior.

18 (c) The accused violates an order of the court that the
19 accused have no contact with a named individual.

20 (5) ~~Upon~~**On** fulfillment of the terms and conditions, the court
21 shall discharge the ~~person~~**individual** and dismiss the proceedings
22 against the ~~person~~**individual**. Discharge and **dismissal** under this
23 section must be without adjudication of guilt and is not a
24 conviction for purposes of this section or for purposes of
25 disqualifications or disabilities imposed by law ~~upon~~**on** conviction
26 of a crime, but it is a prior conviction in a prosecution under
27 sections 81(4) and (5) and 81a(3) of the Michigan penal code, 1931
28 PA 328, MCL 750.81 and 750.81a. There must be only 1 discharge and
29 dismissal under this section with respect to any individual.

1 (6) All court proceedings under this section must be open to
2 the public. Except as provided in subsection (7), if the record of
3 proceedings as to the defendant is deferred under this section, the
4 record of proceedings during the period of deferral must be closed
5 to public inspection.

6 (7) Unless the court enters a judgment of guilt under this
7 section, the department of state police shall retain a nonpublic
8 record of the arrest, court proceedings, and disposition of the
9 criminal charge under this section. However, the nonpublic record
10 must be open to the following individuals and entities for the
11 purposes noted:

12 (a) The courts of this state, law enforcement personnel, the
13 department of corrections, and prosecuting attorneys for use only
14 in the performance of their duties or to determine whether an
15 employee of the court, law enforcement agency, department of
16 corrections, or prosecutor's office has violated the conditions of
17 employment or whether an applicant meets criteria for employment
18 with the court, law enforcement agency, department of corrections,
19 or prosecutor's office.

20 (b) The courts of this state, law enforcement personnel, and
21 prosecuting attorneys for either of the following purposes:

22 (i) Showing that a defendant in a criminal action under section
23 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and
24 750.81a, or a local ordinance substantially corresponding to
25 section 81 of that act has already once had proceedings deferred
26 under this section.

27 (ii) Determining whether the defendant in a criminal action is
28 eligible for discharge and dismissal of proceedings by a drug
29 treatment court under section 1076(5) of the revised judicature act

1 of 1961, 1961 PA 236, MCL 600.1076.

2 (c) The department of health and human services for enforcing
3 child protection laws and vulnerable adult protection laws or
4 ascertaining the preemployment criminal history of any individual
5 who will be engaged in the enforcement of child protection laws or
6 vulnerable adult protection laws.

7 **(d) The courts of this state and, if ordered by the court, the**
8 **parties to a qualified child custody proceeding for use in making a**
9 **determination as to the best interests of a child with respect to**
10 **custody of the child and parenting time.**

11 (8) As used in this section:

12 (a) "Assaultive crime" means 1 or more of the following:

13 (i) That term as defined in section 9a of chapter X.

14 (ii) A violation of chapter XI of the Michigan penal code, 1931
15 PA 328, MCL 750.81 to 750.90g.

16 (iii) A violation of a law of another state or of a local
17 ordinance of a political subdivision of this state or of another
18 state substantially corresponding to a violation described in
19 subparagraph (i) or (ii).

20 **(b) "Best interests of a child" means that term as defined in**
21 **section 3 of the child custody act of 1970, 1970 PA 91, MCL 722.23.**

22 **(c) ~~(b)~~"Dating relationship" means frequent, intimate**
23 **associations primarily characterized by the expectation of**
24 **affectional involvement. This term does not include a casual**
25 **relationship or an ordinary fraternization between 2 individuals in**
26 **a business or social context.**

27 **(d) "Qualified child custody proceeding" means that term as**
28 **defined in section 4b of the child custody act of 1970, 1970 PA 91,**
29 **MCL 722.24b.**

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No. _____ or House Bill No. 6006 (request no.
3 04151'23) of the 102nd Legislature is enacted into law.