

SUBSTITUTE FOR
HOUSE BILL NO. 4694

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding a chapter heading and sections
1090, 1091, 1092, and 1093.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER 10B.

MENTAL HEALTH COURT

SEC. 1090. AS USED IN THIS CHAPTER:

(A) "CO-OCCURRING DISORDER" MEANS HAVING 1 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. 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

1 CLUSTER OF SYMPTOMS RESULTING FROM 1 DISORDER.

2 (B) "COURT FUNDING UNIT" MEANS THAT TERM AS DEFINED IN SECTION
3 151E OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
4 600.151E.

5 (C) "DEVELOPMENTAL DISABILITY" MEANS THAT TERM AS DEFINED IN
6 SECTION 100A OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100A.

7 (D) "MENTAL HEALTH COURT" MEANS ANY OF THE FOLLOWING:

8 (i) A COURT-SUPERVISED TREATMENT PROGRAM FOR INDIVIDUALS WHO
9 ARE DIAGNOSED BY A MENTAL HEALTH PROFESSIONAL WITH HAVING A SERIOUS
10 MENTAL ILLNESS, SERIOUS EMOTIONAL DISTURBANCE, CO-OCCURRING
11 DISORDER, OR DEVELOPMENTAL DISABILITY.

12 (ii) PROGRAMS DESIGNED TO ADHERE TO THE 10 ESSENTIAL ELEMENTS
13 OF A MENTAL HEALTH COURT PROMULGATED BY THE BUREAU OF JUSTICE
14 ASSISTANCE THAT INCLUDE ALL OF THE FOLLOWING CHARACTERISTICS:

15 (A) A BROAD-BASED GROUP OF STAKEHOLDERS REPRESENTING THE
16 CRIMINAL JUSTICE SYSTEM, MENTAL HEALTH SYSTEM, SUBSTANCE ABUSE
17 TREATMENT SYSTEM, ANY RELATED SYSTEMS, AND THE COMMUNITY GUIDE THE
18 PLANNING AND ADMINISTRATION OF THE COURT.

19 (B) ELIGIBILITY CRITERIA THAT ADDRESS PUBLIC SAFETY AND A
20 COMMUNITY'S TREATMENT CAPACITY, IN ADDITION TO THE AVAILABILITY OF
21 ALTERNATIVES TO PRETRIAL DETENTION FOR DEFENDANTS WITH MENTAL
22 ILLNESSES, AND THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN
23 MENTAL ILLNESS AND A DEFENDANT'S OFFENSES, WHILE ALLOWING THE
24 INDIVIDUAL CIRCUMSTANCES OF EACH CASE TO BE CONSIDERED.

25 (C) PARTICIPANTS ARE IDENTIFIED, REFERRED, AND ACCEPTED INTO
26 MENTAL HEALTH COURTS, AND THEN LINKED TO COMMUNITY-BASED SERVICE
27 PROVIDERS AS QUICKLY AS POSSIBLE.

1 (D) TERMS OF PARTICIPATION ARE CLEAR, PROMOTE PUBLIC SAFETY,
2 FACILITATE THE DEFENDANT'S ENGAGEMENT IN TREATMENT, ARE
3 INDIVIDUALIZED TO CORRESPOND TO THE LEVEL OF RISK THAT EACH
4 DEFENDANT PRESENTS TO THE COMMUNITY, AND PROVIDE FOR POSITIVE LEGAL
5 OUTCOMES FOR THOSE INDIVIDUALS WHO SUCCESSFULLY COMPLETE THE
6 PROGRAM.

7 (E) IN ACCORDANCE WITH THE MICHIGAN INDIGENT DEFENSE
8 COMMISSION ACT, 2013 PA 93, MCL 780.981 TO 780.1003, PROVIDE LEGAL
9 COUNSEL TO INDIGENT DEFENDANTS TO EXPLAIN PROGRAM REQUIREMENTS,
10 INCLUDING VOLUNTARY PARTICIPATION, AND GUIDES DEFENDANTS IN
11 DECISIONS ABOUT PROGRAM INVOLVEMENT. PROCEDURES EXIST IN THE MENTAL
12 HEALTH COURT TO ADDRESS, IN A TIMELY FASHION, CONCERNS ABOUT A
13 DEFENDANT'S COMPETENCY WHENEVER THEY ARISE.

14 (F) CONNECT PARTICIPANTS TO COMPREHENSIVE AND INDIVIDUALIZED
15 TREATMENT SUPPORTS AND SERVICES IN THE COMMUNITY AND STRIVE TO USE,
16 AND INCREASE THE AVAILABILITY OF, TREATMENT AND SERVICES THAT ARE
17 EVIDENCE BASED.

18 (G) HEALTH AND LEGAL INFORMATION ARE SHARED IN A MANNER THAT
19 PROTECTS POTENTIAL PARTICIPANTS' CONFIDENTIALITY RIGHTS AS MENTAL
20 HEALTH CONSUMERS AND THEIR CONSTITUTIONAL RIGHTS AS DEFENDANTS.
21 INFORMATION GATHERED AS PART OF THE PARTICIPANTS' COURT-ORDERED
22 TREATMENT PROGRAM OR SERVICES ARE SAFEGUARDED FROM PUBLIC
23 DISCLOSURE IN THE EVENT THAT PARTICIPANTS ARE RETURNED TO
24 TRADITIONAL COURT PROCESSING.

25 (H) A TEAM OF CRIMINAL JUSTICE AND MENTAL HEALTH STAFF AND
26 TREATMENT PROVIDERS RECEIVES SPECIAL, ONGOING TRAINING AND ASSISTS
27 MENTAL HEALTH COURT PARTICIPANTS ACHIEVE TREATMENT AND CRIMINAL

1 JUSTICE GOALS BY REGULARLY REVIEWING AND REVISING THE COURT
2 PROCESS.

3 (I) CRIMINAL JUSTICE AND MENTAL HEALTH STAFF COLLABORATIVELY
4 MONITOR PARTICIPANTS' ADHERENCE TO COURT CONDITIONS, OFFER
5 INDIVIDUALIZED GRADUATED INCENTIVES AND SANCTIONS, AND MODIFY
6 TREATMENT AS NECESSARY TO PROMOTE PUBLIC SAFETY AND PARTICIPANTS'
7 RECOVERY.

8 (J) DATA ARE COLLECTED AND ANALYZED TO DEMONSTRATE THE IMPACT
9 OF THE MENTAL HEALTH COURT, ITS PERFORMANCE IS ASSESSED
10 PERIODICALLY, AND PROCEDURES ARE MODIFIED ACCORDINGLY, COURT
11 PROCESSES ARE INSTITUTIONALIZED, AND SUPPORT FOR THE COURT IN THE
12 COMMUNITY IS CULTIVATED AND EXPANDED.

13 (E) "PARTICIPANT" MEANS AN INDIVIDUAL WHO IS ADMITTED INTO A
14 MENTAL HEALTH COURT.

15 (F) "SERIOUS EMOTIONAL DISTURBANCE" MEANS THAT TERM AS DEFINED
16 IN SECTION 100D OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL
17 330.1100D.

18 (G) "SERIOUS MENTAL ILLNESS" MEANS THAT TERM AS DEFINED IN
19 SECTION 100D OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100D.

20 (H) "VIOLENT OFFENDER" MEANS AN INDIVIDUAL WHO IS CURRENTLY
21 CHARGED WITH, OR HAS BEEN CONVICTED OF, AN OFFENSE INVOLVING THE
22 DEATH OF, OR A SERIOUS BODILY INJURY TO, ANY INDIVIDUAL, WHETHER OR
23 NOT ANY OF THESE CIRCUMSTANCES ARE AN ELEMENT OF THE OFFENSE, OR
24 WITH CRIMINAL SEXUAL CONDUCT IN ANY DEGREE.

25 SEC. 1091. (1) THE CIRCUIT COURT OR THE DISTRICT COURT IN ANY
26 JUDICIAL CIRCUIT OR A DISTRICT COURT IN ANY JUDICIAL DISTRICT MAY
27 ADOPT OR INSTITUTE A MENTAL HEALTH COURT PURSUANT TO STATUTE OR

1 COURT RULES. HOWEVER, IF THE MENTAL HEALTH COURT WILL INCLUDE IN
2 ITS PROGRAM INDIVIDUALS WHO MAY BE ELIGIBLE FOR DISCHARGE AND
3 DISMISSAL OF AN OFFENSE, DELAYED SENTENCE, OR DEVIATION FROM THE
4 SENTENCING GUIDELINES, THE CIRCUIT OR DISTRICT COURT SHALL NOT
5 ADOPT OR INSTITUTE THE MENTAL HEALTH COURT UNLESS THE CIRCUIT OR
6 DISTRICT COURT ENTERS INTO A MEMORANDUM OF UNDERSTANDING WITH EACH
7 PARTICIPATING PROSECUTING ATTORNEY IN THE CIRCUIT OR DISTRICT COURT
8 DISTRICT, A REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY
9 MENTAL HEALTH SERVICES PROGRAMS, A REPRESENTATIVE OF THE CRIMINAL
10 DEFENSE BAR, AND A REPRESENTATIVE OR REPRESENTATIVES OF COMMUNITY
11 TREATMENT PROVIDERS. THE MEMORANDUM OF UNDERSTANDING ALSO MAY
12 INCLUDE OTHER PARTIES CONSIDERED NECESSARY, INCLUDING, BUT NOT
13 LIMITED TO, A REPRESENTATIVE OR REPRESENTATIVES OF THE LOCAL COURT
14 FUNDING UNIT. THE MEMORANDUM OF UNDERSTANDING SHALL DESCRIBE THE
15 ROLE OF EACH PARTY.

16 (2) A FAMILY DIVISION OF CIRCUIT COURT IN ANY JUDICIAL CIRCUIT
17 MAY ADOPT OR INSTITUTE A JUVENILE MENTAL HEALTH COURT PURSUANT TO
18 STATUTE OR COURT RULES. THE CREATION OR EXISTENCE OF A MENTAL
19 HEALTH COURT DOES NOT CHANGE THE STATUTES OR COURT RULES CONCERNING
20 DISCHARGE OR DISMISSAL OF AN OFFENSE, OR A DELAYED SENTENCE OR
21 DEFERRED ENTRY OF JUDGMENT. A FAMILY DIVISION OF CIRCUIT COURT
22 ADOPTING OR INSTITUTING A JUVENILE MENTAL HEALTH COURT SHALL ENTER
23 INTO A MEMORANDUM OF UNDERSTANDING WITH ALL PARTICIPATING
24 PROSECUTING AUTHORITIES IN THE CIRCUIT OR DISTRICT COURT, A
25 REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY MENTAL HEALTH
26 SERVICES PROGRAM, A REPRESENTATIVE OF THE CRIMINAL DEFENSE BAR
27 SPECIALIZING IN JUVENILE LAW, AND A REPRESENTATIVE OR

1 REPRESENTATIVES OF COMMUNITY TREATMENT PROVIDERS THAT DESCRIBES THE
2 ROLES AND RESPONSIBILITIES OF EACH PARTY TO THE MEMORANDUM OF
3 UNDERSTANDING. THE MEMORANDUM OF UNDERSTANDING ALSO MAY INCLUDE
4 OTHER PARTIES CONSIDERED NECESSARY, INCLUDING, BUT NOT LIMITED TO,
5 A REPRESENTATIVE OR REPRESENTATIVES OF THE LOCAL COURT FUNDING
6 UNIT. THE MEMORANDUM OF UNDERSTANDING SHALL DESCRIBE THE ROLE OF
7 EACH PARTY. A JUVENILE MENTAL HEALTH COURT IS SUBJECT TO THE SAME
8 PROCEDURES AND REQUIREMENTS PROVIDED IN THIS CHAPTER FOR A MENTAL
9 HEALTH COURT CREATED UNDER SUBSECTION (1), EXCEPT AS SPECIFICALLY
10 PROVIDED OTHERWISE IN THIS CHAPTER.

11 (3) A COURT THAT HAS ADOPTED A MENTAL HEALTH COURT UNDER THIS
12 SECTION MAY ACCEPT PARTICIPANTS FROM ANY OTHER JURISDICTION IN THIS
13 STATE BASED UPON THE RESIDENCE OF THE PARTICIPANT IN THE RECEIVING
14 JURISDICTION, THE NONAVAILABILITY OF A MENTAL HEALTH COURT IN THE
15 JURISDICTION WHERE THE PARTICIPANT IS CHARGED, AND THE AVAILABILITY
16 OF FINANCIAL RESOURCES FOR BOTH OPERATIONS OF THE MENTAL HEALTH
17 COURT PROGRAM AND TREATMENT SERVICES. A MENTAL HEALTH COURT MAY
18 REFUSE TO ACCEPT PARTICIPANTS FROM OTHER JURISDICTIONS.

19 SEC. 1092. A MENTAL HEALTH COURT MAY HIRE OR CONTRACT WITH
20 LICENSED OR ACCREDITED TREATMENT PROVIDERS, IN CONSULTATION WITH
21 THE LOCAL COMMUNITY MENTAL HEALTH SERVICE PROVIDER, AND OTHER SUCH
22 APPROPRIATE PERSONS TO ASSIST THE MENTAL HEALTH COURT IN FULFILLING
23 ITS REQUIREMENTS UNDER THIS CHAPTER.

24 SEC. 1093. (1) EACH MENTAL HEALTH COURT SHALL DETERMINE
25 WHETHER AN INDIVIDUAL MAY BE ADMITTED TO THE MENTAL HEALTH COURT.
26 NO INDIVIDUAL HAS A RIGHT TO BE ADMITTED INTO A MENTAL HEALTH
27 COURT. ADMISSION INTO A MENTAL HEALTH COURT PROGRAM IS AT THE

1 DISCRETION OF THE COURT BASED ON THE INDIVIDUAL'S LEGAL OR CLINICAL
2 ELIGIBILITY. AN INDIVIDUAL MAY BE ADMITTED TO MENTAL HEALTH COURT
3 REGARDLESS OF PRIOR PARTICIPATION OR PRIOR COMPLETION STATUS.
4 HOWEVER, IN NO CASE SHALL A VIOLENT OFFENDER BE ADMITTED INTO
5 MENTAL HEALTH COURT.

6 (2) IN ADDITION TO ADMISSION TO A MENTAL HEALTH COURT UNDER
7 THIS CHAPTER, AN INDIVIDUAL WHO IS ELIGIBLE FOR ADMISSION UNDER
8 THIS CHAPTER MAY ALSO BE ADMITTED TO A MENTAL HEALTH COURT UNDER
9 ANY OF THE FOLLOWING CIRCUMSTANCES:

10 (A) THE INDIVIDUAL HAS BEEN ASSIGNED THE STATUS OF YOUTHFUL
11 TRAINEE UNDER SECTION 11 OF CHAPTER II OF THE CODE OF CRIMINAL
12 PROCEDURE, 1927 PA 175, MCL 762.11.

13 (B) THE INDIVIDUAL HAS HAD CRIMINAL PROCEEDINGS AGAINST HIM OR
14 HER DEFERRED AND HAS BEEN PLACED ON PROBATION UNDER ANY OF THE
15 FOLLOWING:

16 (i) SECTION 7411 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
17 333.7411.

18 (ii) SECTION 4A OF CHAPTER IX OF THE CODE OF CRIMINAL
19 PROCEDURE, 1927 PA 175, MCL 769.4A.

20 (iii) SECTION 350A OR 430 OF THE MICHIGAN PENAL CODE, 1931 PA
21 328, MCL 750.350A AND 750.430.

22 (3) TO BE ADMITTED TO A MENTAL HEALTH COURT, AN INDIVIDUAL
23 SHALL COOPERATE WITH AND COMPLETE A PREADMISSION SCREENING AND
24 EVALUATION ASSESSMENT AND SHALL SUBMIT TO ANY FUTURE EVALUATION
25 ASSESSMENT AS DIRECTED BY THE MENTAL HEALTH COURT. A PREADMISSION
26 SCREENING AND EVALUATION ASSESSMENT SHALL INCLUDE ALL OF THE
27 FOLLOWING:

1 (A) A REVIEW OF THE INDIVIDUAL'S CRIMINAL HISTORY. A REVIEW OF
2 THE LAW ENFORCEMENT INFORMATION NETWORK MAY BE CONSIDERED
3 SUFFICIENT FOR PURPOSES OF THIS SUBDIVISION UNLESS A FURTHER REVIEW
4 IS WARRANTED. THE COURT MAY ACCEPT OTHER VERIFIABLE AND RELIABLE
5 INFORMATION FROM THE PROSECUTION OR DEFENSE TO COMPLETE ITS REVIEW
6 AND MAY REQUIRE THE INDIVIDUAL TO SUBMIT A STATEMENT AS TO WHETHER
7 OR NOT HE OR SHE HAS PREVIOUSLY BEEN ADMITTED TO A MENTAL HEALTH
8 COURT AND THE RESULTS OF HIS OR HER PARTICIPATION IN THE PRIOR
9 PROGRAM OR PROGRAMS.

10 (B) AN ASSESSMENT OF THE RISK OF DANGER OR HARM TO THE
11 INDIVIDUAL, OTHERS, OR THE COMMUNITY.

12 (C) A MENTAL HEALTH ASSESSMENT, CLINICAL IN NATURE, AND USING
13 STANDARDIZED INSTRUMENTS THAT HAVE ACCEPTABLE RELIABILITY AND
14 VALIDITY, MEETING DIAGNOSTIC CRITERIA FOR A SERIOUS MENTAL ILLNESS,
15 SERIOUS EMOTIONAL DISTURBANCE, CO-OCCURRING DISORDER, OR
16 DEVELOPMENTAL DISABILITY.

17 (D) A REVIEW OF ANY SPECIAL NEEDS OR CIRCUMSTANCES OF THE
18 INDIVIDUAL THAT MAY POTENTIALLY AFFECT THE INDIVIDUAL'S ABILITY TO
19 RECEIVE MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT AND FOLLOW THE
20 COURT'S ORDERS.

21 (E) FOR A JUVENILE, AN ASSESSMENT OF THE JUVENILE'S FAMILY
22 SITUATION, INCLUDING, TO THE EXTENT PRACTICABLE, A COMPARABLE
23 REVIEW OF ANY GUARDIANS OR PARENTS.

24 (4) EXCEPT AS OTHERWISE PERMITTED IN THIS CHAPTER, ANY
25 STATEMENT OR OTHER INFORMATION OBTAINED AS A RESULT OF
26 PARTICIPATING IN A PREADMISSION SCREENING AND EVALUATION ASSESSMENT
27 UNDER SUBSECTION (3) 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 (5) THE COURT MAY REQUEST THAT THE DEPARTMENT OF STATE POLICE
6 PROVIDE TO THE COURT INFORMATION CONTAINED IN THE LAW ENFORCEMENT
7 INFORMATION NETWORK PERTAINING TO AN INDIVIDUAL APPLICANT'S
8 CRIMINAL HISTORY FOR THE PURPOSES OF DETERMINING AN INDIVIDUAL'S
9 ELIGIBILITY FOR ADMISSION INTO THE MENTAL HEALTH COURT AND GENERAL
10 CRIMINAL HISTORY REVIEW.

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

14 (a) House Bill No. 4695.

15 (b) House Bill No. 4696.

16 (c) House Bill No. 4697.