

SENATE 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:

1  
2  
3  
4  
5  
6  
7

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-

1 OCCURRING DISORDERS OCCURS WHEN AT LEAST 1 DISORDER OF EACH TYPE  
2 CAN BE ESTABLISHED INDEPENDENT OF THE OTHER AND IS NOT SIMPLY A  
3 CLUSTER OF SYMPTOMS RESULTING FROM 1 DISORDER.

4 (B) "COURT FUNDING UNIT" MEANS THAT TERM AS DEFINED IN SECTION  
5 151E OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL  
6 600.151E.

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

9 (D) "DOMESTIC VIOLENCE OFFENSE" MEANS ANY CRIME ALLEGED TO  
10 HAVE BEEN COMMITTED BY AN INDIVIDUAL AGAINST HIS OR HER SPOUSE OR  
11 FORMER SPOUSE, AN INDIVIDUAL WITH WHOM HE OR SHE HAS A CHILD IN  
12 COMMON, AN INDIVIDUAL WITH WHOM HE OR SHE HAS HAD A DATING  
13 RELATIONSHIP, OR AN INDIVIDUAL WHO RESIDES OR HAS RESIDED IN THE  
14 SAME HOUSEHOLD.

15 (E) "MENTAL HEALTH COURT" MEANS ANY OF THE FOLLOWING:

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

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

23 (A) A BROAD-BASED GROUP OF STAKEHOLDERS REPRESENTING THE  
24 CRIMINAL JUSTICE SYSTEM, MENTAL HEALTH SYSTEM, SUBSTANCE ABUSE  
25 TREATMENT SYSTEM, ANY RELATED SYSTEMS, AND THE COMMUNITY GUIDE THE  
26 PLANNING AND ADMINISTRATION OF THE COURT.

27 (B) ELIGIBILITY CRITERIA THAT ADDRESS PUBLIC SAFETY AND A

1 COMMUNITY'S TREATMENT CAPACITY, IN ADDITION TO THE AVAILABILITY OF  
2 ALTERNATIVES TO PRETRIAL DETENTION FOR DEFENDANTS WITH MENTAL  
3 ILLNESSES, AND THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN  
4 MENTAL ILLNESS AND A DEFENDANT'S OFFENSES, WHILE ALLOWING THE  
5 INDIVIDUAL CIRCUMSTANCES OF EACH CASE TO BE CONSIDERED.

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

9 (D) TERMS OF PARTICIPATION ARE CLEAR, PROMOTE PUBLIC SAFETY,  
10 FACILITATE THE DEFENDANT'S ENGAGEMENT IN TREATMENT, ARE  
11 INDIVIDUALIZED TO CORRESPOND TO THE LEVEL OF RISK THAT EACH  
12 DEFENDANT PRESENTS TO THE COMMUNITY, AND PROVIDE FOR POSITIVE LEGAL  
13 OUTCOMES FOR THOSE INDIVIDUALS WHO SUCCESSFULLY COMPLETE THE  
14 PROGRAM.

15 (E) IN ACCORDANCE WITH THE MICHIGAN INDIGENT DEFENSE  
16 COMMISSION ACT, 2013 PA 93, MCL 780.981 TO 780.1003, PROVIDE LEGAL  
17 COUNSEL TO INDIGENT DEFENDANTS TO EXPLAIN PROGRAM REQUIREMENTS,  
18 INCLUDING VOLUNTARY PARTICIPATION, AND GUIDES DEFENDANTS IN  
19 DECISIONS ABOUT PROGRAM INVOLVEMENT. PROCEDURES EXIST IN THE MENTAL  
20 HEALTH COURT TO ADDRESS, IN A TIMELY FASHION, CONCERNS ABOUT A  
21 DEFENDANT'S COMPETENCY WHENEVER THEY ARISE.

22 (F) CONNECT PARTICIPANTS TO COMPREHENSIVE AND INDIVIDUALIZED  
23 TREATMENT SUPPORTS AND SERVICES IN THE COMMUNITY AND STRIVE TO USE,  
24 AND INCREASE THE AVAILABILITY OF, TREATMENT AND SERVICES THAT ARE  
25 EVIDENCE BASED.

26 (G) HEALTH AND LEGAL INFORMATION ARE SHARED IN A MANNER THAT  
27 PROTECTS POTENTIAL PARTICIPANTS' CONFIDENTIALITY RIGHTS AS MENTAL

1 HEALTH CONSUMERS AND THEIR CONSTITUTIONAL RIGHTS AS DEFENDANTS.  
2 INFORMATION GATHERED AS PART OF THE PARTICIPANTS' COURT-ORDERED  
3 TREATMENT PROGRAM OR SERVICES ARE SAFEGUARDED FROM PUBLIC  
4 DISCLOSURE IN THE EVENT THAT PARTICIPANTS ARE RETURNED TO  
5 TRADITIONAL COURT PROCESSING.

6 (H) A TEAM OF CRIMINAL JUSTICE AND MENTAL HEALTH STAFF AND  
7 TREATMENT PROVIDERS RECEIVES SPECIAL, ONGOING TRAINING AND ASSISTS  
8 MENTAL HEALTH COURT PARTICIPANTS ACHIEVE TREATMENT AND CRIMINAL  
9 JUSTICE GOALS BY REGULARLY REVIEWING AND REVISING THE COURT  
10 PROCESS.

11 (I) CRIMINAL JUSTICE AND MENTAL HEALTH STAFF COLLABORATIVELY  
12 MONITOR PARTICIPANTS' ADHERENCE TO COURT CONDITIONS, OFFER  
13 INDIVIDUALIZED GRADUATED INCENTIVES AND SANCTIONS, AND MODIFY  
14 TREATMENT AS NECESSARY TO PROMOTE PUBLIC SAFETY AND PARTICIPANTS'  
15 RECOVERY.

16 (J) DATA ARE COLLECTED AND ANALYZED TO DEMONSTRATE THE IMPACT  
17 OF THE MENTAL HEALTH COURT, ITS PERFORMANCE IS ASSESSED  
18 PERIODICALLY, AND PROCEDURES ARE MODIFIED ACCORDINGLY, COURT  
19 PROCESSES ARE INSTITUTIONALIZED, AND SUPPORT FOR THE COURT IN THE  
20 COMMUNITY IS CULTIVATED AND EXPANDED.

21 (F) "PARTICIPANT" MEANS AN INDIVIDUAL WHO IS ADMITTED INTO A  
22 MENTAL HEALTH COURT.

23 (G) "SERIOUS EMOTIONAL DISTURBANCE" MEANS THAT TERM AS DEFINED  
24 IN SECTION 100D OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL  
25 330.1100D.

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

1           (I) "VIOLENT OFFENDER" MEANS AN INDIVIDUAL WHO IS CURRENTLY  
2 CHARGED WITH, OR HAS BEEN CONVICTED OF, AN OFFENSE INVOLVING THE  
3 DEATH OF, OR A SERIOUS BODILY INJURY TO, ANY INDIVIDUAL, WHETHER OR  
4 NOT ANY OF THESE CIRCUMSTANCES ARE AN ELEMENT OF THE OFFENSE, OR  
5 WITH CRIMINAL SEXUAL CONDUCT IN ANY DEGREE.

6           SEC. 1091. (1) THE CIRCUIT COURT OR THE DISTRICT COURT IN ANY  
7 JUDICIAL CIRCUIT OR A DISTRICT COURT IN ANY JUDICIAL DISTRICT MAY  
8 ADOPT OR INSTITUTE A MENTAL HEALTH COURT PURSUANT TO STATUTE OR  
9 COURT RULES. HOWEVER, IF THE MENTAL HEALTH COURT WILL INCLUDE IN  
10 ITS PROGRAM INDIVIDUALS WHO MAY BE ELIGIBLE FOR DISCHARGE AND  
11 DISMISSAL OF AN OFFENSE, DELAYED SENTENCE, OR DEVIATION FROM THE  
12 SENTENCING GUIDELINES, THE CIRCUIT OR DISTRICT COURT SHALL NOT  
13 ADOPT OR INSTITUTE THE MENTAL HEALTH COURT UNLESS THE CIRCUIT OR  
14 DISTRICT COURT ENTERS INTO A MEMORANDUM OF UNDERSTANDING WITH EACH  
15 PARTICIPATING PROSECUTING ATTORNEY IN THE CIRCUIT OR DISTRICT COURT  
16 DISTRICT, A REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY  
17 MENTAL HEALTH SERVICES PROGRAMS, A REPRESENTATIVE OF THE CRIMINAL  
18 DEFENSE BAR, AND A REPRESENTATIVE OR REPRESENTATIVES OF COMMUNITY  
19 TREATMENT PROVIDERS. THE MEMORANDUM OF UNDERSTANDING ALSO MAY  
20 INCLUDE OTHER PARTIES CONSIDERED NECESSARY, INCLUDING, BUT NOT  
21 LIMITED TO, A REPRESENTATIVE OR REPRESENTATIVES OF THE LOCAL COURT  
22 FUNDING UNIT OR A DOMESTIC VIOLENCE SERVICE PROVIDER PROGRAM THAT  
23 RECEIVES FUNDING FROM THE STATE DOMESTIC VIOLENCE PREVENTION AND  
24 TREATMENT BOARD. THE MEMORANDUM OF UNDERSTANDING SHALL DESCRIBE THE  
25 ROLE OF EACH PARTY.

26           (2) A FAMILY DIVISION OF CIRCUIT COURT IN ANY JUDICIAL CIRCUIT  
27 MAY ADOPT OR INSTITUTE A JUVENILE MENTAL HEALTH COURT PURSUANT TO

1 STATUTE OR COURT RULES. THE CREATION OR EXISTENCE OF A MENTAL  
2 HEALTH COURT DOES NOT CHANGE THE STATUTES OR COURT RULES CONCERNING  
3 DISCHARGE OR DISMISSAL OF AN OFFENSE, OR A DELAYED SENTENCE OR  
4 DEFERRED ENTRY OF JUDGMENT. A FAMILY DIVISION OF CIRCUIT COURT  
5 ADOPTING OR INSTITUTING A JUVENILE MENTAL HEALTH COURT SHALL ENTER  
6 INTO A MEMORANDUM OF UNDERSTANDING WITH ALL PARTICIPATING  
7 PROSECUTING AUTHORITIES IN THE CIRCUIT OR DISTRICT COURT, A  
8 REPRESENTATIVE OR REPRESENTATIVES OF THE COMMUNITY MENTAL HEALTH  
9 SERVICES PROGRAM, A REPRESENTATIVE OF THE CRIMINAL DEFENSE BAR  
10 SPECIALIZING IN JUVENILE LAW, AND A REPRESENTATIVE OR  
11 REPRESENTATIVES OF COMMUNITY TREATMENT PROVIDERS THAT DESCRIBES THE  
12 ROLES AND RESPONSIBILITIES OF EACH PARTY TO THE MEMORANDUM OF  
13 UNDERSTANDING. THE MEMORANDUM OF UNDERSTANDING ALSO MAY INCLUDE  
14 OTHER PARTIES CONSIDERED NECESSARY, INCLUDING, BUT NOT LIMITED TO,  
15 A REPRESENTATIVE OR REPRESENTATIVES OF THE LOCAL COURT FUNDING UNIT  
16 OR A DOMESTIC VIOLENCE SERVICE PROVIDER PROGRAM THAT RECEIVES  
17 FUNDING FROM THE STATE DOMESTIC VIOLENCE PREVENTION AND TREATMENT  
18 BOARD. THE MEMORANDUM OF UNDERSTANDING SHALL DESCRIBE THE ROLE OF  
19 EACH PARTY. A JUVENILE MENTAL HEALTH COURT IS SUBJECT TO THE SAME  
20 PROCEDURES AND REQUIREMENTS PROVIDED IN THIS CHAPTER FOR A MENTAL  
21 HEALTH COURT CREATED UNDER SUBSECTION (1), EXCEPT AS SPECIFICALLY  
22 PROVIDED OTHERWISE IN THIS CHAPTER.

23 (3) A COURT THAT HAS ADOPTED A MENTAL HEALTH COURT UNDER THIS  
24 SECTION MAY ACCEPT PARTICIPANTS FROM ANY OTHER JURISDICTION IN THIS  
25 STATE BASED UPON THE RESIDENCE OF THE PARTICIPANT IN THE RECEIVING  
26 JURISDICTION, THE NONAVAILABILITY OF A MENTAL HEALTH COURT IN THE  
27 JURISDICTION WHERE THE PARTICIPANT IS CHARGED, AND THE AVAILABILITY

1 OF FINANCIAL RESOURCES FOR BOTH OPERATIONS OF THE MENTAL HEALTH  
2 COURT PROGRAM AND TREATMENT SERVICES. A MENTAL HEALTH COURT MAY  
3 REFUSE TO ACCEPT PARTICIPANTS FROM OTHER JURISDICTIONS.

4 SEC. 1092. A MENTAL HEALTH COURT MAY HIRE OR CONTRACT WITH  
5 LICENSED OR ACCREDITED TREATMENT PROVIDERS, IN CONSULTATION WITH  
6 THE LOCAL COMMUNITY MENTAL HEALTH SERVICE PROVIDER, AND OTHER SUCH  
7 APPROPRIATE PERSONS TO ASSIST THE MENTAL HEALTH COURT IN FULFILLING  
8 ITS REQUIREMENTS UNDER THIS CHAPTER.

9 SEC. 1093. (1) EACH MENTAL HEALTH COURT SHALL DETERMINE  
10 WHETHER AN INDIVIDUAL MAY BE ADMITTED TO THE MENTAL HEALTH COURT.  
11 NO INDIVIDUAL HAS A RIGHT TO BE ADMITTED INTO A MENTAL HEALTH  
12 COURT. ADMISSION INTO A MENTAL HEALTH COURT PROGRAM IS AT THE  
13 DISCRETION OF THE COURT BASED ON THE INDIVIDUAL'S LEGAL OR CLINICAL  
14 ELIGIBILITY. AN INDIVIDUAL MAY BE ADMITTED TO MENTAL HEALTH COURT  
15 REGARDLESS OF PRIOR PARTICIPATION OR PRIOR COMPLETION STATUS.  
16 HOWEVER, IN NO CASE SHALL A VIOLENT OFFENDER BE ADMITTED INTO  
17 MENTAL HEALTH COURT.

18 (2) IN ADDITION TO ADMISSION TO A MENTAL HEALTH COURT UNDER  
19 THIS CHAPTER, AN INDIVIDUAL WHO IS ELIGIBLE FOR ADMISSION UNDER  
20 THIS CHAPTER MAY ALSO BE ADMITTED TO A MENTAL HEALTH COURT UNDER  
21 ANY OF THE FOLLOWING CIRCUMSTANCES:

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

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

1           (i) SECTION 7411 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL  
2   333.7411.

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

5           (iii) SECTION 350A OR 430 OF THE MICHIGAN PENAL CODE, 1931 PA  
6   328, MCL 750.350A AND 750.430.

7           (3) TO BE ADMITTED TO A MENTAL HEALTH COURT, AN INDIVIDUAL  
8   SHALL COOPERATE WITH AND COMPLETE A PREADMISSION SCREENING AND  
9   EVALUATION ASSESSMENT AND SHALL SUBMIT TO ANY FUTURE EVALUATION  
10  ASSESSMENT AS DIRECTED BY THE MENTAL HEALTH COURT. A PREADMISSION  
11  SCREENING AND EVALUATION ASSESSMENT SHALL INCLUDE ALL OF THE  
12  FOLLOWING:

13           (A) A REVIEW OF THE INDIVIDUAL'S CRIMINAL HISTORY. A REVIEW OF  
14  THE LAW ENFORCEMENT INFORMATION NETWORK MAY BE CONSIDERED  
15  SUFFICIENT FOR PURPOSES OF THIS SUBDIVISION UNLESS A FURTHER REVIEW  
16  IS WARRANTED. THE COURT MAY ACCEPT OTHER VERIFIABLE AND RELIABLE  
17  INFORMATION FROM THE PROSECUTION OR DEFENSE TO COMPLETE ITS REVIEW  
18  AND MAY REQUIRE THE INDIVIDUAL TO SUBMIT A STATEMENT AS TO WHETHER  
19  OR NOT HE OR SHE HAS PREVIOUSLY BEEN ADMITTED TO A MENTAL HEALTH  
20  COURT AND THE RESULTS OF HIS OR HER PARTICIPATION IN THE PRIOR  
21  PROGRAM OR PROGRAMS.

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

24           (C) A MENTAL HEALTH ASSESSMENT, CLINICAL IN NATURE, AND USING  
25  STANDARDIZED INSTRUMENTS THAT HAVE ACCEPTABLE RELIABILITY AND  
26  VALIDITY, MEETING DIAGNOSTIC CRITERIA FOR A SERIOUS MENTAL ILLNESS,  
27  SERIOUS EMOTIONAL DISTURBANCE, CO-OCCURRING DISORDER, OR



1 DEVELOPMENTAL DISABILITY.

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

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

9 (4) EXCEPT AS OTHERWISE PERMITTED IN THIS CHAPTER, ANY  
10 STATEMENT OR OTHER INFORMATION OBTAINED AS A RESULT OF  
11 PARTICIPATING IN A PREADMISSION SCREENING AND EVALUATION ASSESSMENT  
12 UNDER SUBSECTION (3) IS CONFIDENTIAL AND IS EXEMPT FROM DISCLOSURE  
13 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO  
14 15.246, AND SHALL NOT BE USED IN A CRIMINAL PROSECUTION, UNLESS IT  
15 REVEALS CRIMINAL ACTS OTHER THAN, OR INCONSISTENT WITH, PERSONAL  
16 DRUG USE.

17 (5) THE COURT MAY REQUEST THAT THE DEPARTMENT OF STATE POLICE  
18 PROVIDE TO THE COURT INFORMATION CONTAINED IN THE LAW ENFORCEMENT  
19 INFORMATION NETWORK PERTAINING TO AN INDIVIDUAL APPLICANT'S  
20 CRIMINAL HISTORY FOR THE PURPOSES OF DETERMINING AN INDIVIDUAL'S  
21 ELIGIBILITY FOR ADMISSION INTO THE MENTAL HEALTH COURT AND GENERAL  
22 CRIMINAL HISTORY REVIEW.

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

26 (a) House Bill No. 4695.

27 (b) House Bill No. 4696.

1 (c) House Bill No. 4697.