

HOUSE BILL NO. 4523

May 04, 2023, Introduced by Reps. Hope, Breen, Byrnes, Glanville, Conlin, Brabec, Arbit, MacDonell, Andrews, Steckloff, Tyrone Carter, Liberati, Filler, Tsernoglou, Wilson, Hood, Dievendorf, Hill, Coffia, Snyder, Morse and Aiyash and referred to the Committee on Judiciary.

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

1 health court regardless of prior participation or prior completion
2 status. ~~However, in no case shall~~ **Unless the mental health court**
3 **judge and the prosecuting attorney, in consultation with any known**
4 **victim in the instant case, consent,** a violent offender **must not** be
5 admitted into 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~~**must** cooperate with and complete a preadmission screening and
24 evaluation assessment and ~~shall~~**must** submit to any future
25 evaluation assessment as directed by the mental health court. A
26 preadmission screening and evaluation assessment must include all
27 of the following:

28 (a) A review of the individual's criminal history. A review of
29 the law enforcement information network may be considered

1 sufficient for purposes of this subdivision unless a further review
2 is warranted. The court may accept other verifiable and reliable
3 information from the prosecution or defense to complete its review
4 and may require the individual to submit a statement as to whether
5 or not ~~he or she~~ **the individual** has previously been admitted to a
6 mental health court and the results of ~~his or her~~ **the individual's**
7 participation in the prior program or programs.

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

10 (c) A mental health assessment, clinical in nature, and using
11 standardized instruments that have acceptable reliability and
12 validity, meeting diagnostic criteria for a serious mental illness,
13 serious emotional disturbance, co-occurring disorder, or
14 developmental disability.

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

19 (4) Except as otherwise permitted in this chapter, any
20 statement or other information obtained as a result of
21 participating in a preadmission screening and evaluation assessment
22 under subsection (3) is confidential and is exempt from disclosure
23 under the freedom of information act, 1976 PA 442, MCL 15.231 to
24 15.246, and must not be used in a criminal prosecution, unless it
25 reveals criminal acts other than, or inconsistent with, personal
26 drug use.

27 (5) The court may request that the department of state police
28 provide to the court information contained in the law enforcement
29 information network pertaining to an individual applicant's

1 criminal history for the purposes of determining an individual's
2 eligibility for admission into the mental health court and general
3 criminal history review.

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