

SENATE BILL No. 998

February 17, 2004, Introduced by Senators CROSEY, PATTERSON, SANBORN and BISHOP and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9947) by adding chapter 10A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 10A.

DRUG COURTS

Sec. 1060. As used in this chapter:

(a) "Drug treatment court" means a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol. A drug treatment court should comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:

(i) Integration of alcohol and other drug treatment services with justice system case processing.

1 (ii) Use of a nonadversarial approach by prosecution and
2 defense that promotes public safety while protecting any
3 participant's due process rights.

4 (iii) Identification of eligible participants early with
5 prompt placement in the program.

6 (iv) Access to a continuum of alcohol, drug, and other
7 related treatment and rehabilitation services.

8 (v) Monitoring of participants effectively by frequent
9 alcohol and other drug testing to ensure abstinence from drugs or
10 alcohol.

11 (vi) Use of a coordinated strategy with a regimen of
12 graduated sanctions and rewards to govern the court's responses
13 to participants' compliance.

14 (vii) Ongoing close judicial interaction with each
15 participant and supervision of progress for each participant.

16 (viii) Monitoring and evaluation of the achievement of
17 program goals and the program's effectiveness.

18 (ix) Continued interdisciplinary education in order to
19 promote effective drug court planning, implementation, and
20 operation.

21 (x) The forging of partnerships among other drug courts,
22 public agencies, and community-based organizations to generate
23 local support.

24 (b) "Participant" means an individual who is admitted into a
25 drug treatment court.

26 (c) "Violent offender" means an individual who meets either
27 of the following criteria:

1 (i) Is currently charged with or has pleaded guilty to, or,
2 if a juvenile, is currently alleged to have committed a
3 delinquent act or has admitted responsibility for, an offense
4 involving the death of or a serious bodily injury to any
5 individual, or the carrying, possessing, or use of a firearm or
6 other dangerous weapon by that individual, or the use or
7 attempted use of force against another individual, whether or not
8 any of these circumstances are an element of the offense, or is
9 criminal sexual conduct of any degree.

10 (ii) Has 1 or more prior convictions for, or, if a juvenile,
11 has 1 or more prior admissions of responsibility for, a felony
12 involving the use or attempted use of force against another
13 individual with the intent to cause death or serious bodily
14 harm.

15 Sec. 1062. (1) The circuit court in any judicial circuit or
16 the district court in any judicial district may adopt or
17 institute a drug treatment court, pursuant to statute or court
18 rules. However, the circuit or district court shall not adopt or
19 institute a drug treatment court unless the circuit or district
20 court enters into a memorandum or agreement of understanding with
21 the prosecutor, treatment providers, and probation departments in
22 that circuit or district. The agreement also may include the
23 roles of local law enforcement, defense counsel, and community
24 corrections agencies in that circuit or district. The agreement
25 shall describe the role of each party.

26 (2) The family division of circuit court in any judicial
27 circuit may adopt or institute a juvenile drug treatment court,

1 pursuant to statute or court rules. However, the family division
2 of circuit court shall not adopt or institute a juvenile drug
3 treatment court unless the family division of circuit court
4 enters into a memorandum or agreement of understanding with the
5 prosecutor, treatment providers, and probation departments in
6 that circuit. The agreement also may include the roles of local
7 law enforcement, defense counsel, and community corrections
8 agencies in that circuit. The agreement shall describe the role
9 of each party. A juvenile drug treatment court is subject to the
10 same procedures and requirements provided in this chapter for
11 drug treatment courts created under subsection (1), except as
12 specifically provided otherwise in this chapter.

13 (3) A court that is adopting a drug treatment court shall
14 participate in training as required by the state court
15 administrative office and the bureau of justice assistance of the
16 United States department of justice.

17 Sec. 1063. A drug treatment court may hire or contract with
18 licensed treatment providers and other such appropriate persons
19 to assist the drug treatment court in fulfilling its requirements
20 under this chapter, such as the investigation of an individual's
21 background or circumstances, or the clinical evaluation of an
22 individual, for his or her admission into or participation in a
23 drug treatment court.

24 Sec. 1064. (1) Each drug treatment court shall determine
25 whether an individual may be admitted to the drug treatment
26 court. No individual has a right to be admitted into a drug
27 treatment court. However, an individual is not eligible for

1 admission into a drug treatment court if he or she is a violent
2 offender.

3 (2) An individual who has been assigned the status of
4 youthful trainee under section 11 of chapter II of the code of
5 criminal procedure, 1927 PA 175, MCL 762.11, or who has had
6 criminal proceedings against him or her dismissed under section
7 7411 of the public health code, 1978 PA 368, MCL 333.7411, is
8 eligible only once under those sections of law for admission into
9 a drug treatment court. An individual participating under
10 section 11 of chapter II of the code of criminal procedure, 1927
11 PA 175, MCL 762.11, for purposes of receiving treatment for drug
12 or alcohol abuse or an individual participating under section
13 7411 of the public health code, 1978 PA 368, MCL 333.7411, shall
14 be considered participating in a drug treatment court for
15 purposes of this act.

16 (3) To be admitted to a drug treatment court, an individual
17 must cooperate with and complete a preadmissions screening and
18 evaluation assessment and must agree to cooperate with any future
19 evaluation assessment as directed by the drug treatment court. A
20 preadmission screening and evaluation assessment shall include
21 all of the following:

22 (a) A complete review of the individual's criminal history.

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

25 (c) A complete review of the individual's history regarding
26 the use or abuse of any controlled substance or alcohol and a
27 clinical assessment of whether the individual abuses controlled

1 substances or alcohol or is drug or alcohol dependent.

2 (d) A complete review of any special needs or circumstances
3 of the individual that may potentially affect the individual's
4 ability to receive substance abuse treatment and follow the
5 court's orders.

6 (e) For a juvenile, a complete assessment of the family
7 situation including a similarly complete review of any guardians
8 or parents.

9 Sec. 1066. Before an individual is admitted into a drug
10 treatment court, the court shall find on the record, or place a
11 statement in the court file pertaining to, all of the following:

12 (a) The individual is dependent upon or abusing drugs or
13 alcohol and is an appropriate candidate for participation in the
14 drug treatment court.

15 (b) The individual understands the consequences of entering
16 the drug treatment court and agrees to comply with all court
17 orders and requirements of the court's program and treatment
18 providers.

19 (c) The individual is not an unwarranted or substantial risk
20 to the safety of the public or any individual, based upon the
21 screening and assessment or other information presented to the
22 court.

23 (d) The terms, conditions, and the duration of the agreement
24 between the parties, especially as to the outcome for the
25 participant of the drug treatment court upon successful
26 completion by the participant or termination of participation.

27 Sec. 1068. (1) If the individual being considered for

1 admission to a drug treatment court is charged in a criminal case
2 or, in the case of a juvenile, is alleged to have engaged in
3 activity that would constitute a criminal act if committed by an
4 adult, his or her admission is subject to all of the following
5 conditions:

6 (a) The offense or offenses allegedly committed by the
7 individual must be related to the abuse, illegal use, or
8 possession of a controlled substance or alcohol.

9 (b) The individual, if an adult, must plead guilty to the
10 charges on the record. The individual, if a juvenile, must admit
11 responsibility for the violation that he or she is accused of
12 having committed.

13 (c) The individual must waive, in writing, the right to a
14 preliminary examination, speedy trial, and representation by an
15 attorney at all drug court sessions. Any statement or other
16 information obtained as a result of participating in a drug
17 treatment court is confidential and is exempt from disclosure
18 under the freedom of information act, 1976 PA 442, MCL 15.231 to
19 15.246, and shall not be used in a criminal prosecution, unless
20 it reveals criminal acts other than, or inconsistent with,
21 personal drug use.

22 (d) The individual must sign a written agreement to
23 participate in the drug treatment court.

24 (2) The prosecutor must approve of the guilty plea or, in the
25 case of a juvenile, the admission of responsibility and must
26 approve of the admission of the individual into the drug
27 treatment court.

1 (3) The drug treatment court must permit any victim of the
2 offense or offenses of which the individual is charged, any
3 victim of a prior offense of which that individual was convicted,
4 and members of the community in which either the offenses were
5 committed or in which the defendant resides to submit a written
6 statement to the court regarding the advisability of admitting
7 the individual into the drug treatment court.

8 Sec. 1070. (1) Upon admitting an individual into a drug
9 treatment court, the court shall maintain jurisdiction over the
10 individual. In the case of a juvenile participant, the court may
11 obtain jurisdiction over any parents or guardians of the juvenile
12 in order to assist in ensuring the juvenile's continued
13 participation and successful completion of the drug treatment
14 court, and may issue and enforce any appropriate and necessary
15 order regarding the parent or guardian of a juvenile
16 participant.

17 (2) The drug treatment court shall cooperate with, and act in
18 a collaborative manner with, the prosecutor, defense counsel,
19 treatment providers, probation departments, and, to the extent
20 possible, local law enforcement, the department of corrections,
21 and community corrections agencies.

22 (3) The drug treatment court may require an individual
23 admitted into the court to pay a fee of not more than \$500.00.

24 Sec. 1072. A drug treatment court shall provide a drug
25 court participant with all of the following:

26 (a) Consistent, continual, and close monitoring of
27 participant and interaction between court, treatment providers,

1 probation, and participant.

2 (b) Mandatory periodic and random testing for the presence of
3 any controlled substance or alcohol in a participant's blood or
4 breath, using best common practices of the industry and accepted
5 scientifically valid methods.

6 (c) Periodic evaluation assessments of the participant's
7 circumstances and progress in the program.

8 (d) A regimen or strategy of appropriate and graduated but
9 immediate rewards for compliance and sanctions for noncompliance,
10 including, but not limited to, the possibility of incarceration
11 or confinement.

12 (e) Substance abuse treatment services, relapse prevention
13 services, education, and vocational opportunities as appropriate
14 and practicable.

15 Sec. 1074. (1) In order to continue to participate in and
16 successfully complete a drug treatment court program, an
17 individual shall do both of the following:

18 (a) Pay all court ordered fines, costs, or fees pursuant to
19 subsection (2).

20 (b) Pay all court ordered restitution.

21 (c) Comply with all court orders, violations of which may be
22 sanctioned according to the court's discretion.

23 (2) The court shall require that a participant pay for all
24 fines and the drug treatment court fee allowed under section
25 1070(3) and pay all, or make substantial contributions toward
26 payment of, the costs of the treatment and the drug court program
27 services provided to the participant, including, but not limited

1 to, the costs of urinalysis and such testing or any counseling
2 provided. If the court determines that the payment of fines,
3 fees, or costs of treatment under this subsection would be a
4 substantial hardship for the individual or would interfere with
5 the individual's substance abuse treatment, the court may waive
6 all or part of those fines, fees, or costs.

7 Sec. 1076. (1) Upon completion or termination of the drug
8 treatment court program, the court shall find on the record or
9 place a written statement in the court file as to whether the
10 participant completed the program successfully or whether the
11 individual's participation in the program was terminated and, if
12 it was terminated, the reason for the termination.

13 (2) For a participant who successfully completes probation,
14 the court shall comply with the agreement made with the
15 participant upon admission into the drug treatment court, or the
16 agreement as it was altered after admission by the court with
17 approval of the participant and the prosecutor for that
18 jurisdiction. Except as provided under section 11 of chapter II
19 of the code of criminal procedure, 1927 PA 175, MCL 762.11, or
20 under section 7411 of the public health code, 1978 PA 368, MCL
21 333.7411, the court shall send a record of the conviction and
22 sentence pursuant to the agreement or, in the case of a juvenile,
23 the finding or adjudication of responsibility and disposition
24 pursuant to the agreement, to the criminal justice information
25 center of the department of state police and shall also enter
26 that information into the law enforcement information network
27 with an indication of participation by the individual in a drug

1 treatment court. All proceedings regarding the disposition of
2 the criminal charge and participation in drug treatment court may
3 be closed to public inspection, and are exempt from disclosure
4 under the freedom of information act, 1976 PA 442, MCL 15.231 to
5 15.246, if part of the agreement, but shall be open to the courts
6 of this state or another state, the department of corrections,
7 law enforcement personnel, and prosecutors only for use in the
8 performance of their duties or to determine whether an employee
9 has violated his or her conditions of employment or whether an
10 applicant meets criteria for employment. The records and
11 identifications division of the department of state police shall
12 retain a nonpublic record of an arrest and conviction under this
13 subsection.

14 (3) For a participant whose participation is terminated or
15 who fails to successfully complete the drug treatment court
16 program, the court may proceed to sentence the individual for the
17 original charges to which the individual pleaded guilty or, if a
18 juvenile, to which the juvenile admitted responsibility prior to
19 admission to the drug treatment court. Upon sentencing the
20 individual, the court shall send a record of that sentence and
21 the individual's unsuccessful participation in the drug treatment
22 court to the criminal justice information center of the
23 department of state police and shall also enter that information
24 into the law enforcement information network, with an indication
25 that the individual unsuccessfully participated in a drug
26 treatment court.

27 (4) Upon completion or termination of the drug treatment

1 court for a participant, and for a period of 3 years after that
2 date, the court must continue to provide for statistical analyses
3 by monitoring the former participants' criminal history through
4 the law enforcement information network system to determine if
5 there is any relapse or continued substance abuse or other
6 related criminality as part of their overall program
7 evaluations. The court may request that the department of state
8 police provide to the court information contained in the law
9 enforcement information network pertaining to a participant's
10 criminal history during and after his or her participation in the
11 drug court program. The information shall be used by the court
12 to evaluate that individual's participation in the program and to
13 evaluate the effectiveness of the drug court program. The
14 department of state police shall provide the information
15 requested by a drug court under this subsection.

16 Sec. 1078. (1) Each drug treatment court shall collect data
17 on each individual applicant and participant case and the entire
18 program as required by the state court administrative office and
19 shall be responsible for evaluating annually the performance of
20 that program as follows:

21 (a) Each drug treatment court must have an independent party
22 review and evaluate the drug treatment court. The drug treatment
23 court must fully cooperate with this evaluator and provide all
24 data requested.

25 (b) Each drug treatment court's evaluation plan must be
26 presented and approved by the state court administrative office.

27 (c) As soon as practicable, the drug treatment court shall

1 include in its evaluation a review of a comparison or control
2 group with comparable information collected on this comparison or
3 control group. This may include individuals referred to the drug
4 treatment court who refused admission in the drug treatment court
5 or other comparable individuals, but may not include those
6 individuals who were refused admission.

7 (d) Each drug treatment court must maintain files or
8 databases on each individual applicant or referral who is denied
9 or refused admission to the program, including the reasons for
10 the denial or rejection, the criminal history of the applicant,
11 the preadmission evaluation and assessment, and other demographic
12 information.

13 (e) Each drug treatment court must maintain files or
14 databases on each individual participant in the program for
15 review and evaluation as well as treatment. This information
16 must include:

17 (i) Location and contact information for each individual
18 participant both upon admission and termination or completion of
19 the program for follow-up reviews. This should include third
20 party contact information.

21 (ii) Significant transition point dates, including dates of
22 referral, enrollment, new court orders, violations, detentions,
23 changes in services or treatments provided, discharge for
24 completion or termination, any provision of after-care, and
25 after-program recidivism, including offense dates, conviction
26 dates, and incarceration dates, both for detention and release.

27 (iii) The individual's precipitating offenses and significant

1 factual information, source of referral, and all drug treatment
2 court evaluations and assessments.

3 (iv) Treatments provided, including intensity of care or
4 dosage, and their outcomes.

5 (v) Other services or opportunities provided to the
6 individual and resulting use by the individual, such as education
7 or employment and the participation of and outcome for that
8 individual.

9 (vi) Reasons for discharge, completion, or termination of the
10 program.

11 (vii) After discharge, either upon completion or termination
12 of the program, the drug treatment court must conduct follow-up
13 contacts with and reviews of each individual for key outcome
14 indicators at least every 6 months for 3 years. These outcome
15 indicators must include at least drug use, recidivism, and
16 employment. Recidivism should include records of dates in
17 detention and release from detention.

18 (2) Each drug treatment court shall provide to the state
19 court administrative office their evaluations and all information
20 requested by the state court administrative office.

21 (3) With the approval and at the discretion of the supreme
22 court, the state court administrative office shall be responsible
23 for evaluating and collecting data on the performance of drug
24 treatment courts in this state as follows:

25 (a) The state court administrative office shall provide an
26 annual review of the performance of drug treatment courts in this
27 state to both the minority and majority leaderships in each

1 chamber of the legislature, the governor, and the supreme court.

2 (b) The state court administrative office shall develop the
3 collection of a list of approved measurement instruments and
4 indicators for data collection and evaluation. These standards
5 must provide comparability between programs and their outcomes.

6 (c) The state court administrative office shall provide
7 standards for treatment courts in this state and shall approve
8 each drug treatment court's evaluation plan.

9 (4) The information collected under subsections (1) and (2)
10 regarding individual applicants to drug treatment court programs
11 for the purpose of application to that program and participants
12 who have successfully completed drug treatment courts shall be
13 exempt from disclosure under the freedom of information act, 1976
14 PA 442, MCL 15.231 to 15.246.

15 Sec. 1080. (1) The supreme court is responsible for the
16 expenditure of state funds for the establishment and operation of
17 drug treatment courts.

18 (2) The state treasurer may receive money or other assets
19 from any source for deposit into the appropriate state fund or
20 funds for the purposes described in subsection (1).

21 (3) Each drug treatment court shall report quarterly to the
22 state court administrative office on the funds received and
23 expended by that drug treatment court, in a manner prescribed by
24 the state court administrative office.

25 Sec. 1082. (1) A state drug treatment court advisory
26 committee is created in the legislative council. The state drug
27 treatment court advisory committee consists of the following

1 members:

2 (a) The director of the department of corrections or his or
3 her designee.

4 (b) The director of the office of drug control policy in the
5 department of community health or his or her designee.

6 (c) The state court administrator or his or her designee.

7 (d) Twelve members appointed jointly by the speaker of the
8 house of representatives and the senate majority leader, as
9 follows:

10 (i) A district court judge who has presided for at least 2
11 years over a drug treatment court.

12 (ii) A circuit court judge who has presided for at least 2
13 years over a drug treatment court.

14 (iii) A judge of the family division of circuit court who has
15 presided for at least 2 years over a juvenile drug treatment
16 court program.

17 (iv) A circuit or district court judge who has presided for
18 at least 2 years over an alcohol treatment court.

19 (v) A prosecuting attorney who has worked for at least 2
20 years with a drug or alcohol treatment court.

21 (vi) An individual representing law enforcement in a
22 jurisdiction that has had a drug or alcohol treatment court for a
23 least 2 years.

24 (vii) An individual representing drug treatment providers.

25 (viii) An individual representing defense attorneys, who has
26 worked for at least 2 years with drug or alcohol treatment
27 courts.

1 (ix) An individual who has successfully completed a drug
2 treatment court program.

3 (x) An individual who has successfully completed a juvenile
4 drug treatment court program.

5 (xi) An individual who is an advocate for the rights of crime
6 victims.

7 (xii) An individual representing the Michigan association of
8 drug court professionals.

9 (2) Members of the advisory committee shall serve without
10 compensation. However, members of the advisory committee may be
11 reimbursed for their actual and necessary expenses incurred in
12 the performance of their duties as members of the advisory
13 committee.

14 (3) Members of the advisory committee shall serve for terms
15 of 4 years each, except that the members first appointed shall
16 serve terms as follows:

17 (a) The members appointed under subsection (1) (d) (i) to (iv)
18 shall serve terms of 4 years each.

19 (b) The members appointed under subsection (1) (d) (v) to
20 (viii) shall serve terms of 3 years each.

21 (c) The members appointed under subsection (1) (d) (ix) to
22 (xii) shall serve terms of 2 years each.

23 (4) If a vacancy occurs in an appointed membership on the
24 advisory committee, the appointing authority shall make an
25 appointment for the unexpired term in the same manner as the
26 original appointment.

27 (5) The appointing authority may remove an appointed member

1 of the advisory committee for incompetency, dereliction of duty,
2 malfeasance, misfeasance, or nonfeasance in office, or any other
3 good cause.

4 (6) The first meeting of the advisory committee shall be
5 called by the speaker of the house of representatives and the
6 senate majority leader. At the first meeting, the advisory
7 committee shall elect from among its members a chairperson and
8 other officers as it considers necessary or appropriate. After
9 the first meeting, the advisory committee shall meet at least
10 quarterly, or more frequently at the call of the chairperson or
11 if requested by 7 or more members.

12 (7) A majority of the members of the advisory committee
13 constitute a quorum for the transaction of business at a meeting
14 of the advisory committee. A majority of the members present and
15 serving are required for official action of the advisory
16 committee.

17 (8) The business that the advisory committee may perform
18 shall be conducted at a public meeting of the advisory committee
19 held in compliance with the open meetings act, 1976 PA 267, MCL
20 15.261 to 15.275.

21 (9) A writing prepared, owned, used, in the possession of, or
22 retained by the advisory committee in the performance of an
23 official function is subject to the freedom of information act,
24 1976 PA 442, MCL 15.231 to 15.246.

25 (10) The advisory committee shall monitor the effectiveness
26 of drug treatment courts and the availability of funding for
27 those courts and shall present annual recommendations to the

- 1 legislature and supreme court regarding proposed statutory
- 2 changes regarding drug treatment courts.