

# SENATE BILL No. 1551

November 3, 2010, Introduced by Senators CROPSEY and BIRKHOLZ and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 1070 (MCL 600.1070), as added by 2004 PA 224.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1070. (1) Upon admitting an individual into a drug  
2 treatment court, all of the following apply:

3           (a) For an individual who is admitted to a drug treatment  
4 court based upon having criminal charges currently filed against  
5 him or her, the court shall accept the plea of guilty or, in the  
6 case of a juvenile, the admission of responsibility.

7           (b) For an individual who pled guilty to, or admitted  
8 responsibility for, criminal charges for which he or she was  
9 admitted into the drug treatment court, the court shall do either

1 of the following:

2 (i) In the case of an individual who pled guilty to an offense  
3 that is not a traffic offense and who may be eligible for discharge  
4 and dismissal pursuant to the agreement with the court and  
5 prosecutor upon successful completion of the drug treatment court  
6 program, the court shall not enter a judgment of guilt or, in the  
7 case of a juvenile, shall not enter an adjudication of  
8 responsibility.

9 (ii) In the case of an individual who pled guilty to a traffic  
10 offense or who pled guilty to an offense but may not be eligible  
11 for discharge and dismissal pursuant to the agreement with the  
12 court and prosecutor upon successful completion of the drug  
13 treatment court program, the court shall enter a judgment of guilt  
14 or, in the case of a juvenile, shall enter an adjudication of  
15 responsibility.

16 (c) Pursuant to the agreement with the individual and the  
17 prosecutor, the court may either defer further proceedings as  
18 provided in section 1 of chapter XI of the code of criminal  
19 procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as  
20 applicable in that case pursuant to that agreement, and place the  
21 individual on probation or other court supervision in the drug  
22 treatment court program with terms and conditions according to the  
23 agreement and as deemed necessary by the court.

24 (2) The court shall maintain jurisdiction over the drug  
25 treatment court participant as provided in this act until final  
26 disposition of the case, but not longer than the probation period  
27 fixed under section 2 of chapter XI of the code of criminal

1 procedure, 1927 PA 175, MCL 771.2. In the case of a juvenile  
2 participant, the court may obtain jurisdiction over any parents or  
3 guardians of the juvenile in order to assist in ensuring the  
4 juvenile's continued participation and successful completion of the  
5 drug treatment court, and may issue and enforce any appropriate and  
6 necessary order regarding the parent or guardian of a juvenile  
7 participant.

8 (3) The drug treatment court shall cooperate with, and act in  
9 a collaborative manner with, the prosecutor, defense counsel,  
10 treatment providers, the local substance abuse coordinating agency  
11 for that circuit or district, probation departments, and, to the  
12 extent possible, local law enforcement, the department of  
13 corrections, and community corrections agencies.

14 (4) The drug treatment court may require an individual  
15 admitted into the court to pay a reasonable drug court fee that is  
16 reasonably related to the cost to the court for administering the  
17 drug treatment court program as provided in the memorandum of  
18 understanding under section 1062. The clerk of the drug treatment  
19 court shall transmit the fees collected to the treasurer of the  
20 local funding unit at the end of each month.

21 (5) The drug treatment court may request that the department  
22 of state police provide to the court information contained in the  
23 law enforcement information network pertaining to an individual  
24 applicant's criminal history for purposes of determining the  
25 individual's compliance with all court orders. The department of  
26 state police shall provide the information requested by a drug  
27 treatment court under this subsection.

1           (6) THE DEPARTMENT OF STATE POLICE SHALL RETAIN A NONPUBLIC  
2 RECORD OF AN ARREST, DIVERSION, AND DISCHARGE OF DISMISSAL UNDER  
3 THIS SECTION. THE NONPUBLIC RECORD SHALL BE FURNISHED TO BOTH OF  
4 THE FOLLOWING:

5           (A) A COURT OR POLICE AGENCY UPON REQUEST FOR THE PURPOSE OF  
6 SHOWING THAT A DEFENDANT IN A CRIMINAL ACTION INVOLVING THE  
7 POSSESSION OR USE OF A CONTROLLED SUBSTANCE, OR AN IMITATION  
8 CONTROLLED SUBSTANCE AS THAT TERM IS DEFINED IN SECTION 7341 OF THE  
9 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7341, HAS ALREADY ONCE  
10 UTILIZED DIVERSION UNDER SECTION 7411 OF THE PUBLIC HEALTH CODE,  
11 1978 PA 368, MCL 333.7411.

12           (B) THE DEPARTMENT OF CORRECTIONS OR A LAW ENFORCEMENT AGENCY,  
13 UPON THE REQUEST OF THE DEPARTMENT OR THE LAW ENFORCEMENT AGENCY,  
14 IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

15           (i) AT THE TIME OF THE REQUEST, THE INDIVIDUAL IS AN EMPLOYEE  
16 OF THE DEPARTMENT OR THE AGENCY OR AN APPLICANT FOR EMPLOYMENT WITH  
17 THE DEPARTMENT OR LAW ENFORCEMENT AGENCY.

18           (ii) IF THE INDIVIDUAL IS AN EMPLOYEE OF THE DEPARTMENT OF  
19 CORRECTIONS OR A LAW ENFORCEMENT AGENCY AND THE COURT PLACED THE  
20 INDIVIDUAL ON PROBATION AFTER DECEMBER 31, 2002, THE DATE ON WHICH  
21 THE COURT PLACED THE INDIVIDUAL ON PROBATION.

22           (7) THE NONPUBLIC RECORD DESCRIBED IN SUBSECTION (6) SHALL BE  
23 USED BY THE DEPARTMENT OF CORRECTIONS OR LAW ENFORCEMENT AGENCY  
24 ONLY TO DETERMINE WHETHER AN EMPLOYEE HAS VIOLATED HIS OR HER  
25 CONDITIONS OF EMPLOYMENT OR WHETHER AN APPLICANT MEETS CRITERIA FOR  
26 EMPLOYMENT, AS APPLICABLE.