

HOUSE BILL NO. 5483

October 27, 2021, Introduced by Reps. LaGrand, Howell, Anthony, Brenda Carter, Cavanagh, Hood, Haadsma, Hertel, Weiss, Tyrone Carter, Kuppa, Young, Sowerby, Aiyash, Brabec, Peterson and Yancey 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

1 or clinical eligibility. An individual may be admitted to mental
2 health court regardless of prior participation or prior completion
3 status. ~~However, in no case shall~~ **Unless the mental health court**
4 **judge and the prosecuting attorney in consultation with any known**
5 **victim in the instant case consent,** a violent offender **must not** be
6 admitted into mental health court.

7 (2) In addition to admission to a mental health court under
8 this chapter, an individual who is eligible for admission under
9 this chapter may also be admitted to a mental health court under
10 any of the following circumstances:

11 (a) The individual has been assigned the status of youthful
12 trainee under section 11 of chapter II of the code of criminal
13 procedure, 1927 PA 175, MCL 762.11.

14 (b) The individual has had criminal proceedings against him or
15 her deferred and has been placed on probation under any of the
16 following:

17 (i) Section 7411 of the public health code, 1978 PA 368, MCL
18 333.7411.

19 (ii) Section 4a of chapter IX of the code of criminal
20 procedure, 1927 PA 175, MCL 769.4a.

21 (iii) Section 350a or 430 of the Michigan penal code, 1931 PA
22 328, MCL 750.350a and 750.430.

23 (3) To be admitted to a mental health court, an individual
24 shall cooperate with and complete a preadmission screening and
25 evaluation assessment and shall submit to any future evaluation
26 assessment as directed by the mental health court. A preadmission
27 screening and evaluation assessment must include all of the
28 following:

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

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

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

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

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

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

28 (5) The court may request that the department of state police
29 provide to the court information contained in the law enforcement

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

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