

**SUBSTITUTE FOR  
SENATE BILL NO. 435**

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 1060, 1062, and 1084 (MCL 600.1060, 600.1062,  
and 600.1084), section 1060 as amended by 2006 PA 620, section 1062  
as amended by 2010 PA 177, and section 1084 as amended by 2013 PA  
227.

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

1       Sec. 1060. As used in this chapter:

2       (a) "Dating relationship" means that term as defined in  
3 section 2950.

4       (b) "Domestic violence offense" means any crime alleged to  
5 have been committed by an individual against his or her spouse or  
6 former spouse, an individual with whom he or she has a child in  
7 common, an individual with whom he or she has had a dating  
8 relationship, or an individual who resides or has resided in the

1 same household.

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

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

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

13 (iii) Identification of eligible participants early with  
14 prompt placement in the program.

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

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

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

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

24 (viii) Monitoring and evaluation of the achievement of program  
25 goals and the program's effectiveness.

26 (ix) Continued interdisciplinary education in order to promote  
27 effective drug court planning, implementation, and operation.

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

4           (d) "Participant" means an individual who is admitted into a  
5 drug treatment court.

6           (e) "Prosecutor" means the prosecuting attorney of the county,  
7 the city attorney, the village attorney, or the township attorney.

8           (f) "Traffic offense" means a violation of the Michigan  
9 vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of  
10 a local ordinance substantially corresponding to a violation of  
11 that act, that involves the operation of a vehicle and, at the time  
12 of the violation, is a felony or misdemeanor.

13           (g) "Violent offender" means an individual who ~~meets either of~~  
14 ~~the following criteria.~~ **IS CURRENTLY CHARGED WITH OR HAS PLED GUILTY**  
15 **TO, OR, IF THE INDIVIDUAL IS A JUVENILE, IS CURRENTLY ALLEGED TO**  
16 **HAVE COMMITTED OR HAS ADMITTED RESPONSIBILITY FOR, AN OFFENSE**  
17 **INVOLVING THE DEATH OF OR SERIOUS BODILY INJURY TO ANY INDIVIDUAL,**  
18 **WHETHER OR NOT ANY OF THE CIRCUMSTANCES ARE AN ELEMENT OF THE**  
19 **OFFENSE, OR AN OFFENSE THAT IS CRIMINAL SEXUAL CONDUCT OF ANY**  
20 **DEGREE.**

21 ~~—— (i) Is currently charged with or has pled guilty to, or, if a~~  
22 ~~juvenile, is currently alleged to have committed or has admitted~~  
23 ~~responsibility for, an offense involving the death of or a serious~~  
24 ~~bodily injury to any individual, or the carrying, possessing, or~~  
25 ~~use of a firearm or other dangerous weapon by that individual,~~  
26 ~~whether or not any of these circumstances are an element of the~~  
27 ~~offense, or is criminal sexual conduct of any degree.~~

1 ~~—— (ii) Has 1 or more prior convictions for, or, if a juvenile,~~  
2 ~~has 1 or more prior findings of responsibility for, a felony~~  
3 ~~involving the use or attempted use of force against another~~  
4 ~~individual with the intent to cause death or serious bodily harm.~~

5       Sec. 1062. (1) The circuit court in any judicial circuit or  
6 the district court in any judicial district may adopt or institute  
7 a drug treatment court, pursuant to statute or court rules.  
8 However, if the drug treatment court will include in its program  
9 individuals who may be eligible for discharge and dismissal of an  
10 offense, delayed sentence, or deviation from the sentencing  
11 guidelines, the circuit or district court shall not adopt or  
12 institute the drug treatment court unless the circuit or district  
13 court enters into a memorandum of understanding with each  
14 participating prosecuting attorney in the circuit or district court  
15 district, a representative of the criminal defense bar, and a  
16 representative or representatives of community treatment providers.  
17 The memorandum of understanding also may include other parties  
18 considered necessary, such as any other prosecutor in the circuit  
19 or district court district, local law enforcement, the probation  
20 departments in that circuit or district, the local substance abuse  
21 coordinating agency for that circuit or district, a domestic  
22 violence service provider program that receives funding from the  
23 state domestic violence prevention and treatment board, and  
24 community corrections agencies in that circuit or district. The  
25 memorandum of understanding ~~shall~~**MUST** describe the role of each  
26 party.

27       (2) The family division of circuit court in any judicial

1 circuit may adopt or institute a juvenile drug treatment court,  
2 pursuant to statute or court rules. However, if the drug treatment  
3 court will include in its program individuals who may be eligible  
4 for discharge or dismissal of an offense, or a delayed sentence,  
5 the family division of circuit court shall not adopt or institute a  
6 juvenile drug treatment court unless the family division of circuit  
7 court enters into a memorandum of understanding with each  
8 participating county prosecuting attorney in the circuit or  
9 district court district, a representative of the criminal defense  
10 bar specializing in juvenile law, and a representative or  
11 representatives of community treatment providers. The memorandum of  
12 understanding also may include other parties considered necessary,  
13 such as any other prosecutor in the circuit or district court  
14 district, local law enforcement, the probation departments in that  
15 circuit, the local substance abuse coordinating agency for that  
16 circuit, a domestic violence service provider program that receives  
17 funding from the state domestic violence prevention and treatment  
18 board, and community corrections agencies in that circuit. The  
19 memorandum of understanding ~~shall~~ **MUST** describe the role of each  
20 party. A juvenile drug treatment court is subject to the same  
21 procedures and requirements provided in this chapter for drug  
22 treatment courts created under subsection (1), except as  
23 specifically provided otherwise in this chapter.

24 (3) A court that is adopting a drug treatment court shall  
25 participate in training as required by the state court  
26 administrative office and the ~~bureau of justice assistance~~ **BUREAU**  
27 **OF JUSTICE ASSISTANCE** of the United States ~~department of~~

1 ~~justice~~-DEPARTMENT OF JUSTICE.

2 (4) A court that has adopted a drug treatment court pursuant  
3 ~~to~~-UNDER this section may accept participants from any other  
4 jurisdiction in this state based upon either the residence of the  
5 participant in the receiving jurisdiction or the unavailability of  
6 a drug treatment court in the jurisdiction where the participant is  
7 charged. The transfer is not valid unless it is agreed to by all of  
8 the following:

9 (a) The defendant or respondent.

10 (b) The attorney representing the defendant or respondent.

11 (c) The judge of the transferring court and the prosecutor of  
12 the case.

13 (d) The judge of the receiving drug treatment court and the  
14 prosecutor of a court funding unit of the drug treatment court.

15 (5) BEGINNING JANUARY 1, 2018, A DRUG TREATMENT COURT  
16 OPERATING IN THIS STATE, OR A CIRCUIT COURT IN ANY JUDICIAL CIRCUIT  
17 OR THE DISTRICT COURT IN ANY JUDICIAL DISTRICT SEEKING TO ADOPT OR  
18 INSTITUTE A DRUG TREATMENT COURT, MUST BE CERTIFIED BY THE STATE  
19 COURT ADMINISTRATIVE OFFICE. THE STATE COURT ADMINISTRATIVE OFFICE  
20 SHALL ESTABLISH THE PROCEDURE FOR CERTIFICATION. APPROVAL AND  
21 CERTIFICATION UNDER THIS SUBSECTION OF A DRUG TREATMENT COURT BY  
22 THE STATE COURT ADMINISTRATIVE OFFICE IS REQUIRED TO BEGIN OR TO  
23 CONTINUE THE OPERATION OF A DRUG TREATMENT COURT UNDER THIS  
24 CHAPTER. THE STATE COURT ADMINISTRATIVE OFFICE SHALL NOT RECOGNIZE  
25 AND INCLUDE A DRUG TREATMENT COURT THAT IS NOT CERTIFIED UNDER THIS  
26 SUBSECTION ON THE STATEWIDE OFFICIAL LIST OF DRUG TREATMENT COURTS.  
27 THE STATE COURT ADMINISTRATIVE OFFICE SHALL INCLUDE A DRUG

1 TREATMENT COURT CERTIFIED UNDER THIS SUBSECTION ON THE STATEWIDE  
2 OFFICIAL LIST OF DRUG TREATMENT COURTS. A DRUG TREATMENT COURT THAT  
3 IS NOT CERTIFIED UNDER THIS SUBSECTION SHALL NOT PERFORM ANY OF THE  
4 FUNCTIONS OF A DRUG TREATMENT COURT, INCLUDING, BUT NOT LIMITED TO,  
5 DOING ANY OF THE FOLLOWING:

6 (A) CHARGING A FEE UNDER SECTION 1070.

7 (B) DISCHARGING AND DISMISSING A CASE AS PROVIDED IN SECTION  
8 1076.

9 (C) RECEIVING FUNDING UNDER SECTION 1080.

10 (D) CERTIFYING TO THE SECRETARY OF STATE THAT AN INDIVIDUAL IS  
11 ELIGIBLE TO RECEIVE A RESTRICTED LICENSE UNDER SECTION 1084 OF THIS  
12 ACT AND SECTION 304 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL  
13 257.304.

14 Sec. 1084. (1) ~~A DWI/sobriety court interlock pilot project is~~  
15 ~~created utilizing the DWI/sobriety courts in this state and in~~  
16 ~~accordance with the provisions of this chapter. The DWI/sobriety~~  
17 ~~court interlock pilot project shall begin on January 1, 2011 and~~  
18 ~~shall continue for a period of 4 years after that date. Beginning~~  
19 ~~January 1, 2015, the THE DWI/sobriety court interlock program shall~~  
20 ~~be IS created and shall continue with the same requirements,~~  
21 ~~eligibility criteria, authority, and limitations as those~~  
22 ~~prescribed in this section for the DWI/sobriety court interlock~~  
23 ~~pilot project. An individual who is a participant in a DWI/sobriety~~  
24 ~~court interlock pilot project on December 31, 2014 shall become,~~  
25 ~~automatically, a participant in a DWI/sobriety court interlock~~  
26 ~~program on January 1, 2015, unless the individual's participation~~  
27 ~~in the pilot project ceased by its own terms before January 1,~~

1 ~~2015.~~UNDER THIS SECTION.

2 (2) All DWI/sobriety courts that participate in the ~~pilot~~  
3 ~~project or program~~ shall comply with the 10 guiding principles of  
4 DWI courts as promulgated by the ~~national center~~ NATIONAL CENTER  
5 for DWI ~~courts.~~COURTS.

6 (3) BEGINNING JANUARY 1, 2018, A DWI/SOBRIETY COURT OPERATING  
7 IN THIS STATE, OR A CIRCUIT COURT IN ANY JUDICIAL CIRCUIT OR THE  
8 DISTRICT COURT IN ANY JUDICIAL DISTRICT SEEKING TO ADOPT OR  
9 INSTITUTE A DWI/SOBRIETY COURT, MUST BE CERTIFIED BY THE STATE  
10 COURT ADMINISTRATIVE OFFICE IN THE SAME MANNER AS REQUIRED FOR A  
11 DRUG TREATMENT COURT UNDER SECTION 1062(5). A DWI/SOBRIETY COURT  
12 SHALL NOT PERFORM ANY OF THE FUNCTIONS OF A DWI/SOBRIETY COURT,  
13 INCLUDING, BUT NOT LIMITED TO, THE FUNCTIONS OF A DRUG TREATMENT  
14 COURT DESCRIBED IN SECTION 1062(5) AFTER JANUARY 1, 2018 UNLESS THE  
15 COURT HAS BEEN CERTIFIED BY THE STATE COURT ADMINISTRATIVE OFFICE  
16 AS PROVIDED IN SECTION 1062(5).

17 (4) ~~(3)~~—In order to be considered for placement in the ~~pilot~~  
18 ~~project or program~~, an individual must have been convicted of  
19 either of the following:

20 (a) Two or more convictions for violating section 625(1) or  
21 (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a  
22 local ordinance of this state substantially corresponding to  
23 section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300,  
24 MCL 257.625.

25 (b) One conviction for violating section 625(1) or (3) of the  
26 Michigan vehicle code, 1949 PA 300, MCL 257.625, or a local  
27 ordinance of this state substantially corresponding to section



1 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL  
2 257.625, preceded by 1 or more convictions for violating a local  
3 ordinance or law of another state substantially corresponding to  
4 section 625(1), (3), or (6) of the Michigan vehicle code, 1949 PA  
5 300, MCL 257.625, or a law of the United States substantially  
6 corresponding to section 625(1), (3), or (6) of the Michigan  
7 vehicle code, 1949 PA 300, MCL 257.625.

8 (5) ~~(4)~~—Each year, all DWI/sobriety courts that participate in  
9 the ~~pilot project or program~~, in cooperation with the state court  
10 administrative office, shall provide to the legislature, the  
11 secretary of state, and the supreme court documentation as to  
12 participants' compliance with court ordered conditions. Best  
13 practices available ~~shall~~ **MUST** be used in the research in question,  
14 as resources allow, so as to provide statistically reliable data as  
15 to the impact of the ~~pilot project or program~~ on public safety and  
16 the improvement of life conditions for participants. The topics  
17 documented ~~shall~~ **MUST** include, but not be limited to, all of the  
18 following:

19 (a) The percentage of those participants ordered to place  
20 interlock devices on their vehicles who actually comply with the  
21 order.

22 (b) The percentage of participants who remove court-ordered  
23 interlocks from their vehicles without court approval.

24 (c) The percentage of participants who consume alcohol or  
25 controlled substances.

26 (d) The percentage of participants found to have tampered with  
27 court-ordered interlocks.

1 (e) The percentage of participants who operated a motor  
2 vehicle not equipped with an interlock.

3 (f) Relevant treatment information as to participants.

4 (g) The percentage of participants convicted of a new offense  
5 under section 625(1) or (3) of the Michigan vehicle code, 1949 PA  
6 300, MCL 257.625.

7 (h) Any other information found to be relevant.

8 (6) ~~(5)~~ Before the secretary of state issues a restricted  
9 license to a ~~pilot project or~~ program participant under section 304  
10 of the Michigan vehicle code, 1949 PA 300, MCL 257.304, the  
11 DWI/sobriety court judge shall certify to the secretary of state  
12 that the individual seeking the restricted license has been  
13 admitted into the ~~pilot project or~~ program and that an interlock  
14 device has been placed on each motor vehicle owned or operated, or  
15 both, by the individual.

16 (7) ~~(6)~~ If any of the following occur, the DWI/sobriety court  
17 judge shall immediately inform the secretary of state of that  
18 occurrence:

19 (a) The court orders that a ~~pilot project or~~ program  
20 participant be removed from the DWI/sobriety court ~~pilot project or~~  
21 program before he or she successfully completes it.

22 (b) The court becomes aware that a **PROGRAM** participant  
23 operates a motor vehicle that is not equipped with an interlock  
24 device or that a **PROGRAM** participant tampers with, circumvents, or  
25 removes a court-ordered interlock device without prior court  
26 approval.

27 (c) A **PROGRAM** participant is charged with a new violation of

1 section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

2 (8) ~~(7)~~—The receipt of notification by the secretary of state  
3 under subsection ~~(6)~~ shall ~~(7)~~ **MUST** result in summary revocation or  
4 suspension of the restricted license under section 304 of the  
5 Michigan vehicle code, 1949 PA 300, MCL 257.304.

6 (9) ~~(8)~~—As used in this section:

7 (a) "DWI/sobriety ~~courts~~—**COURT**" means the specialized court  
8 docket and programs established within judicial circuits and  
9 districts throughout this state that are designed to reduce  
10 recidivism among alcohol offenders and that comply with the 10  
11 guiding principles of DWI courts as promulgated by the national  
12 center for DWI courts.

13 (b) "Ignition interlock device" means that term as defined in  
14 section 20d of the Michigan vehicle code, 1949 PA 300, MCL 257.20d.

15 ~~—(c) "Pilot project" means the DWI/sobriety court interlock  
16 pilot project created under subsection (1) on September 2, 2010 and  
17 authorized to operate for 4 years beginning January 1, 2011.~~

18 (C) ~~(d)~~—"Program" means the DWI/sobriety court interlock  
19 program created ~~on the effective date of the amendatory act that  
20 added this subdivision and authorized to operate beginning January  
21 1, 2015.~~**UNDER THIS SECTION.**

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

24 Enacting section 2. This amendatory act does not take effect  
25 unless all of the following bills of the 99th Legislature are  
26 enacted into law:

27 (a) Senate Bill No. 436.

1 (b) Senate Bill No. 437.

2 (c) Senate Bill No. 438.