

SPECIALTY COURT CERTIFICATION FROM SCAO

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Senate Bills 435, 436, 437, and 438 as passed by the Senate
Sponsor: Sen. Tonya Schuitmaker
House Committee: Law and Justice
Senate Committee: Judiciary
Complete to 10-2-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bills 435, 437, and 438 would amend the Revised Judicature Act (RJA) to require that specialty courts receive certification from the State Court Administrative Office (SCAO) in order to operate in Michigan. Senate Bill 436 would amend the Michigan Vehicle Code to reflect those changes and to expand the list of permissible driving for someone with a restricted license, due to a conviction for operating a vehicle while intoxicated.

These bills are tie-barred, which means if one of the bills is not enacted, none of the bills would be enacted.

SCAO Certification

SBs 435, 437, and 438 would amend the RJA to require that beginning January 1, 2018, the following specialty courts must be certified by SCAO to operate:

- Drug Treatment Courts (SB 435, Section 1062)
- DWI/Sobriety Courts (SB 435, Section 1084)
- Mental Health Courts (SB 437, Section 1091), and
- Veterans Treatment Courts (SB 438, Section 1201).

More specifically, the bills would require that beginning January 1, 2018, a specialty court operating in Michigan, or a circuit or district court in any judicial circuit seeking to adopt or institute a specialty court, to be certified by SCAO. The bills would require that SCAO establish the procedure for certification and that approval and certification by SCAO is required to begin or continue operating a specialty court. Once a specialty court is certified, SCAO would have to include that court on the statewide official list of applicable specialty courts; SCAO could not recognize and include a specialty court that has not been certified on the applicable statewide official list of specialty courts. A specialty court that is not certified would not be allowed to perform any of the functions of a specialty court, including, but not limited to:

- Charging a fee.
- Discharging a dismissing a case.
- Receiving funding.
- Certifying to the Secretary of State that an individual is eligible to receive a restricted license under Section 1084 of this Act, and Section 304 of the Michigan Vehicle Code (MCL 257.304). [Not applicable to mental health courts.]

Drug Court Eligibility: Definition of Violent Offender

Senate Bill 435 would amend Section 1060 of the Revised Judicature Act, by deleting two provisions from the definition for "violent offender" thereby expanding drug court eligibility to the following individuals [Sec. 1064 prohibits violent offenders from participating in a drug court.]:

- An individual charged with the offense of carrying, possessing, or use of a firearm or other dangerous weapon.
- An individual with prior convictions for a felony involving the use or attempted use of force against another individual with intent to cause death or bodily harm.

The definition of violent offender remaining would include "an offense involving the death of or serious bodily injury to any individual, whether or not any of the circumstances are an element of the offense, or an offense that is criminal sexual conduct of any degree." This would align the definition of a violent offender for the purposes of a drug treatment court with that used to prohibit eligibility for mental health courts and veterans treatments courts.

Michigan Vehicle Code

Senate Bill 436 would amend Section 304 of the Michigan Vehicle Code to update references regarding DWI/Sobriety courts to reflect the changes proposed in SB 435.

This bill would also add to the list of permissible driving that can occur under a restricted license to include, "at the discretion of the judge, the custodian of a minor child may drive to and from the facilities of a provider of day care services at which the custodian's minor child is enrolled, or an education institution at which the custodian's minor child is enrolled as a student for the purposes of classes, academic meetings or conferences, and athletic or extracurricular activities sanctioned by the educational institution in which the minor child is a participant. As used in this subparagraph, 'minor child' means an individual who is less than 18 years of age."

FISCAL IMPACT:

Senate Bills 435, 437, and 438 would create additional administrative costs for the State Court Administrative Office, primarily for increased staff time and travel. According to the State Court Administrative Office, the additional cost would be roughly \$60,000 annually, which would be supported by existing appropriations.

Senate Bill 436 would have no fiscal impact on the state or on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.