

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.