

SENATE BILL No. 437

June 7, 2017, Introduced by Senator SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 1091 (MCL 600.1091), as added by 2013 PA 274.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1091. (1) The circuit court or the district court in any
2 judicial circuit or a district court in any judicial district may
3 adopt or institute a mental health court pursuant to statute or
4 court rules. However, if the mental health court will include in
5 its program individuals who may be eligible for discharge and
6 dismissal of an offense, delayed sentence, or deviation from the
7 sentencing guidelines, the circuit or district court shall not
8 adopt or institute the mental health court unless the circuit or
9 district court enters into a memorandum of understanding with each
10 participating prosecuting attorney in the circuit or district court
11 district, a representative or representatives of the community

1 mental health services programs, a representative of the criminal
2 defense bar, and a representative or representatives of community
3 treatment providers. The memorandum of understanding also may
4 include other parties considered necessary, including, but not
5 limited to, a representative or representatives of the local court
6 funding unit or a domestic violence service provider program that
7 receives funding from the state domestic violence prevention and
8 treatment board. The memorandum of understanding ~~shall~~**MUST**
9 describe the role of each party.

10 (2) A family division of circuit court in any judicial circuit
11 may adopt or institute a juvenile mental health court pursuant to
12 statute or court rules. The creation or existence of a mental
13 health court does not change the statutes or court rules concerning
14 discharge or dismissal of an offense, or a delayed sentence or
15 deferred entry of judgment. A family division of circuit court
16 adopting or instituting a juvenile mental health court shall enter
17 into a memorandum of understanding with all participating
18 prosecuting authorities in the circuit or district court, a
19 representative or representatives of the community mental health
20 services program, a representative of the criminal defense bar
21 specializing in juvenile law, and a representative or
22 representatives of community treatment providers that describes the
23 roles and responsibilities of each party to the memorandum of
24 understanding. The memorandum of understanding also may include
25 other parties considered necessary, including, but not limited to,
26 a representative or representatives of the local court funding unit
27 or a domestic violence service provider program that receives

1 funding from the state domestic violence prevention and treatment
2 board. The memorandum of understanding ~~shall~~**MUST** describe the role
3 of each party. A juvenile mental health court is subject to the
4 same procedures and requirements provided in this chapter for a
5 mental health court created under subsection (1), except as
6 specifically provided otherwise in this chapter.

7 (3) A court that has adopted a mental health court under this
8 section may accept participants from any other jurisdiction in this
9 state based upon the residence of the participant in the receiving
10 jurisdiction, the nonavailability of a mental health court in the
11 jurisdiction where the participant is charged, and the availability
12 of financial resources for both operations of the mental health
13 court program and treatment services. A mental health court may
14 refuse to accept participants from other jurisdictions.

15 (4) **BEGINNING JANUARY 1, 2018, A MENTAL HEALTH COURT OPERATING**
16 **IN THIS STATE, OR A CIRCUIT COURT IN ANY JUDICIAL CIRCUIT OR THE**
17 **DISTRICT COURT IN ANY JUDICIAL DISTRICT SEEKING TO ADOPT OR**
18 **INSTITUTE A MENTAL HEALTH 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 MENTAL HEALTH COURT IS**
22 **REQUIRED TO BEGIN OR TO CONTINUE THE OPERATION OF A MENTAL HEALTH**
23 **COURT UNDER THIS CHAPTER. THE STATE COURT ADMINISTRATIVE OFFICE**
24 **SHALL NOT RECOGNIZE AND INCLUDE A MENTAL HEALTH COURT THAT IS NOT**
25 **CERTIFIED UNDER THIS SUBSECTION ON THE STATEWIDE OFFICIAL LIST OF**
26 **MENTAL HEALTH COURTS. THE STATE COURT ADMINISTRATIVE OFFICE SHALL**
27 **INCLUDE A MENTAL HEALTH COURT CERTIFIED UNDER THIS SUBSECTION ON**

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

5 (A) CHARGING A FEE UNDER SECTION 1095.

6 (B) DISCHARGING AND DISMISSING A CASE AS PROVIDED IN SECTION
7 1098.

8 (C) RECEIVING FUNDING UNDER SECTION 1099A.

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

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

14 (a) Senate Bill No. 435.

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16 (b) Senate Bill No. 436.

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18 (c) Senate Bill No. 438.

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