

SENATE BILL No. 435

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 sections 1062 and 1084 (MCL 600.1062 and 600.1084),
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. 1062. (1) The circuit court in any judicial circuit or
2 the district court in any judicial district may adopt or institute
3 a drug treatment court, pursuant to statute or court rules.
4 However, if the drug treatment court will include in its program
5 individuals who may be eligible for discharge and dismissal of an
6 offense, delayed sentence, or deviation from the sentencing
7 guidelines, the circuit or district court shall not adopt or
8 institute the drug treatment court unless the circuit or district
9 court enters into a memorandum of understanding with each

1 participating prosecuting attorney in the circuit or district court
2 district, a representative of the criminal defense bar, and a
3 representative or representatives of community treatment providers.
4 The memorandum of understanding also may include other parties
5 considered necessary, such as any other prosecutor in the circuit
6 or district court district, local law enforcement, the probation
7 departments in that circuit or district, the local substance abuse
8 coordinating agency for that circuit or district, a domestic
9 violence service provider program that receives funding from the
10 state domestic violence prevention and treatment board, and
11 community corrections agencies in that circuit or district. The
12 memorandum of understanding ~~shall~~**MUST** describe the role of each
13 party.

14 (2) The family division of circuit court in any judicial
15 circuit may adopt or institute a juvenile drug treatment court,
16 pursuant to statute or court rules. However, if the drug treatment
17 court will include in its program individuals who may be eligible
18 for discharge or dismissal of an offense, or a delayed sentence,
19 the family division of circuit court shall not adopt or institute a
20 juvenile drug treatment court unless the family division of circuit
21 court enters into a memorandum of understanding with each
22 participating county prosecuting attorney in the circuit or
23 district court district, a representative of the criminal defense
24 bar specializing in juvenile law, and a representative or
25 representatives of community treatment providers. The memorandum of
26 understanding also may include other parties considered necessary,
27 such as any other prosecutor in the circuit or district court

1 district, local law enforcement, the probation departments in that
2 circuit, the local substance abuse coordinating agency for that
3 circuit, a domestic violence service provider program that receives
4 funding from the state domestic violence prevention and treatment
5 board, and community corrections agencies in that circuit. The
6 memorandum of understanding ~~shall~~**MUST** describe the role of each
7 party. A juvenile drug treatment court is subject to the same
8 procedures and requirements provided in this chapter for drug
9 treatment courts created under subsection (1), except as
10 specifically provided otherwise in this chapter.

11 (3) A court that is adopting a drug treatment court shall
12 participate in training as required by the state court
13 administrative office and the ~~bureau of justice assistance~~**BUREAU**
14 **OF JUSTICE ASSISTANCE** of the United States ~~department of~~
15 ~~justice~~**DEPARTMENT OF JUSTICE**.

16 (4) A court that has adopted a drug treatment court ~~pursuant~~
17 ~~to~~**UNDER** this section may accept participants from any other
18 jurisdiction in this state based upon either the residence of the
19 participant in the receiving jurisdiction or the unavailability of
20 a drug treatment court in the jurisdiction where the participant is
21 charged. The transfer is not valid unless it is agreed to by all of
22 the following:

- 23 (a) The defendant or respondent.
24 (b) The attorney representing the defendant or respondent.
25 (c) The judge of the transferring court and the prosecutor of
26 the case.
27 (d) The judge of the receiving drug treatment court and the

1 prosecutor of a court funding unit of the drug treatment court.

2 (5) BEGINNING JANUARY 1, 2018, A DRUG TREATMENT COURT
3 OPERATING IN THIS STATE, OR A CIRCUIT COURT IN ANY JUDICIAL CIRCUIT
4 OR THE DISTRICT COURT IN ANY JUDICIAL DISTRICT SEEKING TO ADOPT OR
5 INSTITUTE A DRUG TREATMENT COURT, MUST BE CERTIFIED BY THE STATE
6 COURT ADMINISTRATIVE OFFICE. THE STATE COURT ADMINISTRATIVE OFFICE
7 SHALL ESTABLISH THE PROCEDURE FOR CERTIFICATION. APPROVAL AND
8 CERTIFICATION UNDER THIS SUBSECTION OF A DRUG TREATMENT COURT BY
9 THE STATE COURT ADMINISTRATIVE OFFICE IS REQUIRED TO BEGIN OR TO
10 CONTINUE THE OPERATION OF A DRUG TREATMENT COURT UNDER THIS
11 CHAPTER. THE STATE COURT ADMINISTRATIVE OFFICE SHALL NOT RECOGNIZE
12 AND INCLUDE A DRUG TREATMENT COURT THAT IS NOT CERTIFIED UNDER THIS
13 SUBSECTION ON THE STATEWIDE OFFICIAL LIST OF DRUG TREATMENT COURTS.
14 THE STATE COURT ADMINISTRATIVE OFFICE SHALL INCLUDE A DRUG
15 TREATMENT COURT CERTIFIED UNDER THIS SUBSECTION ON THE STATEWIDE
16 OFFICIAL LIST OF DRUG TREATMENT COURTS. A DRUG TREATMENT COURT THAT
17 IS NOT CERTIFIED UNDER THIS SUBSECTION SHALL NOT PERFORM ANY OF THE
18 FUNCTIONS OF A DRUG TREATMENT COURT, INCLUDING, BUT NOT LIMITED TO,
19 DOING ANY OF THE FOLLOWING:

20 (A) CHARGING A FEE UNDER SECTION 1070.

21 (B) DISCHARGING AND DISMISSING A CASE AS PROVIDED IN SECTION
22 1076.

23 (C) RECEIVING FUNDING UNDER SECTION 1080.

24 (D) CERTIFYING TO THE SECRETARY OF STATE THAT AN INDIVIDUAL IS
25 ELIGIBLE TO RECEIVE A RESTRICTED LICENSE UNDER SECTION 1084 OF THIS
26 ACT AND SECTION 304 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
27 257.304.

1 Sec. 1084. (1) ~~A DWI/sobriety court interlock pilot project is~~
2 ~~created utilizing the DWI/sobriety courts in this state and in~~
3 ~~accordance with the provisions of this chapter. The DWI/sobriety~~
4 ~~court interlock pilot project shall begin on January 1, 2011 and~~
5 ~~shall continue for a period of 4 years after that date. Beginning~~
6 ~~January 1, 2015, the~~ **THE** DWI/sobriety court interlock program shall
7 ~~be~~ **IS** ~~created and shall continue with the same requirements,~~
8 ~~eligibility criteria, authority, and limitations as those~~
9 ~~prescribed in this section for the DWI/sobriety court interlock~~
10 ~~pilot project. An individual who is a participant in a DWI/sobriety~~
11 ~~court interlock pilot project on December 31, 2014 shall become,~~
12 ~~automatically, a participant in a DWI/sobriety court interlock~~
13 ~~program on January 1, 2015, unless the individual's participation~~
14 ~~in the pilot project ceased by its own terms before January 1,~~
15 ~~2015.~~ **UNDER THIS SECTION.**

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

20 (3) **BEGINNING JANUARY 1, 2018, A DWI/SOBRIETY COURT OPERATING**
21 **IN THIS STATE, OR A CIRCUIT COURT IN ANY JUDICIAL CIRCUIT OR THE**
22 **DISTRICT COURT IN ANY JUDICIAL DISTRICT SEEKING TO ADOPT OR**
23 **INSTITUTE A DWI/SOBRIETY COURT, MUST BE CERTIFIED BY THE STATE**
24 **COURT ADMINISTRATIVE OFFICE IN THE SAME MANNER AS REQUIRED FOR A**
25 **DRUG TREATMENT COURT UNDER SECTION 1062(5). A DWI/SOBRIETY COURT**
26 **SHALL NOT PERFORM ANY OF THE FUNCTIONS OF A DWI/SOBRIETY COURT,**
27 **INCLUDING, BUT NOT LIMITED TO, THE FUNCTIONS OF A DRUG TREATMENT**

1 COURT DESCRIBED IN SECTION 1062(5) AFTER JANUARY 1, 2018 UNLESS THE
2 COURT HAS BEEN CERTIFIED BY THE STATE COURT ADMINISTRATIVE OFFICE
3 AS PROVIDED IN SECTION 1062(5).

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

7 (a) Two or more convictions for violating section 625(1) or
8 (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a
9 local ordinance of this state substantially corresponding to
10 section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300,
11 MCL 257.625.

12 (b) One conviction for violating section 625(1) or (3) of the
13 Michigan vehicle code, 1949 PA 300, MCL 257.625, or a local
14 ordinance of this state substantially corresponding to section
15 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL
16 257.625, preceded by 1 or more convictions for violating a local
17 ordinance or law of another state substantially corresponding to
18 section 625(1), (3), or (6) of the Michigan vehicle code, 1949 PA
19 300, MCL 257.625, or a law of the United States substantially
20 corresponding to section 625(1), (3), or (6) of the Michigan
21 vehicle code, 1949 PA 300, MCL 257.625.

22 (5) ~~(4)~~—Each year, all DWI/sobriety courts that participate in
23 the ~~pilot project or program~~, in cooperation with the state court
24 administrative office, shall provide to the legislature, the
25 secretary of state, and the supreme court documentation as to
26 participants' compliance with court ordered conditions. Best
27 practices available ~~shall~~**MUST** be used in the research in question,

1 as resources allow, so as to provide statistically reliable data as
2 to the impact of the ~~pilot project or program~~ on public safety and
3 the improvement of life conditions for participants. The topics
4 documented ~~shall~~ **MUST** include, but not be limited to, all of the
5 following:

6 (a) The percentage of those participants ordered to place
7 interlock devices on their vehicles who actually comply with the
8 order.

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

11 (c) The percentage of participants who consume alcohol or
12 controlled substances.

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

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

17 (f) Relevant treatment information as to participants.

18 (g) The percentage of participants convicted of a new offense
19 under section 625(1) or (3) of the Michigan vehicle code, 1949 PA
20 300, MCL 257.625.

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

22 (6) ~~(5)~~ Before the secretary of state issues a restricted
23 license to a ~~pilot project or program~~ participant under section 304
24 of the Michigan vehicle code, 1949 PA 300, MCL 257.304, the
25 DWI/sobriety court judge shall certify to the secretary of state
26 that the individual seeking the restricted license has been
27 admitted into the ~~pilot project or program~~ and that an interlock

1 device has been placed on each motor vehicle owned or operated, or
2 both, by the individual.

3 (7) ~~(6)~~—If any of the following occur, the DWI/sobriety court
4 judge shall immediately inform the secretary of state of that
5 occurrence:

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

9 (b) The court becomes aware that a **PROGRAM** participant
10 operates a motor vehicle that is not equipped with an interlock
11 device or that a **PROGRAM** participant tampers with, circumvents, or
12 removes a court-ordered interlock device without prior court
13 approval.

14 (c) A **PROGRAM** participant is charged with a new violation of
15 section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

16 (8) ~~(7)~~—The receipt of notification by the secretary of state
17 under subsection ~~(6)~~ shall ~~(7)~~ **MUST** result in summary revocation or
18 suspension of the restricted license under section 304 of the
19 Michigan vehicle code, 1949 PA 300, MCL 257.304.

20 (9) ~~(8)~~—As used in this section:

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

27 (b) "Ignition interlock device" means that term as defined in

1 section 20d of the Michigan vehicle code, 1949 PA 300, MCL 257.20d.
2 ~~—— (c) "Pilot project" means the DWI/sobriety court interlock~~
3 ~~pilot project created under subsection (1) on September 2, 2010 and~~
4 ~~authorized to operate for 4 years beginning January 1, 2011.~~

5 (C) ~~(d)~~ "Program" means the DWI/sobriety court interlock
6 program created ~~on the effective date of the amendatory act that~~
7 ~~added this subdivision and authorized to operate beginning January~~
8 ~~1, 2015.~~ **UNDER THIS SECTION.**

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. 436.

15

16 (b) Senate Bill No. 437.

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18 (c) Senate Bill No. 438.

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