

Act No. 161
Public Acts of 2017
Approved by the Governor
November 9, 2017
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Senator Schuitmaker

ENROLLED SENATE BILL No. 435

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending sections 1060, 1062, 1070, 1084, 1095, and 1206 (MCL 600.1060, 600.1062, 600.1070, 600.1084, 600.1095, and 600.1206), section 1060 as amended by 2006 PA 620, section 1062 as amended by 2010 PA 177, section 1070 as added by 2004 PA 224, section 1084 as amended by 2013 PA 227, section 1095 as added by 2013 PA 276, and section 1206 as added by 2012 PA 335, and by adding section 1088.

The People of the State of Michigan enact:

Sec. 1060. As used in this chapter:

- (a) “Dating relationship” means that term as defined in section 2950.
- (b) “Domestic violence offense” means any crime alleged to have been committed by an individual against his or her spouse or former spouse, an individual with whom he or she has a child in common, an individual with whom he or she has had a dating relationship, or an individual who resides or has resided in the same household.
- (c) “Drug treatment court” means a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol. A drug treatment court shall comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:
 - (i) Integration of alcohol and other drug treatment services with justice system case processing.
 - (ii) Use of a nonadversarial approach by prosecution and defense that promotes public safety while protecting any participant’s due process rights.
 - (iii) Identification of eligible participants early with prompt placement in the program.
 - (iv) Access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
 - (v) Monitoring of participants effectively by frequent alcohol and other drug testing to ensure abstinence from drugs or alcohol.
 - (vi) Use of a coordinated strategy with a regimen of graduated sanctions and rewards to govern the court’s responses to participants’ compliance.

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

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

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

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

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

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

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

(g) "Violent offender" means an individual who is currently charged with or has pled guilty to, or, if the individual is a juvenile, is currently alleged to have committed or has admitted responsibility for, 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.

Sec. 1062. (1) The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a drug treatment court, pursuant to statute or court rules. However, if the drug treatment court will include in its program individuals who may be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines, the circuit or district court shall not adopt or institute the drug treatment court unless the circuit or district court enters into a memorandum of understanding with each participating prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic and sexual violence prevention and treatment board, and community corrections agencies in that circuit or district. The memorandum of understanding must describe the role of each party.

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

(3) A court that is adopting a drug treatment court shall participate in training as required by the state court administrative office and the Bureau of Justice Assistance of the United States Department of Justice.

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

(a) The defendant or respondent.

(b) The attorney representing the defendant or respondent.

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

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

(5) Beginning January 1, 2018, a drug treatment court operating in this state, or a circuit court in any judicial circuit or the district court in any judicial district seeking to adopt or institute a drug treatment court, must be certified by the state court administrative office. The state court administrative office shall establish the procedure for certification. Approval and certification under this subsection of a drug treatment court by the state court administrative office is

required to begin or to continue the operation of a drug treatment court under this chapter. The state court administrative office shall not recognize and include a drug treatment court that is not certified under this subsection on the statewide official list of drug treatment courts. The state court administrative office shall include a drug treatment court certified under this subsection on the statewide official list of drug treatment courts. A drug treatment court that is not certified under this subsection shall not perform any of the functions of a drug treatment court, including, but not limited to, doing any of the following:

(a) Charging a fee under section 1070.

(b) Discharging and dismissing a case as provided in section 1076.

(c) Receiving funding under section 1080.

(d) 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, 1949 PA 300, MCL 257.304.

Sec. 1070. (1) Upon admitting an individual into a drug treatment court, all of the following apply:

(a) For an individual who is admitted to a drug treatment court based upon having criminal charges currently filed against him or her, the court shall accept the plea of guilty or, in the case of a juvenile, the admission of responsibility.

(b) For an individual who pled guilty to, or admitted responsibility for, criminal charges for which he or she was admitted into the drug treatment court, the court shall do either of the following:

(i) In the case of an individual who pled guilty to an offense that is not a traffic offense and who may be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall not enter a judgment of guilt or, in the case of a juvenile, shall not enter an adjudication of responsibility.

(ii) In the case of an individual who pled guilty to a traffic offense or who pled guilty to an offense but may not be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall enter a judgment of guilt or, in the case of a juvenile, shall enter an adjudication of responsibility.

(c) Pursuant to the agreement with the individual and the prosecutor, the court may either defer further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable in that case pursuant to that agreement, and place the individual on probation or other court supervision in the drug treatment court program with terms and conditions according to the agreement and as deemed necessary by the court.

(2) Unless a memorandum of understanding made pursuant to section 1088 between a receiving drug treatment court and the court of original jurisdiction provides otherwise, the original court of jurisdiction maintains jurisdiction over the drug treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2. In the case of a juvenile participant, the court may obtain jurisdiction over any parents or guardians of the juvenile in order to assist in ensuring the juvenile's continued participation and successful completion of the drug treatment court, and may issue and enforce any appropriate and necessary order regarding the parent or guardian of a juvenile participant.

(3) The drug treatment court shall cooperate with, and act in a collaborative manner with, the prosecutor, defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies.

(4) The drug treatment court may require an individual admitted into the court to pay a reasonable drug court fee that is reasonably related to the cost to the court for administering the drug treatment court program as provided in the memorandum of understanding under section 1062. The clerk of the drug treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

(5) The drug treatment court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for purposes of determining the individual's compliance with all court orders. The department of state police shall provide the information requested by a drug treatment court under this subsection.

Sec. 1084. (1) The DWI/sobriety court interlock program is created under this section.

(2) All DWI/sobriety courts that participate in the program shall comply with the 10 guiding principles of DWI courts as promulgated by the National Center for DWI Courts.

(3) Beginning January 1, 2018, a DWI/sobriety court operating in this state, or a circuit court in any judicial circuit or the district court in any judicial district seeking to adopt or institute a DWI/sobriety court, must be certified by the state court administrative office in the same manner as required for a drug treatment court under section 1062(5).

A DWI/sobriety court shall not perform any of the functions of a DWI/sobriety court, including, but not limited to, the functions of a drug treatment court described in section 1062(5) after January 1, 2018 unless the court has been certified by the state court administrative office as provided in section 1062(5).

(4) In order to be considered for placement in the program, an individual must have been convicted of either of the following:

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

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

(5) Each year, all DWI/sobriety courts that participate in the program, in cooperation with the state court administrative office, shall provide to the legislature, the secretary of state, and the supreme court documentation as to participants' compliance with court ordered conditions. Best practices available must be used in the research in question, as resources allow, so as to provide statistically reliable data as to the impact of the program on public safety and the improvement of life conditions for participants. The topics documented must include, but not be limited to, all of the following:

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

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

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

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

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

(f) Relevant treatment information as to participants.

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

(h) Any other information found to be relevant.

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

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

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

(b) The court becomes aware that a program participant operates a motor vehicle that is not equipped with an interlock device or that a program participant tampers with, circumvents, or removes a court-ordered interlock device without prior court approval.

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

(8) The receipt of notification by the secretary of state under subsection (7) must result in summary revocation or suspension of the restricted license under section 304 of the Michigan vehicle code, 1949 PA 300, MCL 257.304.

(9) As used in this section:

(a) "DWI/sobriety court" means the specialized court docket and programs established within judicial circuits and districts throughout this state that are designed to reduce recidivism among alcohol offenders and that comply with the 10 guiding principles of DWI courts as promulgated by the National Center for DWI Courts.

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

(c) "Program" means the DWI/sobriety court interlock program created under this section.

Sec. 1088. (1) Beginning January 1, 2018, a case may be transferred totally from 1 court to another court for the defendant's participation in a state-certified treatment court. A total transfer may occur prior to or after adjudication,

but must not be consummated until the completion and execution of a memorandum of understanding that must include, but need not be limited to, all of the following:

(a) A detailed statement of how all funds assessed to defendant will be accounted for, including, but not necessarily limited to, the need for a receiving state-certified treatment court to collect funds and remit them to the court of original jurisdiction.

(b) A statement providing which court is responsible for providing information to the department of state police, as required under section 3 of 1925 PA 289, MCL 28.243, and forwarding an abstract to the secretary of state for inclusion on the defendant's driving record.

(c) A statement providing where jail sanctions or incarceration sentences would be served, as applicable.

(d) A statement that the defendant has been determined eligible by and will be accepted into the state-certified treatment court upon transfer.

(e) The approval of all of the following:

(i) The chief judge and assigned judge of the receiving state-certified treatment court and the court of original jurisdiction.

(ii) A prosecuting attorney from the receiving state-certified treatment court and the court of original jurisdiction.

(iii) The defendant.

(2) As used in this section, "state-certified treatment court" includes the treatment courts certified by the state court administrative office as provided in section 1062, 1084, 1091, or 1201.

Sec. 1095. (1) Upon admitting an individual into a mental health court, all of the following apply:

(a) For an individual who is admitted to a mental health court based upon having criminal charges currently filed against him or her and who has not already pled guilty or no contest or, in the case of a juvenile, has not admitted responsibility, the court shall accept the plea of guilty or no contest or, in the case of a juvenile, the admission of responsibility.

(b) For an individual who pled guilty or no contest to, or admitted responsibility for, criminal charges for which he or she was admitted into the mental health court, the court shall do either of the following:

(i) In the case of an individual who pled guilty or no contest to criminal offenses that are not traffic offenses and who may be eligible for discharge and dismissal under the agreement for which he or she was admitted into mental health court upon successful completion of the mental health court program, the court shall not enter a judgment of guilt or, in the case of a juvenile, shall not enter an adjudication of responsibility.

(ii) In the case of an individual who pled guilty to a traffic offense or who pled guilty to an offense but may not be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the mental health court program, the court shall enter a judgment of guilt or, in the case of a juvenile, shall enter an adjudication of responsibility.

(iii) Pursuant to the agreement with the individual and the prosecutor, the court may either delay further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable, and place the individual on probation or other court supervision in the mental health court program with terms and conditions according to the agreement and as considered necessary by the court.

(2) Unless a memorandum of understanding made pursuant to section 1088 between a receiving mental health court and the court of original jurisdiction provides otherwise, the original court of jurisdiction maintains jurisdiction over the mental health court participant as provided in this chapter until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2. In the case of a juvenile participant, the court may obtain jurisdiction over the juvenile's parents or guardians in order to assist in ensuring the juvenile's continued participation and successful completion of the mental health court and may issue and enforce any appropriate and necessary order regarding the parent or guardian.

(3) The mental health court may require an individual admitted into the court to pay a reasonable mental health court fee that is reasonably related to the cost to the court for administering the mental health court program as provided in the memorandum of understanding. The clerk of the mental health court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

Sec. 1206. (1) All of the following conditions apply to an individual admitted to a veterans treatment court:

(a) For an individual who is admitted to a veterans treatment court based upon having a criminal charge currently filed against him or her, the court shall accept the individual's plea of guilty.

(b) One of the following applies to an individual who pled guilty to a criminal charge for which he or she was admitted to a veterans treatment court, as applicable:

(i) If the individual pled guilty to an offense that is not a traffic offense and may be eligible for discharge and dismissal under the agreement with the court and prosecutor upon successful completion of the veterans treatment court program, the court shall not enter a judgment of guilt.

(ii) If the individual pled guilty to a traffic offense or another offense but is not eligible for discharge and dismissal under the agreement with the court and prosecutor upon successful completion of the veterans treatment court program, the court shall enter a judgment of guilt.

(c) Under the agreement with the individual and the prosecutor, the court may delay or defer further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable in that case under that agreement, and place the individual on probation or other court supervision in the veterans treatment court program with terms and conditions according to the agreement and as considered necessary by the court.

(2) Unless a memorandum of understanding made pursuant to section 1088 between a receiving veterans treatment court and the court of original jurisdiction provides otherwise, the original court of jurisdiction maintains jurisdiction over the veterans treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2.

(3) The veterans treatment court shall cooperate with, and act in a collaborative manner with, the prosecutor, defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, the United States Department of Veterans Affairs, local VSOs in that circuit or district, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies.

(4) The veterans treatment court may require an individual admitted into the court to pay a veterans treatment court fee that is reasonably related to the cost to the court for administering the veterans treatment court program as provided in the memorandum of understanding under section 1201(2). The clerk of the veterans treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

(5) The veterans treatment court may request that the department of state police provide to the court information contained in the L.E.I.N. pertaining to an individual applicant's criminal history for purposes of determining the individual's compliance with all court orders. The department of state police shall provide the information requested by a veterans treatment court under this subsection.

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

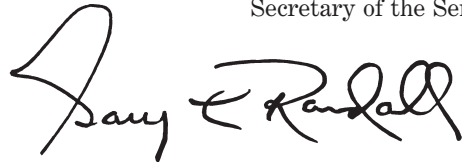
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

- (a) Senate Bill No. 436.
- (b) Senate Bill No. 437.
- (c) Senate Bill No. 438.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor