

**SUBSTITUTE FOR
HOUSE BILL NO. 4525**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 1064 and 1066 (MCL 600.1064 and 600.1066), as
added by 2004 PA 224.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1064. (1) Each drug treatment court shall determine
2 whether an individual may be admitted to the drug treatment court.
3 ~~No~~**An individual has** ~~does not have~~ a right to be admitted into a
4 drug treatment court. ~~However, an individual is not eligible for~~
5 ~~admission into a drug treatment court if he or she is a violent~~
6 ~~offender.~~

7 (2) In addition to admission to a drug treatment court under
8 this act, an individual who is eligible for admission ~~pursuant to~~



1 **under** this act may also be admitted to a drug treatment court under
2 any of the following circumstances:

3 (a) The individual has been assigned the status of youthful
4 trainee under section 11 of chapter II of the code of criminal
5 procedure, 1927 PA 175, MCL 762.11.

6 (b) The individual has had criminal proceedings against him or
7 her deferred and has been placed on probation under any of the
8 following:

9 (i) Section 7411 of the public health code, 1978 PA 368, MCL
10 333.7411.

11 (ii) Section 4a of chapter IX of the code of criminal
12 procedure, 1927 PA 175, MCL 769.4a.

13 (iii) Section **350a or** 430 of the Michigan penal code, 1931 PA
14 328, MCL **750.350a and** 750.430.

15 ~~(iv) Section 350a of the Michigan penal code, 1931 PA 328, MCL~~
16 ~~750.350a.~~

17 (3) To be admitted to a drug treatment court, an individual
18 must cooperate with and complete a preadmissions screening and
19 evaluation assessment and must agree to cooperate with any future
20 evaluation assessment as directed by the drug treatment court. A
21 preadmission screening and evaluation assessment ~~shall~~**must** include
22 all of the following:

23 (a) A complete review of the individual's criminal history,
24 and a review of whether or not the individual has been admitted to
25 and has participated in or is currently participating in a drug
26 treatment court, whether admitted under this act or under section
27 11 of chapter II of the code of criminal procedure, 1927 PA 175,
28 MCL 762.11, section 7411 of the public health code, 1978 PA 368,
29 MCL 333.7411, section 4a of chapter IX of the code of criminal



1 procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the
2 code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of
3 the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430
4 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the
5 results of the individual's participation. A review of the law
6 enforcement information network may be considered sufficient for
7 purposes of this subdivision unless a further review is warranted.
8 The court may accept other verifiable and reliable information from
9 the prosecution or defense to complete its review and may require
10 the individual to submit a statement as to whether or not ~~he or she~~
11 **the individual** has previously been admitted to a drug treatment
12 court and the results of ~~his or her~~ **the individual's** participation
13 in the prior program or programs.

14 (b) An assessment of the risk of danger or harm to the
15 individual, others, or the community.

16 (c) As much as practicable, a complete review of the
17 individual's history regarding the use or abuse of any controlled
18 substance or alcohol and an assessment of whether the individual
19 abuses controlled substances or alcohol or is drug or alcohol
20 dependent. It is the intent of the legislature that this assessment
21 should be a clinical assessment as much as practicable.

22 (d) A review of any special needs or circumstances of the
23 individual that may potentially affect the individual's ability to
24 receive substance abuse treatment and follow the court's orders.

25 (e) For a juvenile, an assessment of the family situation
26 including, as much as practicable, a comparable review of any
27 guardians or parents.

28 (4) Except as otherwise permitted in this act, any statement
29 or other information obtained as a result of participating in a



1 preadmission screening and evaluation assessment under subsection
2 (3) is confidential and is exempt from disclosure under the freedom
3 of information act, 1976 PA 442, MCL 15.231 to 15.246, and ~~shall~~
4 **must** not be used in a criminal prosecution, unless it reveals
5 criminal acts other than, or inconsistent with, personal drug use.

6 (5) The court may request that the department of state police
7 provide to the court information contained in the law enforcement
8 information network pertaining to an individual applicant's
9 criminal history for the purposes of determining an individual's
10 admission into the drug treatment court and general criminal
11 history review, including whether the individual has previously
12 been admitted to and participated in a drug treatment court under
13 this act, or under section 11 of chapter II of the code of criminal
14 procedure, 1927 PA 175, MCL 762.11, section 7411 of the public
15 health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of
16 the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1
17 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL
18 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL
19 750.350a, or section 430 of the Michigan penal code, 1931 PA 328,
20 MCL 750.430, and the results of the individual's participation. The
21 department of state police shall provide the information requested
22 by a drug treatment court under this subsection.

23 Sec. 1066. Before an individual is admitted into a drug
24 treatment court, the court shall find on the record, or place a
25 statement in the court file pertaining to, all of the following:

26 (a) The individual is dependent upon or abusing drugs or
27 alcohol and is an appropriate candidate for participation in the
28 drug treatment court.

29 (b) The individual understands the consequences of entering



1 the drug treatment court and agrees to comply with all court orders
2 and requirements of the court's program and treatment providers.

3 (c) The individual is not an unwarranted or substantial risk
4 to the safety of the public or any individual, based upon the
5 screening and assessment or other information presented to the
6 court.

7 (d) ~~The~~ **Either the** individual is not a violent offender **or the**
8 **drug treatment court judge and the prosecuting attorney, in**
9 **consultation with any known victim in the instant case, consent to**
10 **the violent offender being admitted to the drug treatment court.**

11 (e) **The individual is not charged with and has not pled guilty**
12 **to, or, if the individual is a juvenile, is not currently alleged**
13 **to have committed and has not admitted responsibility to, either of**
14 **the following:**

15 (i) **First degree murder in violation of section 316 of the**
16 **Michigan penal code, 1931 PA 328, MCL 750.316.**

17 (ii) **Criminal sexual conduct in the first degree in violation**
18 **of section 520b of the Michigan penal code, 1931 PA 328, MCL**
19 **750.520b.**

20 (f) ~~(e)~~ The individual has completed a preadmission screening
21 and evaluation assessment under section 1064(3) and has agreed to
22 cooperate with any future evaluation assessment as directed by the
23 drug treatment court.

24 (g) ~~(f)~~ The individual meets the requirements, if applicable,
25 under section 7411 of the public health code, 1978 PA 368, MCL
26 333.7411, section 11 of chapter II of the code of criminal
27 procedure, 1927 PA 175, MCL 762.11, section 4a of chapter IX of the
28 code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of
29 chapter XI of the code of criminal procedure, 1927 PA 175, MCL



1 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL
2 750.350a, or section 430 of the Michigan penal code, 1931 PA 328,
3 MCL 750.430.

4 **(h)** ~~(g)~~—The terms, conditions, and the duration of the
5 agreement between the parties, especially as to the outcome for the
6 participant of the drug treatment court upon successful completion
7 by the participant or termination of participation.

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

