

HOUSE BILL No. 6517

September 24, 2008, Introduced by Reps. Simpson, Brown, Angerer, Valentine, Condino, Griffin, Donigan, Wojno, Warren, Byrnes, Alma Smith, Bauer, Hammel, Kathleen Law, Dean, Hammon, Meadows and Spade and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 1076 (MCL 600.1076), as added by 2004 PA 224.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1076. (1) Upon completion or termination of the drug
2 treatment court program, the court shall find on the record or
3 place a written statement in the court file as to whether the
4 participant completed the program successfully or whether the
5 individual's participation in the program was terminated and, if it
6 was terminated, the reason for the termination.

7 (2) For a participant who successfully completes probation or
8 other court supervision and whose proceedings were deferred or who

1 was sentenced ~~pursuant to~~ **UNDER** section 1070, the court shall
2 comply with the agreement made with the participant upon admission
3 into the drug treatment court, or the agreement as it was altered
4 after admission by the court with approval of the participant and
5 the prosecutor for that jurisdiction as provided in subsections (3)
6 to (8).

7 (3) If an individual is participating in a drug treatment
8 court under section 11 of chapter II of the code of criminal
9 procedure, 1927 PA 175, MCL 762.11, section 7411 of the public
10 health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of
11 the code of criminal procedure, 1927 PA 175, MCL 769.4a, section
12 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or
13 section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430,
14 the court shall proceed pursuant to the applicable section of law.
15 There may only be 1 discharge or dismissal under this subsection.

16 (4) Except as provided in subsection (5), the court, with the
17 agreement of the prosecutor and in conformity with the terms and
18 conditions of the memorandum of understanding under section 1062,
19 may discharge and dismiss the proceedings against an individual who
20 meets all of the following criteria:

21 (a) The individual has participated in a drug treatment court
22 for the first time.

23 (b) The individual has successfully completed the terms and
24 conditions of the drug treatment court program.

25 (c) The individual is not required by law to be sentenced to a
26 correctional facility for the crimes to which he or she has pled
27 guilty.

1 (d) The individual is not currently charged with and has not
2 pled guilty to a traffic offense.

3 (e) The individual has not previously been subject to more
4 than 1 of any of the following:

5 (i) Assignment to the status of youthful trainee under section
6 11 of chapter II of the code of criminal procedure, 1927 PA 175,
7 MCL 762.11.

8 (ii) The dismissal of criminal proceedings against him or her
9 under section 7411 of the public health code, 1978 PA 368, MCL
10 333.7411, section 4a of chapter IX of the code of criminal
11 procedure, 1927 PA 175, MCL 769.4a, section 350a of the Michigan
12 penal code, 1931 PA 328, MCL 750.350a, or section 430 of the
13 Michigan penal code, 1931 PA 328, MCL 750.430.

14 (5) The court may grant a discharge and dismissal of a
15 domestic violence offense only if all of the following
16 circumstances apply:

17 (a) The individual has not previously had proceedings
18 dismissed under section 4a of chapter IX of the code of criminal
19 procedure, 1927 PA 175, MCL 769.4a.

20 (b) The domestic violence offense is eligible to be dismissed
21 under section 4a of chapter IX of the code of criminal procedure,
22 1927 PA 175, MCL 769.4a.

23 (c) The individual fulfills the terms and conditions imposed
24 under section 4a of chapter IX of the code of criminal procedure,
25 1927 PA 175, MCL 769.4a, and the discharge and dismissal of
26 proceedings are processed and reported under section 4a of chapter
27 IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

1 (6) A discharge and dismissal under subsection (4) shall be
2 without adjudication of guilt or, for a juvenile, without
3 adjudication of responsibility and **EXCEPT AS PROVIDED IN SECTION**
4 **4A(5) OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175,**
5 **MCL 769.4A,** are not a conviction or a finding of responsibility for
6 purposes of this section or for purposes of disqualifications or
7 disabilities imposed by law upon conviction of a crime or, for a
8 juvenile, a finding of responsibility. There may only be 1
9 discharge and dismissal under subsection (4) for an individual. The
10 court shall send a record of the discharge and dismissal to the
11 criminal justice information center of the department of state
12 police, and the department of state police shall enter that
13 information into the law enforcement information network with an
14 indication of participation by the individual in a drug treatment
15 court. All records of the proceedings regarding the participation
16 of the individual in the drug treatment court ~~pursuant to~~ **UNDER**
17 subsection (4) are closed to public inspection, and are exempt from
18 public disclosure under the freedom of information act, 1976 PA
19 442, MCL 15.231 to 15.246, but shall be open to the courts of this
20 state, another state, or the United States, the department of
21 corrections, law enforcement personnel, and prosecutors only for
22 use in the performance of their duties or to determine whether an
23 employee of the court, department, law enforcement agency, or
24 prosecutor's office has violated his or her conditions of
25 employment or whether an applicant meets criteria for employment
26 with the court, department, law enforcement agency, or prosecutor's
27 office. The records and identifications division of the department

1 of state police shall retain a nonpublic record of an arrest and
2 the discharge and dismissal under this subsection.

3 (7) Except as provided in subsection (3), (4), or (5), if an
4 individual has successfully completed probation or other court
5 supervision, the court shall do the following:

6 (a) If the court has not already entered an adjudication of
7 guilt or responsibility, enter an adjudication of guilt or, in the
8 case of a juvenile, enter a finding or adjudication of
9 responsibility.

10 (b) If the court has not already sentenced the individual,
11 proceed to sentencing or, in the case of a juvenile, disposition
12 pursuant to the agreement.

13 (c) Send a record of the conviction and sentence or the
14 finding or adjudication of responsibility and disposition to the
15 criminal justice information center of the department of state
16 police. The department of state police shall enter that information
17 into the law enforcement information network with an indication of
18 successful participation by the individual in a drug treatment
19 court.

20 (8) For a participant whose participation is terminated or who
21 fails to successfully complete the drug treatment court program,
22 the court shall enter an adjudication of guilt, or, in the case of
23 a juvenile, a finding of responsibility, if the entering of guilt
24 or adjudication of responsibility was deferred ~~pursuant to~~ **UNDER**
25 section 1070, and shall then proceed to sentencing or disposition
26 of the individual for the original charges to which the individual
27 pled guilty or, if a juvenile, to which the juvenile admitted

1 responsibility prior to admission to the drug treatment court. Upon
2 sentencing or disposition of the individual, the court shall send a
3 record of that sentence or disposition and the individual's
4 unsuccessful participation in the drug treatment court to the
5 criminal justice information center of the department of state
6 police, and the department of state police shall enter that
7 information into the law enforcement information network, with an
8 indication that the individual unsuccessfully participated in a
9 drug treatment court.

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

12 Enacting section 2. This amendatory act does not take effect
13 unless all of the following bills of the 94th Legislature are
14 enacted into law:

15 (a) Senate Bill No.____ or House Bill No. 6522(request no.
16 06312'08 *).

17 (b) Senate Bill No.____ or House Bill No. 6516(request no.
18 06312'08 a *).