

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 630

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
9 was sentenced ~~pursuant to~~ **UNDER** section 1070, the court shall
10 comply with the agreement made with the participant upon admission

1 into the drug treatment court, or the agreement as it was altered
2 after admission by the court with approval of the participant and
3 the prosecutor for that jurisdiction as provided in subsections (3)
4 to (8).

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

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

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

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

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

27 (d) The individual is not currently charged with and has not

1 pled guilty to a traffic offense.

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

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

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

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

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

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

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

27 (6) A discharge and dismissal under subsection (4) shall be

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

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

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

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

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

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

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

8 (9) ALL COURT PROCEEDINGS UNDER THIS SECTION SHALL BE OPEN TO
9 THE PUBLIC. EXCEPT AS PROVIDED IN SUBSECTION (10), IF THE RECORD OF
10 PROCEEDINGS AS TO THE DEFENDANT IS DEFERRED UNDER THIS SECTION, THE
11 RECORD OF PROCEEDINGS DURING THE PERIOD OF DEFERRAL SHALL BE CLOSED
12 TO PUBLIC INSPECTION.

13 (10) UNLESS THE COURT ENTERS A JUDGMENT OF GUILT OR AN
14 ADJUDICATION OF RESPONSIBILITY UNDER THIS SECTION, THE DEPARTMENT
15 OF STATE POLICE SHALL RETAIN A NONPUBLIC RECORD OF THE ARREST,
16 COURT PROCEEDINGS, AND DISPOSITION OF THE CRIMINAL CHARGE UNDER
17 THIS SECTION. HOWEVER, THE NONPUBLIC RECORD SHALL BE OPEN TO THE
18 FOLLOWING INDIVIDUALS AND ENTITIES FOR THE PURPOSES NOTED:

19 (A) THE COURTS OF THIS STATE, LAW ENFORCEMENT PERSONNEL, AND
20 PROSECUTING ATTORNEYS FOR USE ONLY IN THE PERFORMANCE OF THEIR
21 DUTIES.

22 (B) THE COURTS OF THIS STATE, LAW ENFORCEMENT PERSONNEL, AND
23 PROSECUTING ATTORNEYS FOR THE PURPOSE OF SHOWING THAT A DEFENDANT
24 HAS ALREADY ONCE AVAILED HIMSELF OR HERSELF OF THIS SECTION.

25 (C) THE DEPARTMENT OF CORRECTIONS FOR ASCERTAINING
26 PREEMPLOYMENT CRIMINAL HISTORY OR TO DETERMINE WHETHER A DEPARTMENT
27 OF CORRECTIONS EMPLOYEE HAS VIOLATED CONDITIONS OF EMPLOYMENT.

1 (D) THE DEPARTMENT OF HUMAN SERVICES FOR ENFORCING CHILD
2 PROTECTION LAWS AND VULNERABLE ADULT PROTECTION LAWS OR
3 ASCERTAINING THE PREEMPLOYMENT CRIMINAL HISTORY OF ANY INDIVIDUAL
4 WHO WILL BE ENGAGED IN THE ENFORCEMENT OF CHILD PROTECTION LAWS OR
5 VULNERABLE ADULT PROTECTION LAWS.

6 Enacting section 1. This amendatory act takes effect April 1,
7 2013.