

Legislative Analysis



SPECIALTY TREATMENT COURTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5482 as introduced
Sponsor: Rep. Gary Howell

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5483 as introduced
Sponsor: Rep. David LaGrand

House Bill 5484 as introduced
Sponsor: Rep. Tenisha Yancey

House Bill 5512 as introduced
Sponsor: Rep. Julie Calley

Committee: Judiciary
Complete to 2-22-22

SUMMARY:

The bills would do the following:

- Allow a violent offender to participate in a drug treatment court or mental health court, with the consent of the judge and prosecutor (in consultation with any known victim). (HBs 5482 and 5483, respectively)
- Allow participation in a drug treatment court to continue after a participant is convicted of a new felony offense under certain conditions. (HB 5484)
- Provide that, in case of a conflict, provisions of law pertaining to certain specialty courts would supersede provisions of the Michigan Medical Marijuana Act. (HB 5512)

House Bills 5482, 5483, and 5284 would amend two different chapters within the Revised Judicature Act (RJA) pertaining to drug treatment courts and mental health treatment courts.

House Bills 5482 and 5484 would each amend Chapter 10A, entitled “Drug treatment courts,” of the RJA. Currently, among other things, before an individual is admitted into a drug treatment court, the court must find on the record, or place a statement in the court file, that the individual is not a “violent offender.”

Chapter 10A defines “violent offender” to mean an individual who meets either of the following:

- Is currently charged with or had pleaded guilty to (or, if a juvenile, was currently alleged to have committed or had admitted responsibility for) any of the following: an offense involving the death of or a serious bodily injury to any individual; the carrying, possession, or use of a firearm or other dangerous weapon; or criminal sexual conduct of any degree.

- Has one or more prior convictions for (or, if a juvenile, had one or more prior findings of responsibility for) a felony involving the use or attempted use of force against another individual with the intent to cause death or serious bodily harm.

Under **House Bill 5482**, the court would have to find on the record, or place a statement in the file, that either the offender is not a violent offender, or the drug treatment court judge and the prosecuting attorney in consultation with any known victim in the instant case consent to the violent offender being admitted to the drug treatment court. [**Note:** Section 1064(1) of the RJA specifically provides that an individual is not eligible for admission into a drug treatment court if he or she is a violent offender.]

Chapter 10A also provides that if convicted of a felony for an offense that occurred after the defendant is admitted to drug treatment court, the judge is required to terminate the participant's participation in the program. **House Bill 5484** would add that the participant's participation would have to be terminated unless, after consultation with the treatment team and the agreement of the prosecuting attorney, the judge decides to continue the participant in the program.

House Bill 5483 would make a similar amendment to Chapter 10B, entitled "Mental Health Court", of the RJA. Currently, in no case can a violent offender be admitted into a mental health court. The bill would provide that unless the mental health court judge and the prosecuting attorney in consultation with any known victim in the instant case consent, a violent offender must not be admitted into mental health court.

Under Chapter 10B, "violent offender" means an individual who is currently charged with, or has been convicted of, an offense involving the death of, or a serious bodily injury to, any individual, whether or not any of these circumstances are an element of the offense, or with criminal sexual conduct in any degree.

Effective date

Each of the above bills would take effect 90 days after enactment.

MCL 600.1066 (HB 5482)

MCL 600.1074 (HB 5484)

MCL 600.1093 (HB 5483)

House Bill 5512 would amend the Michigan Medical Marihuana Act to provide that certain provisions of the Revised Judicature Act that deal with drug treatment courts, mental health courts, juvenile mental health courts, and veterans treatment courts apply if there is a conflict between those provisions and the Michigan Medical Marihuana Act.

The Michigan Medical Marihuana Act provides that all other acts and parts of acts that are inconsistent with it do not apply to the medical use of marijuana as provided for by it.

The bill would add an exception to provide that if the Michigan Medical Marihuana Act is inconsistent with any part of the following chapters of the Revised Judicature Act, that part applies:

- Chapter 10A (Drug Treatment Courts).
- Chapter 10B (Mental Health Court).
- Chapter 10C (Juvenile Mental Health Courts).
- Chapter 12 (Veterans Treatment Courts).

MCL 333.26427

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the state and on local courts that administer drug treatment courts and mental health courts. Under the bills, violent offenders would be allowed to participate in drug treatment courts or mental health courts if judges, prosecuting attorneys, and victims agreed to their participation. The fiscal impact would depend on the extent to which provisions of the bills increase drug treatment court or mental health court caseloads. As of December 1, 2021, there were 135 drug treatment and 40 mental health courts operating in the state. Local court funding units and the State Court Administrative Office provide funding for the planning and operation of the courts. Grant funding appropriated by the state in the FY 2021-22 budget totaled \$12.5 million for drug treatment courts and \$5.6 million for mental health courts.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.