

HOUSE BILL NO. 5868

March 02, 2022, Introduced by Reps. Howell and LaGrand and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 1064 (MCL 600.1064), 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 individual has a right to be admitted into a drug treatment
4 court. ~~However, an individual is not eligible for admission into a~~
5 ~~drug treatment court if he or she is a violent offender.~~

6 (2) In addition to admission to a drug treatment court under

1 this act, an individual who is eligible for admission pursuant to
2 this act may also be admitted to a drug treatment court under any
3 of the following circumstances:

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

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

10 (i) Section 7411 of the public health code, 1978 PA 368, MCL
11 333.7411.

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

14 (iii) Section 430 of the Michigan penal code, 1931 PA 328, MCL
15 750.430.

16 (iv) Section 350a of the Michigan penal code, 1931 PA 328, MCL
17 750.350a.

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

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

1 MCL 333.7411, section 4a of chapter IX of the code of criminal
2 procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the
3 code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of
4 the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430
5 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the
6 results of the individual's participation. A review of the law
7 enforcement information network may be considered sufficient for
8 purposes of this subdivision unless a further review is warranted.
9 The court may accept other verifiable and reliable information from
10 the prosecution or defense to complete its review and may require
11 the individual to submit a statement as to whether or not he or she
12 has previously been admitted to a drug treatment court and the
13 results of his or her participation in the prior program or
14 programs.

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

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

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

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

29 (4) Except as otherwise permitted in this act, any statement

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

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