

Legislative Analysis



SPECIALTY TREATMENT COURTS

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

House Bill 4523 (H-1) as reported from committee
Sponsor: Rep. Kara Hope

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

House Bill 4524 as reported from committee
Sponsor: Rep. Joey Andrews

House Bill 4525 (H-1) as reported from committee
Sponsor: Rep. Graham Filler

Committee: Judiciary
Complete to 9-3-23

SUMMARY:

House Bills 4523 and 4525 would amend the Revised Judicature Act to allow a violent offender to participate in a mental health court or drug treatment court, respectively, with the consent of the judge and prosecutor (in consultation with any known victim). However, an individual currently charged with or who has pled guilty to first degree murder or criminal sexual conduct in the first degree could not be admitted to a mental health court or drug treatment court. House Bill 4524 would amend the same act to allow participation in a drug treatment court to continue after a participant is convicted of a new felony offense under certain conditions.

House Bill 4523 would amend Chapter 10B (Mental Health Court) of the Revised Judicature Act, which currently prohibits a *violent offender* from being admitted into a **mental health court** under any circumstances. The bill instead would prohibit a violent offender from being admitted into mental health court *unless* the mental health court judge and the prosecuting attorney, in consultation with any known victim in the instant case, consent. However, an individual who is currently charged with or who has pled guilty to first degree murder¹ or criminal sexual conduct in the first degree² could not be admitted to a mental health court.

For purposes of 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.

MCL 600.1093

House Bill 4525 would amend Chapter 10A (Drug Treatment Courts) of the Revised Judicature Act, which currently provides that a *violent offender* is not eligible to be admitted into a **drug treatment court** and requires the court, before an individual is admitted into a drug treatment court, to find on the record that the individual is not a violent offender or place a statement to that effect in the court file.

¹ See <http://legislature.mi.gov/doc.aspx?mcl-750-316>

² See <http://legislature.mi.gov/doc.aspx?mcl-750-520b>

For purposes of Chapter 10A, *violent offender* means an individual who is currently charged with or has pled guilty to (or, if the individual is a juvenile, is currently alleged to have committed or has admitted responsibility for) an offense involving the death of or serious bodily injury to any individual, whether or not any of the circumstances are an element of the offense, or an offense that is criminal sexual conduct of any degree.

The bill would eliminate the provision that states that an individual who is a violent offender is not eligible for admission into a drug treatment court.

Under the bill, before an individual is admitted into a drug treatment court, the court would have to find one of the following on the record (or place a statement in the court file):

- That the offender is not a violent offender.
- That the drug treatment court judge and the prosecuting attorney, in consultation with any known victim in the instant case, consent to the violent offender's being admitted to the drug treatment court.

The court also would have to find on the record, or place a statement in the file, that the individual is not charged with and has not pled guilty to (or, if a juvenile, is not currently alleged to have committed and has not admitted responsibility to) first degree murder or criminal sexual conduct in the first degree.

MCL 600.1064 and 600.1066

House Bill 4524 also would amend Chapter 10A (Drug Treatment Courts) of the Revised Judicature Act, which now provides that if a drug court participant is convicted of a felony for an offense that occurred after the defendant is admitted to drug treatment court, the judge must terminate the participant's participation in the program. The bill would instead provide that the participant's participation must 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.

MCL 600.1074

Each bill each would take effect 90 days after its enactment.

BACKGROUND:

House Bills 4523 and 4524 are reintroductions of HBs 5483 and 5484 of the 2021-22 legislative session, and House Bill 4525 is a reintroduction of provisions contained in HBs 5482 and 5868 of that session. House Bills 5482, 5483, and 5484 received a hearing in the House Judiciary committee. House Bill 5868 was a companion bill to HB 5482 to align an additional section of the Revised Judicature Act with the provisions of that bill, but did not receive a hearing.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the state and on local units having courts that administer drug and mental health treatment programs. Under the bills, violent offenders would be allowed to participate in drug treatment courts or mental health courts if

judges, prosecuting attorneys, and victims agree 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, 2022, there were 137 drug treatment and 42 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 2023 budget totaled \$12.7 million for drug treatment courts and \$5.7 million for mental health courts.

POSITIONS:

A representative of the Michigan Association of Treatment Court Professionals testified in support of the bills. (5-17-23)

The following entities indicated support for the bills:

- State Court Administrative Office (SCAO) (5-17-23)
- State Bar of Michigan (6-7-23)
- Prosecuting Attorneys Association of Michigan (6-7-23)
- Criminal Defense Attorneys of Michigan (5-17-23)
- Mental Health Association of Michigan (6-7-23)
- Michigan Association of Counties (6-7-23)

The Michigan Domestic and Sexual Violence Prevention and Treatment Board indicated opposition to HBs 4523 and 4525. (5-17-23)

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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.