

SUBSTITUTE FOR
HOUSE BILL NO. 4525

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 1064 and 1066 (MCL 600.1064 and 600.1066), 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~~**An individual has** ~~does not have~~ a right to be admitted into a
4 drug treatment court. ~~However, an individual is not eligible for~~
5 ~~admission into a drug treatment court if he or she is a violent~~
6 ~~offender.~~**Unless the drug treatment court judge and the prosecuting**
7 **attorney, in consultation with any known victim in the instant**
8 **case, consent, a violent offender must not be admitted into a drug**

1 treatment court. An individual must not be admitted to a drug
2 treatment court if either of the following applies:

3 (a) The individual is currently charged with or, if the
4 individual is a juvenile, is currently alleged to have committed
5 first degree murder in violation of section 316 of the Michigan
6 penal code, 1931 PA 328, MCL 750.316, or criminal sexual conduct in
7 the first, second, or third degree in violation of section 520b,
8 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL
9 750.520b, 750.520c, and 750.520d.

10 (b) The individual has been convicted of or, if the individual
11 is a juvenile, found responsible for first degree murder in
12 violation of section 316 of the Michigan penal code, 1931 PA 328,
13 MCL 750.316, or criminal sexual conduct in the first degree in
14 violation of section 520b of the Michigan penal code, 1931 PA 328,
15 MCL 750.520b.

16 (2) In addition to admission to a drug treatment court under
17 this act, an individual who is eligible for admission ~~pursuant to~~
18 **under** this act may also be admitted to a drug treatment court under
19 any of the following circumstances:

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

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

26 (i) Section 7411 of the public health code, 1978 PA 368, MCL
27 333.7411.

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

1 (iii) Section **350a or** 430 of the Michigan penal code, 1931 PA
2 328, MCL **750.350a and** 750.430.

3 ~~(iv) Section 350a of the Michigan penal code, 1931 PA 328, MCL~~
4 ~~750.350a.~~

5 (3) To be admitted to a drug treatment court, an individual
6 must cooperate with and complete a preadmissions screening and
7 evaluation assessment and must agree to cooperate with any future
8 evaluation assessment as directed by the drug treatment court. A
9 preadmission screening and evaluation assessment ~~shall~~**must** include
10 all of the following:

11 (a) A complete review of the individual's criminal history,
12 and a review of whether or not the individual has been admitted to
13 and has participated in or is currently participating in a drug
14 treatment court, whether admitted under this act or under section
15 11 of chapter II of the code of criminal procedure, 1927 PA 175,
16 MCL 762.11, section 7411 of the public health code, 1978 PA 368,
17 MCL 333.7411, section 4a of chapter IX of the code of criminal
18 procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the
19 code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of
20 the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430
21 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the
22 results of the individual's participation. A review of the law
23 enforcement information network may be considered sufficient for
24 purposes of this subdivision unless a further review is warranted.
25 The court may accept other verifiable and reliable information from
26 the prosecution or defense to complete its review and may require
27 the individual to submit a statement as to whether or not ~~he or she~~
28 **the individual** has previously been admitted to a drug treatment
29 court and the results of ~~his or her~~**the individual's** participation

1 in the prior program or programs.

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

4 (c) As much as practicable, a complete review of the
5 individual's history regarding the use or abuse of any controlled
6 substance or alcohol and an assessment of whether the individual
7 abuses controlled substances or alcohol or is drug or alcohol
8 dependent. It is the intent of the legislature that this assessment
9 should be a clinical assessment as much as practicable.

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

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

16 (4) Except as otherwise permitted in this act, any statement
17 or other information obtained as a result of participating in a
18 preadmission screening and evaluation assessment under subsection
19 (3) is confidential and is exempt from disclosure under the freedom
20 of information act, 1976 PA 442, MCL 15.231 to 15.246, and ~~shall~~
21 **must** not be used in a criminal prosecution, unless it reveals
22 criminal acts other than, or inconsistent with, personal drug use.

23 (5) The court may request that the department of state police
24 provide to the court information contained in the law enforcement
25 information network pertaining to an individual applicant's
26 criminal history for the purposes of determining an individual's
27 admission into the drug treatment court and general criminal
28 history review, including whether the individual has previously
29 been admitted to and participated in a drug treatment court under

1 this act, or under section 11 of chapter II of the code of criminal
2 procedure, 1927 PA 175, MCL 762.11, section 7411 of the public
3 health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of
4 the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1
5 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL
6 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL
7 750.350a, or section 430 of the Michigan penal code, 1931 PA 328,
8 MCL 750.430, and the results of the individual's participation. The
9 department of state police shall provide the information requested
10 by a drug treatment court under this subsection.

11 Sec. 1066. Before an individual is admitted into a drug
12 treatment court, the court shall find on the record, or place a
13 statement in the court file pertaining to, all of the following:

14 (a) The individual is dependent upon or abusing drugs or
15 alcohol and is an appropriate candidate for participation in the
16 drug treatment court.

17 (b) The individual understands the consequences of entering
18 the drug treatment court and agrees to comply with all court orders
19 and requirements of the court's program and treatment providers.

20 (c) The individual is not an unwarranted or substantial risk
21 to the safety of the public or any individual, based upon the
22 screening and assessment or other information presented to the
23 court.

24 (d) ~~The~~ **Either the** individual is not a violent offender **or,**
25 **subject to subdivisions (e) and (f), the drug treatment court judge**
26 **and the prosecuting attorney, in consultation with any known victim**
27 **in the instant case, consent to the violent offender being admitted**
28 **to the drug treatment court.**

29 (e) **The individual is not currently charged with or, if the**

1 individual is a juvenile, is not currently alleged to have
2 committed first degree murder or criminal sexual conduct in the
3 first, second, or third degree.

4 (f) The individual has never been convicted of or, if the
5 individual is a juvenile, has never been found responsible for
6 first degree murder or criminal sexual conduct in the first degree.

7 (g) ~~(e)~~—The individual has completed a preadmission screening
8 and evaluation assessment under section 1064(3) and has agreed to
9 cooperate with any future evaluation assessment as directed by the
10 drug treatment court.

11 (h) ~~(f)~~—The individual meets the requirements, if applicable,
12 under section 7411 of the public health code, 1978 PA 368, MCL
13 333.7411, section 11 of chapter II of the code of criminal
14 procedure, 1927 PA 175, MCL 762.11, section 4a of chapter IX of the
15 code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of
16 chapter XI of the code of criminal procedure, 1927 PA 175, MCL
17 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL
18 750.350a, or section 430 of the Michigan penal code, 1931 PA 328,
19 MCL 750.430.

20 (i) ~~(g)~~—The terms, conditions, and the duration of the
21 agreement between the parties, especially as to the outcome for the
22 participant of the drug treatment court upon successful completion
23 by the participant or termination of participation.

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