

# HOUSE BILL No. 5401

December 30, 2003, Introduced by Reps. Meisner, Hopgood, Condino, Bieda, Kolb, Tobocman, Gillard, Law, Hunter, Gleason, Vagnozzi, Byrum, Jamnick, McConico, Murphy, Phillips, Clack, Stallworth, Hood, Smith, Gaffney, Acciavatti and Hardman and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
(MCL 600.101 to 600.9947) by adding chapter 10A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 10A.

2 Sec. 1060. (1) Drug treatment courts may be created in the  
3 circuit and district courts in this state, in accordance with  
4 this chapter.

5 (2) The family division of circuit court in any judicial  
6 circuit may create a juvenile drug treatment court or may create  
7 a family drug treatment court for cases involving a juvenile over  
8 whom the court has jurisdiction under section 2(b) of chapter  
9 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or  
10 both.

11 (3) The circuit court in any judicial circuit or district

HOUSE BILL No. 5401

1 court in any judicial district may create a drug treatment court  
2 appropriate to the felony or misdemeanor offenses within their  
3 respective jurisdictions.

4 (4) This section does not prevent the creation of other  
5 problem-solving courts.

6 Sec. 1063. (1) A drug treatment court shall provide for all  
7 of the following:

8 (a) An immediate and highly structured judicial intervention  
9 and monitoring process utilizing a system of immediate and  
10 graduated sanctions and incentives for substance abuse treatment  
11 of eligible defendants that brings together judges, prosecutors,  
12 defense attorneys, caseworkers, probation officers, drug  
13 treatment court coordinators, substance abuse professionals,  
14 local social programs, mental health treatment providers, and  
15 other persons and entities in order to isolate and address the  
16 costly and negative impact that drug and alcohol addiction is  
17 having on our criminal justice system and our communities.

18 (b) A range of necessary pretrial intervention services,  
19 including immediate drug or alcohol testing upon arrest,  
20 screening for eligibility, case management, clinical assessment,  
21 and referral to appropriate counseling services.

22 (2) A drug treatment court may order a defendant to perform  
23 community service as part of supervised treatment, or as a means  
24 of restitution, or both.

25 (3) Each drug treatment court shall designate an employee of  
26 the court to serve as a drug treatment court coordinator, who  
27 shall administer the drug treatment court program for that

1 court.

2 (4) A drug treatment court program shall be structured so  
3 that the parents or legal guardians of a juvenile offender are  
4 involved in the offender's treatment program to the greatest  
5 extent possible.

6 Sec. 1066. A family drug treatment court shall provide a  
7 highly structured judicial intervention and monitoring process  
8 utilizing a system of immediate and graduated sanctions and  
9 incentives for substance abuse treatment of eligible individuals  
10 through a collaborative effort in which court, public health,  
11 treatment, and child welfare practitioners work together to  
12 conduct comprehensive needs assessment and broad workable case  
13 plans that assist their clients in achieving sobriety, becoming  
14 responsible adults, and holding their families together.

15 Sec. 1069. A drug treatment court shall be based on, and  
16 shall implement, the following 10 key components:

17 (a) Drug treatment courts integrate alcohol and other drug  
18 treatment services with justice system case processing.

19 (b) Using a nonadversarial approach, prosecution and defense  
20 counsel promote public safety while protecting participants' due  
21 process rights.

22 (c) Eligible participants are identified early and promptly  
23 placed in the drug treatment court program.

24 (d) Drug treatment courts provide access to a continuum of  
25 alcohol, drug, and other related treatment and rehabilitation  
26 services.

27 (e) Abstinence is monitored by frequent alcohol and other

1 drug testing.

2 (f) A coordinated strategy governs drug treatment court  
3 responses to participants' compliance.

4 (g) Ongoing judicial interaction with each drug treatment  
5 court participant is essential.

6 (h) Monitoring and evaluation measure the achievement of  
7 program goals and gauge effectiveness.

8 (i) Continuing interdisciplinary education promotes effective  
9 drug treatment court planning, implementation, and operations.

10 (j) Having drug treatment courts forge partnerships with  
11 public agencies and community-based organizations generates local  
12 support and enhances drug court effectiveness.

13 Sec. 1072. (1) A drug treatment court shall comply with all  
14 state and federal due process requirements.

15 (2) Any testimony, evidence, or other information presented  
16 in a drug treatment court during the course of an offender's drug  
17 treatment program cannot be used against the offender in any  
18 subsequent prosecution for that same drug offense.

19 Sec. 1075. (1) In a county where a drug treatment court has  
20 been established, the prosecuting attorney and drug treatment  
21 court judge, using guidelines established by the state drug  
22 treatment court advisory board, shall develop criteria to  
23 determine offender participation. The county prosecutor may  
24 refer to the drug treatment court offenders who would be eligible  
25 for participation in a drug treatment court program. The drug  
26 treatment court judge shall make a final determination of the  
27 eligibility of any offender. However, the following offenders

1 are ineligible for participation in a drug treatment court  
2 program:

3 (a) An offender who would be ineligible according to federal  
4 guidelines applicable to federal funding for state drug treatment  
5 courts.

6 (b) An offender who was convicted of a violent or assaultive  
7 crime within the preceding 5 years, unless the judge, prosecutor,  
8 and defense attorney agree to allow that offender's  
9 participation.

10 (c) An offender who by law is subject to mandatory  
11 incarceration or is otherwise ineligible for diversionary  
12 programs.

13 (2) A drug treatment court may require an offender to pay a  
14 reasonable portion of the cost of providing the drug or alcohol  
15 treatment program to that offender. The costs assessed shall not  
16 be punitive in nature. The amount of costs shall take in account  
17 the offender's ability to pay, considering the offender's  
18 financial circumstances. Upon a showing of indigency, the drug  
19 treatment court may reduce or waive costs under this subsection.

20 Sec. 1078. Each drug treatment court shall create a  
21 community advisory board as an advisor to the drug treatment  
22 court, to advise on the availability of services needed for the  
23 success of drug treatment court participants, and to communicate  
24 with service providers. The board also shall seek out new drug  
25 treatment court funding opportunities. The members of the  
26 advisory board shall be appointed by the drug treatment court  
27 judge for that court. A community advisory board shall include,

1 but not be limited to, individuals who are parents, teachers,  
2 faith community members, law enforcement officers, business  
3 persons, and local elected officials and shall include a member  
4 of the local substance abuse coordinating agency. An advisory  
5 board shall work together with local antidrug coalitions whenever  
6 possible.

7 Enacting section 1. This amendatory act does not take  
8 effect unless all of the following bills of the 92nd Legislature  
9 are enacted into law:

10 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5400 (request  
11 no. 02593'03 \*\*\*).

12 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5399 (request  
13 no. 03840'03 \*\*\*).