

SUBSTITUTE FOR
SENATE BILL NO. 916

A bill to amend 1974 PA 258, entitled
"Mental health code,"
(MCL 330.1001 to 330.2106) by adding section 1021 and chapter 10A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1021. Sections 1022 to 1044 do not apply to an individual
2 charged with a misdemeanor offense who has been diverted to
3 assisted outpatient treatment under chapter 10A.

4 CHAPTER 10A

5 Sec. 1075. (1) At the time a misdemeanor offense is charged,
6 or at any later time before trial, the prosecuting attorney, the
7 defendant, or defense counsel may bring a motion seeking an
8 assessment by a physician, psychologist, or qualified health
9 professional to determine if the defendant meets the criteria for

1 diversion to assisted outpatient treatment under this chapter.
2 Except for a physician who is a psychiatrist, the physician,
3 psychologist, or qualified health professional must discuss the
4 findings and plan for care with a psychiatrist during or
5 immediately after the examination.

6 (2) The defendant or defense counsel may oppose a motion made
7 by the prosecuting attorney under subsection (1). The prosecuting
8 attorney may oppose a motion made by the defendant or defense
9 counsel under subsection (1).

10 (3) If a motion under subsection (1) is opposed by the
11 prosecuting attorney, defendant, or defense counsel, the defendant
12 must not be diverted into assisted outpatient treatment and the
13 competency provisions of chapter 10 must be followed, as
14 applicable.

15 (4) If, upon assessment under subsection (1), it is determined
16 that the defendant meets the criteria for assisted outpatient
17 treatment, the prosecuting attorney shall file a petition as
18 provided for a person requiring treatment under section 434(7).

19 (5) If a petition is filed under subsection (4), the judge of
20 the district court may request assignment from the state court
21 administrative office as a probate judge to hear and determine the
22 petition or direct the prosecuting attorney to file the petition in
23 the probate court in the defendant's county of residence. If the
24 petition is filed in the probate court as provided under this
25 subsection, the probate court shall hear and determine the
26 petition.

27 (6) If, at the hearing on the petition for assisted outpatient
28 treatment, the prosecuting attorney or the defendant objects to
29 entry of the order for assisted outpatient treatment, the petition

1 must be dismissed and the procedures under sections 1022 to 1044
2 apply to the case.

3 (7) If, at the hearing on the petition for assisted outpatient
4 treatment, there is no objection to entry of the order for assisted
5 outpatient treatment, the court shall enter the order.

6 (8) As used in this section:

7 (a) "Person requiring treatment" means that term as defined in
8 section 401.

9 (b) "Qualified health professional" means that term as defined
10 in section 461.

11 Sec. 1076. (1) If diversion from criminal prosecution and into
12 assisted outpatient treatment is ordered after a hearing on a
13 petition under section 1075, the court that heard the petition
14 shall enter an order providing for assisted outpatient treatment
15 for not more than 180 days.

16 (2) If a defendant fails to comply with the terms of the
17 assisted outpatient treatment order, the provisions under section
18 475 apply to the case. If a criminal prosecution continues during
19 the 180-day period provided for in this section, there may be no
20 bond conditions other than that the defendant will not violate any
21 no contact order, will appear as required, will not leave the state
22 without permission of the court, and will not commit any crime
23 while released. Any bond or bond conditions are separate from and
24 not to be included in the determination of whether the defendant
25 has complied with the assisted outpatient treatment order.

26 (3) The community treatment program has the sole discretion to
27 make decisions related to the assessment of, treatment planning
28 for, type, scope, frequency, intensity, and duration of treatment
29 for, and discharge from treatment of a defendant under an assisted

1 outpatient treatment order. If the designated community treatment
2 program does not communicate with the court as to the treatment of
3 the defendant under the assisted outpatient treatment order, the
4 court may conduct a hearing relative to the treatment being
5 provided by the community treatment program.

6 Sec. 1077. (1) The misdemeanor charges against a defendant
7 receiving assisted outpatient treatment must remain pending until
8 dismissed by the district court for purposes of enforcing
9 conditions of release. The conditions of release for a defendant
10 receiving assisted outpatient treatment must be separate from
11 compliance with the treatment plan. Compliance with the assisted
12 outpatient treatment must not be a condition of release.

13 (2) All matters that concern noncompliance with the assisted
14 outpatient treatment plan must be addressed in a civil proceeding
15 under section 475.

16 (3) Except as otherwise provided in this subsection, a pending
17 misdemeanor charge must be dismissed by the district court 90 days
18 after the entry of the assisted outpatient treatment order. If the
19 defendant was charged with a serious misdemeanor, the misdemeanor
20 charge must be dismissed 180 days after the entry of the assisted
21 outpatient treatment order.

22 (4) As used in this section, "serious misdemeanor" means that
23 term as defined in section 61 of the William Van Regenmorter crime
24 victim's rights act, 1985 PA 87, MCL 780.811.

25 Sec. 1078. Upon the termination of the assisted outpatient
26 treatment, the provider of the assisted outpatient treatment shall
27 notify the prosecutor, district court, and probate court, as
28 applicable, that the assisted outpatient treatment has been
29 terminated.

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No. 915 of the 102nd Legislature is enacted into
3 law.