



2012

Annual Report

of the

State Drug Treatment Court

Advisory Committee

Submitted to the

Michigan Legislature and the Michigan Supreme Court

Pursuant to MCL 600.1082, Public Act 224 of 2004.

For the period

**January 1, 2012 through December 31, 2012**

State of Michigan

**The Honorable William Rush, Chair**

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# INTRODUCTION

This report of the State Drug Treatment Court Advisory Committee (SDTCAC) activities during the period of January 1, 2012 to December 31, 2012 is submitted in compliance with MCL 600.1082 (Public Act 224 of 2004).

## OVERVIEW

### MISSION STATEMENT

The mission of the State Drug Treatment Court Advisory Committee is to monitor and advocate for the effectiveness of drug treatment courts in Michigan.

### ORIGIN AND SCOPE

Public Act 224 of 2004 created the State Drug Treatment Court Advisory Committee within the Legislative Council. In October 2012, the legislature enacted Public Act 334 of 2012 which added a veterans' treatment court representative. The advisory committee consists of the State Court Administrator, or his or her designee, plus 17 members appointed jointly by the Senate Majority Leader and the Speaker of the House, as follows:

- A circuit court judge who has presided for at least 2 years over a drug treatment court.
- A district court judge who has presided for at least 2 years over a drug treatment court.
- A judge of the family division of circuit court who has presided for at least 2 years over a juvenile drug treatment court program.
- A circuit or district court judge who has presided for at least 2 years over an alcohol treatment court.
- A circuit or district court judge who has presided over a veterans' treatment court.
- A court administrator who has worked for at least 2 years with a drug or alcohol treatment court.
- A prosecuting attorney who has worked for at least 2 years with a drug or alcohol treatment court.
- An individual representing law enforcement in a jurisdiction that has had a drug or alcohol treatment court for at least 2 years.
- An individual representing drug treatment providers who has worked at least 2 years with a drug or alcohol treatment court.
- An individual representing defense attorneys who has worked for at least 2 years with drug or alcohol treatment courts.
- An individual who has successfully completed a drug treatment court program.
- An individual who has successfully completed a juvenile drug treatment court program.
- An individual who is an advocate for the rights of crime victims.
- An individual representing the Michigan Association of Drug Court Professionals.
- An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court.



- An individual representing a substance abuse coordinating agency.
- An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board.

The SDTCAC members serve without compensation, but may be reimbursed for their actual and necessary expenses incurred in the performance of their duties. Members of the advisory committee serve for terms of 4 years each.

The SDTCAC is charged with the responsibility of monitoring the effectiveness of drug treatment courts and veterans' treatment courts and the availability of funding for them. The Committee is required to present to the Michigan Legislature and the Michigan Supreme Court annual recommendations of proposed statutory changes regarding drug treatment courts and veterans' treatment courts. In addition, statute requires that the Committee meet at least quarterly, or more frequently at the call of the chairperson or if requested by 9 or more members. The business that the advisory committee performs is conducted at a public meeting held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275, and any writing prepared, owned, used, in the possession of, or retained by the advisory committee in the performance of an official function is subject to the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

## 2012 COMMITTEE MEMBERS

**Mr. Richard Woods.** - The state court administrator or his or her designee. Mr. Woods resigned from the Committee on January 20, 2012. **Dr. Jessica Parks**, Management Analyst, was designated to replace Mr. Woods as the State Court Administrative Office (SCAO) designee.

*Members appointed jointly by the Speaker and the Senate Majority Leader:*

**Judge William Rush (Chair)** - A district court judge who has presided for at least 2 years over a drug treatment court. Judge Rush was reappointed to a second term that expires on June 13, 2013.

**Ms. Pamela Davis Drake (Vice Chair)** - A court administrator who has worked for at least 2 years with a drug or alcohol treatment court. Ms. Drake resigned from the Committee on July 20, 2012. **Mr. Robert Nida**, Barry County Trial Court Administrator, was appointed on September 3, 2012 to a 4-year term that expires on September 3, 2016.

**Judge Amy Ronayne Krause (Vice Chair as of July 24, 2012)** - An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board. Judge Ronayne Krause was reappointed to a second term that expires June 13, 2015. She was elected Vice Chair of the Committee on July 24, 2012.

**Ms. Kathleen Brickley** - An individual representing defense attorneys who has worked for at least 2 years with drug or alcohol treatment courts. Ms. Brickley resigned from the Committee on May 1, 2012. **Mr. Mark Risk** of Traverse City was appointed on September 3, 2012 to a 4-year term that expires on September 3, 2016.

**Ms. Stephanie Drury** - An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court. Ms. Drury was reappointed to a second term that expires on August 4, 2015.

**Judge William T. Ervin** - A judge of the family division of circuit court who has presided for at least 2 years over a juvenile drug treatment court program. Judge Ervin was reappointed to a second term that expires on June 13, 2013.



**Judge Allen Garbrecht** - A circuit court judge who has presided for at least 2 years over a drug treatment court. Judge Garbrecht was appointed to a term that expires on June 13, 2013.

**Judge Michael J. Haley** - An individual representing the Michigan Association of Drug Court Professionals. His appointment is to a term that expires on June 13, 2015.

**Ms. Nadine Issacs** - An individual who has successfully completed an adult drug treatment court program. Ms. Issacs was appointed to a term that expired on June 13, 2012. She did not seek reappointment and **Ms. Stacy Salon** of Traverse City was appointed on September 3, 2012 to a 4-year term that expires on September 3, 2016.

**Ms. Janette Kolodge** - An individual who is an advocate for the rights of crime victims. Ms. Kolodge was reappointed to a second term that expires on June 13, 2015.

**Mr. Andrew Konwiak** - An individual representing drug treatment providers who has worked at least 2 years with a drug or alcohol treatment court. He was reappointed to a third term that expires July 18, 2016.

**Mr. Christopher Luty** - An individual representing law enforcement in a jurisdiction that has had a drug or alcohol treatment court for at least 2 years. Mr. Luty was reappointed to a second term that expires July 18, 2016.

**Judge Brian MacKenzie** - A circuit or district court judge who has presided for at least 2 years over an alcohol treatment court. Judge MacKenzie was reappointed to a second term that expires on June 13, 2013.

**Mr. Jeffrey Sauter** - A prosecuting attorney who has worked for at least 2 years with a drug or alcohol treatment court. Mr. Sauter was reappointed to a third term that expires on July 18, 2016.

**Mr. Mark A. Witte** - An individual representing a substance abuse coordinating agency. Mr. Witte was appointed to a second term that expires June 13, 2015.

**VACANT** - An individual who has successfully completed a juvenile drug treatment court program. This position is currently vacant.

**VACANT** - A circuit or district court judge who has presided over a veterans' treatment court. This position was added in October 2012 when the legislature enacted Public Act 334 of 2012 and is currently vacant.

## 2012 COMMITTEE MEETINGS

The State Drug Treatment Court Advisory Committee held six (6) full committee meetings in 2012:

January 24, 2012  
March 27, 2012  
May 22, 2012  
July 24, 2012  
September 25, 2012  
November 27, 2012



## 2012 STUDY SUBCOMMITTEES

In 2012, nine (9) subcommittees and two (2) ad hoc committees examined various subjects under review by the State Drug Treatment Court Advisory Committee.

### **Confidentiality Issues Subcommittee**

*Members: Jeffrey Sauter (Chair), Judge Brian MacKenzie, Dr. Jessica Parks*

Created in 2006, this subcommittee continued to monitor and review confidentiality issues between Michigan statutes and federal regulations. No legislative change is recommended.

### **Cross-Assignment Subcommittee**

*Members: Judge Michael Haley (Chair), Judge Allen Garbrecht, Dr. Jessica Parks, Jeffrey Sauter*

This subcommittee was created at the March 28, 2006 meeting to review the cross-assignment of drug treatment court cases across jurisdictions to maximize court funding resources. The 2006 SDTCAC recommendation to allow cross-assignment of drug court cases was included in Public Act 620 of 2006 and went into effect January 3, 2007. The subcommittee continued working with the SCAO in 2012 to establish acceptable transfer protocol and to develop a drug court transfer form that could facilitate the cross-assignment of drug court cases.

### **Defense Attorney Participation Subcommittee**

*Members: Kathleen Brickley (Chair), Mark Risk (appointed to serve as Chair on November 27, 2012), Thomas Dutcher, Derwood Haines, Mike Hills, Judge Brian MacKenzie*

This subcommittee was created at the January 23, 2007 meeting to examine the defense attorney's role in the drug court process and funding for defense counsel involvement. In 2012, the subcommittee continued working with the Criminal Defense Attorneys of Michigan (CDAM) to educate and increase defense attorney involvement in drug treatment court programs. In addition, the Michigan Association of Drug Court Professionals (MADCP) provided scholarships to defense attorneys to their March 2012 annual conference. Presentations on issues of due process were held at both the MADCP and CDAM conferences.

### **Funding Alternatives Subcommittee**

*Members: Judge Harvey Hoffman (Chair), Dawn Monk*

Created in 2007, this subcommittee continued to review funding alternatives for drug treatment courts in Michigan. A proposal to enable rural areas that have smaller courts to consolidate sobriety court programs by forming a concurrent jurisdiction plan was discussed in 2012. If implemented, funding support would more than likely be part of the FY 2014 funding initiative.

### **Juvenile Issues Subcommittee**

*Members: Pamela Davis (Chair), Robert Nida (appointed to serve as Chair on November 27, 2012), Judge William Ervin, Jim Inloes, Dr. Jessica Parks, Jennifer Warner*

Created at the September 26, 2006 meeting, this subcommittee is charged with reviewing the differences inherent to juvenile drug court and family court. Recruiting membership from several state agencies, the objectives of the subcommittee include examination of the current drug court legislation and how the legislation differs from juvenile court procedures and promotion of juvenile drug courts as unique, adolescent-specific therapeutic jurisprudence interventions. In 2012, the subcommittee helped with efforts to set up another juvenile drug court forum similar to the first one conducted by the SCAO in 2010. Examining the recidivism rate of juvenile drug court participants was another area the subcommittee focused on in 2012.



### **Legislative Subcommittee**

*Members: Judge Harvey Hoffman (Chair), Judge Amy Ronayne Krause, Jeffrey Sauter*

This subcommittee was created at the July 23, 2010 Strategic Planning Session to monitor legislative activities. Several drug treatment court issues saw legislative action in 2012. Public Act 547 of 2012 amended Chapter 10A of the Revised Judicature Act to allow a court to discharge and dismiss proceedings against a drug court participant who meets certain criteria, without entering a judgment of guilt. The enactment of Public Acts 334 and 335 of 2012 provided for the establishment of veterans' treatment courts and added veterans' treatment courts to the SDTCAC monitoring responsibilities.

### **Medical Marihuana Subcommittee**

*Members: Jeffrey Sauter (Chair), Pamela Davis, Judge Harvey Hoffman, Judge Brian MacKenzie*

This subcommittee was created at the May 24, 2011 meeting to review issues pertaining to drug court participants and the enactment of the Michigan Medical Marihuana Act. In its 2011 report, the SDTCAC Medical Marihuana subcommittee had indicated that there may be a need for legislative action to clarify what a "bona-fide" patient-doctor relationship is and what constitutes a chronic debilitating condition. The subcommittee continued to follow these issues closely in 2012 and reported that one of the provisions of Public Act 512 of 2012, enacted during the final days of the 2011-2012 legislative session, provides a definition of a "bona fide physician-patient relationship." The Act is to take effect on April 1, 2013.

### **Recidivism Subcommittee**

*Members: Dr. Jessica Parks (Chair)*

This subcommittee was created at the May 24, 2011 meeting to monitor recidivism issues and to assist in the development of a standard definition for recidivism. Work on developing a standard recidivism definition concluded in 2012 and the SCAO now defines recidivism broadly and narrowly under two definitions (defined as any new conviction within two years or four years of beginning a drug court and then narrowed to focus on new convictions of drug or alcohol offenses within two years or four years of beginning a drug court.) The subcommittee's attention also focused on the recidivism data released by the SCAO in April 2012.

### **Vision Subcommittee**

*Members: Judge William Rush (Chair), Judge Patrick Bowler (appointed to serve as Chair on November 27, 2012), Pamela Davis, Judge Harvey Hoffman, Judge Brian MacKenzie, Dr. Jessica Parks, Jeffrey Sauter*

Created at the January 22, 2008 meeting, this subcommittee continues to monitor the long range goals of drug treatment courts.

### **Veterans' Treatment Court Ad Hoc Committee**

*Members: Judge Brian MacKenzie (Chair)*

Created at the May 24, 2011 meeting, this ad hoc committee was instrumental in the enactment of two pieces of legislation in 2012. Public Act 335 of 2012 authorizes the establishment of veterans' treatment courts and provides direction for the development of treatment programs for veterans who are substance abusers or mentally ill. Public Act 334 of 2012 adds a veterans' treatment court judicial representative to the State Drug Treatment Court Advisory Committee and includes veterans' treatment courts under the types of court the SDTCAC is to monitor. Both public acts went into effect on October 16, 2012.



## **Affordable Healthcare Act Impact Ad Hoc Committee**

*Members: Mark Witte (Co-Chair), Judge Harvey Hoffman (Co-Chair), Andrew Konwiak, Judge Brian MacKenzie, Dr. Jessica Parks*

This ad hoc committee was created at the November 27, 2012 meeting to determine the impact of the Affordable Healthcare Act and its specific application to drug court funding. The subcommittee expects to bring forward significant information on this subject in 2013.

## **ISSUES REVIEWED AND RECOMMENDATIONS**

### **DIVERSION LEGISLATION**

The four bills introduced in September 2011 to amend statutes that offer diversion programs and dismissal from criminal charges for certain violations saw movement in 2012. Senate Bill 630 would amend the drug court statute to allow a court to discharge and dismiss proceedings against a drug court participant who meets certain criteria, without entering a guilty plea. Senate Bill 631 would amend the Michigan Penal Code that applies to parental kidnapping, Senate Bill 632 amends the Public Health Code that pertains to certain controlled substance offenses, and Senate Bill 633 amends the Code of Criminal Procedures which pertains to domestic assault. The bills make diversions non-public from the date of the plea, rather than at the end of probation. The Committee followed the diversion issue closely throughout 2012 and strongly supported the efforts to enact the proposed changes. In December 2012, the bills were passed by the Legislature, signed by the Governor, and became Public Acts 547, 548, 549, and 550 of 2012, with effective dates of April 1, 2013.

### **DRUG TREATMENT COURT PARTICIPANT TRANSFER PROCEDURES**

Public Act 620 of 2006 revised the drug treatment court statute to allow the cross-assignment of drug court cases; however, questions pertaining to the case management, funding, and reporting requirements of such cross-assignments remained. Review of drug treatment court participant transfer procedures and work by the Committee to help draft a model order for transferring drug court participants continued in 2012. Although some progress has been made, no final recommendation is made at this time. The Committee will continue working in 2013 to collaborate with stakeholders to develop a consensus on this issue.

### **VETERANS' TREATMENT COURTS**

Strong interest in the establishment and expansion of veterans' treatment courts continued in 2012. Legislation to establish drug courts to provide treatment programs specifically for veterans who are substance abusers or mentally ill saw movement and passage this year. House Bill 5159, 334 PA of 2012, amends the drug treatment court statute to add a circuit or district court judge who had presided over a veterans' treatment court to the SDTCAC and requires the Committee to monitor the effectiveness of veterans' treatment courts and present annual recommendations regarding them to the Legislature and Supreme Court. House Bill 5162, 335 PA of 2012, establishes a uniform framework and provisions modeled after the drug court enabling legislation for veterans' courts. Funding for veterans' courts come from a variety of sources and the SCAO is now authorized to provide grants to support these courts as it currently does to support other specialty courts.

