



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

October 1, 2005 through December 31, 2006

State of Michigan

The Honorable Patrick C. Bowler, Chair



**STATE DRUG TREATMENT COURT ADVISORY
COMMITTEE**

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To Members of the Michigan Legislature and Justices of the Michigan Supreme Court:

The Michigan Legislature officially authorized the drug court movement in Michigan in 2005 by passing legislation establishing and maintaining standards for these extremely effective courts. The success of these programs has been revolutionary in scope, they have dramatically reduced recidivism for longtime alcohol and drug offenders and saved millions in federal, state, and local dollars spent on jails and prisons. More importantly, they have saved lives, and returned thousands of individuals to the mainstream of life where they can nurture themselves and their families and become productive members of society.

Michigan's new drug court statute established a State Drug Treatment Court Advisory Committee and charged this committee with the responsibility of monitoring the effectiveness of drug treatment courts and the availability of funding for them. During this past year, we have examined a number of issues and have recommended a few positive changes which have already been enacted into law by the Michigan Legislature. Be assured that we will remain vigilant and continue to report our recommendations to ensure the effectiveness and long-term future of the drug court field here in Michigan.

Thanks to all my fellow members for the hard work and effort they put in on behalf of the Committee. It has been an honor and a privilege to serve as Chair and I look forward to another successful year.

Sincerely,

*Patrick C. Bowler
Chair*

State Drug Treatment Court Advisory Committee



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INTRODUCTION

This report of the State Drug Treatment Court Advisory Committee (SDTCAC) activities during the period of October 1, 2005 to December 31, 2006 is submitted in compliance with MCL 600.1082 (Public Act 224 of 2004).

OVERVIEW

ORIGIN AND SCOPE:

Public Act 224 of 2004 created the State Drug Treatment Court Advisory Committee within the Legislative Council. The advisory committee consists of the State Court Administrator, or his or her designee, plus 16 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 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, except that the members first appointed shall serve terms as follows:



- (a) *The members appointed under MCL 600.1082 subsection (1)(b)(i) to (v) shall serve terms of 4 years each.*
- (b) *The members appointed under MCL 600.1082 subsection (1)(b)(vi) to (x) shall serve terms of 3 years each.*
- (c) *The members appointed under MCL 600.1082 subsection (1)(b)(xi) to (xvi) shall serve terms of 2 years each.*

The SDTCAC is charged with the responsibility of monitoring the effectiveness of drug 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. 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.

2005-2006 COMMITTEE MEMBERS:

Dr. Phyllis Zold-Kilbourn - The state court administrator or his or her designee.

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

Judge Patrick C. Bowler (*Chair*) - An individual representing the Michigan Association of Drug Court Professionals. (Term expires June 13, 2007)

Judge William Schma (*Vice Chair*) - A circuit court judge who has presided for at least 2 years over a drug treatment court. (Term expires June 13, 2009)

Mr. Ken Aud - An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court. (Term expires August 4, 2007)

Mr. Lawrence Belen - An individual representing law enforcement in a jurisdiction that has had a drug or alcohol treatment court for at least 2 years. (Term expires June 13, 2008)

Ms. Kathleen Brickley - An individual representing defense attorneys, who has worked for at least 2 years with drug or alcohol treatment courts. (Term expires June 13, 2008)

Mr. Andrew Konwiak - An individual representing drug treatment providers who has worked at least 2 years with a drug or alcohol treatment court. (Term expires June 13, 2008)

Ms. Constance Laine - A court administrator who has worked for at least 2 years with a drug or alcohol treatment court. (Term expires June 13, 2009)

Judge Brian MacKenzie - A circuit or district court judge who has presided for at least 2 years over an alcohol treatment court. (Term expires June 13, 2009)

Ms. Beth Morrison - An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board. (Term expires June 13, 2007)

Judge William Rush - A district court judge who has presided for at least 2 years over a drug treatment court, (Term expires June 13, 2009)



Mr. Jeffrey Sauter - A prosecuting attorney who has worked for at least 2 years with a drug or alcohol treatment court. (Term expires June 13, 2008)

Mr. Terrence Sizeland - An individual who has successfully completed a drug treatment court program. (Term expires June 13, 2008) Note: Mr. Sizeland resigned in April 2006.

Mr. Homer Smith - An individual who is an advocate for the rights of crime victims. (Term expires June 13, 2007)

Judge Edward Sosnick - A judge of the family division of circuit court who has presided for at least 2 years over a juvenile drug treatment court program. (Term expires June 13, 2009) Note: Judge Sosnick submitted resignation letter to Chair Bowler on November 3, 2006.

Dr. Chuck Spence - An individual representing a substance abuse coordinating agency. (Term expires June 13, 2007)

VACANT - An individual who has successfully completed a juvenile drug treatment court program.

2005-2006 COMMITTEE MEETINGS:

The first meeting of the advisory committee was called by the Speaker of the House of Representatives and the Senate Majority Leader on **October 11, 2005**. At this first meeting, **the Honorable Patrick C. Bowler** was elected Chairperson and **the Honorable William Schma** was elected Vice-Chairperson. The State Drug Treatment Court Advisory Committee held six (6) additional full committee meetings in 2006 on the following dates:

January 24, 2006
March 28, 2006
May 23, 2006
July 25, 2006
September 26, 2006
November 28, 2006

2005-2006 STUDY SUBCOMMITTEES:

In 2005-2006, four subcommittees were appointed to examine various subjects under review by the State Drug Treatment Court Advisory Committee.

Certification Subcommittee

Members: Judge William Rush (Chair), Ken Aud, Constance Laine, Dr. Zold Kilbourn

This subcommittee was created at the January 24, 2006 meeting to examine the need for legislative change to require certification of drug treatment courts.

Cross-Assignment Subcommittee

Members: Judge Patrick Bowler (Chair), Judge William Schma, Jeffrey Sauter

This subcommittee was created at the March 28, 2006 meeting to determine whether a recommendation should be made for the Legislature to encourage the cross-assignment of drug treatment court cases across jurisdictions to maximize court funding resources.



Confidentiality Issues Subcommittee

Members: Dr. Chuck Spence (Chair), Judge Brian MacKenzie, Jeffrey Sauter, Dr. Phyllis Zold-Kilbourn

This subcommittee was created at the July 25, 2006 meeting to investigate confidentiality issues between Michigan's statute and federal regulations.

Juvenile Issues Subcommittee

Members: Constance Laine

This subcommittee was created at the September 26, 2006 meeting to examine the differences inherent in juvenile and family courts.

ISSUES REVIEWED AND RECOMMENDATIONS

CURRENT AND POTENTIAL SOURCES OF FUNDING

The Committee is charged with the responsibility of monitoring the effectiveness of drug treatment courts and the availability of funding for them. According to the State Court Administrative Office (SCAO), there were 61 operational drug courts in the State of Michigan in 2005 with an additional 10 courts in various stages of planning and development. The amount of state and federal funds available to those courts was discussed and current funding sources were identified. Pursuant to a motion passed at the October 11, 2005 meeting, the Chair sent a letter to Senators Levin and Stabenow to express the Committee's concern over cuts to the Drug Court Discretionary Grant Program and to urge support of the \$70 million proposed federal funding appropriation to drug treatment courts. In addition, pursuant to a motion passed at the January 24, 2006 meeting, letters were sent from the Chair of the Committee to other members of Congress encouraging restoration of federal funding for drug courts.

Current and potential sources of funding for Drug Treatment Courts were identified as follows:
(Information provided by the State Court Administrative Office)

STATE ADMINISTERED FUNDING PROGRAMS

State Court Administrative Office

Michigan Drug Court Grant Program (MDCGP)

<http://courts.michigan.gov/scao/services/tcs/spec.htm>

The State Court Administrative Office administers a program that provides funding assistance for drug courts through its Michigan Drug Court Grant Program. Funding for this program is authorized by Public Act 149 effective October 1, 2005. Funding must be reappropriated annually by the Legislature.

The Michigan Drug Court Grant Program is modeled after the federal Drug Court Grant Program and requires compliance with the **10 Key Components of Drug Courts** as outlined in the federal guidelines. Adult Drug Court Programs, Juvenile Drug Court Programs, Family Dependency Drug Court Programs and DUI Drug Court Programs (focused on drunken driving cases) are eligible to receive funding from the Michigan Drug Court Grant Program. Expedited docket programs are not eligible for funding through this grant. Information on the availability of grant funding and the grant deadlines are announced in the spring of each year.



**Michigan Department of Community Health, Office of Drug Control Policy
Edward Byrne Memorial Justice Assistance Grant Program**
<http://www.michigan.gov/mdch/0,1607,7-132-2941---,00.html>

The Michigan Department of Community Health, Office of Drug Control Policy is the State Administering Agency for the federal Edward Byrne Memorial Justice Assistance Grant Program funds received from the Bureau of Justice Assistance. ODCP provides funding to eligible state and local units of government through a competitive grant process where applications are accepted online through the Michigan Automated Grant Information Connection (MAGIC). Information on the availability of grant funding such as program areas, criteria, and deadlines are announced in the spring of each year. Funds from the Byrne JAG Program support projects that focus on drug-related crime, violent crime and serious offenders.

**Michigan Department of Human Services (DHS)
Juvenile Accountability Incentive Block Grants**
<http://www.michigan.gov/fia/0,1607,7-124-5452---,00.html>

The Bureau of Juvenile Justice (BJJ) located within the Department of Human Services (DHS) disperses block grants to eligible local units of government for the development and implementation of programs that comply with program guidelines for reducing juvenile crime. The local juvenile crime enforcement coalition must include representation from law enforcement, schools, juvenile court, probation services, businesses, and non-profit social service organizations. Local units of government are eligible to apply for the block grant funds based upon pre-determined criteria.

FEDERALLY ADMINISTERED FUNDING PROGRAMS

**Bureau of Justice Assistance
Drug Court Planning Initiative**
<http://dcpi.ncjrs.org>

The Drug Court Planning Initiative (DCPI) is a training initiative that helps communities develop effective adult, juvenile, family, and tribal drug court programs. Communities interested in planning a drug court program are encouraged to register for DCPI training.

**Bureau of Justice Assistance
Drug Court Discretionary Grants
Adult Drug Court Implementation Grants
Adult Drug Court Enhancement Grants
Statewide Drug Court Enhancement Grants**
www.ojp.usdoj.gov/bja/grant/drugcourts.html

The Drug Court Discretionary Grant Program (DCDG) provides financial and technical assistance to states, state courts, local courts, units of local government and American Indian tribal governments to develop and implement treatment drug courts that effectively integrate substance abuse treatment, mandatory drug testing, sanctions and incentives, and transitional services in a judicially supervised court setting with jurisdiction over nonviolent, substance abusing offenders. Programs funded by DCDG are required by law to target nonviolent offenders and must implement a drug court based on *10 Key Components of Drug Courts*. The types of activities funded under this program have focused on adult drug court implementation, enhancement, and statewide enhancement.



Bureau of Justice Assistance
Drug Court Discretionary Grants
Office of Juvenile Justice and Dependency Prevention (OJJDP)
Juvenile Drug Court Implementation Program
www.ojp.usdoj.gov/bja/grant/drugcourts.html

The Juvenile and Family Drug Court Discretionary Grant Program is designed to assist states, state courts, local courts, units of local government, and Indian tribal governments in developing and establishing drug courts for substance-abusing juvenile offenders. Drug court programs funded by the Juvenile and Family Drug Court Discretionary Grant Program are required by law to target nonviolent offenders. The program supports the following activities: juvenile drug court implementation, family drug court implementation, single jurisdiction drug court enhancement, and statewide drug court enhancement and planning efforts.

OTHER POTENTIAL SOURCES OF FUNDING FOR DRUG TREATMENT COURTS

National Association of Drug Court Professionals
www.nadcp.org

The association provides training and technical assistance for drug courts and is a resource for training and funding opportunities.

FOUNDATION FUNDING

Kellogg Foundation
<http://www.wkkf.org>

Skillman Foundation
<http://www.skillman.org/>

Local Charities and Foundations

DRUG COURT CERTIFICATION

Given the limited resources available to fund drug court programs, the Committee sought to determine if a mechanism is needed to distinguish a bona fide drug court from other programs that have sprung up in the last several years that are very similar, but do not provide the same standards of orientation toward treatment and judicial oversight. A special subcommittee was appointed in January of 2006 to explore the possibility of requiring certification of drug courts.

Questions of who would be the designated certification authority, how to pay for an accreditation program, and what criteria would be used to determine eligibility standards were discussed. The subcommittee recognized that the drug court field is still evolving and may be too new to codify policies, procedures, and operations. Funding would also be a major obstacle especially at a time when state and federal budget considerations are still at issue. The members noted that Public Act 224 of 2004 specifies that a drug treatment court *should* comply with the 10 Key Components promulgated by the National Association of Drug Court Professionals, but it does not make adherence to the key components mandatory.



Recommendation

Since the 10 Key Components describe the basic elements that define drug courts and are the performance benchmarks used to distinguish treatment-based, multidiscipline, full-range drug courts from other programs, the subcommittee recommended that the definition of a drug treatment court be changed to *require* compliance with the 10 Key Components. The full Committee adopted the subcommittee's recommendation at the July 25, 2006 meeting. The Committee also expressed its support of mandatory certification, but acknowledged it would be more appropriate for the Association to promulgate an accreditation process at this time.

Status

The proposed amendment was included in Senate Bill 1428 which was introduced by Senator Alan Cropsey and went into effect January 3, 2007 (PA 620 of 2006). No further legislative action is recommended at this time.

CONFIDENTIALITY ISSUES (INCLUDING 42 CFR AND LEIN)

In 2006, the Committee investigated a concern that the section of Public Act 224 of 2004 that requires a defendant's participation in a drug court be reported and the outcome of that participation be entered into LEIN may be in violation of federal regulation 42 CFR Part 2. The Committee studied the issue and brought in two national drug court experts via a conference call to educate Committee members and discuss possible solutions. A special subcommittee was appointed in July of 2006 and continues to review this issue. In addition, the subcommittee will also study the requirement of reporting individual program data to SCAO for evaluations.

Recommendation

No recommendation is made at this time.

Status

The Committee will continue to review the issue and may provide a recommendation at a later date.

CROSS ASSIGNMENT OF CASES BETWEEN DRUG COURTS

A special subcommittee was appointed in March of 2006 to review the issue of whether a provision should be added to the Michigan statute to allow the assignment of cases across jurisdictional and geographic boundaries. Because not every jurisdiction has a drug treatment court, permitting a drug court to accept participants from any other jurisdiction in Michigan based upon either a participant's residence in the receiving jurisdiction or the unavailability of a drug treatment court in the jurisdiction where the participant was charged will be an effective way to maximize the use of drug treatment court services. It will also insure that as many participants as possible qualify for drug court treatment.

Recommendation

The subcommittee proposed an amendment to MCL 600.1052 to allow the cross assignment of drug court cases. The proposed change would provide the legal opportunity for the transfer of cases, but allow the specific details of the transfer to be worked out between the two drug courts. The full Committee adopted the subcommittee's recommendation at the July 25, 2006 meeting and recognized that the receiving court may choose not to accept a transfer if adequate funding is not available. The Committee also recommends that the presently promulgated Supreme Court rules on cross assignment be amended to reflect the new provision.

Status

An amendment was included in Senate Bill 1428 which was introduced by Senator Alan Cropsey and went into effect January 3, 2007 (PA 620 of 2006). No further legislative action is recommended at this time.



High BAC And Repeat Offenders

The Committee was asked to review and provide input on the high BAC and repeat offenders issue including a proposal to create a new category of "operating while intoxicated" and require the installation of ignition interlocking device for high blood alcohol content drunk driving convictions. House Bill 6264 was introduced by Representative Daniel Acciavatti in June of 2006 and referred to the House Judiciary Committee.

Recommendation

No recommendation is made at this time.

Status

The Committee will continue to review the issue when the bill is introduced in 2007 and may provide a recommendation at a later date.

Future Issues to be Reviewed

Distinctions between Juvenile and Family Treatment Courts

Defense Attorney Participation

Alternative Sources of Financing Drug/Sobriety Courts

Summary

The first year for the State Drug Treatment Court Advisory Committee has been a busy one. In 2005 and 2006, the Committee struggled with the coordination of Federal confidentiality statutes and the requirements of the Michigan Drug Treatment law. The Committee monitored the number and funding sources of the presently operating drug treatment courts in the State and analyzed continued funding and possible alternative sources of funding to maintain and increase the number of drug courts. The Committee discussed possible procedures to be set in law that would insure the maintenance of the "Ten Key Components" of drug courts and the comparable principles for Sobriety, Juvenile and Family Treatment Courts. The SDTCAC considered the issue of liberal cross assignment of cases across geographic and jurisdictional lines of all Michigan courts to insure that as many participants as possible qualify for available drug courts. Diversion for successful participation in drug courts was also discussed. Coordination of all new laws affecting drunk drivers and drug offenders (i.e. high BAC and Repeat Offenders) and their participation in drug courts continue to be assessed by the SDTCAC. Actions of the SDTCAC activated into law by the Legislature in 2006 include the mandatory requirement of the application of the "Ten Key Components" by all and the allowance for cross assignment of qualified applicants for drug treatment court participation.

Given the phenomenal success of drug courts across the country, there is no doubt this evolving movement will continue to grow. While Michigan has chosen to foster the development of drug courts by providing a statutory structure to authorize their implementation and operation, the Legislature recognizes that funding resources are limited. The State Drug Treatment Court Advisory Committee hopes to do its part to advance the proliferation of these courts by monitoring their effectiveness and looks forward to continuing our service to the Michigan Legislature in the coming year.

