

Annual Report
of the
State Drug Treatment Court
Advisory Committee

Submitted to the

Michigan Legislature and the Michigan Supreme Court

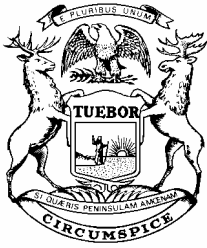
Pursuant to MCL 600.1082, Public Act 224 of 2004.

For the period

January 1, 2009 through December 31, 2009

State of Michigan

The Honorable Patrick C. Bowler, Chair



STATE DRUG TREATMENT COURT ADVISORY COMMITTEE

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April 27, 2010

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

Since 2005, when the Michigan Legislature officially authorized the drug court movement in Michigan, the number of specialty courts has dramatically increased. New spinoffs, such as mental health courts and veteran's courts, all of which operate under the drug treatment court model as set for in the Michigan Statute, continue to increase. There are now more than eighty-five specialty courts operating in Michigan and there are several in the planning stages.

The post-graduation recidivism rate for participants demonstrates dramatic reductions as compared to those in the traditional criminal dockets. By joining forces, the various stakeholders in the criminal justice system and the professionals in rehabilitation and treatment have demonstrated that they can effectively confront the alcohol and drug addictions that drive our criminal caseloads. The savings in federal, state and local dollars has also been demonstrated by study after study. And, with saved lives and families, individuals are returned to their communities as productive members of society.

The State Drug Treatment Court Advisory Committee (SDTCAC), established by the Drug Treatment Court Statute, continues to perform its responsibility of monitoring the effectiveness of drug treatment courts and the availability of funding for them. In 2009, the Committee added special work sessions to develop a strategic plan in order to address the many facets of coordinating and evaluating the growing number of specialty courts in Michigan. A revised committee structure within the SDTCAC was developed. The vision of SDTCAC was established as follows:

It is the vision of the State Drug Treatment Court Advisory Committee that all individuals who enter into the criminal justice system in Michigan who meet the eligibility requirements of drug treatment courts have an opportunity to enter into a drug treatment court.

The individual members of the SDTCAC have readily brought a working, professional enthusiasm to every meeting. It has been an honor and a privilege to serve as Chairman of this committee and I speak for all committee members that we look forward to another successful year in working with the Drug Treatment Court movement.

Sincerely,

Patrick C. Bowler
Chairman
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 January 1, 2009 to December 31, 2009 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.

2009 COMMITTEE MEMBERS:

Mr. Richard Woods - The state court administrator or his or her designee.

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

Judge Patrick C. Bowler, ret. (Chair) - An individual representing the Michigan Association of Drug Court Professionals. Judge Bowler was reappointed to a second term that expires on June 13, 2011.

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

Ms. Kathleen Brickley - An individual representing defense attorneys, who has worked for at least 2 years with drug or alcohol treatment courts. Ms. Brickley was reappointed to a second term that expires on June 13, 2012.

Ms. Sophia Burr - An individual who has successfully completed a juvenile drug treatment court program. Ms. Burr was appointed to the Committee on March 11, 2009 to a term that expires on June 13, 2011.

Ms. Charita Coleman-Gladdis - An individual who has successfully completed an adult drug treatment court program. Ms. Coleman-Gladdis was reappointed to a second term that expires on June 13, 2012.

Ms. Pamela Davis - A court administrator who has worked for at least 2 years with a drug or alcohol treatment court. Ms. Davis was reappointed to a second term that expires on June 13, 2013.

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. He was reappointed to a second term which expires on June 13, 2013.

Mr. Kevin Jones - An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court. His term expires on August 4, 2011.



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 second term which expires June 13, 2012.

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 appointed on March 11, 2009 with a term that expires June 13, 2012.

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.

Ms. Beth Morrison - An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board. Ms. Morrison resigned from the Committee on November 16, 2009. This position is currently vacant.

Judge William Rush - 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.

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 second term that expires on June 13, 2012.

Mr. Homer Smith - An individual who is an advocate for the rights of crime victims. Mr. Smith was reappointed to a second term that expires on June 13, 2011.

Dr. Chuck Spence - An individual representing a substance abuse coordinating agency. His term expired on June 13, 2007 and Dr. Spence withdrew his name for reappointment to a second term.

Mr. Dennis Priess was appointed to replace Dr. Spence on January 21, 2009. His term expires on June 13, 2011.

2009 COMMITTEE MEETINGS:

The State Drug Treatment Court Advisory Committee held six (6) full committee meetings in 2009 on the following dates:

January 27, 2009	July 28, 2009
March 17, 2009	September 29, 2009
May 9, 2009	November 24, 2009

No official business was conducted at the January 27 and September 29 due to a lack of a quorum. In addition, the May 9 meeting was dedicated as a strategic planning meeting.

2009 STUDY SUBCOMMITTEES:

In 2009, nine subcommittees examined various subjects under review by the State Drug Treatment Court Advisory Committee.

Certification Subcommittee

Members: Judge William Rush (Chair), Kevin Jones, Richard Woods

Created at the January 24, 2006 meeting, this subcommittee continued to examine the need for legislative change to require certification of drug treatment courts. The subcommittee's 2006



recommendation that the definition of a drug treatment court be changed to require compliance with the 10 Key Components was included in Public Act 620 of 2006 and went into effect January 3, 2007.

The Michigan Supreme Court designee on the SDTCAC is also Michigan's designated State Drug Court Coordinator. As such, this person serves on the state drug court coordinators accreditation workgroup. In January of 2010, the workgroup notified the National Association of Drug Court Professionals (NADCP) of its support of having NADCP gather a broad group of stakeholders to operationalize the ten key components of drug courts. This would equip states with the technical assistance to develop state-level drug court certification programs that comply with individual state regulations, requirements and/or legislation. NADCP is securing funding to support this initiative. The Michigan Association of Drug Court Professionals (MADCP) certification subcommittee is a key Michigan stakeholder involved in the initiative. One of the primary goals of certification would be to ensure fidelity to the drug court model.

Some of the concerns expressed by members of the state drug court coordinators workgroup include: (1) how the process could affect local courts access to funding and other assistance; (2) how the process could interfere or conflict with state statutes, standards or other requirements; (3) NADCP's and state drug court associations lack of authority to license or accredit programs; (4) insufficient input from the state drug court coordinators; (5) costs associated with an accreditation process; and (6) an accreditation process could result in unintended consequences not readily apparent. Supportive positions on accreditation include: (1) it would enhance fidelity to the drug court model; (2) courts would receive a valuable technical assistance with program planning and implementation; (3) an accreditation program is conducive to brand protection; and (4) the process could facilitate local drug court program compliance with statutes and the use of best practices.

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. The subcommittee's 2006 recommendation to allow cross assignment of drug court cases was included in Public Act 620 of 2006 and went into effect January 3, 2007.

Confidentiality Issues Subcommittee

Members: Jeffrey Sauter (Chair), Judge Brian MacKenzie, Judge William Schma, Richard Woods

Created in 2006, this subcommittee continued its review of confidentiality issues between Michigan statutes and federal regulations.

Defense Attorney Participation Subcommittee

Members: Judge Brian MacKenzie (Chair), Kathleen Brickley

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.

Funding Alternatives Subcommittee

Members: Judge Harvey Hoffman (Chair), Judge William Schma, Dawn Monk

This subcommittee continued to review funding alternatives for drug treatment courts in Michigan.

Juvenile Issues Subcommittee

Members: Pamela Davis (Chair), Judge William Ervin, Jim Inloes, Robert Nida, Dr. Jessica Parks, Jennifer Warner



Created at the September 26, 2006 meeting, this subcommittee continued to examine the differences inherent in juvenile and family courts.

Vision and Evidence-Based Sentencing Subcommittee

Members: Judge Patrick Bowler (Chair), Judge Harvey Hoffman, Judge Brian MacKenzie, Jeffrey Sauter, Judge William Schma, Richard Woods

This subcommittee continues to monitor the long range goals of drug treatment courts, with the goal of maintaining their effectiveness and increasing their availability for increased numbers of participants. It also continues to monitor and encourage developments in evidence-based sentencing practices.

ISSUES REVIEWED AND RECOMMENDATIONS

MENTAL HEALTH COURTS

In fiscal year 2009, the nine Michigan Mental Health Court Grant Program pilot courts accepted 180 participants facing felony and misdemeanor charges in nearly equal proportions. Bipolar disorder, depression, and schizophrenia combined represented 79 percent of the participants' diagnoses. However, more than half (52 percent) of the mental health court participants also had a substance use disorder. Because mental health courts often serve participants with co-occurring disorders, require similar resources used by drug treatment courts, and have a therapeutic jurisprudence model, the Committee discussed the appropriateness of expanding its oversight responsibility to include mental health courts.

DRUG TREATMENT COURT PARTICIPANT TRANSFER PROCEDURES

With the passage of Public Act 620 of 2006 which revised the Drug Treatment Court statute to allow the cross assignment of drug court cases, the Committee reviewed transfer procedures that could be used for drug treatment court participants. Consequently, the Committee collaborated with stakeholders to begin drafting a model order for transferring drug court participants, which will be submitted to the Michigan Court Forms Committee chaired by staff at the State Court Administrative Office.

IGNITION INTERLOCKS FOR SOBRIETY COURT PARTICIPANTS

HB 5273 and 5274, SB 794 and SB 795 were approved by the Committee and subsequently adopted by both Houses. The package creates a three year pilot project wherein repeat alcohol related driving offenders can receive a restricted driver's license after a forty five day hard suspension, if they have ignition interlock devices placed upon their motor vehicles and they are participating in one of Michigan's Sobriety Courts. Effective date is January 1, 2011.

PRISON PRESUMPTIVE PROPOSAL

The Committee has considered various approaches wherein drug courts would be used as a means for keeping Prison Presumptive offenders out of prison. While support exists in the relevant House and Senate Appropriations Sub-Committees for such an approach, negotiations continue with the administration.

CONFIDENTIALITY ISSUES

The primary problem identified by the subcommittee is that the federal law is overbroad in its protection of confidentiality. Applied as written, the federal law would prohibit current practices and on-the-record discussions in drug treatment courts and in traditional courts that would drastically impede the operation of the courts. Future progress in this area depends on initiatives in the amendment of the federal law.



The subcommittee is drafting proposed amendments to the Michigan Drug Treatment Court statute which would enhance participant confidentiality without impeding the operation of the court.

JUVENILE ISSUES

Taking its direction from the State Drug Treatment Court Advisory Committee [pursuant to MCL 600.1082(10)], the Juvenile Drug Court sub-committee is charged with reviewing the differences inherent to Juvenile Drug Court and Family Court. Recruiting membership from several state agencies, including the Michigan Association of Drug Court Professionals, the Juvenile Drug Court, membership currently includes representation from the judiciary, the State Court Administrative Office, Circuit Court – Family Division administration, and various Juvenile Drug Court programs across the state. The objectives of the sub-committee include:

- A. Examine the current Drug Court legislation and indicate how the legislation differs from Juvenile Court procedures.
- B. Promote Juvenile Drug Courts as unique, adolescent-specific therapeutic jurisprudence interventions.

Having thoroughly reviewed Michigan’s Drug Court Legislation (PA 224 of 2004), the subcommittee realized that current drug court legislation does not adequately incorporate the differences between Adult Criminal and Juvenile Court processes and procedures. The sub-committee was tasked with the assignment of crafting proposed new language specific to Juvenile Drug Courts and presenting it to the SDTCAC.

DEFENSE ATTORNEY PARTICIPATION

Created in 2007, this Subcommittee continued to examine the defense attorney's role in the drug court process and funding issues related to defense attorney involvement. The Subcommittee reviewed whether to recommend to the Legislature statutory language amendments concerning these issues. After review, the Subcommittee determined to make no recommendation at this time. The Subcommittee also began examining due process issues for drug court participants.

STRATEGIC PLANNING SESSION

Realizing the intent of the State Drug Treatment Court Advisory Committee (SDTCAC) pursuant to MCL 600.1082(10), and its accountability to Michigan leadership, the Chairs of the strategic planning sub-committee found it necessary to create a process by which common goals and objectives could be clearly outlined and expected outcomes could be easily identified and measured.

Consequently, in May 2009, the SDTCAC conducted its first Strategic Planning session. During this session, three objectives were established: 1) To develop a mission statement that properly defines the fundamental purpose of the SDTCAC; 2) To create measurable goals and objectives that clearly state the desired and/or intended direction of the SDTCAC; and 3) To determine the feasibility and relevance of each sub-committee as it pertains to the stated goals and objectives. Upon completion of the strategic planning session, the broader vision and scope of the SDTCAC was recognized and specific results that are to be achieved were documented.

The adopted mission statement is as follows:

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

The adopted goals are as follows:

1. Monitor the effectiveness of the State Drug Treatment Court Advisory Committee



2. Monitor the Qualitative Effectiveness of Michigan's Drug Treatment Courts
3. Advocate for Effective Strategies for Drug Treatment Courts in Michigan
4. Improve the Michigan Drug Treatment Court Statute

Reviews of the strategic plan will be conducted annually to ensure that the goals and objectives of the committee are being met.

With the first three goals being ongoing activities, members of the SDTCAC identified objectives for accomplishing the fourth goal of enhancing the Michigan drug court legislation. Specific objectives for accomplishing this goal included identifying sections of the legislation that can and should be streamlined to address issues with the operation of other specialty drug courts (i.e. family dependency, juvenile, and DWI/Sobriety), modifying the language to bring Michigan drug courts into compliance with federal confidentiality laws, and devising a plan to effectuate the new legislative changes. It was also decided that each specialty area subcommittee (e.g. Family Dependency, Juvenile, DWI, Sobriety, etc.) would draft language for a Local Administrative Order, rather than incorporating these changes into the current language, to establish uniformity in program design. Finally, a timeline was established for each objective and assigned SDTCAC subcommittees continue to work on these objectives.

To preserve the integrity of the drug court model, it was also determined that any language modifications would not include those specialty courts whose focus veered from the original drug court model (e.g. mental health courts, domestic violence courts, etc.).

FUTURE ISSUES TO BE REVIEWED

As the number and variety of specialty courts in Michigan continue to increase, it remains imperative for the State Drug Treatment Court Advisory Committee to maintain the integrity of these courts by emphasizing the critical importance of the Ten Key Components. This emphasis can be maintained in a variety of ways; by insuring proper training for both new and existing specialty courts, by establishing standards for the specialty courts to follow, and by incorporating a process of accountability. At the same time the committee should seek new avenues for increasing the number and use of these courts in order to increase the opportunity for all eligible offenders to participate in them. Such a plan will require continued efforts to discover resources to create and maintain them. Such resources and opportunities might also include:

- Expanding eligibility and access to drug treatment courts
- Increasing funding for the drug treatment court system
- Increasing funding for substance abuse and mental health treatment

SUMMARY

According to the "Michigan Drug Treatment Courts 2009 Annual Report and Evaluation Summary" there are now eighty-seven drug treatment court programs that operate in Michigan to reduce substance abuse and criminal activity through a combination of therapeutic services and judicial supervision. The task of the State Drug Treatment Court Advisory Committee has been to fulfill the mandate of the Drug Treatment Court Statute by monitoring the effectiveness of drug treatment courts and the availability of funding for those courts. The success of the original drug treatment court model has given rise to a variety of specialty courts, such as sobriety courts dealing with the problem of habitual drunk drivers, juvenile drug treatment courts, family drug treatment courts, mental health courts and many others. The latest variety of specialty courts, which are especially popular among all



Americans, are the Veteran's Courts, which deal with the unique problems that our veterans bring with them on entering our court system.

The increasing number of specialty courts in Michigan, and across the nation, bespeaks the significant success that these courts experience in dealing with the unique problems of addiction in our society, and especially in our criminal population. As the courts continue to increase there will be added pressures on the court system to adequately finance these courts. While the proof continues to bear out the success of the specialty courts, in study after study, there is still no single, dedicated funding stream to ensure their ability to maintain operation. In bleak economic times, it is difficult to convince government to increase funding, but the savings, not only in actual criminal justice costs, such as jails and prisons, but in human costs, and the real possibilities of putting criminally recidivistic people back into the norm of productive law-abiding citizens, cannot be legitimately denied or ignored.

