



Prosecuting Attorneys Association of Michigan

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The Honorable Rick Jones
Chairman, Senate Judiciary Committee
Michigan Senate
P.O. Box 30036
Lansing, MI 48909

April 21, 2015

Re: HB 4069

Dear Senator Jones:

The Prosecuting Attorneys Association of Michigan supports HB 4069, conditioned on keeping the prosecutor consent language in as it is in the current H-1 version.

The issue is one of separation of powers. The prosecuting attorney has the executive function to charge a case. The judge has the constitutional authority to sentence a person who is found guilty. The judge does not have the constitutional authority to divert or dismiss a criminal charge without first finding the evidence insufficient to prove guilt beyond a reasonable doubt.

The HYTA statute does not require prosecutor consent, however it was passed in 1966. Subsequent enactment of various statutes that allow for deferred convictions and dismissals recognize this separation of powers principal. See the following chart.

Therefore, if we are going to increase the population eligible for HYTA beyond its original target group of youths under the age of 21, to include a population of adults, that expansion should also recognize the separation of powers principle and require prosecutor consent.

Prosecutor consent is required in such other diversionary statutes as:

PROSECUTOR CONSENT REQUIRED

Domestic Violence	MCL 769.4A	1994 PA 68
Health Professional Practicing while impaired	MCL 750.430	2003 PA 235
Drug Treatment Courts	MCL 600.1060	2004 PA 224
Veterans Courts	MCL 600.1200	2012 PA 335
Mental Health Courts	MCL 600.1090	2013 PA 276
Delayed Sentencing Act		

This change merely lines up this older population with these other adult sanctions listed above.

Thank you for your consideration.

Bill Vaillencourt

Livingston County Prosecuting Attorney

PAAM Legislative Committee