

SENATE BILL No. 773

March 16, 1988, Introduced by Senators CARL, NICHOLS, WELBORN, CROPSEY, EHLERS, DINGELL, GEO. HART, DILLINGHAM and ARTHURHULTZ and referred to the Committee on Judiciary.

A bill to amend sections 452 and 1050 of Act No. 258 of the Public Acts of 1974, entitled as amended

"Mental health code,"

section 452 as amended by Act No. 118 of the Public Acts of 1986, being sections 330.1452 and 330.2050 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 452 and 1050 of Act No. 258 of the
2 Public Acts of 1974, section 452 as amended by Act No. 118 of the
3 Public Acts of 1986, being sections 330.1452 and 330.2050 of the
4 Michigan Compiled Laws, are amended to read as follows:

5 Sec. 452. The court shall fix a date for every hearing con-
6 vened under this chapter. The hearing shall be convened
7 promptly, but not more than 7 days, excluding Sundays and
8 holidays, after the court's receipt of any of the following:

1 (a) An application for hospitalization which shall serve as
2 a petition for a determination that an individual is a person
3 requiring treatment, a certificate executed by a physician or a
4 psychologist, and a certificate executed by a psychiatrist.

5 (b) A petition for a determination that an individual is a
6 person requiring treatment, a certificate executed by a physician
7 or a psychologist, and a certificate executed by a psychiatrist.

8 (c) A petition for a determination that an individual con-
9 tinues to be a person requiring treatment and a certificate exe-
10 cuted by a psychiatrist.

11 (d) A petition for discharge filed under section 484.

12 (e) A petition for discharge filed under section 485 and a
13 physician's or a psychologist's report.

14 (f) A petition for a declaration of legal incapacity and the
15 appointment of a guardian filed in conjunction with or in
16 response to the documents described in subdivisions (a) to (e).

17 (g) A petition for restoration to legal capacity and a ter-
18 mination of guardianship filed pursuant to section 493 and a
19 physician's or a psychologist's report.

20 (h) A demand or notification that a hearing which has been
21 temporarily deferred under section 455(5) be convened.

22 (I) A PETITION FOR DISCHARGE FILED UNDER SECTION 1050 AND A
23 WRITTEN RECOMMENDATION FOR DISCHARGE FROM THE DEPARTMENT'S PRO-
24 GRAM FOR FORENSIC PSYCHIATRY.

25 Sec. 1050. (1) The court shall immediately commit any
26 person who is acquitted of a criminal charge by reason of
27 insanity to the custody of the center for forensic psychiatry,

1 for a period not to exceed 60 days. The court shall forward to
2 the center a full report, in the form of a settled record, of the
3 facts concerning the crime which the patient was found to have
4 committed but of which he was acquitted by reason of insanity.
5 The center shall thoroughly examine and evaluate the present
6 mental condition of the person in order to reach an opinion on
7 whether the person meets the criteria of a person requiring
8 treatment or for judicial admission set forth in section 401 or
9 515.

10 (2) Within the 60-day period the center shall file a report
11 with the court, prosecuting attorney, and defense counsel. The
12 report shall contain a summary of the crime which the patient
13 committed but of which he was acquitted by reason of insanity and
14 an opinion as to whether the person meets the criteria of a
15 person requiring treatment or for judicial admission as defined
16 by section 401 or 515, and the facts upon which the opinion is
17 based. If the opinion stated is that the person is a person
18 requiring treatment, the report shall be accompanied by certifi-
19 cates from 2 physicians, at least 1 of whom shall be a psychia-
20 trist, which conform to the requirements of section ~~400(j)~~
21 400(K).

22 (3) After receipt of the report, the court may direct the
23 prosecuting attorney to file a petition pursuant to section 434
24 or 516 for an order of hospitalization or an order of admission
25 to a facility with the probate court of the person's county of
26 residence or of the county in which the criminal trial was held.
27 Any certificates that accompanied the report of the center may be

1 filed with the petition, and shall be sufficient to cause a
2 hearing to be held pursuant to section 451 even if they were not
3 executed within 72 hours of the filing of the petition. The
4 report from the court containing the facts concerning the crime
5 for which he was acquitted by reason of insanity shall be admis-
6 sible in the hearings.

7 (4) If the report states the opinion that the person meets
8 the criteria of a person requiring treatment or for judicial
9 admission, and if a petition is to be filed pursuant to subsec-
10 tion (3), the center may retain the person pending a hearing on
11 the petition. If a petition is not to be filed, the prosecutor
12 shall notify the center in writing. The center, upon receipt of
13 the notification, shall cause the person to be discharged.

14 (5) The release provisions of sections 476 to 479 of this
15 act shall apply to a person found to have committed a crime by a
16 court or jury, but who is acquitted by reason of insanity, except
17 ~~that a person shall not be discharged or placed on leave without~~
18 ~~first being evaluated and recommended for discharge or leave by~~
19 ~~the department's program for forensic psychiatry, and authorized~~
20 ~~leave or absence from the hospital may be extended for a period~~
21 ~~of 5 years.~~ AS FOLLOWS:

22 (A) AUTHORIZED LEAVE OR ABSENCE FROM THE HOSPITAL MAY BE
23 EXTENDED FOR A PERIOD OF 5 YEARS.

24 (B) A PERSON SHALL NOT BE DISCHARGED UNLESS BOTH OF THE FOL-
25 LOWING OCCUR:

26 (i) THE PERSON IS EVALUATED AND RECOMMENDED FOR DISCHARGE BY
27 THE DEPARTMENT'S PROGRAM FOR FORENSIC PSYCHIATRY.

1 (ii) THE PERSON OR THE DEPARTMENT FILES A PETITION FOR
2 DISCHARGE WITH THE PROBATE COURT THAT ISSUED THE ORDER OF HOSPI-
3 TALIZATION OR ORDER OF ADMISSION TO A FACILITY, AND AFTER A HEAR-
4 ING HELD PURSUANT TO SECTION 452, THE PROBATE COURT FINDS THAT
5 THE PERSON NO LONGER MEETS THE CRITERIA OF A PERSON REQUIRING
6 TREATMENT OR FOR JUDICIAL ADMISSION TO A FACILITY.

7 (C) A PERSON SHALL NOT BE PLACED ON LEAVE OR ABSENCE FROM
8 THE HOSPITAL UNLESS BOTH OF THE FOLLOWING OCCUR:

9 (i) THE PERSON IS EVALUATED AND RECOMMENDED FOR LEAVE OR
10 ABSENCE BY THE DEPARTMENT'S PROGRAM FOR FORENSIC PSYCHIATRY.

11 (ii) THE LEAVE OR ABSENCE IS APPROVED BY THE PROBATE COURT
12 THAT ISSUED THE ORDER OF HOSPITALIZATION OR ORDER OF ADMISSION TO
13 A FACILITY.