

House Bill 5142

Sponsor: Rep. David Anthony

Committee: Mental Health

Complete to 9-23-91

A SUMMARY OF HOUSE BILL 5142 AS INTRODUCED 9-19-91

The bill would add a new section to the Mental Health Code that would allow reciprocity between Upper Peninsula Michigan county community mental health (CMH) programs with their Wisconsin counterparts. More specifically, the bill would allow Michigan CMH programs in Upper Peninsula counties bordering Wisconsin both to secure services from Wisconsin agencies for their clients and to provide services in approved Michigan treatment facilities for Wisconsin residents (except for Wisconsin residents involved in criminal proceedings), including involuntary commitment of clients.

Involuntary commitment. The bill would allow Michigan residents to be involuntarily committed ("for treatment or care of a mental disability") in Wisconsin and Wisconsin residents to be similarly committed in Michigan under contracts described in the bill. To the extent that they were related to confinement for treatment or care of a mental disability, court orders valid in the one state would be valid in the other and not subject to legal challenge in the courts of the state receiving the patient (the "receiving state"). Patients who were detained, committed, or placed under the law of one state and who were sent to the other under the bill's provisions would remain under the legal custody of the authority responsible for them in the original state ("the sending state"), and could not, except in emergencies, be transferred, moved, or furloughed from a facility in the second state without the specific approval of the agency in the original state.

Requests for discharge. If someone were receiving treatment voluntarily under a contract as specified by the bill and requested to be discharged, the institution would immediately have to notify the agency in the original state and return the individual within 48 hours upon the request of the "sending agency" (that is, the agency in the original state which sent the patient to the agency in the other state). When a "sending agency" received an individual who had been voluntarily confined in the other state and who had requested discharge, the agency would have to either immediately arrange for his or her discharge or else detain him or her under the emergency detention laws of the agency's state.

Escapees. If someone who had been involuntarily committed under a contract described in the bill escaped, the agency from which he or she escaped would have to use "all reasonable means" to recapture him or her and immediately report the escape to the agency that had sent the individual for confinement. The state in which the individual escaped would be primarily responsible for pursuing and retaking the escapee and would be just as liable for the costs of such escapes as it was for escapes by residents of that state.

General legal jurisdiction. Except for laws and regulation of the original state relating to the length of confinement, reexaminations, and extensions of confinement, individuals confined under contract with agencies in the other state would be subject to all of that state's applicable laws and regulations. A Michigan citizen could not be sent to another state under the bill's contract provisions unless the other state had enacted a reciprocity law. Treatment of individuals under the bill's provisions would not result in changing the patient's state of residency.

Contracts. Contracts under the bill would not be valid until approved by the Department of Mental Health and the attorney general had certified that the other state's laws governing patients' rights were substantially similar to Michigan law.

The bill specifies certain requirements for interstate mental health treatment contracts. Contracts would have to:

- * establish the responsibility for the costs of all services to be provided under the contract and for the transportation of clients to and from the facility receiving the clients;
- * require the receiving agency to provide the sending agency with reports on the condition of each client covered by the contract;
- * require arbitration for disputes between the contracting parties that could not be settled through discussion;
- * include nondiscriminatory treatment provisions for employees, clients, and applicants for employment and services;
- * establish the responsibility for providing legal representation, both for clients questioning the legality of their confinement or conditions of their confinement as well as for employees of the contracting agencies sued by clients;
- * include provisions about the length of the contract and how it could be terminated;
- * require that the receiving agency and its treatment facilities allow the sending agency and state access to the records and premises necessary to determine whether clients were receiving an appropriate standard of care;
- * require the sending agency to provide the receiving agency with all relevant legal documents authorizing confinement of people who were confined under the laws of the sending state and received services under a contract under the bill;
- * require people who voluntarily sought treatment to agree in writing to the bill's procedures concerning cases when such people asked to be discharged from treatment (and require that an employee of the receiving agency certified that the individual understood the agreement);
- * establish the responsibility for having a client reexamined and for extending a client's confinement;
- * include provisions saying when a receiving facility could refuse to admit or keep a client; and
- * specify circumstances under which clients would be allowed home visits and given passes to leave the facility.

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