

# HOUSE BILL No. 5142

September 19, 1991, Introduced by Rep. Anthony and referred to the Committee on Mental Health.

A bill to amend Act No. 258 of the Public Acts of 1974, entitled as amended  
"Mental health code,"  
as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, by adding section 921.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 258 of the Public Acts of 1974, as  
2 amended, being sections 330.1001 to 330.2106 of the Michigan  
3 Compiled Laws, is amended by adding section 921 to read as  
4 follows:

5 SEC. 921. (1) AS USED IN THIS SECTION:

6 (A) "COUNTY PROGRAM" MEANS A COUNTY COMMUNITY MENTAL HEALTH  
7 PROGRAM.

8 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF MENTAL HEALTH.

1 (C) "RECEIVING AGENCY" MEANS A PUBLIC OR PRIVATE AGENCY OR  
2 COUNTY PROGRAM THAT, UNDER THIS SECTION, PROVIDES TREATMENT TO  
3 INDIVIDUALS FROM A STATE OTHER THAN THE STATE IN WHICH THE AGENCY  
4 OR COUNTY PROGRAM IS LOCATED.

5 (D) "RECEIVING STATE" MEANS THE STATE IN WHICH A RECEIVING  
6 AGENCY IS LOCATED.

7 (E) "SENDING AGENCY" MEANS A PUBLIC OR PRIVATE AGENCY  
8 LOCATED IN A STATE THAT SENDS AN INDIVIDUAL TO ANOTHER STATE FOR  
9 TREATMENT UNDER THIS SECTION.

10 (F) "SENDING STATE" MEANS THE STATE IN WHICH A SENDING  
11 AGENCY IS LOCATED.

12 (2) A COUNTY PROGRAM MAY CONTRACT AS PROVIDED UNDER THIS  
13 SECTION WITH A PUBLIC OR PRIVATE AGENCY IN A STATE BORDERING THE  
14 UPPER PENINSULA OF MICHIGAN TO SECURE SERVICES UNDER THIS ACT FOR  
15 A PERSON WHO RECEIVES SERVICES THROUGH THE COUNTY PROGRAM.

16 (3) A COUNTY PROGRAM MAY CONTRACT AS PROVIDED UNDER THIS  
17 SECTION WITH A PUBLIC OR PRIVATE AGENCY IN A STATE BORDERING THE  
18 UPPER PENINSULA OF MICHIGAN TO PROVIDE SERVICES UNDER THIS ACT  
19 FOR A RESIDENT OF THE BORDERING STATE IN AN APPROVED TREATMENT  
20 FACILITY IN THIS STATE, EXCEPT THAT A SERVICE MAY NOT BE PROVIDED  
21 FOR A RESIDENT OF THE BORDERING STATE WHO IS INVOLVED IN CRIMINAL  
22 PROCEEDINGS.

23 (4) A CONTRACT UNDER THIS SECTION MAY NOT BE VALIDLY EXE-  
24 CUTED UNTIL THE DEPARTMENT HAS REVIEWED AND APPROVED THE PROVI-  
25 SIONS OF THE CONTRACT AND DETERMINED THAT THE RECEIVING AGENCY  
26 PROVIDES SERVICES IN ACCORDANCE WITH THE STANDARDS OF THIS STATE  
27 AND THE ATTORNEY GENERAL HAS CERTIFIED THAT THE RECEIVING STATE'S

1 LAWS GOVERNING PATIENT RIGHTS ARE SUBSTANTIALLY SIMILAR TO THOSE  
2 OF THIS STATE.

3 (5) A PERSON DOES NOT ESTABLISH LEGAL RESIDENCE IN THE STATE  
4 WHERE THE RECEIVING AGENCY IS LOCATED WHILE THE PERSON IS RECEIV-  
5 ING SERVICES PURSUANT TO A CONTRACT UNDER THIS SECTION.

6 (6) SECTION 748 APPLIES TO TREATMENT RECORDS OF AN INDIVID-  
7 UAL RECEIVING SERVICES PURSUANT TO A CONTRACT UNDER THIS SECTION  
8 THROUGH A RECEIVING AGENCY IN THIS STATE, EXCEPT THAT THE SENDING  
9 AGENCY HAS THE SAME RIGHT OF ACCESS TO THE TREATMENT RECORDS OF  
10 THE INDIVIDUAL AS PROVIDED FOR THE DEPARTMENT UNDER SECTION  
11 748(4)(E).

12 (7) AN INDIVIDUAL WHO IS DETAINED, COMMITTED, OR PLACED ON  
13 AN INVOLUNTARY BASIS UNDER THIS ACT MAY BE CONFINED AND TREATED  
14 IN ANOTHER STATE PURSUANT TO A CONTRACT UNDER THIS SECTION. AN  
15 INDIVIDUAL WHO IS DETAINED, COMMITTED, OR PLACED UNDER THE CIVIL  
16 LAW OF A STATE BORDERING THE UPPER PENINSULA OF MICHIGAN MAY BE  
17 CONFINED AND TREATED IN THIS STATE PURSUANT TO A CONTRACT UNDER  
18 THIS SECTION. COURT ORDERS VALID UNDER THE LAW OF THE SENDING  
19 STATE ARE GRANTED RECOGNITION AND RECIPROCITY IN THE RECEIVING  
20 STATE FOR INDIVIDUALS COVERED BY A CONTRACT UNDER THIS SECTION TO  
21 THE EXTENT THAT THE COURT ORDERS RELATE TO CONFINEMENT FOR TREAT-  
22 MENT OR CARE OF A MENTAL DISABILITY. THE COURT ORDERS ARE NOT  
23 SUBJECT TO LEGAL CHALLENGE IN THE COURTS OF THE RECEIVING STATE.  
24 PERSONS WHO ARE DETAINED, COMMITTED, OR PLACED UNDER THE LAW OF A  
25 SENDING STATE AND WHO ARE TRANSFERRED TO A RECEIVING STATE UNDER  
26 THIS SECTION CONTINUE TO BE IN THE LEGAL CUSTODY OF THE AUTHORITY  
27 RESPONSIBLE FOR THEM UNDER THE LAW OF THE SENDING STATE. EXCEPT

1 IN EMERGENCIES, THOSE PERSONS MAY NOT BE TRANSFERRED, REMOVED, OR  
2 FURLOUGHED FROM A FACILITY OF THE RECEIVING AGENCY WITHOUT THE  
3 SPECIFIC APPROVAL OF THE AUTHORITY RESPONSIBLE FOR THEM UNDER THE  
4 LAW OF THE SENDING STATE.

5 (8) WHILE IN THE RECEIVING STATE PURSUANT TO A CONTRACT  
6 UNDER THIS SECTION, AN INDIVIDUAL IS SUBJECT TO ALL OF THE PROVI-  
7 SIONS OF LAW AND REGULATIONS APPLICABLE TO PERSONS DETAINED, COM-  
8 MITTED, OR PLACED PURSUANT TO THE CORRESPONDING LAWS OF THE  
9 RECEIVING STATE, EXCEPT THOSE LAWS AND REGULATIONS OF THE RECEIV-  
10 ING STATE PERTAINING TO LENGTH OF CONFINEMENT, REEXAMINATIONS,  
11 AND EXTENSIONS OF CONFINEMENT AND EXCEPT AS OTHERWISE PROVIDED BY  
12 THIS SECTION. THE LAWS AND REGULATIONS OF THE SENDING STATE  
13 RELATING TO LENGTH OF CONFINEMENT, REEXAMINATIONS, AND EXTENSIONS  
14 OF CONFINEMENT APPLY. A PERSON SHALL NOT BE SENT TO ANOTHER  
15 STATE PURSUANT TO A CONTRACT UNDER THIS SECTION UNTIL THE RECEIV-  
16 ING STATE HAS ENACTED A LAW RECOGNIZING THE VALIDITY AND APPLICA-  
17 BILITY OF THIS STATE'S LAWS AS PROVIDED IN THIS SECTION.

18 (9) IF AN INDIVIDUAL RECEIVING TREATMENT ON A VOLUNTARY  
19 BASIS PURSUANT TO A CONTRACT UNDER THIS SECTION REQUESTS DIS-  
20 CHARGE, THE RECEIVING AGENCY SHALL IMMEDIATELY NOTIFY THE SENDING  
21 AGENCY AND SHALL RETURN THE INDIVIDUAL TO THE SENDING STATE AS  
22 DIRECTED BY THE SENDING AGENCY WITHIN 48 HOURS AFTER THE REQUEST,  
23 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS. THE SENDING  
24 AGENCY SHALL IMMEDIATELY UPON RETURN OF THE INDIVIDUAL EITHER  
25 ARRANGE FOR THE DISCHARGE OF THE INDIVIDUAL OR DETAIN THE INDIV-  
26 VIDUAL PURSUANT TO THE EMERGENCY DETENTION LAWS OF THE SENDING  
27 STATE.

1 (10) IF AN INDIVIDUAL RECEIVING SERVICES PURSUANT TO A  
2 CONTRACT UNDER THIS SECTION ESCAPES FROM THE RECEIVING AGENCY AND  
3 THE INDIVIDUAL AT THE TIME OF THE ESCAPE IS SUBJECT TO INVOLUN-  
4 TARY CONFINEMENT UNDER THE LAW OF THE SENDING STATE, THE RECEIV-  
5 ING AGENCY SHALL USE ALL REASONABLE MEANS TO RECAPTURE THE  
6 ESCAPEE. THE RECEIVING AGENCY SHALL IMMEDIATELY REPORT THE  
7 ESCAPE TO THE SENDING AGENCY. THE RECEIVING STATE HAS THE PRI-  
8 MARY RESPONSIBILITY FOR, AND THE AUTHORITY TO DIRECT, THE PURSUIT  
9 AND RETAKING OF ESCAPED PERSONS WITHIN ITS BORDERS AND IS LIABLE  
10 FOR THE COST OF SUCH ACTION TO THE EXTENT THAT IT WOULD BE LIABLE  
11 FOR COSTS IF A RESIDENT OF THE RECEIVING STATE ESCAPED.

12 (11) AN INDIVIDUAL MAY BE TRANSFERRED BETWEEN FACILITIES OF  
13 THE RECEIVING STATE IF TRANSFERS ARE PERMITTED BY THE CONTRACT  
14 UNDER THIS SECTION PROVIDING FOR THE INDIVIDUAL'S CARE.

15 (12) ALL CONTRACTS UNDER THIS SECTION SHALL DO ALL OF THE  
16 FOLLOWING:

17 (A) ESTABLISH THE RESPONSIBILITY FOR THE COSTS OF ALL SERV-  
18 ICES TO BE PROVIDED UNDER THE CONTRACT.

19 (B) ESTABLISH THE RESPONSIBILITY FOR THE TRANSPORTATION OF  
20 CLIENTS TO AND FROM RECEIVING FACILITIES.

21 (C) PROVIDE FOR REPORTS BY THE RECEIVING AGENCY TO THE SEND-  
22 ING AGENCY ON THE CONDITION OF EACH CLIENT COVERED BY THE  
23 CONTRACT.

24 (D) PROVIDE FOR ARBITRATION OF DISPUTES ARISING OUT OF THE  
25 PROVISIONS OF THE CONTRACT THAT CANNOT BE SETTLED THROUGH DISCUS-  
26 SION BETWEEN THE CONTRACTING PARTIES AND SPECIFY HOW THE  
27 ARBITRATORS WILL BE CHOSEN.

1 (E) INCLUDE PROVISIONS ENSURING THE NONDISCRIMINATORY  
2 TREATMENT, AS REQUIRED BY LAW, OF EMPLOYEES, CLIENTS, AND APPLI-  
3 CANTS FOR EMPLOYMENT AND SERVICES.

4 (F) ESTABLISH THE RESPONSIBILITY FOR PROVIDING LEGAL REPRE-  
5 SENTATION FOR CLIENTS IN LEGAL PROCEEDINGS INVOLVING THE LEGALITY  
6 OF CONFINEMENT AND THE CONDITIONS OF CONFINEMENT.

7 (G) ESTABLISH THE RESPONSIBILITY FOR PROVIDING LEGAL REPRE-  
8 SENTATION FOR EMPLOYEES OF THE CONTRACTING PARTIES IN LEGAL PRO-  
9 CEEDINGS INITIATED BY PERSONS RECEIVING TREATMENT PURSUANT TO THE  
10 CONTRACT.

11 (H) INCLUDE PROVISIONS CONCERNING THE LENGTH OF THE CONTRACT  
12 AND THE MEANS BY WHICH THE CONTRACT CAN BE TERMINATED.

13 (I) ESTABLISH THE RIGHT OF QUALIFIED EMPLOYEES AND REPRESen-  
14 TATIVES OF THE SENDING AGENCY AND SENDING STATE TO INSPECT, AT  
15 ALL REASONABLE TIMES, THE RECORDS OF THE RECEIVING AGENCY AND ITS  
16 TREATMENT FACILITIES TO DETERMINE IF APPROPRIATE STANDARDS OF  
17 CARE ARE MET FOR CLIENTS RECEIVING SERVICES UNDER THE CONTRACT.

18 (J) REQUIRE THE SENDING AGENCY TO PROVIDE THE RECEIVING  
19 AGENCY WITH COPIES OF ALL RELEVANT LEGAL DOCUMENTS AUTHORIZING  
20 CONFINEMENT OF PERSONS WHO ARE CONFINED PURSUANT TO LAWS OF THE  
21 SENDING STATE AND RECEIVING SERVICES PURSUANT TO A CONTRACT UNDER  
22 THIS SECTION.

23 (K) REQUIRE INDIVIDUALS WHO ARE SEEKING TREATMENT ON A VOL-  
24 UNTARY BASIS TO AGREE IN WRITING TO BE RETURNED TO THE SENDING  
25 STATE UPON MAKING A REQUEST FOR DISCHARGE AS PROVIDED IN SUBSEC-  
26 TION (9) AND REQUIRE AN AGENT OR EMPLOYEE OF THE SENDING AGENCY  
27 TO CERTIFY THAT THE INDIVIDUAL UNDERSTANDS THAT AGREEMENT.

1        (L) ESTABLISH THE RESPONSIBILITY FOR SECURING A  
2 REEXAMINATION FOR AN INDIVIDUAL AND FOR EXTENDING AN INDIVIDUAL'S  
3 PERIOD OF CONFINEMENT.

4        (M) INCLUDE PROVISIONS SPECIFYING WHEN A RECEIVING FACILITY  
5 CAN REFUSE TO ADMIT OR RETAIN AN INDIVIDUAL.

6        (N) SPECIFY THE CIRCUMSTANCES UNDER WHICH INDIVIDUALS WILL  
7 BE PERMITTED HOME VISITS AND GRANTED PASSES TO LEAVE THE  
8 FACILITY.