

HOUSE BILL No. 5857

May 26, 1992, Introduced by Reps. Kosteva, Gubow, Joe Young, Sr., Baade, Trim, Knight, Ciaramitaro, Harder, McNutt and DeLange and referred to the Committee on Mental Health.

A bill to amend sections 144 and 232 of Act No. 258 of the Public Acts of 1974, entitled as amended "Mental health code,"

being sections 330.1144 and 330.1232 of the Michigan Compiled Laws; to add chapter 7a; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 144 and 232 of Act No. 258 of the
2 Public Acts of 1974, being sections 330.1144 and 330.1232 of the
3 Michigan Compiled Laws, are amended and chapter 7a is added to
4 read as follows:

5 Sec. 144. (1) The director, after notice to the applicant
6 or licensee, may suspend, deny, or revoke a license if ~~he~~ THE
7 DIRECTOR finds that there is a substantial failure to comply with
8 ~~the requirements of~~ sections 134 through 150 OR PURSUANT TO
9 SUBSECTION (2). The notice shall be by certified mail or by

1 personal service, setting forth the particular reasons for the
2 proposed action and fixing a date, not less than 30 days from the
3 date of service, on which the applicant or licensee shall be
4 afforded a hearing before the director or his OR HER designee.

5 (2) UPON RECOMMENDATION OF THE DIRECTOR OF THE STATE OFFICE
6 OF RECIPIENT RIGHTS, THE DIRECTOR SHALL PROVIDE THE NOTICE
7 REQUIRED UNDER SUBSECTION (1) TO AN APPLICANT OR LICENSEE WHO
8 FAILS TO COMPLY WITH THE REQUIREMENTS OF CHAPTER 7 PERTAINING TO
9 THE RIGHTS OF RECIPIENTS OF MENTAL HEALTH SERVICES. IF IT IS
10 DETERMINED AT THE HEARING PRESCRIBED UNDER SECTION 145 THAT THE
11 APPLICANT OR LICENSEE IS NOT IN COMPLIANCE WITH CHAPTER 7, THE
12 DIRECTOR SHALL DENY, REVOKE, OR SUSPEND THE LICENSE PURSUANT TO
13 SECTION 145.

14 Sec. 232. (1) The department shall review each county's
15 annual plan and budget and approve or disapprove it in whole or
16 in part. Eligibility for state financial support shall be con-
17 tingent upon an approved plan and budget. Prior to the beginning
18 of each state fiscal year, the department shall allocate state
19 appropriated funds to the county programs in accordance with the
20 approved plans and budgets. If the amount of state appropriated
21 funds is insufficient to fund all approved plans and budgets, the
22 department shall establish the manner by which the appropriated
23 funds are to be divided among the county programs.

24 (2) UPON RECOMMENDATION OF THE DIRECTOR OF THE STATE OFFICE
25 OF RECIPIENT RIGHTS, THE DEPARTMENT SHALL DISAPPROVE A COUNTY'S
26 ANNUAL PLAN AND BUDGET IF EITHER OF THE FOLLOWING APPLIES:

1 (A) THE COUNTY IS NOT IN COMPLIANCE WITH SECTION 758
2 PERTAINING TO THE ESTABLISHMENT AND OPERATION OF AN OFFICE OF
3 RECIPIENT RIGHTS.

4 (B) A PROVIDER WITH WHOM THE COUNTY PROGRAM PROPOSES TO CON-
5 TRACT IS NOT IN COMPLIANCE WITH SECTION 758 OR CHAPTER 7.

6 CHAPTER 7A

7 OFFICES OF RECIPIENT RIGHTS

8 SEC. 755. AS USED IN THIS CHAPTER:

9 (A) "COUNTY PROGRAM" MEANS A COUNTY COMMUNITY MENTAL HEALTH
10 PROGRAM ESTABLISHED PURSUANT TO CHAPTER 2.

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

12 (C) "FACILITY" MEANS A RESIDENTIAL FACILITY THAT PROVIDES
13 MENTAL HEALTH SERVICES AND THAT IS LICENSED BY THE STATE OR IS
14 OPERATED BY OR UNDER CONTRACT WITH A PUBLIC AGENCY.

15 (D) "OFFICE" MEANS AN OFFICE OF RECIPIENT RIGHTS ESTABLISHED
16 BY A COUNTY PROGRAM OR A PROVIDER.

17 (E) "PROVIDER" MEANS AN INDIVIDUAL OR AGENCY THAT PROVIDES
18 MENTAL HEALTH SERVICES TO RECIPIENTS UNDER A CONTRACT WITH THE
19 DEPARTMENT OR A COUNTY PROGRAM.

20 (F) "RECIPIENT" MEANS AN INDIVIDUAL WHO RECEIVES MENTAL
21 HEALTH SERVICES FROM A FACILITY OR FROM A PROVIDER.

22 (G) "STATE OFFICE" MEANS THE STATE OFFICE OF RECIPIENT
23 RIGHTS.

24 SEC. 756. (1) THE STATE OFFICE OF RECIPIENT RIGHTS IS CRE-
25 ATED IN THE DEPARTMENT OF CIVIL RIGHTS AS AN AUTONOMOUS AGENCY.
26 THE STATE OFFICE SHALL EXERCISE ITS POWERS AND DUTIES

1 INDEPENDENTLY OF THE CIVIL RIGHTS COMMISSION EXCEPT FOR
2 BUDGETING, PROCUREMENT, AND RELATED MANAGEMENT FUNCTIONS.

3 (2) THE DIRECTOR OF THE DEPARTMENT OF CIVIL RIGHTS SHALL
4 APPOINT A DIRECTOR OF THE STATE OFFICE. THE DIRECTOR OF THE
5 STATE OFFICE SHALL BE EXEMPT FROM STATE CLASSIFIED CIVIL SERVICE
6 AND SHALL RECEIVE COMPENSATION AS DETERMINED BY THE LEGISLATURE.

7 (3) THE DIRECTOR OF THE STATE OFFICE SHALL REVIEW THE CRE-
8 DENTIALS OF CANDIDATES FOR THE POSITION OF DIRECTOR OF EACH
9 OFFICE, AND SHALL APPROVE OR DISAPPROVE AN APPOINTMENT AS
10 REQUIRED UNDER SECTION 758.

11 SEC. 757. (1) THE STATE OFFICE MAY DO ALL OF THE
12 FOLLOWING:

13 (A) INVESTIGATE A REPORT MADE BY OR ON BEHALF OF A RECIPIENT
14 REGARDING AN APPARENT VIOLATION OF A RIGHT GUARANTEED BY THIS
15 ACT.

16 (B) REFER A MATTER TO A PROVIDER TO BE ADDRESSED BY APPRO-
17 PRIATE ADMINISTRATIVE REMEDIES.

18 (C) RESOLVE A DISPUTE BETWEEN A RECIPIENT AND A COUNTY PRO-
19 GRAM OR PROVIDER PERTAINING TO A VIOLATION OF A RIGHT GUARANTEED
20 BY THIS ACT.

21 (D) ACT ON BEHALF OF A RECIPIENT TO OBTAIN AN ADMINISTRATIVE
22 OR JUDICIAL REMEDY FOR A VIOLATION OF A RIGHT GUARANTEED BY THIS
23 ACT.

24 (E) ENTER INTO A CONTRACT WITH AN INDIVIDUAL, PARTNERSHIP,
25 CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL
26 ENTITY IF NECESSARY FOR THE PERFORMANCE OF ITS FUNCTIONS.

1 (F) ACCEPT A GIFT, GRANT, BEQUEST, OR OTHER DONATION FOR USE
2 IN PERFORMING ITS FUNCTIONS.

3 (2) THE STATE OFFICE SHALL DO ALL OF THE FOLLOWING:

4 (A) REVIEW THE ORGANIZATION AND OPERATION OF THE DEPARTMENT,
5 EACH COUNTY PROGRAM, AND EACH PROVIDER TO ENSURE THAT QUALITY
6 CARE AND RIGHTS PROTECTION OF A UNIFORMLY HIGH STANDARD ARE PRO-
7 VIDED TO EACH RECIPIENT IN THE STATE.

8 (B) RECEIVE REPORTS OF ALLEGED VIOLATIONS OF RECIPIENT
9 RIGHTS GUARANTEED BY THIS ACT FROM RECIPIENTS OR PERSONS ACTING
10 ON BEHALF OF RECIPIENTS.

11 (C) IF AN INVESTIGATION REVEALS AN APPARENT VIOLATION OF A
12 RIGHT GUARANTEED BY THIS ACT, SEEK ON BEHALF OF THE RECIPIENT
13 APPROPRIATE ADMINISTRATIVE AND JUDICIAL RELIEF, INCLUDING INJUNC-
14 TIVE RELIEF AND MANDAMUS ACTION, AGAINST THE DEPARTMENT, A COUNTY
15 PROGRAM, OR A PROVIDER.

16 (D) RECOMMEND TO THE DEPARTMENT THAT A FACILITY NOT BE
17 LICENSED, A CONTRACT NOT BE APPROVED, OR THE ANNUAL PLAN AND
18 BUDGET OF A COUNTY PROGRAM NOT BE APPROVED IF THE FACILITY, PRO-
19 VIDER, OR COUNTY PROGRAM FAILS TO COMPLY WITH THIS ACT OR RULES
20 PROMULGATED PURSUANT TO THIS ACT RELATED TO PROTECTION OF RECIPI-
21 ENT RIGHTS.

22 (E) REPORT ANNUALLY TO THE DEPARTMENT, THE GOVERNOR, AND THE
23 LEGISLATURE ON THE STATUS OF RECIPIENT RIGHTS IN MICHIGAN AND
24 RECOMMEND ANY LEGISLATION NEEDED TO ENSURE THE PROTECTION OF
25 RECIPIENT RIGHTS.

26 (F) PROMULGATE RULES PURSUANT TO THE ADMINISTRATIVE
27 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,

1 BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS,
2 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

3 (i) PROCEDURES FOR THE FAIR AND APPROPRIATE HANDLING OF COM-
4 PLAINTS AND APPEALS PERTAINING TO APPARENT VIOLATIONS OF RECIPI-
5 ENT RIGHTS.

6 (ii) STANDARDS FOR UNIFORM POLICIES AND PROCEDURES TO BE
7 FOLLOWED BY EACH OFFICE. AT A MINIMUM, THE STANDARDS SHALL
8 INCLUDE ALL OF THE FOLLOWING:

9 (A) EDUCATION AND TRAINING QUALIFICATIONS FOR STAFF.

10 (B) POLICIES AND PROCEDURES FOR MONITORING MENTAL HEALTH
11 PROGRAMS TO ENSURE THAT ALL PROGRAMS UNDER THE JURISDICTION OF
12 THE OFFICE ARE IN COMPLIANCE WITH UNIFORM STANDARDS, POLICIES,
13 AND PROCEDURES.

14 (C) OFFICE OPERATIONS, INCLUDING, BUT NOT LIMITED TO, OFFICE
15 MAINTENANCE, STAFFING, HANDLING OF COMPLAINTS, INVESTIGATION PRO-
16 CEDURES, AND FILE MAINTENANCE.

17 SEC. 758. (1) EACH COUNTY PROGRAM AND EACH PROVIDER SHALL
18 ESTABLISH AN OFFICE OF RECIPIENT RIGHTS TO SAFEGUARD THE RIGHTS
19 OF RECIPIENTS FOR WHOM IT PROVIDES, DIRECTLY OR BY CONTRACT,
20 MENTAL HEALTH SERVICES. EACH OFFICE SHALL RECEIVE REPORTS OF,
21 AND MAY INVESTIGATE, ALLEGED VIOLATIONS OF THE RIGHTS GUARANTEED
22 BY THIS ACT, AND MAY ACT TO RESOLVE DISPUTES RELATING TO APPARENT
23 VIOLATIONS. IF IT DETERMINES THAT A RIGHT MAY HAVE BEEN VIO-
24 LATED, IT SHALL ACT ON BEHALF OF RECIPIENTS TO OBTAIN REMEDY FOR
25 THE VIOLATION.

26 (2) THE BOARD OF A COUNTY PROGRAM, OR THE GOVERNING BODY OF
27 A PROVIDER, SHALL APPOINT A DIRECTOR OF THE OFFICE, SUBJECT TO

1 APPROVAL BY THE DIRECTOR OF THE STATE OFFICE. THE DIRECTOR OF
2 THE OFFICE SHALL BE SUBORDINATE ONLY TO THE BOARD OR CHIEF OFFI-
3 CIAL OF THE COUNTY PROGRAM OR PROVIDER, AND SHALL NOT HAVE DIRECT
4 SERVICE RESPONSIBILITY. ALL EMPLOYEES OF THE OFFICE SHALL MEET
5 THE QUALIFICATIONS PRESCRIBED IN RULES PROMULGATED BY THE STATE
6 OFFICE PURSUANT TO SECTION 757.

7 (3) EACH OFFICE SHALL COMPLY WITH THE UNIFORM STANDARDS,
8 POLICIES, AND PROCEDURES PRESCRIBED IN RULES PROMULGATED BY THE
9 STATE OFFICE PURSUANT TO SECTION 757.

10 (4) EACH OFFICE SHALL SUBMIT STATISTICAL RIGHTS DATA TO THE
11 STATE OFFICE TO BE USED BY THE STATE OFFICE IN PREPARATION OF ITS
12 ANNUAL REPORT REQUIRED UNDER SECTION 757.

13 SEC. 759. THE LEGISLATURE SHALL APPROPRIATE ANNUALLY FOR
14 THE OPERATION OF THE STATE OFFICE OF RECIPIENT RIGHTS AN AMOUNT
15 EQUAL TO 1% OF THE COMBINED ANNUAL BUDGETS OF ALL COUNTY
16 PROGRAMS.

17 Section 2. Section 754 of Act No. 258 of the Public Acts of
18 1974, being section 330.1754 of the Michigan Compiled Laws, is
19 repealed.