

HOUSE BILL No. 6054

September 15, 1992, Introduced by Rep. Gubow and referred to the Committee on Mental Health.

A bill to amend section 946 of Act No. 258 of the Public Acts of 1974, entitled as amended

"Mental health code,"

as added by Act No. 123 of the Public Acts of 1989, being section 330.1946 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 946 of Act No. 258 of the Public Acts of
2 1974, as added by Act No. 123 of the Public Acts of 1989, being
3 section 330.1946 of the Michigan Compiled Laws, is amended to
4 read as follows:

5 Sec. 946. (1) If a patient communicates to a mental health
6 practitioner who is treating the patient a threat of physical
7 violence against a reasonably identifiable third person and the
8 patient has the apparent intent and ability to carry out that
9 threat in the foreseeable future, the mental health practitioner

1 has a duty to take action as prescribed in subsection (2).

2 Except as provided in this section, a mental health practitioner
3 does not have a duty to warn a third person of a threat as
4 described in this subsection or to protect the third person.

5 (2) A mental health practitioner has discharged the duty
6 created under subsection (1) if the mental health practitioner,
7 subsequent to the threat, does 1 or more of the following in a
8 timely manner:

9 (a) Hospitalizes the patient or initiates proceedings to
10 hospitalize the patient under chapter 4 or 4a.

11 (b) Makes a reasonable attempt to communicate the threat to
12 the third person and communicates the threat to the local police
13 department or county sheriff for the area where the third person
14 resides or for the area where the patient resides, or TO the
15 state police.

16 (c) If the mental health practitioner has reason to believe
17 that the third person who is threatened is a minor or is incompe-
18 tent by other than age, takes the steps set forth in
19 subdivision (b) and communicates the threat to the department of
20 social services in the county where the minor resides and to the
21 third person's custodial parent, noncustodial parent, or legal
22 guardian, whoever is appropriate in the best interests of the
23 third person.

24 (3) If a patient described in subsection (1) is being
25 treated through team treatment in a hospital, and if the individ-
26 ual in charge of the patient's treatment decides to discharge the
27 duty created in subsection (1) by a means described in subsection

1 (2)(b) or (c), the hospital shall designate an individual to
2 communicate the threat to the necessary persons.

3 (4) A psychiatrist or psychologist who determines in good
4 faith that a particular situation presents a duty under this sec-
5 tion and who complies with the duty does not violate
6 section 750. A psychiatrist who determines in good faith that a
7 particular situation presents a duty under this section and who
8 complies with the duty does not violate the physician-patient
9 privilege established under section 2157 of the revised judica-
10 ture act of 1961, Act No. 236 of the Public Acts of 1961, being
11 section 600.2157 of the Michigan Compiled Laws. A psychiatric
12 social worker who determines in good faith that a particular sit-
13 uation presents a duty under this section and who complies with
14 the duty does not violate section 1610 of the occupational code,
15 Act No. 299 of the Public Acts of 1980, being section 339.1610 of
16 the Michigan Compiled Laws. A PROFESSIONAL COUNSELOR WHO DETER-
17 MINES IN GOOD FAITH THAT A PARTICULAR SITUATION PRESENTS A DUTY
18 UNDER THIS SECTION AND WHO COMPLIES WITH THE DUTY DOES NOT VIO-
19 LATE SECTION 18117 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE
20 PUBLIC ACTS OF 1978, BEING SECTION 333.18117 OF THE MICHIGAN
21 COMPILED LAWS. A MARRIAGE AND FAMILY THERAPIST WHO DETERMINES IN
22 GOOD FAITH THAT A PARTICULAR SITUATION PRESENTS A DUTY UNDER THIS
23 SECTION AND WHO COMPLIES WITH THE DUTY DOES NOT VIOLATE
24 SECTION 1509 OF THE OCCUPATIONAL CODE, ACT NO. 299 OF THE PUBLIC
25 ACTS OF 1980, BEING SECTION 339.1509 OF THE MICHIGAN COMPILED
26 LAWS.

1 (5) As used in this section:

2 (a) "Hospital" means a facility providing inpatient care and
3 services for the observation, diagnosis, and active treatment of
4 an individual with a medical, chronic, or rehabilitative condi-
5 tion requiring the daily direction or supervision of a
6 psychiatrist.

7 (B) "MARRIAGE AND FAMILY THERAPIST" MEANS AN INDIVIDUAL
8 LICENSED UNDER ARTICLE 15 OF THE OCCUPATIONAL CODE, ACT NO. 299
9 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 339.1501 TO 339.1511
10 OF THE MICHIGAN COMPILED LAWS.

11 (C) ~~(b)~~ "Mental health practitioner" means a psychiatrist,
12 psychologist, PROFESSIONAL COUNSELOR, MARRIAGE AND FAMILY
13 THERAPIST, or psychiatric social worker.

14 (D) "PROFESSIONAL COUNSELOR" MEANS AN INDIVIDUAL LICENSED
15 UNDER PART 181 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE
16 PUBLIC ACTS OF 1978, BEING SECTIONS 333.18101 TO 333.18117 OF THE
17 MICHIGAN COMPILED LAWS.

18 (E) ~~(c)~~ "Psychiatric social worker" means a certified
19 social worker, social worker, or social work technician regis-
20 tered under article 16 of the occupational code, Act No. 299 of
21 the Public Acts of 1980, being sections 339.1601 to 339.1610 of
22 the Michigan Compiled Laws, who has successfully completed a psy-
23 chiatric social service practicum.

24 (F) ~~(d)~~ "Psychiatrist" means that term as defined in
25 section 750.

26 (G) ~~(e)~~ "Psychologist" means that term as defined in
27 section 750.

1 (6) This section does not affect a duty a mental health
2 practitioner may have under any other section of law.