



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

OFFICE OF RECIPIENT RIGHTS

House Bills 4196 and 4197
Sponsor: Rep. David M. Gubow
Committee: Mental Health

Complete to 2-15-94

A SUMMARY OF HOUSE BILLS 4196 AND 4197 AS INTRODUCED 2-10-93

The bills would amend existing laws to establish state and local offices of recipient rights to protect the rights of recipients of mental health services.

House Bill 4196 would amend the Executive Organization Act (MCL 16.478) to create a state office of recipient rights as an autonomous agency in the Department of Civil Rights. The office would exercise, independently of the Civil Rights Commission, the powers, duties, and functions described in House Bill 4197. However, all budgeting, procurement, and related management functions would be performed under the direction and supervision of the Civil Rights Commission. The head of the office of recipient rights would be the director of recipient rights, and would be appointed by the director of the Department of Civil Rights. The bill is tie-barred to House Bill 4197.

House Bill 4197 (MCL 330.1144 and 330.1232). Chapter 7 of the Mental Health Code details the rights of recipients of mental health services. Section 754 of this chapter requires the Department of Mental Health, each community mental health program, and other local government mental health facilities to have an office to safeguard the rights guaranteed by the code. These offices receive reports of, and can investigate, apparent violations of the rights guaranteed in chapter 7, and can act on behalf of recipients of mental health services to obtain remedy for any apparent violations.

The bill would repeal section 754 of chapter 7 of the Mental Health Code and instead add a new chapter 7a to the code that would establish a state office of recipient rights in the Department of Civil Rights and to require each county community mental health program -- and each provider that provides mental health services under a contract with the department or a county program -- to establish an office of recipient rights to safeguard the rights of its clients.

The state office of recipient rights. The state office of recipient rights would be an autonomous agency and would exercise its powers and duties independently of the Civil Rights Commission except for budgeting, procurement, and related management functions. The director of the Department of Civil Rights would appoint the director of the state office of recipient rights, who would not be under the state classified civil service. The director of the office would be paid as determined by the legislature, and would review the credentials of -- and approve or disapprove the appointment of -- candidates for the position of director of the county and individual provider offices of recipient rights.

The state office of recipient rights would be able to do all of the following:

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- * Investigate reports of violations (or suspected violations) of a right guaranteed under the Mental Health Code;
- * refer matters to providers to be addressed in administratively appropriate ways;
- * act on behalf of recipients to obtain administrative or judicial remedies for violations of guaranteed rights;
- * enter into contracts necessary for performing its functions; and
- * accept gifts, grants, bequests, or other donations to use in performing its functions.

The state office of recipient rights would be required to do all of the following:

- * Review the organization and operation of the Department of Mental Health, each county community mental health services program, and each mental health service provider to ensure that quality care and rights protection ("of a uniformly high standard") was provided to each recipient of mental health services in the state;
- * receive reports of alleged violations of guaranteed recipient rights;
- * seek, on behalf of the recipient, appropriate administrative and judicial relief against the department, a county program, or a provider if an investigation revealed an apparent violation;
- * recommend to the department that a facility not be licensed, or that a contract or the annual plan and budget of a county program not be approved, if the facility, provider, or county program failed to comply with the bill or rules promulgated under the bill related to the protection of recipient rights;
- * report annually to the department, the governor, and the legislature on the status of recipient rights in the state and recommend any legislation needed to ensure the protection of recipient rights; and;
- * promulgate rules to establish at least all of the following:
 - (1) procedures for the fair and appropriate handling of complaints and appeals regarding apparent violations of recipient rights, and
 - (2) standards for uniform policies and procedures to be followed by each recipient rights office (including staff education and training qualifications; policies and procedures for monitoring mental health programs to ensure compliance with uniform standards, policies, and procedures; and office operations, such as office maintenance, staffing, handling of complaints, investigation procedures, and file maintenance).

(The bill also would amend the Mental Health Code to require the director of the mental health department to deny, revoke, or suspend the license of a facility -- and to disapprove a county's annual plan and budget -- if the facility, county, or provider wasn't in compliance with the code's recipient rights requirements.)

Appropriations. For the operation of the state office of recipient rights, the bill would require the legislature to appropriate annually an amount equal to one percent of the combined annual budgets of all county mental health programs.

County and provider offices of recipient rights. Each county mental health program and each provider of mental health services office of recipient rights would be required to receive reports of (and could investigate) alleged violations of guaranteed rights, and could act to resolve disputes relating to apparent violations. If an office decided that a right might have been violated, it would have to act on behalf of recipients to obtain relief for the violation.

The board of a county mental health program, or the governing body of a provider, would appoint the director of that program's or provider's office of recipient rights, subject to approval by the director of the state office of recipient rights. The director of the office would be subordinate only to the board or chief official of the county program or provider. Directors of recipient rights offices could not have direct service responsibility.

The bill would require that all employees of the offices of recipient rights meet the qualifications, and that each office comply with the uniform standards, policies, and procedures, as prescribed in the rules that the bill would require the state office to promulgate. The bill also would require that each office submit statistical rights data to the state office of recipients rights in preparing its required annual report.