

Act No. 259  
Public Acts of 1994  
Approved by the Governor  
July 4, 1994  
Filed with the Secretary of State  
July 5, 1994

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1994**

**Introduced by Senators McManus Geake Emmons Gast and Schwarz**

# **ENROLLED SENATE BILL No. 377**

AN ACT to amend section 946 of Act No 258 of the Public Acts of 1974 entitled as amended An act to modernize add to revise consolidate and codify the statutes relating to mental health to delineate the powers and duties of the department of mental health to establish county community mental health programs to delineate state and county financial responsibility for public mental health services to create certain funds to establish procedures for the civil admission and discharge of mentally ill persons to and from mental health facilities to establish procedures for the civil admission and discharge of persons with developmental disabilities to and from facilities to establish guardianship arrangements for persons with developmental disabilities to establish certain rights of persons who receive mental health services to establish financial liability for the receipt of public mental health services to establish certain miscellaneous provisions relating to mental health to establish procedures pertaining to persons with mental illness or developmental disabilities who are under criminal sentence to persons who are mentally incompetent to stand trial and to persons who have been found not guilty by reason of insanity to repeal certain acts and parts of acts and to repeal certain parts of this act on a specific date 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*

Section 1 Section 946 of Act No 258 of the Public Acts of 1974 as added by Act No 123 of the Public Acts of 1989 being section 330 1946 of the Michigan Compiled Laws is amended to read as follows

Sec 946 (1) If a patient communicates to a mental health practitioner who is treating the patient a threat of physical violence against a reasonably identifiable third person and the patient has the apparent intent and ability to carry out that threat in the foreseeable future the mental health practitioner has a duty to take action as prescribed in subsection (2) Except as provided in this section a mental health practitioner does not have a duty to warn a third person of a threat as described in this subsection or to protect the third person

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

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

(b) Makes a reasonable attempt to communicate the threat to the third person and communicates the threat to the local police department or county sheriff for the area where the third person resides or for the area where the patient resides or to the state police

(c) If the mental health practitioner has reason to believe that the third person who is threatened is a minor or is incompetent by other than age takes the steps set forth in subdivision (b) and communicates the threat to the department of social services in the county where the minor resides and to the third person's custodial parent noncustodial parent or legal guardian whoever is appropriate in the best interests of the third person

(3) If a patient described in subsection (1) is being treated through team treatment in a hospital and if the individual in charge of the patient's treatment decides to discharge the duty created in subsection (1) by a means described in subsection (2)(b) or (c) the hospital shall designate an individual to communicate the threat to the necessary persons

(4) A psychiatrist or psychologist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 750. A psychiatrist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate the physician-patient privilege established under section 2157 of the revised judicature act of 1961. Act No. 236 of the Public Acts of 1961 being section 600 2157 of the Michigan Compiled Laws. A psychiatric social worker who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1610 of the occupational code. Act No. 299 of the Public Acts of 1980 being section 339 1610 of the Michigan Compiled Laws. A licensed professional counselor who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18117 of the public health code. Act No. 368 of the Public Acts of 1978 being section 333 18117 of the Michigan Compiled Laws. A marriage and family therapist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1509 of the occupational code. Act No. 299 of the Public Acts of 1980 being section 339 1509 of the Michigan Compiled Laws.

(5) As used in this section

(a) Hospital means a facility providing inpatient care and services for the observation, diagnosis, and active treatment of an individual with a medical, chronic, or rehabilitative condition requiring the daily direction or supervision of a psychiatrist.

(b) Marriage and family therapist means an individual licensed under article 15 of the occupational code. Act No. 299 of the Public Acts of 1980 being sections 339 1501 to 339 1511 of the Michigan Compiled Laws.

(c) Mental health practitioner means a psychiatrist, psychologist, licensed professional counselor, marriage and family therapist, or psychiatric social worker.

(d) Licensed professional counselor means an individual licensed under part 181 of the public health code. Act No. 368 of the Public Acts of 1978 being sections 333 18101 to 333 18117 of the Michigan Compiled Laws.

(e) Psychiatric social worker means a certified social worker, social worker, or social work technician registered under article 16 of the occupational code. Act No. 299 of the Public Acts of 1980 being sections 339 1601 to 339 1610 of the Michigan Compiled Laws, who has successfully completed a psychiatric social service practicum.

(f) Psychiatrist means that term as defined in section 750.

(g) Psychologist means that term as defined in section 750.

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

This act is ordered to take immediate effect.

Secretary of the Senate

Co Clerk of the House of Representatives

Approved \_\_\_\_\_

Governor