



HOUSE BILL No. 4312

February 18, 1993, Introduced by Reps. Anthony, Gagliardi, Byrum, Harder, Curtis, Olshove, Shepich, Jondahl, Ciaramitaro, Hollister, DeMars, McBryde, Gernaat, McNutt, Shugars, Hammerstrom, Wallace and Murphy 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
11 SECTION 748(4)(E).

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

1 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 INVOLUNTARY INPATIENT TREAT-
11 MENT, REEXAMINATIONS, AND EXTENSIONS OF INVOLUNTARY INPATIENT
12 TREATMENT AND EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION. THE
13 LAWS AND REGULATIONS OF THE SENDING STATE RELATING TO LENGTH OF
14 INVOLUNTARY INPATIENT TREATMENT, REEXAMINATIONS, AND EXTENSIONS
15 OF INVOLUNTARY INPATIENT TREATMENT APPLY. A PERSON SHALL NOT BE
16 SENT TO ANOTHER STATE PURSUANT TO A CONTRACT UNDER THIS SECTION
17 UNTIL THE RECEIVING STATE HAS ENACTED A LAW RECOGNIZING THE
18 VALIDITY AND APPLICABILITY OF THIS STATE'S LAWS AS PROVIDED IN
19 THIS SECTION.

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

1 INDIVIDUAL PURSUANT TO THE EMERGENCY DETENTION LAWS OF THE
2 SENDING STATE.

3 (10) IF AN INDIVIDUAL RECEIVING SERVICES PURSUANT TO A CON-
4 TRACT UNDER THIS SECTION LEAVES THE RECEIVING AGENCY WITHOUT
5 AUTHORIZATION AND THE INDIVIDUAL AT THE TIME OF THE UNAUTHORIZED
6 LEAVE IS SUBJECT TO INVOLUNTARY INPATIENT TREATMENT UNDER THE LAW
7 OF THE SENDING STATE, THE RECEIVING AGENCY SHALL USE ALL REASON-
8 ABLE MEANS TO LOCATE AND RETURN THE INDIVIDUAL. THE RECEIVING
9 AGENCY SHALL IMMEDIATELY REPORT THE UNAUTHORIZED LEAVE OF ABSENCE
10 TO THE SENDING AGENCY. THE RECEIVING STATE HAS THE PRIMARY
11 RESPONSIBILITY FOR, AND THE AUTHORITY TO DIRECT, THE RETURN OF
12 INDIVIDUALS WITHIN ITS BORDERS AND IS LIABLE FOR THE COST OF SUCH
13 ACTION TO THE EXTENT THAT IT WOULD BE LIABLE FOR COSTS IF A RESI-
14 DENT OF THE RECEIVING STATE LEFT WITHOUT AUTHORIZATION.

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

18 (12) ALL CONTRACTS UNDER THIS SECTION SHALL DO ALL OF THE
19 FOLLOWING:

20 (A) ESTABLISH THE RESPONSIBILITY FOR PAYMENT FOR ALL SERV-
21 ICES TO BE PROVIDED UNDER THE CONTRACT. CHARGES TO THE SENDING
22 STATE SHALL NOT BE MORE OR LESS THAN THE ACTUAL COST OF PROVIDING
23 THE SERVICE.

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

1 (C) PROVIDE FOR REPORTS BY THE RECEIVING AGENCY TO THE
2 SENDING AGENCY ON THE CONDITION OF EACH CLIENT COVERED BY THE
3 CONTRACT.

4 (D) PROVIDE FOR ARBITRATION OF DISPUTES ARISING OUT OF THE
5 PROVISIONS OF THE CONTRACT THAT CANNOT BE SETTLED THROUGH DISCUS-
6 SION BETWEEN THE CONTRACTING PARTIES AND SPECIFY HOW THE ARBITRA-
7 TORS WILL BE CHOSEN.

8 (E) INCLUDE PROVISIONS ENSURING THE NONDISCRIMINATORY TREAT-
9 MENT, AS REQUIRED BY LAW, OF EMPLOYEES, CLIENTS, AND APPLICANTS
10 FOR EMPLOYMENT AND SERVICES.

11 (F) ESTABLISH THE RESPONSIBILITY FOR PROVIDING LEGAL REPRE-
12 SENTATION FOR CLIENTS IN LEGAL PROCEEDINGS INVOLVING THE LEGALITY
13 OF ADMISSION AND THE CONDITIONS OF INVOLUNTARY INPATIENT
14 TREATMENT.

15 (G) ESTABLISH THE RESPONSIBILITY FOR PROVIDING LEGAL REPRE-
16 SENTATION FOR EMPLOYEES OF THE CONTRACTING PARTIES IN LEGAL PRO-
17 CEEDINGS INITIATED BY PERSONS RECEIVING TREATMENT PURSUANT TO THE
18 CONTRACT.

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

21 (I) ESTABLISH THE RIGHT OF QUALIFIED EMPLOYEES AND REPRESENT-
22 TATIVES OF THE SENDING AGENCY AND SENDING STATE TO INSPECT, AT
23 ALL REASONABLE TIMES, THE RECORDS OF THE RECEIVING AGENCY AND ITS
24 TREATMENT FACILITIES TO DETERMINE IF APPROPRIATE STANDARDS OF
25 CARE ARE MET FOR CLIENTS RECEIVING SERVICES UNDER THE CONTRACT.

26 (J) REQUIRE THE SENDING AGENCY TO PROVIDE THE RECEIVING
27 AGENCY WITH COPIES OF ALL RELEVANT LEGAL DOCUMENTS AUTHORIZING

1 INVOLUNTARY INPATIENT TREATMENT OF PERSONS WHO ARE ADMITTED
2 PURSUANT TO LAWS OF THE SENDING STATE AND RECEIVING SERVICES PUR-
3 SUANT TO A CONTRACT UNDER THIS SECTION.

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

9 (L) ESTABLISH THE RESPONSIBILITY FOR SECURING A REEXAMINA-
10 TION FOR AN INDIVIDUAL AND FOR EXTENDING AN INDIVIDUAL'S PERIOD
11 OF INVOLUNTARY INPATIENT TREATMENT.

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

14 (N) SPECIFY THE CIRCUMSTANCES UNDER WHICH INDIVIDUALS WILL
15 BE PERMITTED HOME VISITS AND GRANTED PASSES TO LEAVE THE
16 FACILITY.