



HOUSE BILL No. 4591

April 1, 1993, Introduced by Reps. Hammerstrom, McNutt, Goschka, DeLange and Galloway and referred to the Committee on Mental Health.

A bill to amend sections 1001a, 1001b, 1003, 1003a, 1003b, 1004, 1005d, 1005f, and 1006 of Act No. 258 of the Public Acts of 1974, entitled as amended

"Mental health code,"

being sections 330.2001a, 330.2001b, 330.2003, 330.2003a, 330.2003b, 330.2004, 330.2005d, 330.2005f, and 330.2006 of the Michigan Compiled Laws; to add section 1003c; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1001a, 1001b, 1003, 1003a, 1003b, 1004,
2 1005d, 1005f, and 1006 of Act No. 258 of the Public Acts of 1974,
3 being sections 330.2001a, 330.2001b, 330.2003, 330.2003a,
4 330.2003b, 330.2004, 330.2005d, 330.2005f, and 330.2006 of the
5 Michigan Compiled Laws, are amended and section 1003c is added to
6 read as follows:

1 Sec. 1001a. (1) "Center for forensic psychiatry program"
2 means that program established by the center for forensic psychi-
3 atry ~~which responsibilities include~~ TO PROVIDE SERVICES RELATED
4 TO ALL OF THE FOLLOWING:

5 (A) PERSONS WHO ARE ALLEGED TO BE INCOMPETENT TO STAND
6 TRIAL.

7 (B) PERSONS WHO ARE ACQUITTED OF CRIMINAL CHARGES BY REASON
8 OF INSANITY.

9 (C) PERSONS WHO ARE TRANSFERRED TO THE CENTER FROM PLACES OF
10 DETENTION OR FROM OTHER STATE PSYCHIATRIC HOSPITALS.

11 (2) "CORRECTIONS PSYCHIATRY PROGRAM" MEANS THAT PROGRAM OF
12 THE DEPARTMENT OF CORRECTIONS THAT IS RESPONSIBLE FOR the provi-
13 sion of mental health ~~care~~ services to certain prisoners under
14 this chapter. THE CORRECTIONS PSYCHIATRY PROGRAM MAY INCLUDE
15 SERVICES PROVIDED BY THE DEPARTMENT OF MENTAL HEALTH.

16 (3) "HEARING COMMITTEE" MEANS A COMMITTEE APPOINTED BY THE
17 CORRECTIONS PSYCHIATRY PROGRAM PURSUANT TO SECTION 1003C.

18 (4) ~~-(2)- "Intensive or specialized care" means the provision~~
19 ~~of special treatment modalities.~~ "MENTAL HEALTH SERVICES" MEANS
20 THE PROVISION OF MENTAL HEALTH CARE TO PRISONERS WITH MENTAL ILL-
21 NESS OR MENTAL RETARDATION, INCLUDING, BUT NOT LIMITED TO, CHEMO-
22 THERAPY AND INDIVIDUAL AND GROUP THERAPIES.

23 (5) ~~-(3)-~~ "Mental illness" means a substantial disorder of
24 thought or mood which significantly impairs judgment, behavior,
25 capacity to recognize reality, or ability to cope with the ordi-
26 nary demands of life.

1 (6) ~~-(4)-~~ "Mentally retarded" means significantly subaverage
2 general intellectual functioning which originates during the
3 developmental period and is associated with impairment in adap-
4 tive behavior.

5 Sec. 1001b. (1) ~~"Placement review committee process" means~~
6 ~~the preparation of a follow up treatment and service plan which~~
7 ~~is prepared for a prisoner returning to a state correctional~~
8 ~~facility from the department of mental health. The plan shall be~~
9 ~~developed by the treatment staff of the department of corrections~~
10 ~~and the department of mental health. "PLACE OF DETENTION" MEANS~~
11 ~~A DETENTION FACILITY OPERATED BY A POLITICAL SUBDIVISION OF THE~~
12 ~~STATE.~~

13 (2) "Prisoner" means a person confined in a state correc-
14 tional facility, but ~~shall~~ DOES not include a person confined
15 pursuant to an order of a juvenile division of the probate court
16 OR A PERSON CONFINED IN A PLACE OF DETENTION.

17 ~~-(3)- "Protective environment and supportive milieu" means~~
18 ~~the provision of routine medical care which may include chemo-~~
19 ~~therapy and other services including planned activities or~~
20 ~~directed activities and a safe, secure environment with~~
21 ~~supervision.~~

22 (3) ~~-(4)- "Psychiatric inpatient services" means the provi-~~
23 ~~sion of mental health services including milieu for social and~~
24 ~~recreational activities, the provision of chemotherapy for treat-~~
25 ~~ment of psychosis and depression, or the provision of group ther-~~
26 ~~apy and behavioral modification treatment modalities. (5)-~~

27 "State correctional facility" means a facility operated by ~~or~~

1 ~~contracted with~~ the department of corrections for the purpose of
2 SUPERVISING AND housing prisoners before parole or discharge.

3 Sec. 1003. ~~A prisoner shall be provided with the following~~
4 ~~services:—(a) The department of corrections shall ESTABLISH THE~~
5 ~~CORRECTIONS PSYCHIATRY PROGRAM TO provide MENTAL HEALTH services~~
6 ~~, other than specialized services, for a prisoner who has a pro-~~
7 ~~longed, continuing, or constant condition which does not require~~
8 ~~specialized care in the center for forensic psychiatry program.~~
9 FOR PRISONERS WHO ARE MENTALLY RETARDED OR MENTALLY ILL AND
10 REQUIRE THOSE SERVICES. THE DIRECTOR OF THE DEPARTMENT OF COR-
11 RECTIONS SHALL APPOINT THE DIRECTOR OF THE CORRECTIONS PSYCHIATRY
12 PROGRAM.

13 ~~(b) For a prisoner who requires mental health services upon~~
14 ~~release from the department of corrections inpatient unit or from~~
15 ~~the center for forensic psychiatry program, the department of~~
16 ~~corrections shall provide a protective environment with support~~
17 ~~ive milieu.~~

18 ~~(c) The department of mental health shall provide psychiat-~~
19 ~~ric inpatient services for a prisoner through its center for~~
20 ~~forensic psychiatry program until it is determined by the direc-~~
21 ~~tor of the center for forensic psychiatry program that the pris-~~
22 ~~oner can no longer benefit from treatment in the program.~~

23 ~~(d) The department of mental health, through the center for~~
24 ~~forensic psychiatry program, shall provide services for a men-~~
25 ~~tally ill or mentally retarded prisoner who requires intensive or~~
26 ~~specialized care.~~

1 Sec. 1003a. ~~Unless ordered by the probate court, a~~
2 ~~prisoner shall not be transferred to the center for forensic~~
3 ~~psychiatry program without having been informed of possible~~
4 ~~treatment methods and without having provided written consent to~~
5 ~~transfer and treatment.~~ (1) IF THE OFFICER IN CHARGE OF A STATE
6 CORRECTIONAL FACILITY RECEIVES A REPORT FROM A MENTAL HEALTH PRO-
7 FESSIONAL THAT A PRISONER MAY BE MENTALLY RETARDED OR MENTALLY
8 ILL, THE OFFICER SHALL ENSURE THAT THE PRISONER IS EXAMINED BY A
9 PSYCHIATRIST AS SOON AS ADMINISTRATIVELY POSSIBLE. UNLESS THE
10 PRISONER CAN BE EXAMINED WITHIN THE FACILITY WHERE HE OR SHE IS
11 HOUSED, THE PRISONER SHALL BE TRANSFERRED TO AN APPROPRIATE
12 FACILITY FOR EXAMINATION.

13 (2) UPON COMPLETION OF THE EXAMINATION, THE PSYCHIATRIST
14 SHALL EXECUTE A CERTIFICATE OF FINDINGS THAT CLEARLY SPECIFIES
15 THE PSYCHIATRIST'S OPINION ON WHETHER THE PRISONER IS MENTALLY
16 RETARDED OR MENTALLY ILL AND, IF A FINDING OF MENTAL RETARDATION
17 OR MENTAL ILLNESS IS MADE, THE MENTAL HEALTH SERVICES AVAILABLE
18 WITHIN THE CORRECTIONS PSYCHIATRY PROGRAM FOR THE TREATMENT THAT
19 THE PSYCHIATRIST RECOMMENDS.

20 (3) IF THE PSYCHIATRIST DETERMINES THAT THE PRISONER IS MEN-
21 TALLY RETARDED OR MENTALLY ILL AND IS A PRESENT DANGER TO HIMSELF
22 OR HERSELF OR TO OTHERS, AND IF THE PRISONER REFUSES TREATMENT,
23 THE PSYCHIATRIST MAY ORDER INVOLUNTARY ADMINISTRATION OF PSYCHO-
24 TROPIC MEDICATION PENDING A HEARING PURSUANT TO SECTION 1003C.

25 (4) UPON COMPLETION OF THE CERTIFICATE REQUIRED UNDER
26 SUBSECTION (2), THE OFFICER IN CHARGE OF THE STATE CORRECTIONAL
27 FACILITY SHALL PROVIDE TO THE PRISONER OR TO THE PRISONER'S

1 PLENARY GUARDIAN, IF APPLICABLE, A COPY OF THE CERTIFICATE, A
2 COPY OF THE PSYCHIATRIST'S REPORT OF THE EXAMINATION, AND A
3 NOTICE OF HEARING EXPLAINING HEARING PROCEDURES AND RIGHTS SET
4 FORTH IN SECTION 1003C. THE DOCUMENTS SHALL BE PROVIDED AT LEAST
5 24 HOURS BEFORE THE HEARING.

6 (5) IF THE PRISONER AGREES WITH THE RECOMMENDED TREATMENT,
7 THE PRISONER MAY EXECUTE A WAIVER OF HEARING AND CONSENT TO
8 TREATMENT.

9 (6) IF THE PRISONER REFUSES THE RECOMMENDED TREATMENT, A
10 HEARING SHALL BE HELD PURSUANT TO SECTION 1003C.

11 (7) THE PRISONER SHALL NOT BE MEDICATED FOR 24 HOURS PRIOR
12 TO THE HEARING.

13 (8) IF, FOLLOWING A HEARING HELD PURSUANT TO SECTION 1003C,
14 THE HEARING COMMITTEE FINDS THAT THE PRISONER IS NOT MENTALLY
15 RETARDED OR MENTALLY ILL, THE PRISONER SHALL BE PLACED ACCORDING
16 TO NORMAL PROCEDURES OF THE DEPARTMENT OF CORRECTIONS. IF THE
17 HEARING COMMITTEE FINDS THAT THE PRISONER IS MENTALLY RETARDED OR
18 MENTALLY ILL AND THAT THE PROPOSED SERVICES ARE ACCEPTABLE, THE
19 CORRECTIONS PSYCHIATRY PROGRAM SHALL PROVIDE THE MENTAL HEALTH
20 SERVICES DESIGNATED BY THE HEARING COMMITTEE. IF THE HEARING
21 COMMITTEE FINDS THAT THE PRISONER IS MENTALLY RETARDED OR MEN-
22 TALLY ILL BUT THAT THE PROPOSED SERVICES ARE UNACCEPTABLE, THE
23 CORRECTIONS PSYCHIATRY PROGRAM SHALL PROVIDE APPROPRIATE AVAIL-
24 ABLE SERVICES AS ORDERED BY THE HEARING COMMITTEE.

25 Sec. 1003b. ~~The following are the procedures for securing~~
26 ~~services provided to a prisoner under this chapter: (a) A person~~
27 ~~may file with the officer in charge of the state correctional~~

~~1 facility a written notice alleging that a particular prisoner is~~
~~2 mentally ill or mentally retarded. (b) Upon receipt by the offi-~~
~~3 cer in charge of the state correctional facility of notification~~
~~4 alleging that a particular prisoner is mentally ill or mentally~~
~~5 retarded, the officer shall notify the department of~~
~~6 corrections. The department of corrections shall then select a~~
~~7 psychiatrist to examine the prisoner. (c) If the examining psy-~~
~~8 chiatrist certifies to the officer in charge of the state correc-~~
~~9 tional facility that the prisoner is mentally ill or mentally~~
~~10 retarded and that the prisoner requires intensive or specialized~~
~~11 care or psychiatric inpatient services, the officer in charge~~
~~12 shall immediately notify the center for forensic psychiatry~~
~~13 program. (d) If the~~ A prisoner desires to be voluntarily
~~14 transferred from a state correctional facility~~ ADMITTED to the
~~15 center for forensic~~ CORRECTIONS psychiatry program, the follow-
~~16 ing~~ procedures shall be observed:

17 (A) ~~(i)~~ The officer in charge of the state correctional
18 facility ~~shall transfer~~ IN WHICH the prisoner IS HOUSED SHALL
19 TRANSFER THE PRISONER, IF NECESSARY, to the ~~center for forensic~~
20 APPROPRIATE LOCATION DESIGNATED BY THE CORRECTIONS psychiatry
21 program FOR CARE OF THE PRISONER.

22 ~~(ii) Upon transfer, the prisoner shall be provided with~~
23 ~~consultation with a recipient rights officer of the department of~~
24 ~~mental health, who shall determine if the transfer was made in~~
25 ~~the manner required by section 1003a, and confirm that the pris-~~
26 ~~oner was informed of the possible treatment methods and that the~~
27 ~~transfer was made voluntarily.~~

1 (B) ~~(iii)~~ Except as otherwise provided in ~~subparagraph~~
2 ~~(iv)~~ SUBDIVISION (C), a prisoner who is voluntarily transferred
3 under this section shall not be ~~hospitalized~~ ADMITTED TO THE
4 CORRECTIONS PSYCHIATRY PROGRAM FOR more than 3 days, excluding
5 Sundays and legal holidays, after the prisoner gives WRITTEN
6 notice of his or her intention to terminate the ~~hospitalization~~
7 ADMISSION and return to the GENERAL POPULATION OF THE state cor-
8 rectional facility. ~~When~~ IF the ~~center for forensic~~
9 CORRECTIONS psychiatry program is advised by a prisoner of an
10 intention to terminate ~~hospitalization~~ ADMISSION, the ~~center~~
11 PROGRAM shall promptly provide the written form required for ter-
12 mination of ~~hospitalization~~ ADMISSION and return the prisoner
13 to the GENERAL POPULATION OF THE state correctional facility.

14 (C) ~~(iv)~~ If written notice of termination of
15 ~~hospitalization~~ ADMISSION has been given pursuant to
16 ~~subparagraph (iii)~~ SUBDIVISION (B) and has not been withdrawn,
17 and if the director of the ~~center for forensic~~ CORRECTIONS psy-
18 chiatry program determines that the prisoner continues to ~~be~~
19 ~~mentally ill or mentally retarded and continues to require inten-~~
20 ~~sive or specialized care or psychiatric inpatient~~ REQUIRE MENTAL
21 HEALTH services, the director, or a person designated by the
22 director, within 3 days, excluding Sundays and holidays, of the
23 receipt by the program of the notice, shall ~~file an application~~
24 ~~for continued hospitalization with the probate court for the~~
25 ~~county in which the correctional facility from which the prisoner~~
26 ~~was transferred is located. The application shall be accompanied~~
27 ~~by certificates of 2 physicians, at least 1 of whom must be a~~

1 ~~psychiatrist, supporting the findings of the director of the~~
2 ~~program. A hearing shall be held on the application in the~~
3 ~~manner provided by section 1005(2). The center may continue hos-~~
4 ~~pitalization pending disposition of the application~~ PROVIDE THE
5 PRISONER OR HIS OR HER PLENARY GUARDIAN, IF APPLICABLE, WITH A
6 NOTICE OF HEARING EXPLAINING HEARING RIGHTS SET FORTH IN
7 SECTION 1003C. THE PRISONER SHALL NOT BE MEDICATED FOR 24 HOURS
8 PRIOR TO THE HEARING. IF, FOLLOWING THE HEARING, THE HEARING
9 COMMITTEE FINDS THAT THE PRISONER DOES NOT REQUIRE MENTAL HEALTH
10 SERVICES, THE PRISONER SHALL BE PLACED ACCORDING TO NORMAL PROCE-
11 DURES OF THE DEPARTMENT OF CORRECTIONS. IF THE HEARING COMMITTEE
12 FINDS THAT THE PRISONER CONTINUES TO REQUIRE MENTAL HEALTH SERV-
13 ICES, THE CORRECTIONS PSYCHIATRY PROGRAM SHALL CONTINUE TO PRO-
14 VIDE THOSE SERVICES.

15 ~~(e) If a psychiatrist for the department of corrections~~
16 ~~determines that a prisoner is mentally ill or mentally retarded~~
17 ~~and that involuntary transfer to the department of mental health~~
18 ~~is warranted, the department of mental health shall select a psy-~~
19 ~~chiatrist to examine the prisoner. If the psychiatrist selected~~
20 ~~by the department of mental health concurs in the findings of the~~
21 ~~psychiatrist of the department of corrections and certifies that~~
22 ~~the prisoner is mentally ill or mentally retarded and requires~~
23 ~~intensive or specialized care or psychiatric inpatient services,~~
24 ~~a hearing shall be held pursuant to section 1005. If the psychi-~~
25 ~~atrists for the 2 departments fail to agree that a prisoner is~~
26 ~~mentally ill or mentally retarded and in need of intensive or~~
27 ~~specialized care or psychiatric inpatient services, an~~

~~1 independent psychiatrist, selected and approved by the department
2 of corrections and the department of mental health, shall examine
3 the prisoner and determine and certify whether or not the pris-
4 oner is mentally ill or mentally retarded and if the prisoner
5 requires intensive or specialized care or psychiatric inpatient
6 services. If the independent psychiatrist concurs with the psy-
7 chiatrist for the department of corrections a hearing shall be
8 held pursuant to section 1005.~~

9 SEC. 1003C. (1) IF A PRISONER REFUSES TREATMENT OR SERVICES
10 RECOMMENDED UNDER SECTION 1003A OR IF THE CORRECTIONS PSYCHIATRY
11 PROGRAM DETERMINES THAT A VOLUNTARY ADMITTEE TO THE PROGRAM WHO
12 WISHES TO TERMINATE ADMISSION CONTINUES TO REQUIRE MENTAL HEALTH
13 SERVICES, THE CORRECTIONS PSYCHIATRY PROGRAM SHALL APPOINT A
14 HEARING COMMITTEE TO HEAR THE MATTER. THE HEARING COMMITTEE
15 SHALL CONSIST OF A PSYCHIATRIST AND 2 OTHER MENTAL HEALTH PROFES-
16 SIONALS, NONE OF WHOM IS, AT THE TIME OF HEARING, INVOLVED IN THE
17 PRISONER'S TREATMENT OR DIAGNOSIS.

18 (2) THE HEARING SHALL BE HELD NOT LESS THAN 24 HOURS AFTER
19 THE PRISONER OR HIS OR HER PLENARY GUARDIAN, IF APPLICABLE, IS
20 PROVIDED THE DOCUMENTS REQUIRED UNDER SECTION 1003A(4) OR
21 SECTION 1003B(C), BUT NOT MORE THAN 7 BUSINESS DAYS AFTER THE
22 DOCUMENTS HAVE BEEN PROVIDED TO THE PRISONER.

23 (3) A PRISONER HAS THE FOLLOWING RIGHTS WITH RESPECT TO THE
24 HEARING UNDER THIS SECTION:

25 (A) ATTENDANCE AT THE HEARING.

26 (B) PRESENTATION OF EVIDENCE, INCLUDING WITNESSES, AND
27 CROSS-EXAMINATION OF WITNESSES, UNLESS THE HEARING COMMITTEE

1 FINDS THAT THE PRESENTATION, CONFRONTATION, OR CROSS-EXAMINATION
2 WOULD PRESENT A SERIOUS THREAT TO THE ORDER AND SECURITY OF THE
3 FACILITY OR THE SAFETY OF THE PRISONER OR OTHERS.

4 (C) ASSISTANCE OF A STATE EMPLOYEE FAMILIAR WITH MENTAL
5 HEALTH SERVICES WHO IS DESIGNATED BY THE DIRECTOR OF THE CORREC-
6 TIONS PSYCHIATRY PROGRAM AS A LAY ADVISOR.

7 (4) THE HEARING COMMITTEE SHALL CONSIDER THE REPORT OF THE
8 MENTAL HEALTH PROFESSIONAL WHO HAS ALLEGED THAT THE PRISONER IS
9 MENTALLY RETARDED OR MENTALLY ILL, THE CERTIFICATE DESCRIBED IN
10 SECTION 1003A(2), PROOF OF SERVICE OF THE NOTICE OF HEARING,
11 PROOF OF NONMEDICATION FOR 24 HOURS PRIOR TO THE HEARING, AND ANY
12 OTHER ADMISSIBLE EVIDENCE PRESENTED AT THE HEARING. ADMISSIBLE
13 EVIDENCE SHALL BE RELEVANT, NONREPETITIOUS, AND OF A TYPE RELIED
14 UPON BY A PERSON IN THE CONDUCT OF EVERYDAY AFFAIRS.

15 (5) AT THE CONCLUSION OF THE HEARING, THE HEARING COMMITTEE
16 SHALL DECIDE BY MAJORITY VOTE WHETHER THE PRISONER IS MENTALLY
17 RETARDED OR MENTALLY ILL AND WHETHER THE PROPOSED MENTAL HEALTH
18 SERVICES ARE ACCEPTABLE. THE PSYCHIATRIST SHALL BE PART OF A
19 MAJORITY FINDING THAT THE PRISONER IS MENTALLY RETARDED OR MEN-
20 TALLY ILL AND THAT THE PROPOSED MENTAL HEALTH SERVICES ARE
21 ACCEPTABLE. IF THE HEARING COMMITTEE FINDS THAT THE PRISONER IS
22 MENTALLY RETARDED OR MENTALLY ILL BUT THAT THE PROPOSED SERVICES
23 ARE UNACCEPTABLE, THE HEARING COMMITTEE SHALL ORDER APPROPRIATE
24 SERVICES AVAILABLE WITHIN THE CORRECTIONS PSYCHIATRY PROGRAM.

25 (6) UPON REACHING A DECISION, THE HEARING COMMITTEE SHALL
26 PREPARE A REPORT AND ORDER EXPRESSING THE FINDINGS OF THE HEARING
27 COMMITTEE AND THE BASIS FOR THOSE FINDINGS. EACH MEMBER SHALL

1 INDICATE HIS OR HER AGREEMENT OR DISAGREEMENT WITH THE HEARING
2 COMMITTEE FINDINGS. THE HEARING COMMITTEE SHALL PROVIDE A COPY
3 OF THE COMMITTEE REPORT AND ORDER TO THE PRISONER AT THE CONCLU-
4 SION OF THE HEARING.

5 (7) A PRISONER MAY APPEAL THE DECISION OF THE HEARING COM-
6 MITTEE TO THE DIRECTOR OF THE CORRECTIONS PSYCHIATRY PROGRAM IF
7 THE APPEAL IS FILED WITHIN 48 HOURS OF THE PRISONER'S RECEIPT OF
8 THE HEARING COMMITTEE'S REPORT AND ORDER. THE DIRECTOR OF THE
9 CORRECTIONS PSYCHIATRY PROGRAM SHALL RENDER A DECISION WITHIN 2
10 BUSINESS DAYS AFTER RECEIPT OF THE APPEAL.

11 (8) A PRISONER MAY APPEAL THE DECISION OF THE DIRECTOR OF
12 THE CORRECTIONS PSYCHIATRY PROGRAM PURSUANT TO SECTION 631 OF THE
13 REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF
14 1961, BEING SECTION 600.631 OF THE MICHIGAN COMPILED LAWS, EXCEPT
15 THAT NO ORAL ARGUMENT SHALL BE PERMITTED. IF THE DIRECTOR OF THE
16 CORRECTIONS PSYCHIATRY PROGRAM UPHOLDS THE HEARING COMMITTEE'S
17 FINDINGS OF MENTAL RETARDATION OR MENTAL ILLNESS AND THE HEARING
18 COMMITTEE'S PROPOSED SERVICES, THE PRISONER'S TREATMENT SHALL NOT
19 BE STAYED PENDING THE APPEAL.

20 Sec. 1004. (1) ~~No prisoner admitted to a facility of the~~
21 ~~department of mental health shall be allowed to leave the custody~~
22 ~~of the facility at which he is placed or transferred without the~~
23 ~~approval of the person in charge of the place of detention or~~
24 ~~other authority empowered to allow the release from custody of~~
25 ~~the prisoner.~~ (2) A prisoner shall continue to be credited with
26 THOSE good time OR DISCIPLINARY CREDITS and ~~all~~ other statutory
27 reductions of his OR HER penal sentence TO WHICH HE OR SHE IS

1 ENTITLED while ~~he is in a facility of the department of mental~~
2 ~~health~~ IN THE CORRECTIONS PSYCHIATRY PROGRAM, subject to the
3 same terms and conditions ~~as would be~~ THAT ARE applicable ~~if~~
4 ~~he was~~ in ~~the place of detention~~ A STATE CORRECTIONAL
5 FACILITY.

6 (2) ~~(3) The person in charge of the place of detention~~ AT
7 THE TIME A PRISONER IS ADMITTED TO THE CORRECTIONS PSYCHIATRY
8 PROGRAM, THE DEPARTMENT OF CORRECTIONS shall ~~inform~~ NOTIFY the
9 ~~department of mental health~~ DIRECTOR OF THE CORRECTIONS PSYCHI-
10 ATRY PROGRAM of the date on which the sentence of the prisoner is
11 to expire and of any reductions of the sentence ~~, and the~~
12 ~~department of mental health~~ RECORDED TO DATE. THE CORRECTIONS
13 PSYCHIATRY PROGRAM shall enter ~~such information~~ THE SENTENCE
14 EXPIRATION DATE in ~~its~~ THE record IT MAINTAINS for the
15 prisoner.

16 Sec. 1005d. (1) ~~If the court finds that the prisoner is~~
17 ~~mentally ill or mentally retarded, the court shall enter a find-~~
18 ~~ing to that effect and shall order that the prisoner be trans-~~
19 ~~ferred for treatment to the center for forensic psychiatry~~
20 ~~program.~~ (2) An initial order for treatment under ~~this~~
21 section 1003C shall be for a period not to exceed 90 days.

22 (2) ~~(3)~~ If, before the expiration of the initial 90-day
23 order, ~~made under this section, the director of the center for~~
24 ~~forensic psychiatry program~~ THE TREATING PSYCHIATRIST believes
25 that ~~the~~ A prisoner continues to be mentally ill or mentally
26 retarded and requires ~~intensive or specialized care or~~
27 ~~psychiatric inpatient~~ MENTAL HEALTH services, the ~~director~~

1 TREATING PSYCHIATRIST, not less than 14 days before the
2 expiration of the order, shall ~~petition the court for a~~ FILE
3 WITH THE DIRECTOR OF THE CORRECTIONS PSYCHIATRY PROGRAM OR THE
4 DIRECTOR'S DESIGNEE A REPORT OF THE determination that the pris-
5 oner continues to require those services. Upon receipt of ~~a~~
6 ~~petition~~ THE REPORT under this subsection ~~, after~~ AND PROOF OF
7 notice ~~and~~ TO THE PRISONER OF an opportunity for ~~testimony~~ A
8 HEARING, AND FOLLOWING A HEARING, IF REQUESTED BY THE PRISONER,
9 ~~the court~~ A HEARING COMMITTEE ESTABLISHED PURSUANT TO
10 SECTION 1003C may authorize continued care ~~at~~ IN the ~~center~~
11 ~~for forensic~~ CORRECTIONS psychiatry program for an additional
12 period not to exceed 90 days.

13 (3) ~~(4)~~ If, before the expiration of the second 90-day
14 order, the ~~director of the center for forensic psychiatry~~
15 ~~program~~ TREATING PSYCHIATRIST believes that the condition of a
16 prisoner is such that the prisoner continues to be mentally ill
17 or mentally retarded and requires ~~intensive or specialized care~~
18 ~~or psychiatric inpatient~~ MENTAL HEALTH services, the ~~director~~
19 TREATING PSYCHIATRIST, not less than 14 days before the expira-
20 tion of the order, shall ~~petition the court for a determination~~
21 ~~that the prisoner continues to require those services and for an~~
22 ~~order continuing the hospitalization. After a hearing, a spe-~~
23 ~~cific order of continuing hospitalization may be made for a~~
24 ~~period not to exceed 180 days may be issued~~ FILE WITH THE DIREC-
25 TOR OF THE CORRECTIONS PSYCHIATRY PROGRAM OR THE DIRECTOR'S DES-
26 IGNEE A REPORT OF THE DETERMINATION THAT THE PRISONER CONTINUES
27 TO REQUIRE THOSE SERVICES. UPON RECEIPT OF THE REPORT UNDER THIS

1 SUBSECTION AND PROOF OF NOTICE TO THE PRISONER OF AN OPPORTUNITY
2 FOR A HEARING, AND FOLLOWING A HEARING, IF REQUESTED BY THE PRIS-
3 ONER, THE HEARING COMMITTEE MAY AUTHORIZE CONTINUED CARE IN THE
4 CORRECTIONS PSYCHIATRY PROGRAM FOR AN ADDITIONAL PERIOD NOT TO
5 EXCEED 180 DAYS. Upon completion of the order for continuing
6 ~~hospitalization~~ ADMISSION TO THE CORRECTIONS PSYCHIATRY
7 PROGRAM, ~~and if the director of the center for forensic psy-~~
8 ~~chiatry program~~ TREATING PSYCHIATRIST believes that the prisoner
9 continues to be mentally ill or mentally retarded and requires
10 ~~intensive or specialized care or psychiatric inpatient~~ MENTAL
11 HEALTH services, the ~~director~~ TREATING PSYCHIATRIST shall
12 ~~petition for~~ REQUEST an initial order of ~~treatment~~ ADMISSION
13 pursuant to ~~subsection (1)~~ SECTION 1003C.

14 (4) ~~(5)~~ A ~~petition for a renewal order~~ REPORT OF A
15 DETERMINATION under subsection ~~(3) or (4)~~ (2) OR (3) shall
16 contain a statement setting forth the following:

17 (a) The reasons for the ~~director's~~ TREATING PSYCHIATRIST'S
18 determination that the prisoner continues to be mentally ill or
19 mentally retarded and requires ~~intensive or specialized care or~~
20 ~~psychiatric inpatient~~ MENTAL HEALTH services.

21 (b) A statement describing the treatment program provided to
22 the prisoner.

23 (c) The results of the course of treatment.

24 (d) A clinical estimate as to the time further treatment
25 will be required. The ~~petition~~ REPORT shall be accompanied by
26 a certificate executed by ~~a~~ THE psychiatrist.

1 (5) ~~(6)~~ If at any hearing held under this section the
2 ~~court~~ HEARING COMMITTEE finds that the prisoner is not mentally
3 ill or mentally retarded, the ~~court~~ HEARING COMMITTEE shall
4 enter a finding to that effect and ~~shall order that the petition~~
5 ~~be dismissed~~ THE PRISONER SHALL BE PLACED ACCORDING TO NORMAL
6 PROCEDURES OF THE DEPARTMENT OF CORRECTIONS.

7 Sec. 1005f. (1) A prisoner ~~receiving services from~~ MAY BE
8 TRANSFERRED TO the center for forensic psychiatry program under
9 this chapter AND may be transferred between state mental health
10 facilities upon authorization by the director of the center for
11 forensic psychiatry program. The prisoner is entitled to an
12 administrative hearing PURSUANT TO RULES OF THE DEPARTMENT
13 regarding the need and appropriateness of ~~the~~ A transfer TO
14 ANOTHER STATE MENTAL HEALTH FACILITY upon receipt by the
15 ~~department of corrections~~ DIRECTOR OF THE CENTER FOR FORENSIC
16 PSYCHIATRY PROGRAM of the prisoner's objection to the transfer.
17 If an emergency transfer is required, and if objection is made to
18 the transfer, the hearing will be held at the receiving
19 facility.

20 (2) A prisoner transferred TO ANOTHER STATE MENTAL HEALTH
21 FACILITY under this ~~act~~ SECTION shall not be commingled with
22 other recipients of mental health services except in cases in
23 which it is determined by the director of the center for forensic
24 psychiatry program, after consultation with the department of
25 corrections, and pursuant to rules promulgated by the department
26 of mental health, that the prisoner and the other recipients of

1 mental health services exhibit the same propensity for dangerous
2 behavior and require similar treatment plans and modalities.

3 ~~(3) Freedom of movement of a prisoner shall not be~~
4 ~~restricted more than is necessary to provide mental health serv-~~
5 ~~ices to the prisoner, to prevent injury to the prisoner or to~~
6 ~~others, or to prevent substantial property damage, except that~~
7 ~~security precautions appropriate to the condition and circum-~~
8 ~~stances of the prisoner may be taken.~~

9 (3) ~~(4)~~ A prisoner transferred under this ~~chapter~~
10 SECTION is entitled to all the rights and privileges afforded to
11 other mental health recipients pursuant to chapter 7, except
12 those rights and privileges specifically excluded or modified by
13 law. CHAPTER 7 DOES NOT APPLY TO PRISONERS UNDER THE JURISDIC-
14 TION OF THE DEPARTMENT OF CORRECTIONS.

15 Sec. 1006. (1) A prisoner admitted to the ~~department of~~
16 ~~mental health center for forensic~~ CORRECTIONS psychiatry program
17 pursuant to section ~~1003b who is nearing discharge from the~~
18 ~~center, shall be provided the benefits of a modified placement~~
19 ~~review committee process, and~~ 1003A OR SECTION 1003B shall be
20 discharged FROM THE PROGRAM when ~~any~~ 1 OR MORE of the following
21 ~~occurs~~ OCCUR:

22 (a) The prisoner ceases to require ~~intensive or specialized~~
23 ~~care or psychiatric inpatient~~ MENTAL HEALTH services.

24 (b) ~~Except as otherwise provided in subsection (4), the~~
25 ~~prisoner's criminal sentence expires, less good time credits and~~
26 ~~other statutory reductions pursuant to section 1004(2).~~ THE
27 PRISONER IS PAROLED OR DISCHARGED FROM PRISON.

1 (2) When a prisoner is to be discharged FROM THE CORRECTIONS
2 PSYCHIATRY PROGRAM before the expiration of the prisoner's crimi-
3 nal sentence, the ~~department of mental health~~ DIRECTOR OF THE
4 CORRECTIONS PSYCHIATRY PROGRAM shall first notify the department
5 of corrections of the pending discharge, and shall transmit a
6 full report on the condition of the prisoner to the department of
7 corrections. ~~The report shall include specific recommendations~~
8 ~~for continuing care of the prisoner.~~

9 ~~(3) If the prisoner is discharged before the expiration of~~
10 ~~the prisoner's sentence, the prisoner shall be returned to the~~
11 ~~state correctional facility, unless an authority empowered to~~
12 ~~release the prisoner from custody under the criminal sentence has~~
13 ~~notified the department of mental health that the prisoner has~~
14 ~~been paroled or otherwise released from the custody of the~~
15 ~~department of corrections.~~

16 (3) ~~(4)~~ If the prisoner is ~~to be~~ PAROLED OR discharged
17 ~~because of the expiration of the prisoner's criminal sentence~~
18 FROM PRISON, AND THE CORRECTIONS PSYCHIATRY PROGRAM CONSIDERS THE
19 PRISONER TO BE A PERSON REQUIRING TREATMENT, AS DEFINED IN
20 SECTION 401, OR A PERSON WHO MEETS THE CRITERIA FOR JUDICIAL
21 ADMISSION, AS PRESCRIBED IN SECTION 515, the ~~head~~ DIRECTOR of
22 the ~~facility of the department of mental health~~ CORRECTIONS
23 PSYCHIATRY PROGRAM at least 14 days before the ~~expiration of the~~
24 ~~sentence, may~~ PAROLE DATE OR THE DATE OF DISCHARGE SHALL file a
25 petition PURSUANT TO SECTION 434 OR SECTION 516 asserting that
26 the prisoner is a person requiring treatment or that the prisoner
27 meets the criteria for judicial admission. ~~, as defined by~~

1 ~~section 401 or 515,~~ THE PETITION SHALL BE FILED with the probate
2 court of the prisoner's county of residence.

3 (4) ~~(5)~~ The department of mental health shall be responsi-
4 ble for assuring that needed aftercare reintegration and
5 community-based mental health services are offered to mentally
6 ill and mentally retarded persons who are leaving prison, upon
7 referral by the department of corrections. Upon request from the
8 department of corrections, community-based mental health services
9 shall be provided by the department of mental health throughout
10 the parole period TO THE EXTENT REQUIRED BY LAW.

11 Section 2. Sections 1005, 1005a, 1005b, 1005c, and 1005e of
12 Act No. 258 of the Public Acts of 1974, being sections 330.2005,
13 330.2005a, 330.2005b, 330.2005c, and 330.2005e of the Michigan
14 Compiled Laws, are repealed.