



HOUSE BILL No. 5161

October 26, 1993, Introduced by Reps. DeMars and Martin and referred to the Committee on Military and Veterans Affairs.

A bill to amend sections 400 and 408 of Act No. 258 of the Public Acts of 1974, entitled as amended "Mental health code," section 400 as amended by Act No. 297 of the Public Acts of 1986 and section 408 as amended by Act No. 155 of the Public Acts of 1988, being sections 330.1400 and 330.1408 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 400 and 408 of Act No. 258 of the
2 Public Acts of 1974, section 400 as amended by Act No. 297 of the
3 Public Acts of 1986 and section 408 as amended by Act No. 155 of
4 the Public Acts of 1988, being sections 330.1400 and 330.1408 of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 400. As used in this chapter, unless the context
7 requires otherwise:

1 (a) "Department" means the department of mental health or
2 its official designee.

3 (b) "Hospital" means a facility, or portion of a facility,
4 for the inpatient treatment of persons who are mentally ill.

5 (c) "Director" means the chief officer of a hospital or a
6 person authorized by ~~a director~~ THAT CHIEF OFFICER to act on
7 his or her behalf.

8 (d) "Hospitalization" or "hospitalize" means to provide
9 treatment for a person as an inpatient in a hospital.

10 (e) "Treatment" means care, diagnostic, and therapeutic
11 services including the administration of drugs and any other
12 service for the treatment of an individual.

13 (f) "Subject of a petition" means an individual asserted to
14 require treatment, asserted not to require treatment, asserted to
15 be legally incapacitated and in need of a guardian, asserted not
16 to be legally incapacitated and in need of a guardian, or for
17 whom an objection to a hospitalization pursuant to section 484 or
18 498m has been made.

19 (g) "Court" means the probate court for the county of resi-
20 dence of the subject of a petition, or for the county in which
21 the subject of a petition was found.

22 (h) "Physician" means a person licensed by the state to
23 engage in the practice of medicine or osteopathic medicine and
24 surgery under article 15 of the Public Health Code, Act No. 368
25 of the Public Acts of 1978, being sections 333.16101 to 333.18838
26 of the Michigan Compiled Laws.

1 (i) "Psychiatrist" means a physician who devotes a
2 substantial portion of his or her time to the practice of
3 psychiatry and who has practiced psychiatry for 1 continuous year
4 out of the 3 years immediately preceding his or her certification
5 of any individual under this chapter.

6 (j) "Psychologist" means a person licensed, with other than
7 a limited license, to engage in the practice of psychology under
8 article 15 of Act No. 368 of the Public Acts of 1978, ~~as~~
9 ~~amended, being sections 333.16101 to 333.18838 of the Michigan~~
10 ~~Compiled Laws,~~ and who devotes a substantial portion of his or
11 her time to the diagnosis and treatment of individuals with
12 mental or emotional disorders.

13 (k) "Certificate" or "certification" means the written con-
14 clusion and statements of a physician or a psychologist that an
15 individual is a person requiring treatment, together with the
16 information and opinions, in reasonable detail, which underlie
17 the conclusion, on the form prescribed by the department or on a
18 substantially similar form.

19 (l) "Discharge" means the official release of an individual
20 from a hospital by action of the hospital or a court.

21 (m) "Protective custody" means the temporary custody of an
22 individual by a peace officer with or without the individual's
23 consent for the purpose of protecting that individual's health
24 and safety, or the health and safety of the public, and for the
25 purpose of transporting the individual if the individual appears,
26 in the judgment of the peace officer, to be a person requiring

1 treatment or is a person requiring treatment. Protective custody
2 is civil in nature and is not to be construed as an arrest.

3 (n) "Community mental health emergency service unit" means a
4 service component of a county program, as defined in section
5 200(a), which component has been certified for the rendering of
6 services under section 427 by the department according to rules
7 promulgated by the department, pursuant to section 114.

8 (o) "Peace officer" means an officer of the department of
9 state police or of a law enforcement agency of a county, town-
10 ship, city, or village who is responsible for the prevention and
11 detection of crime and enforcement of the criminal laws of this
12 state, and for the purpose of sections 408 and 427 shall also
13 include an officer of the United States secret service with the
14 officer's consent and a CRIMINAL INVESTIGATOR OR police officer
15 ~~of the veterans' administration in the performance of the~~
16 ~~officer's duty on a veterans' administration medical center~~
17 ~~reservation~~ WHO IS EMPLOYED BY THE DEPARTMENT OF VETERANS
18 AFFAIRS UNDER SECTION 218 OF TITLE 38 OF THE UNITED STATE CODE,
19 38 U.S.C. 218.

20 (p) "Community mental health board director" means the
21 director of a community mental health board or his or her
22 designee.

23 Sec. 408. (1) A person is subject to being returned to a
24 hospital if both of the following circumstances exist:

25 (a) The person was admitted to the hospital by judicial
26 order.

1 (b) The person has left the hospital without authorization,
2 or has refused a lawful request to return to the hospital while
3 on an authorized leave or other authorized absence from the
4 hospital.

5 (2) The director of a hospital may notify peace officers
6 that a person is subject to being returned to the hospital. Upon
7 notification by the director of the hospital, a peace officer
8 shall take the person into protective custody and return the
9 person to the hospital unless contrary directions have been given
10 by the director of the hospital.

11 (3) UPON RECEIPT OF NOTICE FROM THE DIRECTOR OF A DEPARTMENT
12 OF VETERANS AFFAIRS HOSPITAL THAT A PERSON IS SUBJECT TO BEING
13 RETURNED TO THAT HOSPITAL, A CRIMINAL INVESTIGATOR OR POLICE
14 OFFICER WHO IS EMPLOYED BY THE DEPARTMENT OF VETERANS AFFAIRS
15 UNDER CHAPTER 9 OF TITLE 38 OF THE UNITED STATES CODE, 38 U.S.C.
16 901 TO 905, MAY TAKE THE PERSON INTO PROTECTIVE CUSTODY IN ANY
17 COUNTY OF THIS STATE AND RETURN THE PERSON TO THE DEPARTMENT OF
18 VETERANS AFFAIRS HOSPITAL, UNLESS CONTRARY DIRECTIONS ARE PRO-
19 VIDED BY THAT HOSPITAL'S DIRECTOR.

20 (4) ~~(3)~~ An opportunity for appeal, and notice of that
21 opportunity, shall be provided to a person who objects to being
22 returned from any authorized leave in excess of 10 days.

23 Section 2. This amendatory act shall not take effect unless
24 Senate Bill No. ____ or House Bill No. 5163 (request
25 no. 03969'93) of the 87th Legislature is enacted into law.