



HOUSE BILL No. 5163

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, 408, and 427 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, 330.1408, and 330.1427 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 400, 408, and 427 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, 330.1408, and
5 330.1427 of the Michigan Compiled Laws, are amended to read as
6 follows:

1 Sec. 400. As used in this chapter, unless the context
2 requires otherwise:

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

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

7 (c) "Director" means the chief officer of a hospital or a
8 person authorized by a director to act on his or her behalf.

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

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

14 (f) "Subject of a petition" means an individual asserted to
15 require treatment, asserted not to require treatment, asserted to
16 be legally incapacitated and in need of a guardian, asserted not
17 to be legally incapacitated and in need of a guardian, or for
18 whom an objection to a hospitalization pursuant to section 484 or
19 498m has been made.

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

23 (h) "Physician" means a person licensed by the state to
24 engage in the practice of medicine or osteopathic medicine and
25 surgery under article 15 of the ~~Public Health Code~~ PUBLIC
26 HEALTH CODE, Act No. 368 of the Public Acts of 1978, being
27 sections 333.16101 to 333.18838 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 psychi-
3 atry and who has practiced psychiatry for 1 continuous year out
4 of the 3 years immediately preceding his or her certification of
5 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, 427A, AND
13 427B shall also include an officer of the United States secret
14 service with the officer's consent and a CRIMINAL INVESTIGATOR OR
15 police officer of the ~~veterans' administration in the per-~~
16 ~~formance of the officer's duty on a veterans' administration med-~~
17 ~~ical center reservation~~ FEDERAL DEPARTMENT OF VETERANS AFFAIRS.

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

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

23 (a) The person was admitted to the hospital by judicial
24 order.

25 (b) The person has left the hospital without authorization,
26 or has refused a lawful request to return to the hospital while

1 on an authorized leave or other authorized absence from the
2 hospital.

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

9 (3) IF THE DIRECTOR OF A FEDERAL DEPARTMENT OF VETERANS
10 AFFAIRS HOSPITAL NOTIFIES A CRIMINAL INVESTIGATOR OR POLICE OFFI-
11 CER OF THE FEDERAL DEPARTMENT OF VETERANS AFFAIRS THAT A PERSON
12 IS SUBJECT TO BEING RETURNED TO THE FEDERAL DEPARTMENT OF VETER-
13 ANS AFFAIRS HOSPITAL UNDER SUBSECTION (2), THE CRIMINAL INVESTI-
14 GATOR OR POLICE OFFICER MAY CARRY OUT THE DUTIES PRESCRIBED IN
15 SUBSECTION (2) FOR A PEACE OFFICER IN ANY COUNTY OF THE STATE
16 REGARDING PROTECTIVE CUSTODY AND RETURN OF THE PERSON.

17 (4) ~~(3)~~ An opportunity for appeal, and notice of that
18 opportunity, shall be provided to a person who objects to being
19 returned from any authorized leave in excess of 10 days.

20 Sec. 427. (1) If a peace officer observes an individual
21 conducting himself or herself in a manner which causes the peace
22 officer to reasonably believe that the individual is a person
23 requiring treatment as defined in section 401, the peace officer
24 may take the individual into protective custody and transport the
25 individual to a hospital for examination pursuant to section 429
26 or may notify the community mental health emergency service unit
27 for the purpose of requesting mental health intervention

1 services. If notified, the community mental health emergency
2 service unit shall provide those mental health intervention serv-
3 ices which it considers appropriate unless the individual
4 declines the services. If the individual declines the services,
5 the peace officer shall immediately transport the individual to a
6 hospital. These services may be provided at a site mutually
7 agreed upon by the peace officer and the community mental health
8 emergency service unit or at the site of the community mental
9 health emergency service unit. In the course of providing serv-
10 ices, the community mental health emergency service unit may pro-
11 vide advice and consultation to the peace officer which may
12 include a recommendation to transport the individual to a hospi-
13 tal for examination pursuant to section 429, or to release the
14 individual from protective custody. However, the peace officer
15 is not constrained from exercising his or her reasonable
16 judgment. If a peace officer determines that an individual shall
17 be released from protective custody as a result of consultation
18 with a community mental health emergency service unit, the commu-
19 nity mental health emergency service unit shall assure provision
20 of follow-up counseling and diagnostic and referral services as
21 needed, unless the individual declines the services. Upon
22 arrival at the hospital, the peace officer shall execute an
23 application for hospitalization of the individual.

24 (2) A peace officer shall not be financially responsible for
25 the cost of care of an individual for whom a peace officer has
26 executed an application under subsection (1).

1 (3) A hospital receiving an individual pursuant to
2 subsection (1) who has been seen by a community mental health
3 emergency service unit shall notify that unit of the results of
4 an examination of that individual conducted by the hospital.

5 (4) A CRIMINAL INVESTIGATOR OR POLICE OFFICER OF THE FEDERAL
6 DEPARTMENT OF VETERANS AFFAIRS SHALL EXERCISE THE AUTHORITY PRE-
7 SCRIBED IN SUBSECTION (1) THAT ALLOWS A PEACE OFFICER TO TAKE AN
8 INDIVIDUAL INTO PROTECTIVE CUSTODY ONLY ON PROPERTY OWNED OR
9 LEASED BY THE FEDERAL GOVERNMENT AND UNDER THE JURISDICTION OF
10 THE FEDERAL DEPARTMENT OF VETERANS AFFAIRS OR ON ANY PUBLIC
11 RIGHT-OF-WAY TRAVERSING OR IMMEDIATELY CONTIGUOUS TO THE
12 PROPERTY.