



HOUSE BILL No. 4001

January 11, 1995, Introduced by Rep. Anthony 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) "INDIVIDUAL" MEANS AN INDIVIDUAL REQUIRING MENTAL HEALTH
2 TREATMENT SERVICES.

3 (D) "RECEIVING AGENCY" MEANS A PUBLIC OR PRIVATE AGENCY OR
4 COUNTY PROGRAM THAT, UNDER THIS SECTION, PROVIDES TREATMENT TO
5 INDIVIDUALS FROM A STATE OTHER THAN THE STATE IN WHICH THE AGENCY
6 OR COUNTY PROGRAM IS LOCATED.

7 (E) "RECEIVING STATE" MEANS THE STATE IN WHICH A RECEIVING
8 AGENCY IS LOCATED.

9 (F) "SENDING AGENCY" MEANS A PUBLIC OR PRIVATE AGENCY
10 LOCATED IN A STATE THAT SENDS AN INDIVIDUAL TO ANOTHER STATE FOR
11 TREATMENT UNDER THIS SECTION.

12 (G) "SENDING STATE" MEANS THE STATE IN WHICH A SENDING
13 AGENCY IS LOCATED.

14 (2) A COUNTY PROGRAM MAY CONTRACT AS PROVIDED UNDER THIS
15 SECTION WITH A PUBLIC OR PRIVATE AGENCY LOCATED IN A STATE BOR-
16 DERING MICHIGAN TO SECURE SERVICES UNDER THIS ACT FOR AN INDIVID-
17 UAL WHO RECEIVES SERVICES THROUGH THE COUNTY PROGRAM.

18 (3) A COUNTY PROGRAM MAY CONTRACT AS PROVIDED UNDER THIS
19 SECTION WITH A PUBLIC OR PRIVATE AGENCY LOCATED IN A STATE BOR-
20 DERING MICHIGAN TO PROVIDE SERVICES UNDER THIS ACT IN AN APPROVED
21 TREATMENT FACILITY IN THIS STATE FOR AN INDIVIDUAL WHO IS A RESI-
22 DENT OF THE BORDERING STATE, EXCEPT THAT SUCH SERVICES MAY NOT BE
23 PROVIDED FOR AN INDIVIDUAL WHO IS INVOLVED IN CRIMINAL
24 PROCEEDINGS.

25 (4) A CONTRACT ENTERED INTO UNDER THIS SECTION MAY NOT BE
26 VALIDLY EXECUTED UNTIL THE DEPARTMENT HAS REVIEWED AND APPROVED
27 THE PROVISIONS OF THE CONTRACT AND DETERMINED THAT THE RECEIVING

1 AGENCY PROVIDES SERVICES IN ACCORDANCE WITH THE STANDARDS OF THIS
2 STATE AND THE ATTORNEY GENERAL HAS CERTIFIED THAT THE RECEIVING
3 STATE'S LAWS GOVERNING PATIENT RIGHTS ARE SUBSTANTIALLY SIMILAR
4 TO THOSE OF THIS STATE.

5 (5) AN INDIVIDUAL DOES NOT ESTABLISH LEGAL RESIDENCE IN THE
6 STATE WHERE THE RECEIVING AGENCY IS LOCATED WHILE THE INDIVIDUAL
7 IS RECEIVING SERVICES PURSUANT TO A CONTRACT EXECUTED UNDER THIS
8 SECTION.

9 (6) SECTION 748 APPLIES TO TREATMENT RECORDS OF AN INDIVID-
10 UAL RECEIVING SERVICES PURSUANT TO A CONTRACT EXECUTED UNDER THIS
11 SECTION THROUGH A RECEIVING AGENCY IN THIS STATE, EXCEPT THAT THE
12 SENDING AGENCY HAS THE SAME RIGHT OF ACCESS TO THE TREATMENT
13 RECORDS OF THE INDIVIDUAL AS PROVIDED FOR THE DEPARTMENT UNDER
14 SECTION 748(4)(E).

15 (7) AN INDIVIDUAL WHO IS DETAINED, COMMITTED, OR PLACED ON
16 AN INVOLUNTARY BASIS UNDER THIS ACT MAY BE ADMITTED AND TREATED
17 IN ANOTHER STATE PURSUANT TO A CONTRACT EXECUTED UNDER THIS
18 SECTION. AN INDIVIDUAL WHO IS DETAINED, COMMITTED, OR PLACED
19 UNDER THE CIVIL LAW OF A STATE BORDERING MICHIGAN MAY BE ADMITTED
20 AND TREATED IN THIS STATE PURSUANT TO A CONTRACT EXECUTED UNDER
21 THIS SECTION. COURT ORDERS VALID UNDER THE LAW OF THE SENDING
22 STATE ARE GRANTED RECOGNITION AND RECIPROCITY IN THE RECEIVING
23 STATE FOR INDIVIDUALS COVERED BY A CONTRACT EXECUTED UNDER THIS
24 SECTION TO THE EXTENT THAT THE COURT ORDERS RELATE TO ADMISSION
25 FOR THE TREATMENT OR CARE OF A MENTAL DISABILITY. THE COURT
26 ORDERS ARE NOT SUBJECT TO LEGAL CHALLENGE IN THE COURTS OF THE
27 RECEIVING STATE. AN INDIVIDUAL WHO IS DETAINED, COMMITTED, OR

1 PLACED UNDER THE LAW OF A SENDING STATE AND WHO IS TRANSFERRED TO
2 A RECEIVING STATE UNDER THIS SECTION CONTINUES TO BE IN THE LEGAL
3 CUSTODY OF THE AUTHORITY RESPONSIBLE FOR THE INDIVIDUAL UNDER THE
4 LAW OF THE SENDING STATE. EXCEPT IN AN EMERGENCY, SUCH AN INDI-
5 VIDUAL MAY NOT BE TRANSFERRED, REMOVED, OR FURLOUGHED FROM A
6 FACILITY OF THE RECEIVING AGENCY WITHOUT THE SPECIFIC APPROVAL OF
7 THE AUTHORITY RESPONSIBLE FOR THE INDIVIDUAL UNDER THE LAW OF THE
8 SENDING STATE.

9 (8) WHILE IN THE RECEIVING STATE PURSUANT TO A CONTRACT EXE-
10 CUTED UNDER THIS SECTION, AN INDIVIDUAL IS SUBJECT TO ALL OF THE
11 LAWS AND REGULATIONS APPLICABLE TO AN INDIVIDUAL DETAINED, COM-
12 MITTED, OR PLACED PURSUANT TO THE CORRESPONDING LAWS OF THE
13 RECEIVING STATE, EXCEPT THOSE LAWS AND REGULATIONS OF THE RECEIV-
14 ING STATE PERTAINING TO LENGTH OF INVOLUNTARY INPATIENT TREAT-
15 MENT, REEXAMINATIONS, AND EXTENSIONS OF INVOLUNTARY INPATIENT
16 TREATMENT AND EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION. THE
17 LAWS AND REGULATIONS OF THE SENDING STATE RELATING TO LENGTH OF
18 INVOLUNTARY INPATIENT TREATMENT, REEXAMINATIONS, AND EXTENSIONS
19 OF INVOLUNTARY INPATIENT TREATMENT APPLY. AN INDIVIDUAL SHALL
20 NOT BE SENT TO ANOTHER STATE PURSUANT TO A CONTRACT EXECUTED
21 UNDER THIS SECTION UNTIL THE RECEIVING STATE HAS ENACTED A LAW
22 RECOGNIZING THE VALIDITY AND APPLICABILITY OF THIS STATE'S LAWS
23 AS PROVIDED IN THIS SECTION.

24 (9) IF AN INDIVIDUAL RECEIVING TREATMENT ON A VOLUNTARY
25 BASIS PURSUANT TO A CONTRACT EXECUTED UNDER THIS SECTION REQUESTS
26 DISCHARGE, THE RECEIVING AGENCY SHALL IMMEDIATELY NOTIFY THE
27 SENDING AGENCY AND SHALL RETURN THE INDIVIDUAL TO THE SENDING

1 STATE AS DIRECTED BY THE SENDING AGENCY WITHIN 48 HOURS AFTER THE
2 REQUEST, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, UNLESS
3 OTHER ARRANGEMENTS ARE MADE WITH THE SENDING AGENCY. THE SENDING
4 AGENCY SHALL IMMEDIATELY UPON RETURN OF THE INDIVIDUAL EITHER
5 ARRANGE FOR THE DISCHARGE OF THE INDIVIDUAL OR DETAIN THE INDIVIDUAL
6 PURSUANT TO THE EMERGENCY DETENTION LAWS OF THE SENDING
7 STATE.

8 (10) IF AN INDIVIDUAL RECEIVING SERVICES PURSUANT TO A CONTRACT
9 EXECUTED UNDER THIS SECTION LEAVES THE RECEIVING AGENCY
10 WITHOUT AUTHORIZATION AND THE INDIVIDUAL AT THE TIME OF THE UNAUTHORIZED
11 LEAVE IS SUBJECT TO INVOLUNTARY INPATIENT TREATMENT
12 UNDER THE LAWS OF THE SENDING STATE, THE RECEIVING AGENCY SHALL
13 USE ALL REASONABLE MEANS TO LOCATE AND RETURN THE INDIVIDUAL.
14 THE RECEIVING AGENCY SHALL IMMEDIATELY REPORT THE UNAUTHORIZED
15 LEAVE OF ABSENCE TO THE SENDING AGENCY. THE RECEIVING STATE HAS
16 THE PRIMARY RESPONSIBILITY FOR, AND THE AUTHORITY TO DIRECT, THE
17 RETURN OF INDIVIDUALS WITHIN ITS BORDERS AND IS LIABLE FOR THE
18 COST OF SUCH ACTION TO THE EXTENT THAT IT WOULD BE LIABLE FOR
19 COSTS IF AN INDIVIDUAL WHO IS A RESIDENT OF THE RECEIVING STATE
20 LEFT WITHOUT AUTHORIZATION.

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

24 (12) EACH CONTRACT EXECUTED UNDER THIS SECTION SHALL DO ALL
25 OF THE FOLLOWING:

26 (A) ESTABLISH THE RESPONSIBILITY FOR PAYMENT FOR EACH
27 SERVICE TO BE PROVIDED UNDER THE CONTRACT. CHARGES TO THE

1 SENDING STATE SHALL NOT BE MORE OR LESS THAN THE ACTUAL COST OF
2 PROVIDING THE SERVICE.

3 (B) ESTABLISH THE RESPONSIBILITY FOR THE TRANSPORTATION OF
4 INDIVIDUALS TO AND FROM RECEIVING AGENCIES.

5 (C) PROVIDE FOR REPORTS BY THE RECEIVING AGENCY TO THE SEND-
6 ING AGENCY ON THE CONDITION OF EACH INDIVIDUAL COVERED BY THE
7 CONTRACT.

8 (D) PROVIDE FOR ARBITRATION OF DISPUTES ARISING OUT OF THE
9 CONTRACT THAT CANNOT BE SETTLED THROUGH DISCUSSION BETWEEN THE
10 CONTRACTING PARTIES AND SPECIFY HOW THE ARBITRATORS WILL BE
11 CHOSEN.

12 (E) INCLUDE PROVISIONS ENSURING THE NONDISCRIMINATORY TREAT-
13 MENT, AS REQUIRED BY LAW, OF EMPLOYEES, INDIVIDUALS RECEIVING
14 SERVICES, AND APPLICANTS FOR EMPLOYMENT AND SERVICES.

15 (F) ESTABLISH THE RESPONSIBILITY FOR PROVIDING LEGAL REPRESENTATION FOR AN INDIVIDUAL RECEIVING SERVICES IN A LEGAL PROCEEDING INVOLVING THE LEGALITY OF ADMISSION AND THE CONDITIONS OF INVOLUNTARY INPATIENT TREATMENT.

16 (G) ESTABLISH THE RESPONSIBILITY FOR PROVIDING LEGAL REPRESENTATION FOR AN EMPLOYEE OF A CONTRACTING PARTY IN LEGAL PROCEEDINGS INITIATED BY AN INDIVIDUAL RECEIVING TREATMENT PURSUANT TO THE CONTRACT.

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

18 (I) ESTABLISH THE RIGHT OF 1 OR MORE QUALIFIED EMPLOYEES OR REPRESENTATIVES OF THE SENDING AGENCY AND SENDING STATE TO INSPECT, AT ALL REASONABLE TIMES, THE RECORDS OF THE RECEIVING

1 AGENCY AND ITS TREATMENT FACILITIES TO DETERMINE IF APPROPRIATE
2 STANDARDS OF CARE ARE MET FOR INDIVIDUALS RECEIVING SERVICES
3 UNDER THE CONTRACT.

4 (J) REQUIRE THE SENDING AGENCY TO PROVIDE THE RECEIVING
5 AGENCY WITH COPIES OF ALL RELEVANT LEGAL DOCUMENTS AUTHORIZING
6 INVOLUNTARY INPATIENT TREATMENT OF AN INDIVIDUAL WHO IS ADMITTED
7 PURSUANT TO THE LAWS OF THE SENDING STATE AND IS RECEIVING SERV-
8 ICES PURSUANT TO A CONTRACT EXECUTED UNDER THIS SECTION.

9 (K) REQUIRE EACH INDIVIDUAL WHO SEEKS TREATMENT ON A VOLUN-
10 TARY BASIS TO AGREE IN WRITING TO BE RETURNED TO THE SENDING
11 STATE UPON MAKING A REQUEST FOR DISCHARGE AS PROVIDED IN SUBSEC-
12 TION (9) AND REQUIRE AN AGENT OR EMPLOYEE OF THE SENDING AGENCY
13 TO CERTIFY THAT THE INDIVIDUAL UNDERSTANDS THAT AGREEMENT.

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

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

19 (N) SPECIFY THE CIRCUMSTANCES UNDER WHICH AN INDIVIDUAL WILL
20 BE PERMITTED A HOME VISIT OR GRANTED A PASS TO LEAVE THE FACILI-
21 TY, OR BOTH.