



# HOUSE BILL No. 4901

May 25, 1995, Introduced by Reps. Bush, DeMars and Jersevic and referred to the Committee on Judiciary and Civil Rights.

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~~ THAT CHIEF OFFICER to act on  
9 his or her behalf.

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

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

15       (f) "Subject of a petition" means an individual asserted to  
16 require treatment, asserted not to require treatment, asserted to  
17 be legally incapacitated and in need of a guardian, asserted not  
18 to be legally incapacitated and in need of a guardian, or for  
19 whom an objection to a hospitalization pursuant to section 484 or  
20 498m has been made.

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

24       (h) "Physician" means a person licensed by the state to  
25 engage in the practice of medicine or osteopathic medicine and  
26 surgery under article 15 of the ~~Public Health Code~~ PUBLIC

1 HEALTH CODE, Act No. 368 of the Public Acts of 1978, being  
2 sections 333.16101 to 333.18838 of the Michigan Compiled Laws.

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

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

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

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

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

1 in the judgment of the peace officer, to be a person requiring  
2 treatment or is a person requiring treatment. Protective custody  
3 is civil in nature and is not to be construed as an arrest.

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

9 (o) "Peace officer" means an officer of the department of  
10 state police or of a law enforcement agency of a county, town-  
11 ship, city, or village who is responsible for the prevention and  
12 detection of crime and enforcement of the criminal laws of this  
13 state, and for the purpose of sections 408, ~~and~~ 427, 427A, AND  
14 427B shall also include an officer of the United States secret  
15 service with the officer's consent and a CRIMINAL INVESTIGATOR OR  
16 police officer ~~of the veterans' administration in the per-~~  
17 ~~formance of the officer's duty on a veterans' administration med-~~  
18 ~~ical center reservation~~ WHO IS EMPLOYED BY THE DEPARTMENT OF  
19 VETERANS AFFAIRS UNDER CHAPTER 9 OF TITLE 38 OF THE UNITED STATES  
20 CODE, 38 U.S.C. 901 TO 905.

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

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

26 (a) The person was admitted to the hospital by judicial  
27 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 Sec. 427. (1) ~~if~~ SUBJECT TO THE LIMITATION DESCRIBED IN  
24 SUBSECTION (4), IF a peace officer observes an individual con-  
25 ducting himself or herself in a manner ~~which~~ THAT causes the  
26 peace officer to reasonably believe that the individual is a  
27 person requiring treatment as defined in section 401, the peace

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

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

4       (3) A hospital receiving an individual pursuant to subsec-  
5 tion (1) who has been seen by a community mental health emergency  
6 service unit shall notify that unit of the results of an examina-  
7 tion of that individual conducted by the hospital.

8       (4) IF A PEACE OFFICER EMPLOYED BY THE DEPARTMENT OF VETER-  
9 ANS AFFAIRS UNDER CHAPTER 9 OF TITLE 38 OF THE UNITED STATES  
10 CODE, 38 U.S.C. 901 TO 905, OBSERVES AN INDIVIDUAL ACTING IN A  
11 MANNER THAT CAUSES THE PEACE OFFICER TO REASONABLY BELIEVE THAT  
12 THE INDIVIDUAL IS A PERSON REQUIRING TREATMENT AS DEFINED IN SEC-  
13 TION 401, THE PEACE OFFICER MAY TAKE THE INDIVIDUAL INTO PROTEC-  
14 TIVE CUSTODY PURSUANT TO SUBSECTION (1) ONLY IF THE INDIVIDUAL IS  
15 ON PROPERTY THAT IS EITHER OF THE FOLLOWING:

16       (A) OWNED OR LEASED BY THE FEDERAL GOVERNMENT AND UNDER THE  
17 JURISDICTION OF THE FEDERAL DEPARTMENT OF VETERANS AFFAIRS.

18       (B) A PUBLIC RIGHT-OF-WAY TRAVERSING OR IMMEDIATELY CONTIGU-  
19 OUS TO THE PROPERTY DESCRIBED IN SUBDIVISION (A).