

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 686

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending sections 100a, 100b, and 161 (MCL 330.1100a,  
330.1100b, and 330.1161), sections 100a and 161 as amended by  
1998 PA 497 and section 100b as added by 1995 PA 290, and by  
adding section 116a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 100a. (1) "Abilities" means the qualities, skills, and  
2 competencies of an individual that reflect the individual's  
3 talents and acquired proficiencies.

4       (2) "Abuse" means nonaccidental physical or emotional harm to  
5 a recipient, or sexual contact with or sexual penetration of a  
6 recipient as those terms are defined in section 520a of the  
7 Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed  
8 by an employee or volunteer of the department, a community mental

1 health services program, or a licensed hospital or by an employee  
2 or volunteer of a service provider under contract with the  
3 department, community mental health services program, or licensed  
4 hospital.

5 (3) "Adaptive skills" means skills in 1 or more of the  
6 following areas:

7 (a) Communication.

8 (b) Self-care.

9 (c) Home living.

10 (d) Social skills.

11 (e) Community use.

12 (f) Self-direction.

13 (g) Health and safety.

14 (h) Functional academics.

15 (i) Leisure.

16 (j) Work.

17 (4) "Adult foster care facility" means an adult foster care  
18 facility licensed under the adult foster care facility licensing  
19 act, 1979 PA 218, MCL 400.701 to 400.737.

20 (5) "Applicant" means an individual or his or her legal  
21 representative who makes a request for mental health services.

22 (6) "Assisted outpatient treatment" or "AOT" means the  
23 categories of outpatient services ordered by the court under  
24 section 433 or 469a. Assisted outpatient treatment includes case  
25 management services to provide care coordination. Assisted  
26 outpatient treatment may also include 1 or more of the following  
27 categories of services: medication; periodic blood tests or

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1 urinalysis to determine compliance with prescribed medications;  
2 individual or group therapy; day or partial day programming  
3 activities; vocational, educational, or self-help training or  
4 activities; assertive community treatment team services; alcohol  
5 or substance abuse treatment and counseling and periodic tests  
6 for the presence of alcohol or illegal drugs for an individual  
7 with a history of alcohol or substance abuse; supervision of  
8 living arrangements; and any other services within a local or  
9 unified services plan developed under this act that are  
10 prescribed to treat the individual's mental illness and to assist  
11 the individual in living and functioning in the community or to  
12 attempt to prevent a relapse or deterioration that may reasonably  
13 be predicted to result in suicide, the need for hospitalization,  
14 or serious violent behavior[.

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19 ] . The  
20 medical review and direction included in an assisted outpatient  
21 treatment plan shall be provided under the supervision of a  
22 psychiatrist.

23 (7) ~~—(6)—~~ "Board" means the governing body of a community  
24 mental health services program.

25 (8) ~~—(7)—~~ "Board of commissioners" means a county board of  
26 commissioners.

27 (9) ~~—(8)—~~ "Center" means a facility operated by the  
department to admit individuals with developmental disabilities

1 and provide habilitation and treatment services.

2       (10) ~~—(9)—~~ "Certification" means formal approval of a program  
3 by the department in accordance with standards developed or  
4 approved by the department.

5       (11) ~~—(10)—~~ "Child abuse" and "child neglect" mean those  
6 terms as defined in section 2 of the child protection law, 1975  
7 PA 238, MCL 722.622.

8       (12) ~~—(11)—~~ "Child and adolescent psychiatrist" means 1 or  
9 more of the following:

10       (a) A physician who has completed a residency program in  
11 child and adolescent psychiatry approved by the accreditation  
12 council for graduate medical education or the American  
13 osteopathic association, or who has completed 12 months of child  
14 and adolescent psychiatric rotation and is enrolled in an  
15 approved residency program as described in this subsection.

16       (b) A psychiatrist employed by or under contract as a child  
17 and adolescent psychiatrist with the department or a community  
18 mental health services program on March 28, 1996, who has  
19 education and clinical experience in the evaluation and treatment  
20 of children or adolescents with serious emotional disturbance.

21       (c) A psychiatrist who has education and clinical experience  
22 in the evaluation and treatment of children or adolescents with  
23 serious emotional disturbance who is approved by the director.

24       (13) ~~—(12)—~~ "Children's diagnostic and treatment service"  
25 means a program operated by or under contract with a community  
26 mental health services program, that provides examination,  
27 evaluation, and referrals for minors, including emergency

1 referrals, that provides or facilitates treatment for minors, and  
2 that has been certified by the department.

3       (14) ~~—(13)—~~ "Community mental health authority" means a  
4 separate legal public governmental entity created under  
5 section 205 to operate as a community mental health services  
6 program.

7       (15) ~~—(14)—~~ "Community mental health organization" means a  
8 community mental health services program that is organized under  
9 the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,  
10 MCL 124.501 to 124.512.

11       (16) ~~—(15)—~~ "Community mental health services program" means  
12 a program operated under chapter 2 as a county community mental  
13 health agency, a community mental health authority, or a  
14 community mental health organization.

15       (17) ~~—(16)—~~ "Consent" means a written agreement executed by a  
16 recipient, a minor recipient's parent, or a recipient's legal  
17 representative with authority to execute a consent, or a verbal  
18 agreement of a recipient that is witnessed and documented by an  
19 individual other than the individual providing treatment.

20       (18) ~~—(17)—~~ "County community mental health agency" means an  
21 official county or multicounty agency created under section 210  
22 that operates as a community mental health services program and  
23 that has not elected to become a community mental health  
24 authority under section 205 or a community mental health  
25 organization under the urban cooperation act of 1967, 1967  
26 (Ex Sess) PA 7, MCL 124.501 to 124.512.

27       (19) ~~—(18)—~~ "Dependent living setting" means all of the

1 following:

2 (a) An adult foster care facility.

3 (b) A nursing home licensed under article 17 of the public  
4 health code, 1978 PA 368, MCL 333.20101 to 333.22260.

5 (c) A home for the aged licensed under article 17 of the  
6 public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

7 (20) ~~(19)~~ "Department" means the department of community  
8 health.

9 (21) ~~(20)~~ "Developmental disability" means either of the  
10 following:

11 (a) If applied to an individual older than 5 years **of age**, a  
12 severe, chronic condition that meets all of the following  
13 requirements:

14 (i) Is attributable to a mental or physical impairment or a  
15 combination of mental and physical impairments.

16 (ii) Is manifested before the individual is 22 years old.

17 (iii) Is likely to continue indefinitely.

18 (iv) Results in substantial functional limitations in 3 or  
19 more of the following areas of major life activity:

20 (A) Self-care.

21 (B) Receptive and expressive language.

22 (C) Learning.

23 (D) Mobility.

24 (E) Self-direction.

25 (F) Capacity for independent living.

26 (G) Economic self-sufficiency.

27 (v) Reflects the individual's need for a combination and

1 sequence of special, interdisciplinary, or generic care,  
2 treatment, or other services that are of lifelong or extended  
3 duration and are individually planned and coordinated.

4 (b) If applied to a minor from birth to ~~age~~ **5 years of age**,  
5 a substantial developmental delay or a specific congenital or  
6 acquired condition with a high probability of resulting in  
7 developmental disability as defined in subdivision (a) if  
8 services are not provided.

9 (22) ~~(21)~~ "Director" means the director of the department  
10 or his or her designee.

11 (23) ~~(22)~~ "Discharge" means an absolute, unconditional  
12 release of an individual from a facility by action of the  
13 facility or a court.

14 (24) ~~(23)~~ "Eligible minor" means an individual less than  
15 18 years of age who is recommended in the written report of a  
16 multidisciplinary team under rules promulgated by the department  
17 of education to be classified as 1 of the following:

18 (a) Severely mentally impaired.

19 (b) Severely multiply impaired.

20 (c) Autistic impaired and receiving special education  
21 services in a program designed for the autistic impaired under  
22 subsection (1) of R 340.1758 of the Michigan administrative code  
23 or in a program designed for the severely mentally impaired or  
24 severely multiply impaired.

25 (25) ~~(24)~~ "Emergency situation" means a situation in which  
26 an individual is experiencing a serious mental illness or a  
27 developmental disability, or a ~~child~~ **minor** is experiencing a

1 serious emotional disturbance, and 1 of the following applies:

2 (a) The individual can reasonably be expected within the near  
3 future to physically injure himself, herself, or another  
4 individual, either intentionally or unintentionally.

5 (b) The individual is unable to provide himself or herself  
6 food, clothing, or shelter or to attend to basic physical  
7 activities such as eating, toileting, bathing, grooming,  
8 dressing, or ambulating, and this inability may lead in the near  
9 future to harm to the individual or to another individual.

10 (c) The individual's judgment is so impaired that he or she  
11 is unable to understand the need for treatment and, in the  
12 opinion of the mental health professional, his or her continued  
13 behavior as a result of the mental illness, developmental  
14 disability, or emotional disturbance can reasonably be expected  
15 in the near future to result in physical harm to the individual  
16 or to another individual.

17 **(26)** ~~—(25)—~~ "Executive director" means an individual  
18 appointed under section 226 to direct a community mental health  
19 services program or his or her designee.

20 Sec. 100b. (1) "Facility" means a residential facility for  
21 the care or treatment of individuals with serious mental illness,  
22 serious emotional disturbance, or developmental disability that  
23 is either a state facility or a licensed facility.

24 (2) "Family" as used in sections 156 to 161 means an eligible  
25 minor and his or her parent or legal guardian.

26 (3) "Family member" means a parent, stepparent, spouse,  
27 sibling, child, or grandparent of a primary consumer, or an

1 individual upon whom a primary consumer is dependent for at least  
2 50% of his or her financial support.

3 (4) "Federal funds" means funds received from the federal  
4 government under a categorical grant or similar program and does  
5 not include federal funds received under a revenue sharing  
6 arrangement.

7 (5) "Functional impairment" means both of the following:

8 (a) With regard to serious emotional disturbance, substantial  
9 interference with or limitation of a minor's achievement or  
10 maintenance of 1 or more developmentally appropriate social,  
11 behavioral, cognitive, communicative, or adaptive skills.

12 (b) With regard to serious mental illness, substantial  
13 interference or limitation of role functioning in 1 or more major  
14 life activities including basic living skills such as eating,  
15 bathing, and dressing; instrumental living skills such as  
16 maintaining a household, managing money, getting around the  
17 community, and taking prescribed medication; and functioning in  
18 social, vocational, and educational contexts.

19 (6) "Guardian" means a person appointed by the court to  
20 exercise specific powers over an individual who is a minor,  
21 legally incapacitated, or developmentally disabled.

22 (7) "Hospital" or "psychiatric hospital" means an inpatient  
23 program operated by the department for the treatment of  
24 individuals with serious mental illness or serious emotional  
25 disturbance or a psychiatric hospital or psychiatric unit  
26 licensed under section 137.

27 (8) "Hospital director" means the chief administrative

1 officer of a hospital or his or her designee.

2 (9) "Hospitalization" or "hospitalize" means to provide  
3 treatment for an individual as an inpatient in a hospital.

4 (10) "Individual plan of services" or "plan of services"  
5 means a written individualized plan of services developed with a  
6 recipient as required by section 712.

7 (11) "Licensed facility" means a facility licensed by the  
8 department under section 137 or an adult foster care facility.

9 (12) "Licensed psychologist" means a doctoral level  
10 psychologist licensed under section 18223(1) of the public health  
11 code, ~~Act No. 368 of the Public Acts of 1978, being section~~  
12 ~~333.18223 of the Michigan Compiled Laws 1978 PA 368, MCL~~  
13 ~~333.18223.~~

14 (13) "Medical director" means a psychiatrist appointed under  
15 section 231 to advise the executive director of a community  
16 mental health services program.

17 (14) "Mental health professional" means an individual who is  
18 trained and experienced in the area of mental illness or  
19 developmental disabilities and who is 1 of the following:

20 (a) A physician who is licensed to practice medicine or  
21 osteopathic medicine and surgery in this state under article 15  
22 of the public health code, ~~Act No. 368 of the Public Acts of~~  
23 ~~1978, being sections 333.16101 to 333.18838 of the Michigan~~  
24 ~~Compiled Laws 1978 PA 368, MCL 333.16101 to 333.18838.~~

25 (b) A psychologist licensed to practice in this state under  
26 article 15 of the public health code, ~~Act No. 368 of the Public~~  
27 ~~Acts of 1978 1978 PA 368, MCL 333.16101 to 333.18838.~~

1 (c) A registered professional nurse licensed to practice in  
2 this state under article 15 of the public health code, ~~Act~~  
3 ~~No. 368 of the Public Acts of 1978~~ **1978 PA 368, MCL 333.16101 to**  
4 **333.18838.**

5 (d) ~~A certified social worker, a social worker, or a social~~  
6 ~~worker technician registered in this state under article 16 of~~  
7 ~~the occupational code, Act No. 299 of the Public Acts of 1980,~~  
8 ~~being sections 339.1601 to 339.1610 of the Michigan Compiled~~  
9 ~~Laws.~~ **Until July 1, 2005, a certified social worker registered**  
10 **under article 15 of the public health code, 1978 PA 368, MCL**  
11 **333.16101 to 333.18838. Beginning July 1, 2005, a licensed**  
12 **master's social worker licensed under article 15 of the public**  
13 **health code, 1978 PA 368, MCL 333.16101 to 333.18838.**

14 (e) A licensed professional counselor licensed to practice in  
15 this state under article 15 of the public health code, ~~Act No.~~  
16 ~~368 of the Public Acts of 1978~~ **1978 PA 368, MCL 333.16101 to**  
17 **333.18838.**

18 (f) A marriage and family therapist licensed under article 15  
19 of the ~~occupational code, Act No. 299 of the Public Acts of~~  
20 ~~1980, being sections 339.1501 to 339.1511 of the Michigan~~  
21 ~~Compiled Laws~~ **public health code, 1978 PA 368, MCL 333.16101 to**  
22 **333.18838.**

23 (15) "Mental retardation" means a condition manifesting  
24 before the age of 18 years that is characterized by significantly  
25 subaverage intellectual functioning and related limitations in 2  
26 or more adaptive skills and that is diagnosed based on the  
27 following assumptions:

1 (a) Valid assessment considers cultural and linguistic  
2 diversity, as well as differences in communication and behavioral  
3 factors.

4 (b) The existence of limitation in adaptive skills occurs  
5 within the context of community environments typical of the  
6 individual's age peers and is indexed to the individual's  
7 particular needs for support.

8 (c) Specific adaptive skill limitations often coexist with  
9 strengths in other adaptive skills or other personal  
10 capabilities.

11 (d) With appropriate supports over a sustained period, the  
12 life functioning of the individual with mental retardation will  
13 generally improve.

14 (16) "Minor" means an individual under the age of 18 years.

15 (17) "Multicultural services" means specialized mental health  
16 services for multicultural populations such as African-Americans,  
17 Hispanics, Native Americans, Asian and Pacific Islanders, and  
18 Arab/Chaldean-Americans.

19 (18) "Neglect" means an act or failure to act committed by an  
20 employee or volunteer of the department, a community mental  
21 health services program, or a licensed hospital; a service  
22 provider under contract with the department, community mental  
23 health services program, or licensed hospital; or an employee or  
24 volunteer of a service provider under contract with the  
25 department, community mental health services program, or licensed  
26 hospital, that denies a recipient the standard of care or  
27 treatment to which he or she is entitled under this act.

1           Sec. 116a. (1) The department shall make available on the  
2 department's website an annual report concerning assisted  
3 outpatient treatment services in this state. The report shall  
4 include statewide information regarding the number of individuals  
5 receiving and completing assisted outpatient treatment and shall  
6 include the cost and benefit projections that are available  
7 concerning assisted outpatient treatment in this state.

8           (2) The report shall include all of the following information  
9 regarding petitions filed under section 433:

10           (a) The number of assisted outpatient treatment petitions  
11 filed.

12           (b) The number of court rulings on petitions filed under  
13 section 433 that resulted in an assisted outpatient treatment  
14 order.

15           (c) The number of court rulings on petitions filed under  
16 section 433 that did not result in an assisted outpatient  
17 treatment order.

18           (3) To the extent possible if resources are available, when  
19 evaluating the assisted outpatient treatment in this state, the  
20 department shall attempt to utilize expert assistance from  
21 outside entities, including, but not limited to, state  
22 universities.

23           Sec. 161. In conjunction with community mental health  
24 services programs, the department shall conduct annually and  
25 forward to the governor and the house and senate appropriations  
26 committees, and the senate and house committees with legislative  
27 oversight of ~~social~~ human services and mental health, an

1 evaluation of the family support subsidy program that shall  
2 include, but is not limited to, all of the following:

3 (a) The impact of the family support subsidy program upon  
4 children covered by this act in facilities and residential care  
5 programs including, to the extent possible, sample case reviews  
6 of families who choose not to participate.

7 (b) Case reviews of families who voluntarily terminate  
8 participation in the family support subsidy program for any  
9 reason, particularly when the eligible minor is placed out of the  
10 family home, including the involvement of the department and  
11 community mental health services programs in offering suitable  
12 alternatives.

13 (c) Sample assessments of families receiving family support  
14 subsidy payments including adequacy of subsidy and need for  
15 services not available.

16 (d) The efforts to encourage program participation of  
17 eligible families.

18 (e) The geographic distribution of families receiving subsidy  
19 payments and, to the extent possible, eligible minors presumed to  
20 be eligible for family support subsidy payments.

21 (f) Programmatic and legislative recommendations to further  
22 assist families in providing care for eligible minors.

23 (g) Problems that arise in identifying eligible minors  
24 through diagnostic evaluations performed under rules promulgated  
25 by the department of education.

26 (h) The number of beds reduced in state facilities and foster  
27 care facilities serving severely mentally, multiply, and autistic

1 impaired children when the children return home to their natural  
2 families as a result of the subsidy program.

3 (i) Caseload figures by eligibility category as ~~defined~~  
4 **described** in section ~~100a(23)~~ **100a(24)**.

5 Enacting section 1. This amendatory act does not take  
6 effect unless all of the following bills of the 92nd Legislature  
7 are enacted into law:

8 (a) Senate Bill No. 683.

9 (b) Senate Bill No. 684.

10 (c) Senate Bill No. 685.

11 (d) Senate Bill No. 1464.