

**SUBSTITUTE FOR  
SENATE BILL NO. 686**

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending sections 100a and 161 (MCL 330.1100a and 330.1161),  
as amended by 1998 PA 497, 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  
9 health services program, or a licensed hospital or by an employee  
10 or volunteer of a service provider under contract with the

1 department, community mental health services program, or licensed  
2 hospital.

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

5 (a) Communication.

6 (b) Self-care.

7 (c) Home living.

8 (d) Social skills.

9 (e) Community use.

10 (f) Self-direction.

11 (g) Health and safety.

12 (h) Functional academics.

13 (i) Leisure.

14 (j) Work.

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

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

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

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

15 (7) ~~-(6)-~~ "Board" means the governing body of a community  
16 mental health services program.

17 (8) ~~-(7)-~~ "Board of commissioners" means a county board of  
18 commissioners.

19 (9) ~~-(8)-~~ "Center" means a facility operated by the  
20 department to admit individuals with developmental disabilities  
21 and provide habilitation and treatment services.

22 (10) ~~-(9)-~~ "Certification" means formal approval of a program  
23 by the department in accordance with standards developed or  
24 approved by the department.

25 (11) ~~-(10)-~~ "Child abuse" and "child neglect" mean those  
26 terms as defined in section 2 of the child protection law, 1975  
27 PA 238, MCL 722.622.

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

3           (a) A physician who has completed a residency program in  
4 child and adolescent psychiatry approved by the accreditation  
5 council for graduate medical education or the American  
6 osteopathic association, or who has completed 12 months of child  
7 and adolescent psychiatric rotation and is enrolled in an  
8 approved residency program as described in this subsection.

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

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

17           **(13)** ~~—(12)—~~ "Children's diagnostic and treatment service"  
18 means a program operated by or under contract with a community  
19 mental health services program, that provides examination,  
20 evaluation, and referrals for minors, including emergency  
21 referrals, that provides or facilitates treatment for minors, and  
22 that has been certified by the department.

23           **(14)** ~~—(13)—~~ "Community mental health authority" means a  
24 separate legal public governmental entity created under  
25 section 205 to operate as a community mental health services  
26 program.

27           **(15)** ~~—(14)—~~ "Community mental health organization" means a

1 community mental health services program that is organized under  
2 the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,  
3 MCL 124.501 to 124.512.

4 (16) ~~-(15)-~~ "Community mental health services program" means  
5 a program operated under chapter 2 as a county community mental  
6 health agency, a community mental health authority, or a  
7 community mental health organization.

8 (17) ~~-(16)-~~ "Consent" means a written agreement executed by a  
9 recipient, a minor recipient's parent, or a recipient's legal  
10 representative with authority to execute a consent, or a verbal  
11 agreement of a recipient that is witnessed and documented by an  
12 individual other than the individual providing treatment.

13 (18) ~~-(17)-~~ "County community mental health agency" means an  
14 official county or multicounty agency created under section 210  
15 that operates as a community mental health services program and  
16 that has not elected to become a community mental health  
17 authority under section 205 or a community mental health  
18 organization under the urban cooperation act of 1967, 1967  
19 (Ex Sess) PA 7, MCL 124.501 to 124.512.

20 (19) ~~-(18)-~~ "Dependent living setting" means all of the  
21 following:

22 (a) An adult foster care facility.

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

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

27 (20) ~~-(19)-~~ "Department" means the department of community

1 health.

2       (21) ~~—(20)—~~ "Developmental disability" means either of the  
3 following:

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

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

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

10       (iii) Is likely to continue indefinitely.

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

13       (A) Self-care.

14       (B) Receptive and expressive language.

15       (C) Learning.

16       (D) Mobility.

17       (E) Self-direction.

18       (F) Capacity for independent living.

19       (G) Economic self-sufficiency.

20       (v) Reflects the individual's need for a combination and  
21 sequence of special, interdisciplinary, or generic care,  
22 treatment, or other services that are of lifelong or extended  
23 duration and are individually planned and coordinated.

24       (b) If applied to a minor from birth to ~~—age—~~ 5 **years of age**,  
25 a substantial developmental delay or a specific congenital or  
26 acquired condition with a high probability of resulting in  
27 developmental disability as defined in subdivision (a) if

1 services are not provided.

2 (22) ~~-(21)-~~ "Director" means the director of the department  
3 or his or her designee.

4 (23) ~~-(22)-~~ "Discharge" means an absolute, unconditional  
5 release of an individual from a facility by action of the  
6 facility or a court.

7 (24) ~~-(23)-~~ "Eligible minor" means an individual less than  
8 18 years of age who is recommended in the written report of a  
9 multidisciplinary team under rules promulgated by the department  
10 of education to be classified as 1 of the following:

11 (a) Severely mentally impaired.

12 (b) Severely multiply impaired.

13 (c) Autistic impaired and receiving special education  
14 services in a program designed for the autistic impaired under  
15 subsection (1) of R 340.1758 of the Michigan administrative code  
16 or in a program designed for the severely mentally impaired or  
17 severely multiply impaired.

18 (25) ~~-(24)-~~ "Emergency situation" means a situation in which  
19 an individual is experiencing a serious mental illness or a  
20 developmental disability, or a ~~child~~ **minor** is experiencing a  
21 serious emotional disturbance, and 1 of the following applies:

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

25 (b) The individual is unable to provide himself or herself  
26 food, clothing, or shelter or to attend to basic physical  
27 activities such as eating, toileting, bathing, grooming,

1 dressing, or ambulating, and this inability may lead in the near  
2 future to harm to the individual or to another individual.

3 (c) The individual's judgment is so impaired that he or she  
4 is unable to understand the need for treatment and, in the  
5 opinion of the mental health professional, his or her continued  
6 behavior as a result of the mental illness, developmental  
7 disability, or emotional disturbance can reasonably be expected  
8 in the near future to result in physical harm to the individual  
9 or to another individual.

10 (26) ~~-(25)-~~ "Executive director" means an individual  
11 appointed under section 226 to direct a community mental health  
12 services program or his or her designee.

13 **Sec. 116a. (1) The department shall submit to the members**  
14 **of the senate and house standing committees, the senate and house**  
15 **appropriation subcommittees with legislative oversight of mental**  
16 **health matters, and the senate and house fiscal agencies an**  
17 **annual report concerning assisted outpatient treatment services**  
18 **in this state. The report shall include statewide information**  
19 **regarding the number of individuals receiving and completing**  
20 **assisted outpatient treatment and shall include the cost and**  
21 **benefit projections that are available concerning assisted**  
22 **outpatient treatment in this state.**

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

25 (a) The number of assisted outpatient treatment petitions  
26 filed.

27 (b) The number of court rulings on petitions filed under

1 section 433 that resulted in an assisted outpatient treatment  
2 order.

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

6 (3) To the extent possible if resources are available, when  
7 evaluating the assisted outpatient treatment in this state, the  
8 department shall attempt to utilize expert assistance from  
9 outside entities, including, but not limited to, state  
10 universities.

11 Sec. 161. In conjunction with community mental health  
12 services programs, the department shall conduct annually and  
13 forward to the governor and the house and senate appropriations  
14 committees, and the senate and house committees with legislative  
15 oversight of ~~social~~ human services and mental health, an  
16 evaluation of the family support subsidy program that shall  
17 include, but is not limited to, all of the following:

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

22 (b) Case reviews of families who voluntarily terminate  
23 participation in the family support subsidy program for any  
24 reason, particularly when the eligible minor is placed out of the  
25 family home, including the involvement of the department and  
26 community mental health services programs in offering suitable  
27 alternatives.

1 (c) Sample assessments of families receiving family support  
2 subsidy payments including adequacy of subsidy and need for  
3 services not available.

4 (d) The efforts to encourage program participation of  
5 eligible families.

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

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

11 (g) Problems that arise in identifying eligible minors  
12 through diagnostic evaluations performed under rules promulgated  
13 by the department of education.

14 (h) The number of beds reduced in state facilities and foster  
15 care facilities serving severely mentally, multiply, and autistic  
16 impaired children when the children return home to their natural  
17 families as a result of the subsidy program.

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

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

23 (a) Senate Bill No. 683.

24 (b) Senate Bill No. 684.

25 (c) Senate Bill No. 685.

26 (d) Senate Bill No. 1464.