

SENATE BILL No. 686

September 16, 2003, Introduced by Senators JACOBS, GEORGE, CROSEY, BRATER, McMANUS, GOSCHKA, BIRKHOLZ, SCHAUER and THOMAS and referred to the Committee on Health Policy.

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.

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

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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 which
8 services are prescribed to treat the individual's mental illness
9 and to assist the individual in living and functioning in the
10 community or to attempt to prevent a relapse or deterioration
11 that may reasonably be predicted to result in suicide or the need
12 for hospitalization.

13 (7) ~~-(6)-~~ "Board" means the governing body of a community
14 mental health services program.

15 (8) ~~-(7)-~~ "Board of commissioners" means a county board of
16 commissioners.

17 (9) ~~-(8)-~~ "Center" means a facility operated by the
18 department to admit individuals with developmental disabilities
19 and provide habilitation and treatment services.

20 (10) ~~-(9)-~~ "Certification" means formal approval of a program
21 by the department in accordance with standards developed or
22 approved by the department.

23 (11) ~~-(10)-~~ "Child abuse" and "child neglect" mean those
24 terms as defined in section 2 of the child protection law, 1975
25 PA 238, MCL 722.622.

26 (12) ~~-(11)-~~ "Child and adolescent psychiatrist" means 1 or
27 more of the following:

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

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

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

15 (13) ~~—(12)—~~ "Children's diagnostic and treatment service"
16 means a program operated by or under contract with a community
17 mental health services program, that provides examination,
18 evaluation, and referrals for minors, including emergency
19 referrals, that provides or facilitates treatment for minors, and
20 that has been certified by the department.

21 (14) ~~—(13)—~~ "Community mental health authority" means a
22 separate legal public governmental entity created under
23 section 205 to operate as a community mental health services
24 program.

25 (15) ~~—(14)—~~ "Community mental health organization" means a
26 community mental health services program that is organized under
27 the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,

1 MCL 124.501 to 124.512.

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

6 (17) ~~—(16)—~~ "Consent" means a written agreement executed by a
7 recipient, a minor recipient's parent, or a recipient's legal
8 representative with authority to execute a consent, or a verbal
9 agreement of a recipient that is witnessed and documented by an
10 individual other than the individual providing treatment.

11 (18) ~~—(17)—~~ "County community mental health agency" means an
12 official county or multicounty agency created under section 210
13 that operates as a community mental health services program and
14 that has not elected to become a community mental health
15 authority under section 205 or a community mental health
16 organization under the urban cooperation act of 1967, 1967
17 (Ex Sess) PA 7, MCL 124.501 to 124.512.

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

20 (a) An adult foster care facility.

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

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

25 (20) ~~—(19)—~~ "Department" means the department of community
26 health.

27 (21) ~~—(20)—~~ "Developmental disability" means either of the

1 following:

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

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

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

8 (iii) Is likely to continue indefinitely.

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

11 (A) Self-care.

12 (B) Receptive and expressive language.

13 (C) Learning.

14 (D) Mobility.

15 (E) Self-direction.

16 (F) Capacity for independent living.

17 (G) Economic self-sufficiency.

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

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

27 (22) ~~(21)~~ "Director" means the director of the department

1 or his or her designee.

2 (23) ~~—(22)—~~ "Discharge" means an absolute, unconditional
3 release of an individual from a facility by action of the
4 facility or a court.

5 (24) ~~—(23)—~~ "Eligible minor" means an individual less than
6 18 years of age who is recommended in the written report of a
7 multidisciplinary team under rules promulgated by the department
8 of education to be classified as 1 of the following:

9 (a) Severely mentally impaired.

10 (b) Severely multiply impaired.

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

16 (25) ~~—(24)—~~ "Emergency situation" means a situation in which
17 an individual is experiencing a serious mental illness or a
18 developmental disability, or a ~~child~~ **minor** is experiencing a
19 serious emotional disturbance, and 1 of the following applies:

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

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

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

8 (26) ~~—(25)—~~ "Executive director" means an individual
9 appointed under section 226 to direct a community mental health
10 services program or his or her designee.

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

25 (b) Senate Bill No. 684.

26

27 (c) Senate Bill No. 685.