

SENATE BILL No. 805

February 20, 2014, Introduced by Senators WARREN, CASWELL, HOPGOOD, MARLEAU, BOOHER, ROBERTSON, SCHUITMAKER, CASPERSON, ROCCA, ANDERSON, COLBECK, JANSEN, JONES, WHITMER, ANANICH, HANSEN, NOFS, EMMONS, PAPPAGEORGE, BIEDA, HILDENBRAND, KOWALL, MOOLENAAR and JOHNSON and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 100b, 134a, 504, 515, 932, 1001a, 1003, 1003a, 1003b, 1003c, 1004, 1005d, and 1006 (MCL 330.1100b, 330.1134a, 330.1504, 330.1515, 330.1932, 330.2001a, 330.2003, 330.2003a, 330.2003b, 330.2003c, 330.2004, 330.2005d, and 330.2006), section 100b as amended by 2012 PA 500, section 134a as amended by 2010 PA 293, section 515 as amended by 1995 PA 290, sections 1001a, 1003a, 1003b, 1004, 1005d, and 1006 as amended and section 1003c as added by 1993 PA 252, and section 1003 as amended by 2007 PA 112.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

3 (3) "Family member" means a parent, stepparent, spouse,
4 sibling, child, or grandparent of a primary consumer, or an
5 individual upon whom a primary consumer is dependent for at least
6 50% of his or her financial support.

7 (4) "Federal funds" means funds received from the federal
8 government under a categorical grant or similar program and does
9 not include federal funds received under a revenue sharing
10 arrangement.

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

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

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

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

26 (7) "Hospital" or "psychiatric hospital" means an inpatient
27 program operated by the department for the treatment of individuals

1 with serious mental illness or serious emotional disturbance or a
2 psychiatric hospital or psychiatric unit licensed under section
3 137.

4 (8) "Hospital director" means the chief administrative officer
5 of a hospital or his or her designee.

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

8 (10) "Incapacitated" means that an individual, as a result of
9 the use of alcohol, is unconscious or has his or her mental or
10 physical functioning so impaired that he or she either poses an
11 immediate and substantial danger to his or her own health and
12 safety or is endangering the health and safety of the public.

13 (11) "Individual plan of services" or "plan of services" means
14 a written individual plan of services developed with a recipient as
15 required by section 712.

16 (12) **"INTELLECTUAL DISABILITY" MEANS A CONDITION MANIFESTING**
17 **BEFORE THE AGE OF 18 YEARS THAT IS CHARACTERIZED BY SIGNIFICANTLY**
18 **SUBAVERAGE INTELLECTUAL FUNCTIONING AND RELATED LIMITATIONS IN 2 OR**
19 **MORE ADAPTIVE SKILLS AND THAT IS DIAGNOSED BASED ON THE FOLLOWING**
20 **ASSUMPTIONS:**

21 (A) **VALID ASSESSMENT CONSIDERS CULTURAL AND LINGUISTIC**
22 **DIVERSITY, AS WELL AS DIFFERENCES IN COMMUNICATION AND BEHAVIORAL**
23 **FACTORS.**

24 (B) **THE EXISTENCE OF LIMITATION IN ADAPTIVE SKILLS OCCURS**
25 **WITHIN THE CONTEXT OF COMMUNITY ENVIRONMENTS TYPICAL OF THE**
26 **INDIVIDUAL'S AGE PEERS AND IS INDEXED TO THE INDIVIDUAL'S**
27 **PARTICULAR NEEDS FOR SUPPORT.**

1 (C) SPECIFIC ADAPTIVE SKILL LIMITATIONS OFTEN COEXIST WITH
2 STRENGTHS IN OTHER ADAPTIVE SKILLS OR OTHER PERSONAL CAPABILITIES.

3 (D) WITH APPROPRIATE SUPPORTS OVER A SUSTAINED PERIOD, THE
4 LIFE FUNCTIONING OF THE INDIVIDUAL WITH AN INTELLECTUAL DISABILITY
5 WILL GENERALLY IMPROVE.

6 (13) ~~(12)~~—"Licensed facility" means a facility licensed by the
7 department under section 137 or an adult foster care facility.

8 (14) ~~(13)~~—"Licensed psychologist" means a doctoral level
9 psychologist licensed under section 18223(1) of the public health
10 code, 1978 PA 368, MCL 333.18223.

11 (15) ~~(14)~~—"Medical director" means a psychiatrist appointed
12 under section 231 to advise the executive director of a community
13 mental health services program.

14 (16) ~~(15)~~—"Mental health professional" means an individual who
15 is trained and experienced in the area of mental illness or
16 developmental disabilities and who is 1 of the following:

17 (a) A physician.

18 (b) A psychologist. ~~licensed to practice in this state under~~
19 ~~article 15 of the public health code, 1978 PA 368, MCL 333.16101 to~~
20 ~~333.18838.~~

21 (c) A registered professional nurse licensed **OR OTHERWISE**
22 **AUTHORIZED** to **ENGAGE IN THE** practice ~~in this state~~ **OF NURSING** under
23 ~~article 15~~ **PART 172** of the public health code, 1978 PA 368, MCL
24 ~~333.16101 to 333.18838.~~ **333.17201 TO 333.17242.**

25 (d) A licensed master's social worker licensed **OR OTHERWISE**
26 **AUTHORIZED TO ENGAGE IN THE PRACTICE OF SOCIAL WORK AT THE MASTER'S**
27 **LEVEL** under ~~article 15~~ **PART 185** of the public health code, 1978 PA

368, MCL ~~333.16101 to 333.18838~~. **333.18501 TO 333.18518.**

(e) A licensed professional counselor licensed **OR OTHERWISE AUTHORIZED to ENGAGE IN THE** practice ~~in this state~~ **OF COUNSELING** under ~~article 15~~ **PART 181** of the public health code, 1978 PA 368, MCL ~~333.16101 to 333.18838~~. **333.18101 TO 333.18117.**

(f) A marriage and family therapist licensed **OR OTHERWISE AUTHORIZED TO ENGAGE IN THE PRACTICE OF MARRIAGE AND FAMILY THERAPY** under ~~article 15~~ **PART 169** of the public health code, 1978 PA 368, MCL ~~333.16101 to 333.18838~~. **333.16901 TO 333.16915.**

~~———— (16) "Mental retardation" means a condition manifesting before the age of 18 years that is characterized by significantly subaverage intellectual functioning and related limitations in 2 or more adaptive skills and that is diagnosed based on the following assumptions:~~

~~———— (a) Valid assessment considers cultural and linguistic diversity, as well as differences in communication and behavioral factors.~~

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

~~———— (c) Specific adaptive skill limitations often coexist with strengths in other adaptive skills or other personal capabilities.~~

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

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

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

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

Sec. 134a. (1) Except as otherwise provided in subsection (2), a psychiatric facility or ~~intermediate care facility for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** shall not employ, independently contract with, or grant clinical privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the psychiatric facility or ~~intermediate care facility for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** if the individual satisfies 1 or more of the following:

(a) Has been convicted of a relevant crime described under 42 USC 1320a-7(a).

(b) Has been convicted of any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in

1 this subdivision, other than a felony for a relevant crime
2 described under 42 USC 1320a-7(a), unless 15 years have lapsed
3 since the individual completed all of the terms and conditions of
4 his or her sentencing, parole, and probation for that conviction
5 prior to the date of application for employment or clinical
6 privileges or the date of the execution of the independent
7 contract:

8 (i) A felony that involves the intent to cause death or serious
9 impairment of a body function, that results in death or serious
10 impairment of a body function, that involves the use of force or
11 violence, or that involves the threat of the use of force or
12 violence.

13 (ii) A felony involving cruelty or torture.

14 (iii) A felony under chapter XXA of the Michigan penal code,
15 1931 PA 328, MCL 750.145m to 750.145r.

16 (iv) A felony involving criminal sexual conduct.

17 (v) A felony involving abuse or neglect.

18 (vi) A felony involving the use of a firearm or dangerous
19 weapon.

20 (vii) A felony involving the diversion or adulteration of a
21 prescription drug or other medications.

22 (c) Has been convicted of a felony or an attempt or conspiracy
23 to commit a felony, other than a felony for a relevant crime
24 described under 42 USC 1320a-7(a) or a felony described under
25 subdivision (b), unless 10 years have lapsed since the individual
26 completed all of the terms and conditions of his or her sentencing,
27 parole, and probation for that conviction prior to the date of

1 application for employment or clinical privileges or the date of
2 the execution of the independent contract.

3 (d) Has been convicted of any of the following misdemeanors,
4 other than a misdemeanor for a relevant crime described under 42
5 USC 1320a-7(a), or a state or federal crime that is substantially
6 similar to the misdemeanors described in this subdivision, within
7 the 10 years immediately preceding the date of application for
8 employment or clinical privileges or the date of the execution of
9 the independent contract:

10 (i) A misdemeanor involving the use of a firearm or dangerous
11 weapon with the intent to injure, the use of a firearm or dangerous
12 weapon that results in a personal injury, or a misdemeanor
13 involving the use of force or violence or the threat of the use of
14 force or violence.

15 (ii) A misdemeanor under chapter XXA of the Michigan penal
16 code, 1931 PA 328, MCL 750.145m to 750.145r.

17 (iii) A misdemeanor involving criminal sexual conduct.

18 (iv) A misdemeanor involving cruelty or torture unless
19 otherwise provided under subdivision (e).

20 (v) A misdemeanor involving abuse or neglect.

21 (e) Has been convicted of any of the following misdemeanors,
22 other than a misdemeanor for a relevant crime described under 42
23 USC 1320a-7(a), or a state or federal crime that is substantially
24 similar to the misdemeanors described in this subdivision, within
25 the 5 years immediately preceding the date of application for
26 employment or clinical privileges or the date of the execution of
27 the independent contract:

1 (i) A misdemeanor involving cruelty if committed by an
2 individual who is less than 16 years of age.

3 (ii) A misdemeanor involving home invasion.

4 (iii) A misdemeanor involving embezzlement.

5 (iv) A misdemeanor involving negligent homicide or a violation
6 of section 601d(1) of the Michigan vehicle code, 1940 PA 300, MCL
7 257.601d.

8 (v) A misdemeanor involving larceny unless otherwise provided
9 under subdivision (g).

10 (vi) A misdemeanor of retail fraud in the second degree unless
11 otherwise provided under subdivision (g).

12 (vii) Any other misdemeanor involving assault, fraud, theft, or
13 the possession or delivery of a controlled substance unless
14 otherwise provided under subdivision (d), (f), or (g).

15 (f) Has been convicted of any of the following misdemeanors,
16 other than a misdemeanor for a relevant crime described under 42
17 USC 1320a-7(a), or a state or federal crime that is substantially
18 similar to the misdemeanors described in this subdivision, within
19 the 3 years immediately preceding the date of application for
20 employment or clinical privileges or the date of the execution of
21 the independent contract:

22 (i) A misdemeanor for assault if there was no use of a firearm
23 or dangerous weapon and no intent to commit murder or inflict great
24 bodily injury.

25 (ii) A misdemeanor of retail fraud in the third degree unless
26 otherwise provided under subdivision (g).

27 (iii) A misdemeanor under part 74 of the public health code,

1 1978 PA 368, MCL 333.7401 to 333.7461, unless otherwise provided
2 under subdivision (g).

3 (g) Has been convicted of any of the following misdemeanors,
4 other than a misdemeanor for a relevant crime described under 42
5 USC 1320a-7(a), or a state or federal crime that is substantially
6 similar to the misdemeanors described in this subdivision, within
7 the year immediately preceding the date of application for
8 employment or clinical privileges or the date of the execution of
9 the independent contract:

10 (i) A misdemeanor under part 74 of the public health code, 1978
11 PA 368, MCL 333.7401 to 333.7461, if the individual, at the time of
12 conviction, is under the age of 18.

13 (ii) A misdemeanor for larceny or retail fraud in the second or
14 third degree if the individual, at the time of conviction, is under
15 the age of 16.

16 (h) Is the subject of an order or disposition under section
17 16b of chapter IX of the code of criminal procedure, 1927 PA 175,
18 MCL 769.16b.

19 (i) Engages in conduct that becomes the subject of a
20 substantiated finding of neglect, abuse, or misappropriation of
21 property by a state or federal agency according to an investigation
22 conducted in accordance with 42 USC 1395i-3 or 1396r.

23 (2) Except as otherwise provided in this subsection or
24 subsection (5), a psychiatric facility or ~~intermediate care~~
25 ~~facility for people with mental retardation~~ **OTHER FACILITY DEFINED**
26 **IN 42 USC 1396D(D)** shall not employ, independently contract with,
27 or grant privileges to an individual who regularly has direct

1 access to or provides direct services to patients or residents in
2 the psychiatric facility or ~~intermediate care facility for people~~
3 ~~with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**
4 until the psychiatric facility or ~~intermediate care facility for~~
5 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
6 **1396D(D)** or staffing agency has conducted a criminal history check
7 in compliance with this section or received criminal history record
8 information in compliance with subsection (3) or (10). This
9 subsection and subsection (1) do not apply to any of the following:

10 (a) An individual who is employed by, under independent
11 contract to, or granted clinical privileges in a psychiatric
12 facility or ~~intermediate care facility for people with mental~~
13 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** before April
14 1, 2006. On or before April 1, 2011, an individual who is exempt
15 under this subdivision and who has not been the subject of a
16 criminal history check conducted in compliance with this section
17 shall provide the department of state police with a set of
18 fingerprints and the department of state police shall input those
19 fingerprints into the automated fingerprint identification system
20 database established under subsection (13). An individual who is
21 exempt under this subdivision is not limited to working within the
22 psychiatric facility or ~~intermediate care facility for people with~~
23 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** with
24 which he or she is employed by, under independent contract to, or
25 granted clinical privileges on April 1, 2006 but may transfer to
26 another psychiatric facility or ~~intermediate care facility for~~
27 ~~people with mental retardation~~, **OTHER FACILITY DEFINED IN 42 USC**

1 1396D(D), covered health facility, or adult foster care facility.
2 If an individual who is exempt under this subdivision is
3 subsequently convicted of a crime described under subsection (1)(a)
4 through (g) or found to be the subject of a substantiated finding
5 described under subsection (1)(i) or an order or disposition
6 described under subsection (1)(h), or is found to have been
7 convicted of a relevant crime described under subsection (1)(a),
8 then he or she is no longer exempt and shall be terminated from
9 employment or denied employment or clinical privileges.

10 (b) An individual who is under an independent contract with a
11 psychiatric facility or ~~intermediate care facility for people with~~
12 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** if he
13 or she is not under the facility's control and the services for
14 which he or she is contracted is not directly related to the
15 provision of services to a patient or resident or if the services
16 for which he or she is contracted allows for direct access to the
17 patients or residents but is not performed on an ongoing basis.
18 This exception includes, but is not limited to, an individual who
19 is under an independent contract with the psychiatric facility or
20 ~~intermediate care facility for people with mental retardation~~ **OTHER**
21 **FACILITY DEFINED IN 42 USC 1396D(D)** to provide utility,
22 maintenance, construction, or communications services.

23 (3) An individual who applies for employment either as an
24 employee or as an independent contractor or for clinical privileges
25 with a psychiatric facility or ~~intermediate care facility for~~
26 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
27 **1396D(D)** or a staffing agency and who has not been the subject of a

1 criminal history check conducted in compliance with this section
2 shall give written consent at the time of application for the
3 department of state police to conduct a criminal history check
4 under this section, along with identification acceptable to the
5 department of state police. If the applicant has been the subject
6 of a criminal history check conducted in compliance with this
7 section, the applicant shall give written consent at the time of
8 application for the psychiatric facility or ~~intermediate care~~
9 ~~facility for people with mental retardation~~ **OTHER FACILITY DEFINED**
10 **IN 42 USC 1396D(D)** or staffing agency to obtain the criminal
11 history record information as prescribed in subsection (4) from the
12 relevant licensing or regulatory department and for the department
13 of state police to conduct a criminal history check under this
14 section if the requirements of subsection (10) are not met and a
15 request to the federal bureau of investigation to make a
16 determination of the existence of any national criminal history
17 pertaining to the applicant is necessary, along with identification
18 acceptable to the department of state police. Upon receipt of the
19 written consent to obtain the criminal history record information
20 and identification required under this subsection, the psychiatric
21 facility or ~~intermediate care facility for people with mental~~
22 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or staffing
23 agency that has made a good-faith offer of employment or an
24 independent contract or clinical privileges to the applicant shall
25 request the criminal history record information from the relevant
26 licensing or regulatory department and shall make a request
27 regarding that applicant to the relevant licensing or regulatory

1 department to conduct a check of all relevant registries in the
2 manner required in subsection (4). If the requirements of
3 subsection (10) are not met and a request to the federal bureau of
4 investigation to make a subsequent determination of the existence
5 of any national criminal history pertaining to the applicant is
6 necessary, the psychiatric facility or ~~intermediate care facility~~
7 ~~for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
8 **1396D(D)** or staffing agency shall proceed in the manner required in
9 subsection (4). A staffing agency that employs an applicant who
10 regularly has direct access to or provides direct services to
11 patients or residents under an independent contract with a
12 psychiatric facility or ~~intermediate care facility for people with~~
13 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** shall
14 submit information regarding the criminal history check conducted
15 by the staffing agency to the psychiatric facility or ~~intermediate~~
16 ~~care facility for people with mental retardation~~ **OTHER FACILITY**
17 **DEFINED IN 42 USC 1396D(D)** that has made a good-faith offer of
18 independent contract to that applicant.

19 (4) Upon receipt of the written consent to conduct a criminal
20 history check and identification required under subsection (3), a
21 psychiatric facility or ~~intermediate care facility for people with~~
22 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or
23 staffing agency that has made a good-faith offer of employment or
24 an independent contract or clinical privileges to the applicant
25 shall make a request to the department of state police to conduct a
26 criminal history check on the applicant, to input the applicant's
27 fingerprints into the automated fingerprint identification system

1 database, and to forward the applicant's fingerprints to the
2 federal bureau of investigation. The department of state police
3 shall request the federal bureau of investigation to make a
4 determination of the existence of any national criminal history
5 pertaining to the applicant. The applicant shall provide the
6 department of state police with a set of fingerprints. The request
7 shall be made in a manner prescribed by the department of state
8 police. The psychiatric facility or ~~intermediate care facility for~~
9 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
10 **1396D(D)** or staffing agency shall make the written consent and
11 identification available to the department of state police. The
12 psychiatric facility or ~~intermediate care facility for people with~~
13 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or
14 staffing agency shall make a request regarding that applicant to
15 the relevant licensing or regulatory department to conduct a check
16 of all relevant registries established under federal and state law
17 and regulations for any substantiated findings of abuse, neglect,
18 or misappropriation of property. If the department of state police
19 or the federal bureau of investigation charges a fee for conducting
20 the criminal history check, the psychiatric facility or
21 ~~intermediate care facility for people with mental retardation~~ **OTHER**
22 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency shall pay
23 the cost of the charge. The psychiatric facility or ~~intermediate~~
24 ~~care facility for people with mental retardation~~ **OTHER FACILITY**
25 **DEFINED IN 42 USC 1396D(D)** or staffing agency shall not seek
26 reimbursement for a charge imposed by the department of state
27 police or the federal bureau of investigation from the individual

1 who is the subject of the criminal history check. A prospective
2 employee or a prospective independent contractor covered under this
3 section may not be charged for the cost of a criminal history check
4 required under this section. The department of state police shall
5 conduct a criminal history check on the applicant named in the
6 request. The department of state police shall provide the
7 department with a written report of the criminal history check
8 conducted under this subsection. The report shall contain any
9 criminal history record information on the applicant maintained by
10 the department of state police. The department of state police
11 shall provide the results of the federal bureau of investigation
12 determination to the department within 30 days after the request is
13 made. If the requesting psychiatric facility or ~~intermediate care~~
14 ~~facility for people with mental retardation~~ **OTHER FACILITY DEFINED**
15 **IN 42 USC 1396D(D)** or staffing agency is not a state department or
16 agency and if criminal history record information is disclosed on
17 the written report of the criminal history check or the federal
18 bureau of investigation determination that resulted in a
19 conviction, the department shall notify the psychiatric facility or
20 ~~intermediate care facility for people with mental retardation~~ **OTHER**
21 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency and the
22 applicant in writing of the type of crime disclosed on the written
23 report of the criminal history check or the federal bureau of
24 investigation determination without disclosing the details of the
25 crime. Any charges imposed by the department of state police or the
26 federal bureau of investigation for conducting a criminal history
27 check or making a determination under this subsection shall be paid

1 in the manner required under this subsection. The notice shall
 2 include a statement that the applicant has a right to appeal the
 3 information relied upon by the psychiatric facility or ~~intermediate~~
 4 ~~care facility for people with mental retardation~~ **OTHER FACILITY**
 5 **DEFINED IN 42 USC 1396D(D)** or staffing agency regarding his or her
 6 employment eligibility based on the criminal history check. The
 7 notice shall also include information regarding where to file and
 8 describing the appellate procedures established under section
 9 20173b of the public health code, 1978 PA 368, MCL 333.20173b.

10 (5) If a psychiatric facility or ~~intermediate care facility~~
 11 ~~for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
 12 **1396D(D)** determines it necessary to employ or grant clinical
 13 privileges to an applicant before receiving the results of the
 14 applicant's criminal history check or criminal history record
 15 information under this section, the psychiatric facility or
 16 ~~intermediate care facility for people with mental retardation~~ **OTHER**
 17 **FACILITY DEFINED IN 42 USC 1396D(D)** may conditionally employ or
 18 grant conditional clinical privileges to the individual if all of
 19 the following apply:

20 (a) The psychiatric facility or ~~intermediate care facility for~~
 21 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
 22 **1396D(D)** requests the criminal history check or criminal history
 23 record information under this section upon conditionally employing
 24 or conditionally granting clinical privileges to the individual.

25 (b) The individual signs a statement in writing that indicates
 26 all of the following:

27 (i) That he or she has not been convicted of 1 or more of the

1 crimes that are described in subsection (1)(a) through (g) within
2 the applicable time period prescribed by each subdivision
3 respectively.

4 (ii) That he or she is not the subject of an order or
5 disposition described in subsection (1)(h).

6 (iii) That he or she has not been the subject of a substantiated
7 finding as described in subsection (1)(i).

8 (iv) The individual agrees that, if the information in the
9 criminal history check conducted under this section does not
10 confirm the individual's statements under subparagraphs (i) through
11 (iii), his or her employment or clinical privileges will be
12 terminated by the psychiatric facility or ~~intermediate care~~
13 ~~facility for people with mental retardation~~ **OTHER FACILITY DEFINED**
14 **IN 42 USC 1396D(D)** as required under subsection (1) unless and
15 until the individual appeals and can prove that the information is
16 incorrect.

17 (v) That he or she understands the conditions described in
18 subparagraphs (i) through (iv) that result in the termination of his
19 or her employment or clinical privileges and that those conditions
20 are good cause for termination.

21 (c) Except as otherwise provided in this subdivision, the
22 psychiatric facility or ~~intermediate care facility for people with~~
23 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** does
24 not permit the individual to have regular direct access to or
25 provide direct services to patients or residents in the psychiatric
26 facility or ~~intermediate care facility for people with mental~~
27 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** without

1 supervision until the criminal history check or criminal history
2 record information is obtained and the individual is eligible for
3 that employment or clinical privileges. If required under this
4 subdivision, the psychiatric facility or ~~intermediate care facility~~
5 ~~for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
6 **1396D(D)** shall provide on-site supervision of an individual in the
7 facility on a conditional basis under this subsection by an
8 individual who has undergone a criminal history check conducted in
9 compliance with this section. A psychiatric facility or
10 ~~intermediate care facility for people with mental retardation~~ **OTHER**
11 **FACILITY DEFINED IN 42 USC 1396D(D)** may permit an individual in the
12 facility on a conditional basis under this subsection to have
13 regular direct access to or provide direct services to patients or
14 residents in the psychiatric facility or ~~intermediate care facility~~
15 ~~for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
16 **1396D(D)** without supervision if all of the following conditions are
17 met:

18 (i) The psychiatric facility or ~~intermediate care facility for~~
19 ~~people with mental retardation,~~ **OTHER FACILITY DEFINED IN 42 USC**
20 **1396D(D)**, at its own expense and before the individual has direct
21 access to or provides direct services to patients or residents of
22 the psychiatric facility or ~~intermediate care facility for people~~
23 ~~with mental retardation,~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**,
24 conducts a search of public records on that individual through the
25 internet criminal history access tool maintained by the department
26 of state police and the results of that search do not uncover any
27 information that would indicate that the individual is not eligible

1 to have regular direct access to or provide direct services to
2 patients or residents under this section.

3 (ii) Before the individual has direct access to or provides
4 direct services to patients or residents of the psychiatric
5 facility or ~~intermediate care facility for people with mental~~
6 ~~retardation~~, **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**, the
7 individual signs a statement in writing that he or she has resided
8 in this state without interruption for at least the immediately
9 preceding 12-month period.

10 (iii) If applicable, the individual provides to the department
11 of state police a set of fingerprints on or before the expiration
12 of 10 business days following the date the individual was
13 conditionally employed or granted conditional clinical privileges
14 under this subsection.

15 (6) The department shall develop and distribute a model form
16 for the statements required under subsection (5)(b) and (c). The
17 department shall make the model form available to psychiatric
18 facilities or ~~intermediate care facilities for people with mental~~
19 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** subject to
20 this section upon request at no charge.

21 (7) If an individual is employed as a conditional employee or
22 is granted conditional clinical privileges under subsection (5),
23 and the information under subsection (3) or report under subsection
24 (4) does not confirm the individual's statement under subsection
25 (5)(b)(i) through (iii), the psychiatric facility or ~~intermediate~~
26 ~~care facility for people with mental retardation~~ **OTHER FACILITY**
27 **DEFINED IN 42 USC 1396D(D)** shall terminate the individual's

1 employment or clinical privileges as required by subsection (1).

2 (8) An individual who knowingly provides false information
3 regarding his or her identity, criminal convictions, or
4 substantiated findings on a statement described in subsection
5 (5)(b)(i) through (iii) is guilty of a misdemeanor punishable by
6 imprisonment for not more than 93 days or a fine of not more than
7 \$500.00, or both.

8 (9) A psychiatric facility or ~~intermediate care facility for~~
9 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
10 **1396D(D)** or staffing agency shall use criminal history record
11 information obtained under subsection (3) or (4) only for the
12 purpose of evaluating an applicant's qualifications for employment,
13 an independent contract, or clinical privileges in the position for
14 which he or she has applied and for the purposes of subsections (5)
15 and (7). A psychiatric facility or ~~intermediate care facility for~~
16 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
17 **1396D(D)** or staffing agency or an employee of the psychiatric
18 facility or ~~intermediate care facility for people with mental~~
19 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or staffing
20 agency shall not disclose criminal history record information
21 obtained under subsection (3) or (4) to a person who is not
22 directly involved in evaluating the applicant's qualifications for
23 employment, an independent contract, or clinical privileges. An
24 individual who knowingly uses or disseminates the criminal history
25 record information obtained under subsection (3) or (4) in
26 violation of this subsection is guilty of a misdemeanor punishable
27 by imprisonment for not more than 93 days or a fine of not more

1 than \$1,000.00, or both. Except for a knowing or intentional
2 release of false information, a psychiatric facility or
3 ~~intermediate care facility for people with mental retardation~~ **OTHER**
4 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency has no
5 liability in connection with a criminal history check conducted in
6 compliance with this section or the release of criminal history
7 record information under this subsection.

8 (10) Upon consent of an applicant as required in subsection
9 (3) and upon request from a psychiatric facility or ~~intermediate~~
10 ~~care facility for people with mental retardation~~ **OTHER FACILITY**
11 **DEFINED IN 42 USC 1396D(D)** or staffing agency that has made a good-
12 faith offer of employment or an independent contract or clinical
13 privileges to the applicant, the relevant licensing or regulatory
14 department shall review the criminal history record information, if
15 any, and notify the requesting psychiatric facility or ~~intermediate~~
16 ~~care facility for people with mental retardation~~ **OTHER FACILITY**
17 **DEFINED IN 42 USC 1396D(D)** or staffing agency of the information in
18 the manner prescribed in subsection (4). Until the federal bureau
19 of investigation implements an automatic notification system
20 similar to the system required of the state police under subsection
21 (13) and federal regulations allow the federal criminal record to
22 be used for subsequent authorized uses, as determined in an order
23 issued by the department, a covered health or staffing agency
24 facility may rely on the criminal history record information
25 provided by the relevant licensing or regulatory department under
26 this subsection and a request to the federal bureau of
27 investigation to make a subsequent determination of the existence

1 of any national criminal history pertaining to the applicant is not
2 necessary if all of the following requirements are met:

3 (a) The criminal history check was conducted during the
4 immediately preceding 12-month period.

5 (b) The applicant has been continuously employed by a
6 psychiatric facility or ~~intermediate care facility for people with~~
7 ~~mental retardation,~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D),**
8 covered health facility, or adult foster care facility or the
9 staffing agency since the criminal history check was conducted in
10 compliance with this section or meets the continuous employment
11 requirement of this subdivision other than being on layoff status
12 for less than 1 year from a psychiatric facility or ~~intermediate~~
13 ~~care facility for people with mental retardation,~~ **OTHER FACILITY**
14 **DEFINED IN 42 USC 1396D(D),** covered health facility, or adult
15 foster care facility.

16 (c) The applicant can provide evidence acceptable to the
17 relevant licensing or regulatory department that he or she has been
18 a resident of this state for the immediately preceding 12-month
19 period.

20 (11) As a condition of continued employment, each employee,
21 independent contractor, or individual granted clinical privileges
22 shall do each of the following:

23 (a) Agree in writing to report to the psychiatric facility or
24 ~~intermediate care facility for people with mental retardation~~ **OTHER**
25 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency immediately
26 upon being arraigned for 1 or more of the criminal offenses listed
27 in subsection (1)(a) through (g), upon being convicted of 1 or more

1 of the criminal offenses listed in subsection (1)(a) through (g),
2 upon becoming the subject of an order or disposition described
3 under subsection (1)(h), and upon being the subject of a
4 substantiated finding of neglect, abuse, or misappropriation of
5 property as described in subsection (1)(i). Reporting of an
6 arraignment under this subdivision is not cause for termination or
7 denial of employment.

8 (b) If a set of fingerprints is not already on file with the
9 department of state police, provide the department of state police
10 with a set of fingerprints.

11 (12) In addition to sanctions set forth in this act, a
12 licensee, owner, administrator, or operator of a psychiatric
13 facility or ~~intermediate care facility for people with mental~~
14 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or staffing
15 agency who knowingly and willfully fails to conduct the criminal
16 history checks as required under this section is guilty of a
17 misdemeanor punishable by imprisonment for not more than 1 year or
18 a fine of not more than \$5,000.00, or both.

19 (13) In collaboration with the department of state police, the
20 department of technology, management, and budget shall establish
21 and maintain an automated fingerprint identification system
22 database that would allow the department of state police to store
23 and maintain all fingerprints submitted under this section and
24 would provide for an automatic notification if and when a
25 subsequent criminal arrest fingerprint card submitted into the
26 system matches a set of fingerprints previously submitted under
27 this section. Upon ~~such~~ notification, the department of state

1 police shall immediately notify the department and the department
2 shall immediately contact each respective psychiatric facility or
3 ~~intermediate care facility for people with mental retardation~~ **OTHER**
4 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency with which
5 that individual is associated. Information in the database
6 established under this subsection is confidential, is not subject
7 to disclosure under the freedom of information act, 1976 PA 442,
8 MCL 15.231 to 15.246, and shall not be disclosed to any person
9 except for purposes of this act or for law enforcement purposes.

10 (14) The department shall maintain an electronic web-based
11 system to assist psychiatric facilities or ~~intermediate care~~
12 ~~facilities for people with mental retardation~~ **OTHER FACILITY**
13 **DEFINED IN 42 USC 1396D(D)** and staffing agencies required to check
14 relevant registries and conduct criminal history checks of its
15 employees and independent contractors, and individuals granted
16 privileges and to provide for an automated notice to those
17 psychiatric facilities or ~~intermediate care facilities for people~~
18 ~~with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**
19 and staffing agencies for those individuals inputted in the system
20 who, since the initial criminal history check, have been convicted
21 of a disqualifying offense or have been the subject of a
22 substantiated finding of abuse, neglect, or misappropriation of
23 property. The department may charge a staffing agency a 1-time set-
24 up fee of up to \$100.00 for access to the electronic web-based
25 system under this section.

26 (15) As used in this section:

27 (a) "Adult foster care facility" means an adult foster care

1 facility licensed under the adult foster care facility licensing
2 act, 1979 PA 218, MCL 400.701 to 400.737.

3 (b) "Convicted" means either of the following:

4 (i) For a crime that is not a relevant crime, a final
5 conviction, the payment of a fine, a plea of guilty or nolo
6 contendere if accepted by the court, or a finding of guilt for a
7 criminal law violation or a juvenile adjudication or disposition by
8 the juvenile division of probate court or family division of
9 circuit court for a violation that if committed by an adult would
10 be a crime.

11 (ii) For a relevant crime described under 42 USC 1320a-7(a),
12 convicted means that term as defined in 42 USC 1320a-7.

13 (c) "Covered health facility" means a nursing home, county
14 medical care facility, hospice, hospital that provides swing bed
15 services, or home for the aged licensed under article 17 of the
16 public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or
17 home health agency.

18 (d) "Criminal history check conducted in compliance with this
19 section" includes a criminal history check conducted under this
20 section, under section 20173a of the public health code, 1978 PA
21 3658, MCL 333.20173a, or under section 34b of the adult foster care
22 facility licensing act, 1979 PA 218, MCL 400.734b.

23 (e) "Direct access" means access to a patient or resident or
24 to a patient's or resident's property, financial information,
25 medical records, treatment information, or any other identifying
26 information.

27 (f) "Home health agency" means a person certified by medicare

1 whose business is to provide to individuals in their places of
 2 residence other than in a hospital, nursing home, or county medical
 3 care facility 1 or more of the following services: nursing
 4 services, therapeutic services, social work services, homemaker
 5 services, home health aide services, or other related services.

6 (g) "Independent contract" means a contract entered into by a
 7 health facility or agency with an individual who provides the
 8 contracted services independently or a contract entered into by a
 9 health facility or agency with a staffing agency that complies with
 10 the requirements of this section to provide the contracted services
 11 to the psychiatric facility or ~~intermediate care facility for~~
 12 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**
 13 **1396D(D)** on behalf of the staffing agency.

14 (h) "Medicare" means benefits under the federal medicare
 15 program established under title XVIII of the social security act,
 16 42 USC 1395 to ~~1395iii-1395~~ **1395KKK-1**.

17 (i) "Staffing agency" means an entity that recruits candidates
 18 and provides temporary and permanent qualified staffing for
 19 psychiatric facilities or ~~intermediate care facilities for people~~
 20 ~~with mental retardation~~, **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**,
 21 including independent contractors.

22 (j) "Under the facility's control" means an individual
 23 employed by or under independent contract with a psychiatric
 24 facility or ~~intermediate care facility for people with mental~~
 25 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** for whom the
 26 psychiatric facility or ~~intermediate care facility for people with~~
 27 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** does

1 both of the following:

2 (i) Determines whether the individual who has access to
3 patients or residents may provide care, treatment, or other similar
4 support service functions to patients or residents served by the
5 psychiatric facility or ~~intermediate care facility for people with~~
6 ~~mental retardation.~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D).**

7 (ii) Directs or oversees 1 or more of the following:

8 (A) The policy or procedures the individual must follow in
9 performing his or her duties.

10 (B) The tasks performed by the individual.

11 (C) The individual's work schedule.

12 (D) The supervision or evaluation of the individual's work or
13 job performance, including imposing discipline or granting
14 performance awards.

15 (E) The compensation the individual receives for performing
16 his or her duties.

17 (F) The conditions under which the individual performs his or
18 her duties.

19 Sec. 504. An individual with a developmental disability other
20 than ~~mental retardation.~~ **AN INTELLECTUAL DISABILITY** is eligible for
21 temporary and administrative admission ~~pursuant to~~ **UNDER** sections
22 508 and 509, but is not eligible for judicial admission.

23 Sec. 515. A court may order the admission of an individual 18
24 years of age or older who meets both of the following requirements:

25 (a) Has been diagnosed as an individual with ~~mental~~
26 ~~retardation.~~ **AN INTELLECTUAL DISABILITY.**

27 (b) Can be reasonably expected within the near future to

1 intentionally or unintentionally seriously physically injure
2 himself or herself or another person, and has overtly acted in a
3 manner substantially supportive of that expectation.

4 Sec. 932. The several counties of the state ~~of Michigan shall~~
5 have power and authority, by resolution of the county board of
6 commissioners, to provide for the care, custody, and maintenance of
7 ~~mentally retarded and other developmentally disabled persons within~~
8 ~~such~~ **THE** counties and for this purpose counties may raise money by
9 tax or by loan and issue bonds of the county to secure the
10 repayment of ~~any such~~ **THE** loan in the manner and within the limits
11 provided by law for the erection of buildings and for the purchase
12 of equipment. Counties may raise by tax, in the manner and within
13 the limits provided by law, ~~such~~ **THE** sum ~~or sums as may be needed~~
14 from year to year, for the support, maintenance, and care of
15 ~~mentally retarded and other developmentally disabled persons~~
16 admitted to the care of any facility maintained by ~~such~~ **THE**
17 counties under and by authority of law.

18 Sec. 1001a. (1) "Center for forensic psychiatry program" means
19 that program established by the center for forensic psychiatry to
20 provide services related to all of the following:

21 (a) Persons who are alleged to be incompetent to stand trial.

22 (b) Persons who are acquitted of criminal charges by reason of
23 insanity.

24 (c) Persons who are transferred to the center from places of
25 detention or from other state psychiatric hospitals.

26 (2) "Corrections mental health program" means that program of
27 the department of corrections that is responsible for the provision

1 of mental health services to certain prisoners under this chapter.

2 (3) "Hearing committee" means a committee appointed by the
3 corrections mental health program ~~pursuant to~~ **UNDER** section 1003c.

4 (4) "Mental health services" means the provision of mental
5 health care in a protective environment to prisoners with mental
6 illness or ~~mental retardation~~, **DEVELOPMENTAL DISABILITY**, including,
7 but not limited to, chemotherapy and individual and group
8 therapies.

9 (5) "Mental illness" means a substantial disorder of thought
10 or mood that significantly impairs judgment, behavior, capacity to
11 recognize reality, or ability to cope with the ordinary demands of
12 life.

13 ~~—— (6) "Mentally retarded" means significantly subaverage general~~
14 ~~intellectual functioning that originates during the developmental~~
15 ~~period and is associated with impairment in adaptive behavior.~~

16 Sec. 1003. The department of corrections shall establish and
17 operate the corrections mental health program to provide mental
18 health services for prisoners who are ~~mentally retarded~~
19 **DEVELOPMENTALLY DISABLED** or mentally ill and need those services.
20 The director of the department shall review the program's
21 structure, content, quality standards, and implementation. The
22 department of corrections may contract with the department or
23 third-party providers to operate the corrections mental health
24 program. The director of the department of corrections shall
25 appoint the director of the corrections mental health program. The
26 director of the corrections mental health program shall be an
27 individual with an advanced degree in a mental health field and a

1 minimum of 5 years' experience in a mental health field.

2 Sec. 1003a. The following procedures apply to involuntary
3 admission to the corrections mental health program:

4 (a) A person may file with the officer in charge of a state
5 correctional facility a written notice alleging that a particular
6 prisoner is mentally ill or ~~mentally retarded~~ **DEVELOPMENTALLY**
7 **DISABLED** and requires treatment. Upon receipt of the written
8 notice, the officer in charge of the facility shall contact the
9 corrections mental health program, which shall initiate an
10 evaluation by a mental health professional. If the officer in
11 charge of a state correctional facility receives a report from a
12 mental health professional that a prisoner may be mentally ill, the
13 officer shall ensure that the prisoner is examined by a
14 psychiatrist as soon as administratively possible. If the report
15 from the mental health professional states that the prisoner may be
16 ~~mentally retarded~~, **DEVELOPMENTALLY DISABLED**, the officer shall
17 ensure that the prisoner is examined by a psychologist as soon as
18 administratively possible. Unless the prisoner can be examined
19 within the facility where he or she is housed, the prisoner shall
20 be transferred to an appropriate facility for examination.

21 (b) Upon completion of the examination described in
22 subdivision (a), the psychiatrist or psychologist shall execute a
23 certificate of findings that specifies whether, in the
24 psychiatrist's or psychologist's opinion, the prisoner is mentally
25 ill or ~~mentally retarded~~. **DEVELOPMENTALLY DISABLED**. If a finding of
26 mental illness or ~~mental retardation~~ **DEVELOPMENTAL DISABILITY** is
27 made, the psychiatrist or psychologist shall recommend suitable

1 treatment available within the corrections mental health program.

2 (c) Upon completion of the examination described in
3 subdivision (a), if the psychiatrist or psychologist determines
4 that the prisoner is mentally ill or ~~mentally retarded~~
5 **DEVELOPMENTALLY DISABLED** and is a present danger to himself or
6 herself or to others, and if the prisoner refuses treatment, the
7 psychiatrist may order involuntary administration of psychotropic
8 medication pending a hearing ~~pursuant to~~ **UNDER** section 1003c.

9 (d) Upon completion of the certificate required under
10 subdivision (b), the officer in charge of the state correctional
11 facility shall provide to the prisoner and the guardian of the
12 person, if applicable, a copy of the certificate, a copy of the
13 psychiatrist's or psychologist's report of the examination, and a
14 notice of hearing explaining hearing procedures and rights set
15 forth in section 1003c. The documents shall be provided at least 24
16 hours before the hearing.

17 (e) If the prisoner agrees with the treatment recommended
18 under subdivision (b), the prisoner may execute a waiver of hearing
19 and consent to treatment.

20 (f) If the prisoner refuses the treatment recommended under
21 subdivision (b), a hearing shall be held ~~pursuant to~~ **UNDER** section
22 1003c.

23 (g) The prisoner shall not be medicated for 24 hours before a
24 hearing held under section 1003c.

25 (h) If, following a hearing held ~~pursuant to~~ **UNDER** section
26 1003c, the hearing committee finds that the prisoner is not
27 ~~mentally retarded or mentally ill~~ **OR DEVELOPMENTALLY DISABLED**, the

1 prisoner shall be placed according to normal procedures of the
2 department of corrections. If the hearing committee finds that the
3 prisoner is ~~mentally retarded or mentally ill~~ **OR DEVELOPMENTALLY**
4 **DISABLED** and that the proposed services are suitable to the
5 prisoner's condition, the corrections mental health program shall
6 provide the mental health services designated by the hearing
7 committee. If the hearing committee finds that the prisoner is
8 mentally ill or ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** but that
9 the proposed services are not suitable to the prisoner's condition,
10 the corrections mental health program shall provide services that
11 are available within the corrections mental health program that are
12 suitable to the prisoner's condition as ordered by the hearing
13 committee.

14 Sec. 1003b. The following procedures apply to voluntary
15 admission to the corrections mental health program:

16 (a) If a prisoner desires to be voluntarily admitted to the
17 corrections mental health program, the officer in charge of the
18 state correctional facility in which the prisoner is housed shall
19 transfer the prisoner, if necessary, to the appropriate location
20 designated by the corrections mental health program for an
21 examination by a psychiatrist or a psychologist, as applicable. If
22 the examining psychiatrist or psychologist certifies to the
23 corrections mental health program that the prisoner is mentally ill
24 or ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** and is clinically
25 suited for admission, the corrections mental health program shall
26 provide the prisoner with a written individual plan of services
27 ~~pursuant~~ **ACCORDING** to section 712. Upon the prisoner's consent to

1 the individual plan of services, the corrections mental health
2 program shall admit the prisoner to the program.

3 (b) Except as otherwise provided in subdivision (c), a
4 prisoner who is voluntarily transferred under this section shall
5 not be admitted to the corrections mental health program for more
6 than 3 days, excluding Sundays and legal holidays, after the
7 prisoner gives written notice of his or her intention to terminate
8 the admission and return to the general population of the state
9 correctional facility. If the corrections mental health program is
10 advised by a prisoner of an intention to terminate admission, the
11 program shall promptly provide the written form required for
12 termination of admission and return the prisoner to the general
13 population of the state correctional facility.

14 (c) If written notice of termination of admission has been
15 given ~~pursuant~~ **ACCORDING** to subdivision (b) and has not been
16 withdrawn, and if the director of the corrections mental health
17 program determines that the prisoner continues to require mental
18 health services, the director, or a person designated by the
19 director, within 3 days, excluding Sundays and holidays, after the
20 receipt by the corrections mental health program of the notice,
21 shall provide the prisoner and the guardian of the person, if
22 applicable, with a notice of hearing explaining hearing rights set
23 forth in section 1003c. The prisoner shall not be medicated for 24
24 hours prior to the hearing. If, following the hearing, the hearing
25 committee finds that the prisoner does not require mental health
26 services, the prisoner shall be placed according to normal
27 procedures of the department of corrections. If the hearing

1 committee finds that the prisoner continues to require mental
2 health services, the corrections mental health program shall
3 continue to provide those services.

4 Sec. 1003c. (1) If a prisoner refuses treatment or services
5 recommended under section 1003a or if the corrections mental health
6 program determines that a voluntary admittee to the program who
7 wishes to terminate admission continues to require mental health
8 services, the corrections mental health program shall appoint a
9 hearing committee to hear the matter. The hearing committee shall
10 consist of a psychiatrist, a psychologist, and another mental
11 health professional, whose licensure or registration requirements
12 include a minimum of a baccalaureate degree from an accredited
13 college or university, none of whom is, at the time of hearing,
14 involved in the prisoner's treatment or diagnosis.

15 (2) A hearing under this section shall be held not less than
16 24 hours after the prisoner and the guardian of the person, if
17 applicable, are provided the documents required under section
18 1003a(d) or section 1003b(c), but not more than 7 business days
19 after the documents have been provided to the prisoner.

20 (3) A prisoner has the following rights with respect to the
21 hearing under this section:

22 (a) Attendance at the hearing, and if the prisoner has a
23 guardian of the person, the guardian's attendance at the hearing.

24 (b) Presentation of evidence, including witnesses, who may be
25 family members, and cross-examination of witnesses, unless the
26 hearing committee finds that the presentation, confrontation, or
27 cross-examination would present a serious threat to the order and

1 security of the facility or the safety of the prisoner or others.

2 (c) Assistance of 1 of the following persons designated by the
3 director of the corrections mental health program:

4 (i) A recipient rights advisor from the office of recipient
5 rights.

6 (ii) A mental health professional who is not involved in the
7 prisoner's treatment or diagnosis and whose licensure or
8 registration requirements include a minimum of a baccalaureate
9 degree from an accredited college or university.

10 (4) The hearing committee appointed under subsection (1) shall
11 consider the report of the mental health professional who has
12 alleged that the prisoner is mentally ill or ~~mentally retarded,~~
13 **DEVELOPMENTALLY DISABLED**, the certificate described in section
14 ~~1003a(1)(b),~~ **1003A(B)**, proof of service of the notice of hearing,
15 proof of nonmedication for 24 hours prior to the hearing, and any
16 other admissible evidence presented at the hearing. To be
17 admissible, evidence shall be relevant, nonrepetitious, and of a
18 type relied upon by a person in the conduct of everyday affairs.

19 (5) The hearing committee appointed under subsection (1) shall
20 prepare an official record of the hearing including all evidence
21 described in subsection (4). The hearing shall be recorded, but
22 need not be transcribed unless requested by a party. A party who
23 requests transcription shall pay for the transcription of the
24 portion requested.

25 (6) After a hearing under this section, the hearing committee
26 shall decide by a majority vote that includes an affirmative vote
27 by the psychiatrist whether the prisoner is mentally ill or

1 ~~mentally-retarded~~ **DEVELOPMENTALLY DISABLED** and whether the proposed
2 mental health services are suitable to the prisoner's condition. If
3 the hearing committee finds that the prisoner is mentally ill or
4 ~~mentally-retarded~~ **DEVELOPMENTALLY DISABLED** but that the proposed
5 services are not suitable to the prisoner's condition, the hearing
6 committee shall order services available within the corrections
7 mental health program that are suitable to the prisoner's
8 condition.

9 (7) Upon reaching a decision, the hearing committee shall
10 prepare a report and order expressing the findings of the hearing
11 committee and the basis for those findings. Each member shall
12 indicate his or her agreement or disagreement with the hearing
13 committee findings. Within 24 hours after the hearing, the hearing
14 committee shall provide a copy of the hearing committee report and
15 order to the prisoner.

16 (8) A prisoner may appeal the decision of the hearing
17 committee under this section to the director of the corrections
18 mental health program if the appeal is filed within 48 hours of the
19 prisoner's receipt of the hearing committee's report and order
20 under subsection (7). The director of the corrections mental health
21 program shall render a decision within 2 business days after
22 receipt of the appeal.

23 (9) A prisoner may appeal the decision of the director of the
24 corrections mental health program under subsection (8) ~~pursuant~~
25 **ACCORDING** to section 631 of the revised judicature act of 1961, ~~Act~~
26 ~~No. 236 of the Public Acts of 1961, being section 600.631 of the~~
27 ~~Michigan Compiled Laws, 1961 PA 236, MCL 600.631,~~ except that no

1 oral argument shall be permitted. If the director of the
2 corrections mental health program upholds the hearing committee's
3 findings of mental illness or ~~mental retardation~~ **DEVELOPMENTAL**
4 **DISABILITY** and the hearing committee's proposed services, the
5 prisoner's treatment shall not be stayed pending the appeal.

6 Sec. 1004. (1) A prisoner shall continue to be credited with
7 those good time credits and other statutory reductions of his or
8 her penal sentence to which he or she is entitled while in the
9 corrections mental health program, subject to the terms and
10 conditions that are applicable in a state correctional facility.
11 The prisoner shall continue to be subject to all disciplinary
12 sanctions that are not attributable to the prisoner's mental
13 illness or ~~mental retardation~~ **DEVELOPMENTAL DISABILITY**.

14 (2) At the time a prisoner is admitted to the corrections
15 mental health program, the department of corrections shall notify
16 the director of the corrections mental health program of the date
17 on which the sentence of the prisoner is to expire and of any
18 reductions of the sentence recorded to date. The corrections mental
19 health program shall enter the sentence expiration date in the
20 record it maintains for the prisoner.

21 Sec. 1005d. (1) An initial order for treatment under section
22 1003c shall be for a period not to exceed 90 days.

23 (2) If, before the expiration of the initial 90-day order, the
24 treating psychiatrist or psychologist believes that a prisoner
25 continues to be mentally ill or ~~mentally retarded~~ **DEVELOPMENTALLY**
26 **DISABLED** and requires mental health services, the treating
27 psychiatrist or psychologist, not less than 14 days before the

1 expiration of the order, shall file with the director of the
2 corrections mental health program or the director's designee a
3 report of the determination that the prisoner continues to require
4 those services. Upon receipt of the report under this subsection
5 and proof of notice to the prisoner of an opportunity for a
6 hearing, and following a hearing, if requested by the prisoner, a
7 hearing committee appointed ~~pursuant to~~ **UNDER** section 1003c may
8 authorize continued care in the corrections mental health program
9 for an additional period not to exceed 90 days.

10 (3) If, before the expiration of the second 90-day order, the
11 treating psychiatrist or psychologist believes that ~~the condition~~
12 ~~of a prisoner is such that~~ the prisoner continues to be mentally
13 ill or ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** and requires
14 mental health services, the treating psychiatrist or psychologist,
15 not less than 14 days before the expiration of the order, shall
16 file with the director of the corrections mental health program or
17 the director's designee a report of the determination that the
18 prisoner continues to require those services. Upon receipt of the
19 report under this subsection and proof of notice to the prisoner of
20 an opportunity for a hearing, and following a hearing, if requested
21 by the prisoner, the hearing committee may authorize continued care
22 in the corrections mental health program for an additional period
23 not to exceed 180 days. Upon completion of the order for continuing
24 admission to the corrections mental health program, if the treating
25 psychiatrist or psychologist believes that the prisoner continues
26 to be mentally ill or ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED**
27 and requires mental health services, the treating psychiatrist or

1 psychologist shall request an initial order of admission ~~pursuant~~
2 ~~to~~ **UNDER** section 1003c.

3 (4) A report of a determination under subsection (2) or (3)
4 shall be accompanied by a certificate executed by the psychiatrist
5 or psychologist and shall contain a statement setting forth all of
6 the following:

7 (a) The reasons for the treating psychiatrist's or
8 psychologist's determination that the prisoner continues to be
9 mentally ill or ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** and
10 requires mental health services.

11 (b) A statement describing the treatment program provided to
12 the prisoner.

13 (c) The results of the course of treatment.

14 (d) A clinical estimate as to the time further treatment will
15 be required.

16 (5) If at any hearing held under this section the hearing
17 committee appointed under section 1003c finds that the prisoner is
18 not mentally ill or ~~mentally retarded~~, **DEVELOPMENTALLY DISABLED**,
19 the hearing committee shall enter a finding to that effect and the
20 prisoner shall be placed according to normal procedures of the
21 department of corrections.

22 Sec. 1006. (1) A prisoner admitted to the corrections mental
23 health program ~~pursuant~~ **ACCORDING** to section 1003a or section 1003b
24 shall be discharged from the program when 1 or ~~more~~ **BOTH** of the
25 following occur:

26 (a) The prisoner ceases to require mental health services.

27 (b) The prisoner is paroled or discharged from prison.

1 (2) If a prisoner is to be discharged from the corrections
2 mental health program before the expiration of the prisoner's
3 criminal sentence, the director of the corrections mental health
4 program shall first notify the department of corrections of the
5 pending discharge, and shall transmit a full report on the
6 condition of the prisoner to the department of corrections.

7 (3) If the prisoner is paroled or discharged from prison, and
8 the corrections mental health program considers the prisoner to be
9 a person requiring treatment, as defined in section 401, or a
10 person who meets the criteria for judicial admission, as prescribed
11 in section 515, the director of the corrections mental health
12 program at least 14 days before the parole date or the date of
13 discharge shall file a petition ~~pursuant to~~ **UNDER** section 434 or
14 section 516 asserting that the prisoner is a person requiring
15 treatment or that the prisoner meets the criteria for judicial
16 admission. The petition shall be filed with the probate court of
17 the prisoner's county of residence.

18 (4) The department of ~~mental~~ **COMMUNITY** health is responsible
19 for assuring that needed aftercare reintegration and community-
20 based mental health services are offered to mentally ill and
21 ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** persons who are leaving
22 prison, upon referral by the department of corrections. Upon
23 request from the department of corrections, community-based mental
24 health services shall be provided by the department of ~~mental~~
25 **COMMUNITY** health throughout the parole period.