

## INVOLUNTARY HOSPITALIZATION PETITIONS: REQUIRE CONFIDENTIALITY

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**House Bill 4793 as introduced**  
**Sponsor: Rep. Peter J. Lucido**  
**Committee: Judiciary**  
**Complete to 10-12-15**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

The bill requires that information contained in a petition for involuntary hospitalization of a person requiring mental health treatment be confidential and not be disclosed except to persons authorized under the Mental Health Code.

Currently, under Section 434 of the Mental Health Code, anyone at least 18 years old may file a petition with the probate court asserting that another individual is a person requiring treatment. The petition must contain the facts that are the basis for the assertion as well as names and addresses, if known, of any witnesses to the facts and of the nearest relative or guardian or, if none, a friend of the individual. The petition must also be accompanied by the clinical certificate of a physician or licensed psychologist, unless after reasonable effort the petitioner could not secure an examination. In that case, an affidavit setting forth the reasons an examination could not be secured also must be filed.

**House Bill 4793** would amend Chapter 4 of the Code, entitled "Civil Admission and Discharge Procedures: Mental Illness," to specify that a petition and any clinical certificate filed under Section 434 must be maintained by the court as a confidential record and in a manner to prevent disclosure of the filing and content of the petition or clinical certificate to the public or to any person not specifically authorized under Chapter 4 to receive notice of the petition or clinical certificate. The bill would take effect 90 days after enactment.

["Person requiring treatment" is defined in the Mental Health Code to mean:

- (a) An individual who has mental illness, and who as a result of that mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.
- (b) An individual who has mental illness, and who as a result of that mental illness is unable to attend to basic physical needs such as food, clothing, or shelter that must be attended to in order for the individual to avoid serious harm in the near future, and who has demonstrated that inability by failing to attend to those basic physical needs.
- (c) An individual who has mental illness, whose judgment is so impaired that he or she is unable to understand the need for treatment and whose continued behavior as the result

of this mental illness can reasonably be expected, on the basis of competent clinical opinion, to result in significant physical harm to himself, herself, or others. This individual shall receive involuntary mental health treatment initially only under the provisions of Sections 434 through 438.

–Or–

- (d) An individual who has mental illness, whose understanding of the need for treatment is impaired to the point that he or she is unlikely to participate in treatment voluntarily, who is currently noncompliant with treatment that has been recommended by a mental health professional and that has been determined to be necessary to prevent a relapse or harmful deterioration of his or her condition and whose noncompliance with treatment has been a factor in the individual's placement in a psychiatric hospital, prison, or jail at least two times within the last 48 months or whose noncompliance with treatment has been a factor in the individual's committing one or more acts, attempts, or threats of serious violent behavior within the last 48 months. An individual under this subdivision is only eligible to receive assisted outpatient treatment under Section 433 or 469a.]

MCL 330.1434

#### **FISCAL IMPACT:**

The bill would have an indeterminate fiscal impact on the judiciary and local court funding units. The fiscal impact would depend on how provisions of the bill affect probate court caseloads and the related administrative costs. Currently, about half of the probate courts maintain mental illness files publicly and the other half maintain mental illness files confidentially. Maintaining all mental illness files confidentially would require some of the courts to separate the files into public files and confidential files. Financial costs would likely be minimal, but would depend on existing caseload and staffing levels.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.