



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4793 (Substitute H-1 as passed by the House)
Sponsor: Representative Peter J. Lucido
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 4-11-16

CONTENT

The bill would amend the Mental Health Code to provide for the confidentiality of a petition filed with a court asserting that an individual is a "person requiring treatment" under the Code and any clinical certificate filed with the petition, if the individual were found not to be a person requiring treatment.

Under Chapter 4 (Civil Admission and Discharge Procedures: Mental Illness) of the Mental Health Code, any individual who is at least 18 years of age may file a petition with the court asserting that an individual is a "person requiring treatment". The petition must contain certain information, including the facts that are the basis for the assertion. The petition must be accompanied by the clinical certificate of a physician or a licensed psychologist, unless the petitioner could not secure an examination after a reasonable effort to do so. If a clinical certificate does not accompany the petition, an affidavit specifying the reasons an examination could not be secured must be filed as well. A petition also may be accompanied by a second clinical certificate, including at least one that has been executed by a psychiatrist.

Under the bill, if an individual subject to a petition described above were found not to be a person requiring treatment, the petition and any clinical certificate would have to be maintained by the court as a confidential record to prevent disclosure to any person who was not specifically authorized under Chapter 4 to receive notice of the petition or clinical certificate.

The bill would take effect 90 days after its enactment.

(Under Chapter 4, "person requiring treatment" means an individual who has mental illness and meets any of the following:

- As a result of the illness, the person can reasonably be expected within the near future to seriously physically injure himself or herself, or another person, and has engaged in an act or made significant threats that substantially support the expectation.
- As a result of the illness, the person is unable to attend to his or her basic physical needs that must be attended to in order for him or her to avoid serious harm in the near future, and has demonstrated that inability by failing to attend to his or her basic physical needs.
- The person's judgment is so impaired that he or she is unable to understand the need for treatment and his or her continued behavior is the result of the illness and can reasonably be expected, on the basis of competent clinical opinion, to result in significant physical harm to himself or herself or others.
- The person's understanding of the need for treatment is impaired to the point that he or she is unlikely to participate in treatment voluntarily; he or she is noncompliant with

treatment recommended by a mental health professional that is necessary to prevent a relapse or harmful deterioration; and noncompliance with treatment has been a factor in his or her placement in a psychiatric hospital, prison, or jail at least twice within the last 48 months or has been a factor in the individual's committing one or more acts, attempts, or threats of serious violent behavior with that period.)

MCL 330.1434

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the State and could have a minimal negative fiscal impact on local governments. To the extent that courts currently maintain these files publicly, there could be some administration costs to treat them as confidential files.

Fiscal Analyst: Ryan Bergan