

HOUSE BILL No. 5773

July 13, 2016, Introduced by Reps. Inman, Kosowski, Heise, LaFontaine, Santana, Cox and Darany and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1974 PA 258, entitled

"Mental health code,"

by amending sections 100a, 142, 153, 209b, 241, 498d, 498h, 628, 748a, 778, 919, 922, 924, 938, 946, 1002a, 1004a, 1005f, 1006, 1026, 1032, and 1074 (MCL 330.1100a, 330.1142, 330.1153, 330.1209b, 330.1241, 330.1498d, 330.1498h, 330.1628, 330.1748a, 330.1778, 330.1919, 330.1922, 330.1924, 330.1938, 330.1946, 330.2002a, 330.2004a, 330.2005f, 330.2006, 330.2026, 330.2032, and 330.2074), section 100a as amended by 2012 PA 500, sections 142, 153, 209b, 628, and 946 as amended and sections 241 and 778 as added by 1995 PA 290, sections 498d and 498h as amended and section 1074 as added by 2012 PA 540, section 748a as added by 1998 PA 497, section 919 as added by 1995 PA 17, section 1004a as added and section 1005f as amended by 1993 PA 252, and section 1006 as amended by 2014 PA 72;

and to repeal acts and parts of acts.

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 talents
3 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
11 department, community mental health services program, or licensed
12 hospital.

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

15 (a) Communication.

16 (b) Self-care.

17 (c) Home living.

18 (d) Social skills.

19 (e) Community use.

20 (f) Self-direction.

21 (g) Health and safety.

22 (h) Functional academics.

23 (i) Leisure.

24 (j) Work.

25 (4) "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 (5) "Alcohol and drug abuse counseling" means the act of
4 counseling, modification of substance use disorder related
5 behavior, and prevention techniques for individuals with substance
6 use disorder, their significant others, and individuals who could
7 potentially develop a substance use disorder.

8 (6) "Applicant" means an individual or his or her legal
9 representative who makes a request for mental health services.

10 (7) "Approved service program" means a substance use disorder
11 services program licensed under part 62 of the public health code,
12 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use
13 disorder treatment and rehabilitation services by the department-
14 designated community mental health entity and approved by the
15 federal government to deliver a service or combination of services
16 for the treatment of incapacitated individuals.

17 (8) "Assisted outpatient treatment" or "AOT" means the
18 categories of outpatient services ordered by the court under
19 section 433 or 469a. Assisted outpatient treatment includes case
20 management services to provide care coordination. Assisted
21 outpatient treatment may also include 1 or more of the following
22 categories of services: medication; periodic blood tests or
23 urinalysis to determine compliance with prescribed medications;
24 individual or group therapy; day or partial day programming
25 activities; vocational, educational, or self-help training or
26 activities; assertive community treatment team services; alcohol or
27 substance use disorder treatment and counseling and periodic tests

1 for the presence of alcohol or illegal drugs for an individual with
2 a history of alcohol abuse or substance use disorder; supervision
3 of living arrangements; and any other services within a local or
4 unified services plan developed under this act that are prescribed
5 to treat the individual's mental illness and to assist the
6 individual in living and functioning in the community or to attempt
7 to prevent a relapse or deterioration that may reasonably be
8 predicted to result in suicide, the need for hospitalization, or
9 serious violent behavior. The medical review and direction included
10 in an assisted outpatient treatment plan shall be provided under
11 the supervision of a psychiatrist.

12 (9) "Board" means the governing body of a community mental
13 health services program.

14 (10) "Board of commissioners" means a county board of
15 commissioners.

16 (11) "Center" means a facility operated by the department to
17 admit individuals with developmental disabilities and provide
18 habilitation and treatment services.

19 (12) "Certification" means formal approval of a program by the
20 department in accordance with standards developed or approved by
21 the department.

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

25 (14) "Child and adolescent psychiatrist" means 1 or more of
26 the following:

27 (a) A physician who has completed a residency program in child

1 and adolescent psychiatry approved by the ~~accreditation council~~
2 **ACCREDITATION COUNCIL** for ~~graduate medical education~~ **GRADUATE**
3 **MEDICAL EDUCATION** or the American ~~osteopathic association,~~
4 **OSTEOPATHIC ASSOCIATION**, or who has completed 12 months of child
5 and adolescent psychiatric rotation and is enrolled in an approved
6 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 education
10 and clinical experience in the evaluation and treatment of children
11 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 (15) "Children's diagnostic and treatment service" means a
16 program operated by or under contract with a community mental
17 health services program, that provides examination, evaluation, and
18 referrals for minors, including emergency referrals, that provides
19 or facilitates treatment for minors, and that has been certified by
20 the department.

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

24 (17) "Community mental health organization" means a community
25 mental health services program that is organized under the urban
26 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
27 124.512.

1 (18) "Community mental health services program" means a
2 program operated under chapter 2 as a county community mental
3 health agency, a community mental health authority, or a community
4 mental health organization.

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

10 (20) "County community mental health agency" means an official
11 county or multicounty agency created under section 210 that
12 operates as a community mental health services program and that has
13 not elected to become a community mental health authority or a
14 community mental health organization.

15 (21) "Department" means the department of ~~community health~~ **AND**
16 **HUMAN SERVICES.**

17 (22) "Department-designated community mental health entity"
18 means the community mental health authority, community mental
19 health organization, community mental health services program,
20 county community mental health agency, or community mental health
21 regional entity designated by the department to represent a region
22 of community mental health authorities, community mental health
23 organizations, community mental health services programs, or county
24 community mental health agencies.

25 (23) "Dependent living setting" means all of the following:

26 (a) An adult foster care facility.

27 (b) A nursing home licensed under article 17 of the public

1 health code, 1978 PA 368, MCL 333.20101 to 333.22260.

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

4 (24) "Designated representative" means any of the following:

5 (a) A registered nurse or licensed practical nurse licensed or
6 otherwise authorized under part 172 of the public health code, 1978
7 PA 368, MCL 333.17201 to 333.17242.

8 (b) A paramedic licensed or otherwise authorized under part
9 209 of the public health code, 1978 PA 368, MCL 333.20901 to
10 333.20979.

11 (c) A physician's assistant licensed or otherwise authorized
12 under part 170 or 175 of the public health code, 1978 PA 368, MCL
13 333.17001 to 333.17084 and 333.17501 to 333.17556.

14 (d) An individual qualified by education, training, and
15 experience who performs acts, tasks, or functions under the
16 supervision of a physician.

17 (25) "Developmental disability" means either of the following:

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

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

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

24 (iii) Is likely to continue indefinitely.

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

27 (A) Self-care.

1 (B) Receptive and expressive language.

2 (C) Learning.

3 (D) Mobility.

4 (E) Self-direction.

5 (F) Capacity for independent living.

6 (G) Economic self-sufficiency.

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

11 (b) If applied to a minor from birth to 5 years of age, a
12 substantial developmental delay or a specific congenital or
13 acquired condition with a high probability of resulting in
14 developmental disability as defined in subdivision (a) if services
15 are not provided.

16 (26) "Director" means the director of the department or his or
17 her designee.

18 (27) "Discharge" means an absolute, unconditional release of
19 an individual from a facility by action of the facility or a court.

20 (28) "Eligible minor" means an individual less than 18 years
21 of age who is recommended in the written report of a
22 multidisciplinary team under rules promulgated by the department of
23 education to be classified as 1 of the following:

24 (a) Severely mentally impaired.

25 (b) Severely multiply impaired.

26 (c) Autistic impaired and receiving special education services
27 in a program designed for the autistic impaired under subsection

(1) of R 340.1758 of the Michigan ~~administrative code~~
ADMINISTRATIVE CODE or in a program designed for the severely
mentally impaired or severely multiply impaired.

(29) "Emergency situation" means a situation in which an
individual is experiencing a serious mental illness or a
developmental disability, or a minor is experiencing a serious
emotional disturbance, and 1 of the following applies:

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

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

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

(30) "Executive director" means an individual appointed under
section 226 to direct a community mental health services program or
his or her designee.

Sec. 142. The governing body of a facility licensed under
sections 134 through 150 shall certify to the department of ~~mental~~

1 ~~health~~ **LICENSING AND REGULATORY AFFAIRS** that its policies,
 2 procedures, and practices are consistent with the Americans with
 3 disabilities act of 1990, Public Law 101-336, 104 Stat. ~~STAT~~ 327,
 4 the rehabilitation act of 1973, Public Law 93-112, 87 Stat. ~~STAT~~
 5 355, the Elliott-Larsen civil rights act, ~~Act No. 453 of the Public~~
 6 ~~Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan~~
 7 ~~Compiled Laws, 1976 PA 453, MCL 37.2101 TO 37.2804,~~ and the
 8 ~~Michigan handicappers~~ **PERSONS WITH DISABILITIES** civil rights act,
 9 ~~Act No. 220 of the Public Acts of 1976, being sections 37.1101 to~~
 10 ~~37.1607 of the Michigan Compiled Laws. 1976 PA 220, MCL 37.1101 TO~~
 11 **37.1607.** The governing body shall direct the administrator of the
 12 facility to take ~~such~~ action as is necessary to ~~assure~~ **ENSURE** that
 13 the facility adheres to all of the nondiscriminatory laws described
 14 in this section.

15 Sec. 153. (1) Subject to section 114a, the department shall
 16 promulgate rules for the placement of adults who have serious
 17 mental illness or developmental disability into community based
 18 dependent living settings by department agencies, community mental
 19 health services programs, and by agencies under contract to the
 20 department or to a community mental health services program. The
 21 rules shall include, but not be limited to, the criteria to be used
 22 to determine a suitable placement and the specific agencies
 23 responsible for making decisions regarding a placement.

24 (2) Subject to section 114a, the department **OF LICENSING AND**
 25 **REGULATORY AFFAIRS** shall promulgate rules for the certification of
 26 specialized programs offered in an adult foster care facility to
 27 individuals with serious mental illness or developmental

1 disability. The rules shall provide for an administrative appeal to
2 the department **OF LICENSING AND REGULATORY AFFAIRS** of a denial or
3 limitation of the terms of certification under chapter 4 of the
4 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
5 ~~Acts of 1969, being sections 24.271 to 24.287 of the Michigan~~
6 ~~Compiled Laws.1969 PA 306, MCL 24.271 TO 24.287.~~

7 (3) Upon receipt of a request from an adult foster care
8 facility for certification of a specialized program, the department
9 **OF LICENSING AND REGULATORY AFFAIRS** shall inspect the facility to
10 determine whether the proposed specialized program conforms with
11 the requirements of this section and rules promulgated under this
12 section. The department **OF LICENSING AND REGULATORY AFFAIRS** shall
13 provide the department ~~of social services~~ with an inspection report
14 and a certification, denial of certification, revocation, or
15 certification with limited terms for the proposed specialized
16 program. The department **OF LICENSING AND REGULATORY AFFAIRS** shall
17 reinspect a certified specialized program not less than once
18 biennially and notify the department ~~of social services~~ in the same
19 manner as for the initial certification. In carrying out this
20 subsection, the department **OF LICENSING AND REGULATORY AFFAIRS OR**
21 **THE DEPARTMENT** may contract with a community mental health services
22 program or any other agency.

23 (4) This section does not prevent licensure of an adult foster
24 care facility or the placement of individuals with serious mental
25 illness or developmental disability into community based dependent
26 living settings pending the promulgation by the department **OF**
27 **LICENSING AND REGULATORY AFFAIRS** of rules under subsection (1) or

1 (2).

2 Sec. 209b. (1) Before an individual is placed in a supervised
3 community living arrangement, such as a foster home, group care
4 home, nursing home, or other community-based setting, the
5 prerelease or postrelease planning for the individual shall involve
6 the individual, the individual's legal guardian if a guardian has
7 been appointed; any family member, friend, advocate, and
8 professional the recipient chooses; the parents of a minor
9 individual; the state facility or licensed hospital; the
10 residential care provider, if ~~such a~~ **RESIDENTIAL CARE** provider has
11 been selected; and, with the consent of the individual, the
12 appropriate local and intermediate school systems and the
13 department, ~~of social services,~~ if appropriate. In each case, the
14 community mental health services program shall produce in writing a
15 plan for community placement and aftercare services that is
16 sufficient to meet the needs of the individual and shall document
17 any lack of available community services necessary to implement the
18 plan.

19 (2) Each community mental health services program, as
20 requested, shall send to the department aggregate data ~~, which~~
21 ~~includes~~ **THAT INCLUDE** a list of services **THAT COULD NOT BE PROVIDED**
22 **BUT** that were indicated on prerelease or postrelease plans. ~~, but~~
23 ~~which could not be provided.~~

24 Sec. 241. Expenditures for the maintenance and repair of adult
25 foster care facilities owned or leased by a community mental health
26 services program are eligible for state financial support. Expenses
27 incurred in renovating an adult foster care facility that is leased

1 or owned by a community mental health services program are also
2 eligible for state financial support if the expenses are incurred
3 for 1 or more of the following purposes:

4 (a) To correct physical plant deficiencies cited by the
5 department of ~~social services~~ **LICENSING AND REGULATORY AFFAIRS**
6 under state licensing rules.

7 (b) To purchase and install fire safety equipment or make
8 physical plant changes that measurably ~~assure~~ **ENSURE** a reasonable
9 level of fire protection for all of the residents who live in the
10 facility.

11 (c) To correct physical plant deficiencies in accordance with
12 state and federal certification standards.

13 (d) To restore the facility to its prelease condition, if the
14 facility's lease contains a clause stipulating that renovation is
15 the lessee's responsibility at the time the lease expires or is
16 terminated.

17 Sec. 498d. (1) Subject to section 498e and except as otherwise
18 provided in this chapter, section 1074, and section 18s of chapter
19 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18s, a
20 minor of any age may be hospitalized if both of the following
21 conditions are met:

22 (a) The minor's parent, guardian, or a person acting in loco
23 parentis for the minor or, in compliance with subsection (2) or
24 (3), the department of ~~human services~~ or county juvenile agency, as
25 applicable, requests hospitalization of the minor under this
26 chapter.

27 (b) The minor is found to be suitable for hospitalization.

1 (2) The department ~~of human services~~ may request
2 hospitalization of a minor who is committed to the department ~~of~~
3 ~~human services~~ under 1935 PA 220, MCL 400.201 to 400.214.

4 (3) As applicable, the department ~~of human services~~ may
5 request hospitalization of, or the county juvenile agency may
6 request an evaluation for hospitalization of, a minor who is 1 of
7 the following:

8 (a) A ward of the court under chapter X or XIIA of the probate
9 code of 1939, 1939 PA 288, MCL 710.21 to 710.70 and 712A.1 to
10 712A.32, if the department ~~of human services~~ or county juvenile
11 agency is specifically empowered to do so by court order.

12 (b) Committed to the department ~~of human services~~ or county
13 juvenile agency under the youth rehabilitation services act, 1974
14 PA 150, MCL 803.301 to 803.309, except that if the minor is
15 residing with his or her custodial parent, the consent of the
16 custodial parent is required.

17 (4) Subject to sections 498e, 498f, and 498j, and except as
18 provided in section 1074 and section 18s of chapter XIIA of the
19 probate code of 1939, 1939 PA 288, MCL 712A.18s, a minor 14 years
20 of age or older may be hospitalized if both of the following
21 conditions are met:

22 (a) The minor requests hospitalization under this chapter.

23 (b) The minor is found to be suitable for hospitalization.

24 (5) In making the determination of suitability for
25 hospitalization, a minor shall not be determined to be a minor
26 requiring treatment solely on the basis of 1 or more of the
27 following conditions:

1 (a) Epilepsy.

2 (b) Developmental disability.

3 (c) Brief periods of intoxication caused by substances such as
4 alcohol or drugs or by dependence upon or addiction to those
5 substances.

6 (d) Juvenile offenses, including school truancy, home truancy,
7 or incorrigibility.

8 (e) Sexual activity.

9 (f) Religious activity or beliefs.

10 (g) Political activity or beliefs.

11 (6) As used in this section, "county juvenile agency" means
12 that term as defined in section 2 of the county juvenile agency
13 act, 1998 PA 518, MCL 45.622.

14 Sec. 498h. (1) Except as provided in section 1074 and section
15 18s of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
16 712A.18s, a minor's parent, guardian, or person in loco parentis
17 may request emergency admission of the minor to a hospital, if the
18 person making the request has reason to believe that the minor is a
19 minor requiring treatment and that the minor presents a serious
20 danger to self or others.

21 (2) If the hospital to which the request for emergency
22 admission is made is not under contract to the community mental
23 health services program, the request for emergency hospitalization
24 shall be made directly to the hospital. If the hospital director
25 agrees that the minor needs emergency admission, the minor shall be
26 hospitalized. If the hospital director does not agree, the person
27 making the request may request hospitalization of the minor under

1 section 498d.

2 (3) If the hospital to which the request for emergency
3 admission is made is under contract to the community mental health
4 services program, the request shall be made to the preadmission
5 screening unit of the community mental health services program
6 serving in the county where the minor resides. If the community
7 mental health services program has a children's diagnostic and
8 treatment service, the preadmission screening unit shall refer the
9 person making the request to that service. In counties where there
10 is no children's diagnostic and treatment service, the preadmission
11 screening unit shall refer the person making the request to the
12 appropriate hospital. If it is determined that emergency admission
13 is not necessary, the person may request hospitalization of the
14 minor under section 498d. If it is determined that emergency
15 admission is necessary, the minor shall be hospitalized or placed
16 in an appropriate alternative program.

17 (4) If a minor is assessed by the preadmission screening unit
18 and found not to be clinically suitable for hospitalization, the
19 preadmission screening unit shall inform the individual or
20 individuals requesting hospitalization of the minor of appropriate
21 available alternative services to which a referral should be made
22 and of the process for a request of a second opinion under
23 subsection (5).

24 (5) If the preadmission screening unit of the community mental
25 health services program denies hospitalization, a minor's parent or
26 guardian may request a second opinion from the executive director.
27 The executive director shall arrange for an additional evaluation

1 by a psychiatrist, other physician, or licensed psychologist to be
2 performed within 3 days, excluding Sundays and legal holidays,
3 after the executive director receives the request. If the
4 conclusion of the second opinion is different from the conclusion
5 of the preadmission screening unit, the executive director, in
6 conjunction with the medical director, shall make a decision based
7 on all clinical information available. The executive director's
8 decision shall be confirmed in writing to the individual who
9 requested the second opinion, and the confirming document shall
10 include the signatures of the executive director and medical
11 director or verification that the decision was made in conjunction
12 with the medical director.

13 (6) If a person in loco parentis makes a request for emergency
14 admission and the minor is admitted to a hospital under this
15 section, the hospital director or the executive director of the
16 community mental health services program immediately shall notify
17 the minor's parent or parents or guardian.

18 (7) If a minor is hospitalized in a hospital that is operated
19 under contract with a community mental health services program, the
20 hospital director shall notify the appropriate executive director
21 within 24 hours after the hospitalization occurs.

22 (8) If a peace officer, as a result of personal observation,
23 has reasonable grounds to believe that a minor is a minor requiring
24 treatment and that the minor presents a serious danger to self or
25 others and if after a reasonable effort to locate the minor's
26 parent, guardian, or person in loco parentis, the minor's parent,
27 guardian, or person in loco parentis cannot be located, the peace

1 officer may take the minor into protective custody and transport
2 the minor to the appropriate community mental health preadmission
3 screening unit, if the community mental health services program has
4 a children's diagnostic and treatment service, or to a hospital if
5 it does not have a children's diagnostic and treatment service.
6 After transporting the minor, the peace officer shall execute a
7 written request for emergency hospitalization of the minor stating
8 the reasons, based upon personal observation, that the peace
9 officer believes that emergency hospitalization is necessary. The
10 written request shall include a statement that a reasonable effort
11 was made by the peace officer to locate the minor's parent,
12 guardian, or person in loco parentis. If it is determined that
13 emergency hospitalization of the minor is not necessary, the minor
14 shall be returned to his or her parent, guardian, or person in loco
15 parentis if an additional attempt to locate the parent, guardian,
16 or person in loco parentis is successful. If the minor's parent,
17 guardian, or person in loco parentis cannot be located, the minor
18 shall be turned over to the protective services program of the
19 family independence agency. If it is determined that emergency
20 admission of the minor is necessary, the minor shall be admitted to
21 the appropriate hospital or to an appropriate alternative program.
22 The executive director immediately shall notify the minor's parent,
23 guardian, or person in loco parentis. If the hospital is under
24 contract with the community mental health services program, the
25 hospital director shall notify the appropriate executive director
26 within 24 hours after the hospitalization occurs.

27 (9) An evaluation of a minor admitted to a hospital under this

1 section shall begin immediately after the minor is admitted. The
2 evaluation shall be conducted in the same manner as provided in
3 section 498e. If the minor is not found to be suitable for
4 hospitalization, the minor shall be released into the custody of
5 his or her parent, guardian, or person in loco parentis, and the
6 minor shall be referred to the executive director who shall
7 determine if the minor needs mental health services. If it is
8 determined that the minor needs mental health services, the
9 executive director shall offer an appropriate treatment program for
10 the minor, if the program is available, or refer the minor to
11 another agency for services.

12 (10) A hospital director shall proceed under either the
13 estates and protected individuals code, 1998 PA 386, MCL 700.1101
14 to 700.8206, or chapter XIIA of the probate code of 1939, 1939 PA
15 288, MCL 712A.1 to 712A.32, as warranted by the situation and the
16 best interests of the minor, under any of the following
17 circumstances:

18 (a) The hospital director cannot locate a parent, guardian, or
19 person in loco parentis of a minor admitted to a hospital under
20 subsection (8).

21 (b) The hospital director cannot locate the parent or guardian
22 of a minor admitted to a hospital by a person in loco parentis
23 under this section.

24 Sec. 628. (1) The court may appoint as guardian of an
25 individual with a developmental disability any suitable individual
26 or agency, public or private, including a private association
27 capable of conducting an active guardianship program for an

1 individual with a developmental disability. The court shall not
2 appoint the department ~~of mental health~~ as guardian or any other
3 agency, public or private, that is directly providing services to
4 the individual, unless no other suitable individual or agency can
5 be identified. In such instances, guardianship by the provider
6 shall only continue until ~~such~~ **THE** time ~~as~~ **THAT** a more suitable
7 individual or agency can be appointed.

8 (2) Before the appointment, the court shall make a reasonable
9 effort to question the individual concerning his or her preference
10 regarding the person to be appointed guardian, and any preference
11 indicated shall be given due consideration.

12 Sec. 748a. (1) If there is a compelling need for mental health
13 records or information to determine whether child abuse or child
14 neglect has occurred or to take action to protect a minor where
15 there may be a substantial risk of harm, a ~~family independence~~
16 ~~agency~~ **DEPARTMENT** caseworker or administrator directly involved in
17 the child abuse or **CHILD** neglect investigation shall notify a
18 mental health professional that a child abuse or **CHILD** neglect
19 investigation has been initiated involving a person who has
20 received services from the mental health professional and shall
21 request in writing mental health records and information that are
22 pertinent to that investigation. Upon receipt of this notification
23 and request, the mental health professional shall review all mental
24 health records and information in the mental health professional's
25 possession to determine if there are mental health records or
26 information that is pertinent to that investigation. Within 14 days
27 after receipt of a request made under this subsection, the mental

1 health professional shall release those pertinent mental health
2 records and information to the caseworker or administrator directly
3 involved in the child abuse or **CHILD** neglect investigation.

4 (2) The following privileges do not apply to mental health
5 records or information to which access is given under this section:

6 (a) The physician-patient privilege created in section 2157 of
7 the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

8 (b) The dentist-patient privilege created in section 16648 of
9 the public health code, 1978 PA 368, MCL 333.16648.

10 (c) The licensed professional counselor-client and limited
11 licensed counselor-client privilege created in section 18117 of the
12 public health code, 1978 PA 368, MCL 333.18117.

13 (d) The psychologist-patient privilege created in section
14 18237 of the public health code, 1978 PA 368, MCL 333.18237.

15 (e) Any other health professional-patient privilege created or
16 recognized by law.

17 (3) To the extent not protected by the immunity conferred by
18 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good
19 faith gives access to mental health records or information under
20 this section is immune from civil or administrative liability
21 arising from that conduct, unless the conduct was gross negligence
22 or willful and wanton misconduct.

23 (4) A duty under this act relating to child abuse and **CHILD**
24 neglect does not alter a duty imposed under another statute,
25 including the child protection law, 1975 PA 238, MCL 722.621 to
26 722.638, regarding the reporting or investigation of child abuse or
27 **CHILD** neglect.

1 Sec. 778. (1) The office shall initiate investigation of
2 apparent or suspected rights violations in a timely and efficient
3 manner. Subject to delays involving pending action by external
4 agencies as described in subsection (5), the office shall complete
5 the investigation not later than 90 days after it receives the
6 rights complaint. Investigation shall be initiated immediately in
7 cases involving alleged abuse, neglect, serious injury, or death of
8 a recipient involving an apparent or suspected rights violation.

9 (2) Investigation activities for each rights complaint shall
10 be accurately recorded by the office.

11 (3) The office shall determine whether a right was violated by
12 using the preponderance of the evidence as its standard of proof.

13 (4) The office shall issue a written status report every 30
14 calendar days during the course of the investigation. The report
15 shall be submitted to the complainant, the respondent, and the
16 responsible mental health agency. A status report shall include all
17 of the following:

18 (a) Statement of the allegations.

19 (b) Statement of the issues involved.

20 (c) Citations to relevant provisions of this act, rules,
21 policies, and guidelines.

22 (d) Investigative progress to date.

23 (e) Expected date for completion of the investigation.

24 (5) Upon completion of the investigation, the office shall
25 submit a written investigative report to the respondent and to the
26 responsible mental health agency. Issuance of the written
27 investigative report may be delayed pending completion of

1 investigations that involve external agencies, including law
2 enforcement agencies and the department. ~~of social services.~~ The
3 report shall include all of the following:

4 (a) Statement of the allegations.

5 (b) Statement of the issues involved.

6 (c) Citations to relevant provisions of this act, rules,
7 policies, and guidelines.

8 (d) Investigative findings.

9 (e) Conclusions.

10 (f) Recommendations, if any.

11 (6) A rights investigation may be reopened or reinvestigated
12 by the office if there is new evidence that was not presented at
13 the time of the investigation.

14 Sec. 919. (1) As used in this section:

15 (a) "County program" means a county community mental health
16 program.

17 ~~—— (b) "Department" means the department of mental health.~~

18 **(B)** ~~(e)~~ "Individual" means an individual requiring mental
19 health treatment services.

20 **(C)** ~~(d)~~ "Receiving agency" means a public or private agency or
21 county program that, under this section, provides treatment to
22 individuals from a state other than the state in which the agency
23 or county program is located.

24 **(D)** ~~(e)~~ "Receiving state" means the state in which a receiving
25 agency is located.

26 **(E)** ~~(f)~~ "Sending agency" means a public or private agency
27 located in a state that sends an individual to another state for

1 treatment under this section.

2 (F) ~~(g)~~ "Sending state" means the state in which a sending
3 agency is located.

4 (2) A county program may contract as provided under this
5 section with a public or private agency located in a state
6 bordering Michigan ~~THIS STATE~~ to secure services under this act for
7 an individual who receives services through the county program.

8 (3) A county program may contract as provided under this
9 section with a public or private agency located in a state
10 bordering Michigan ~~THIS STATE~~ to provide services under this act in
11 an approved treatment facility in this state for an individual who
12 is a resident of the bordering state, except that ~~such~~ ~~THE~~ services
13 may not be provided for an individual who is involved in criminal
14 proceedings.

15 (4) A contract entered into under this section may not be
16 validly executed until the department has reviewed and approved the
17 provisions of the contract and determined that the receiving agency
18 provides services in accordance with the standards of this state
19 and the attorney general has certified that the receiving state's
20 laws governing patient rights are substantially similar to those of
21 this state.

22 (5) An individual does not establish legal residence in the
23 state where the receiving agency is located while the individual is
24 receiving services ~~pursuant~~ ~~ACCORDING~~ to a contract executed under
25 this section.

26 (6) Section 748 applies to treatment records of an individual
27 receiving services ~~pursuant~~ ~~ACCORDING~~ to a contract executed under

1 this section through a receiving agency in this state, except that
2 the sending agency has the same right of access to the treatment
3 records of the individual as provided for the department under
4 section 748(4)(e).

5 (7) An individual who is detained, committed, or placed on an
6 involuntary basis under this act may be admitted and treated in
7 another state ~~pursuant~~**ACCORDING** to a contract executed under this
8 section. An individual who is detained, committed, or placed under
9 the civil law of a state bordering ~~Michigan~~**THIS STATE** may be
10 admitted and treated in this state ~~pursuant~~**ACCORDING** to a contract
11 executed under this section. Court orders valid under the law of
12 the sending state are granted recognition and reciprocity in the
13 receiving state for individuals covered by a contract executed
14 under this section to the extent that the court orders relate to
15 admission for the treatment or care of a mental disability. The
16 court orders are not subject to legal challenge in the courts of
17 the receiving state. An individual who is detained, committed, or
18 placed under the law of a sending state and who is transferred to a
19 receiving state under this section continues to be in the legal
20 custody of the authority responsible for the individual under the
21 law of the sending state. Except in an emergency, ~~such an~~**THE**
22 individual may not be transferred, removed, or furloughed from a
23 facility of the receiving agency without the specific approval of
24 the authority responsible for the individual under the law of the
25 sending state.

26 (8) While in the receiving state ~~pursuant~~**ACCORDING** to a
27 contract executed under this section, an individual is subject to

1 all of the laws and regulations applicable to an individual
2 detained, committed, or placed ~~pursuant~~ **ACCORDING** to the
3 corresponding laws of the receiving state, except those laws and
4 regulations of the receiving state pertaining to length of
5 involuntary inpatient treatment, reexaminations, and extensions of
6 involuntary inpatient treatment and except as otherwise provided by
7 this section. The laws and regulations of the sending state
8 relating to length of involuntary inpatient treatment,
9 reexaminations, and extensions of involuntary inpatient treatment
10 apply. An individual shall not be sent to another state ~~pursuant~~
11 **ACCORDING** to a contract executed under this section until the
12 receiving state has enacted a law recognizing the validity and
13 applicability of this state's laws as provided in this section.

14 (9) If an individual receiving treatment on a voluntary basis
15 ~~pursuant~~ **ACCORDING** to a contract executed under this section
16 requests discharge, the receiving agency shall immediately notify
17 the sending agency and shall return the individual to the sending
18 state as directed by the sending agency within 48 hours after the
19 request, excluding Saturdays, Sundays, and legal holidays, unless
20 other arrangements are made with the sending agency. The sending
21 agency shall immediately upon return of the individual either
22 arrange for the discharge of the individual or detain the
23 individual ~~pursuant~~ **ACCORDING** to the emergency detention laws of
24 the sending state.

25 (10) If an individual receiving services ~~pursuant~~ **ACCORDING** to
26 a contract executed under this section leaves the receiving agency
27 without authorization and the individual at the time of the

1 unauthorized leave is subject to involuntary inpatient treatment
2 under the laws of the sending state, the receiving agency shall use
3 all reasonable means to locate and return the individual. The
4 receiving agency shall immediately report the unauthorized leave of
5 absence to the sending agency. The receiving state has the primary
6 responsibility for, and the authority to direct, the return of
7 individuals within its borders and is liable for the cost of ~~such~~
8 **THAT** action to the extent that it would be liable for costs if an
9 individual who is a resident of the receiving state left without
10 authorization.

11 (11) An individual may be transferred between facilities of
12 the receiving state if transfers are permitted by the contract
13 executed under this section providing for the individual's care.

14 (12) Each contract executed under this section shall do all of
15 the following:

16 (a) Establish the responsibility for payment for each service
17 to be provided under the contract. Charges to the sending state
18 shall not be more or less than the actual cost of providing the
19 service.

20 (b) Establish the responsibility for the transportation of
21 individuals to and from receiving agencies.

22 (c) Provide for reports by the receiving agency to the sending
23 agency on the condition of each individual covered by the contract.

24 (d) Provide for arbitration of disputes arising out of the
25 contract that cannot be settled through discussion between the
26 contracting parties and specify how the arbitrators will be chosen.

27 (e) Include provisions ensuring the nondiscriminatory

1 treatment, as required by law, of employees, individuals receiving
2 services, and applicants for employment and services.

3 (f) Establish the responsibility for providing legal
4 representation for an individual receiving services in a legal
5 proceeding involving the legality of admission and the conditions
6 of involuntary inpatient treatment.

7 (g) Establish the responsibility for providing legal
8 representation for an employee of a contracting party in legal
9 proceedings initiated by an individual receiving treatment pursuant
10 to the contract.

11 (h) Include provisions concerning the length of the contract
12 and the means by which the contract can be terminated.

13 (i) Establish the right of 1 or more qualified employees or
14 representatives of the sending agency and sending state to inspect,
15 at all reasonable times, the records of the receiving agency and
16 its treatment facilities to determine if appropriate standards of
17 care are met for individuals receiving services under the contract.

18 (j) Require the sending agency to provide the receiving agency
19 with copies of all relevant legal documents authorizing involuntary
20 inpatient treatment of an individual who is admitted ~~pursuant to~~
21 **UNDER** the laws of the sending state and is receiving services
22 ~~pursuant~~ **ACCORDING** to a contract executed under this section.

23 (k) Require each individual who seeks treatment on a voluntary
24 basis to agree in writing to be returned to the sending state upon
25 making a request for discharge as provided in subsection (9) and
26 require an agent or employee of the sending agency to certify that
27 the individual understands that agreement.

(l) Establish the responsibility for securing a reexamination for an individual and for extending an individual's period of involuntary inpatient treatment.

(m) Include provisions specifying when a receiving facility can refuse to admit or retain an individual.

(n) Specify the circumstances under which an individual will be permitted a home visit or granted a pass to leave the facility, or both.

Sec. 922. The director of the department, ~~of mental health,~~ or a duly authorized agent designated by him **OR HER** in writing to the governor, shall perform the duties of the compact administrator who, acting jointly with like officers of other states, shall promulgate rules and adopt procedures to carry out more effectively the terms of the compact. All rules promulgated by the compact administrator shall be ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended.~~ **PROMULGATED ACCORDING TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.**

Sec. 924. (1) The compact administrator may enter into supplementary agreements with appropriate officials of other states ~~pursuant~~ **ACCORDING** to Articles VII and XI of the compact.

(2) The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state.

(3) The department ~~of mental health~~ may enter into agreements with authorities of other states for the arbitration of disputed

1 questions between those states and this state respecting the
2 residence of mentally ill and mentally deficient persons and their
3 return to their place of legal settlement.

4 Sec. 938. The department ~~of mental health~~ may provide to any
5 individual receiving mental health services from the department
6 written or oral notice of the availability of family planning
7 services and upon request of the individual offer education and
8 information on family planning. The notice shall state that receipt
9 of mental health services is in no way dependent upon a request or
10 nonrequest for family planning services.

11 Sec. 946. (1) If a patient communicates to a mental health
12 professional who is treating the patient a threat of physical
13 violence against a reasonably identifiable third person and the
14 recipient has the apparent intent and ability to carry out that
15 threat in the foreseeable future, the mental health professional
16 has a duty to take action as prescribed in subsection (2). Except
17 as provided in this section, a mental health professional does not
18 have a duty to warn a third person of a threat as described in this
19 subsection or to protect the third person.

20 (2) A mental health professional has discharged the duty
21 created under subsection (1) if the mental health professional,
22 subsequent to the threat, does 1 or more of the following in a
23 timely manner:

24 (a) Hospitalizes the patient or initiates proceedings to
25 hospitalize the patient under chapter 4 or 4a.

26 (b) Makes a reasonable attempt to communicate the threat to
27 the third person and communicates the threat to the local police

1 department or county sheriff for the area where the third person
2 resides or for the area where the patient resides, or to the state
3 police.

4 (c) If the mental health professional has reason to believe
5 that the third person who is threatened is a minor or is
6 incompetent by other than age, takes the steps set forth in
7 subdivision (b) and communicates the threat to the department ~~of~~
8 ~~social services~~ in the county where the minor resides and to the
9 third person's custodial parent, noncustodial parent, or legal
10 guardian, whoever is appropriate in the best interests of the third
11 person.

12 (3) If a patient described in subsection (1) is being treated
13 through team treatment in a hospital, and if the individual in
14 charge of the patient's treatment decides to discharge the duty
15 created in subsection (1) by a means described in subsection (2) (b)
16 or (c), the hospital shall designate an individual to communicate
17 the threat to the necessary persons.

18 (4) A mental health professional who determines in good faith
19 that a particular situation presents a duty under this section and
20 who complies with the duty does not violate section 750. A
21 psychiatrist who determines in good faith that a particular
22 situation presents a duty under this section and who complies with
23 the duty does not violate the physician-patient privilege
24 established under section 2157 of the revised judicature act of
25 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~
26 ~~600.2157 of the Michigan Compiled Laws. 1961 PA 236, MCL 600.2157.~~
27 A psychologist who determines in good faith that a particular

1 situation presents a duty under this section and who complies with
 2 the duty does not violate section 18237 of the public health code,
 3 ~~Act No. 368 of the Public Acts of 1978, being section 333.18237 of~~
 4 ~~the Michigan Compiled Laws. 1978 PA 368, MCL 333.18237.~~ A certified
 5 ~~social worker, social worker, or social worker~~ **LICENSED BACHELOR'S**
 6 **SOCIAL WORKER, LICENSED MASTER'S SOCIAL WORKER, OR SOCIAL SERVICE**
 7 technician who determines in good faith that a particular situation
 8 presents a duty under this section and who complies with the duty
 9 does not violate section ~~1610 of the occupational code, Act No. 299~~
 10 ~~of the Public Acts of 1980, being section 339.1610 of the Michigan~~
 11 ~~Compiled Laws.~~ **18513 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
 12 **333.18513.** A licensed professional counselor who determines in good
 13 faith that a particular situation presents a duty under this
 14 section and who complies with the duty does not violate section
 15 18117 of the public health code, ~~Act No. 368 of the Public Acts of~~
 16 ~~1978, being section 333.18117 of the Michigan Compiled Laws. 1978~~
 17 **PA 368, MCL 333.18117.** A marriage and family therapist who
 18 determines in good faith that a particular situation presents a
 19 duty under this section and who complies with the duty does not
 20 violate section ~~1509 of the occupational code, Act No. 299 of the~~
 21 ~~Public Acts of 1980, being section 339.1509 of the Michigan~~
 22 ~~Compiled Laws.~~ **16911 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
 23 **333.16911.** A music therapist who determines in good faith that a
 24 particular situation presents a duty under this section and who
 25 complies with this duty does not violate section ~~4.11-3.12~~ **3.12** of the
 26 ~~professional code of ethics of the national association for music~~
 27 ~~therapy, inc., or the clinical relationships section of the code of~~

~~ethics of the certification board for music therapists.~~**AMERICAN
MUSIC THERAPY ASSOCIATION.**

(5) This section does not affect a duty a mental health professional may have under any other section of law.

Sec. 1002a. (1) For a person confined in a place of detention operated by a political subdivision of the state and who requests mental health services, mental health services shall be provided by the appropriate community mental health program ~~pursuant~~**ACCORDING** to the responsibilities described in section 206.

(2) The department ~~of mental health~~ shall promulgate rules ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws,~~
ACCORDING TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, establishing a procedure for the voluntary admission into a state mental health facility of a person confined in a place of detention operated by a political subdivision of the state.

(3) The involuntary admission into a state mental health facility of a person confined in a place of detention operated by a political subdivision of the state ~~shall be~~**IS** governed by sections 423 to ~~444.~~**439.**

Sec. 1004a. (1) In addition to the rights, benefits, and privileges guaranteed to prisoners by other provisions of law, the state constitution of 1963, and the constitution of the United States, a prisoner receiving services from the corrections mental health program has the rights enumerated in this section. The rights enumerated in this section do not replace or limit any other

1 rights, benefits, or privileges of a prisoner.

2 (2) The rights enumerated in this section pertain to the
3 manner in which mental health services are provided to the
4 prisoner. This section does not affect the regulations and policies
5 of the department of corrections relating to the operation of a
6 state correctional facility. In an instance in which a right
7 enumerated in this section conflicts with a regulation or policy of
8 the department of corrections affecting the security of a state
9 correctional facility or the protection of prisoners, employees, or
10 the public, the department of corrections regulation or policy
11 shall control.

12 (3) A prisoner is entitled to receive mental health services
13 suitable to his or her condition in a manner that protects and
14 promotes the basic human dignity of the prisoner.

15 (4) Subject to subsection (2), a prisoner receiving services
16 from the corrections mental health program is entitled to those
17 rights enumerated in sections 706, 710, 712, 714, 716, 722, 740,
18 742, 744, and 746.

19 (5) Information in the medical record of a prisoner receiving
20 services from the corrections mental health program and other
21 information acquired in the course of the prisoner's treatment in
22 the program is confidential and ~~shall~~ **IS** not ~~be~~ open to public
23 inspection. The corrections mental health program is the holder of
24 the record and may disclose the information only in the
25 circumstances and under the conditions set forth in this
26 subsection. If information made confidential by this subsection is
27 disclosed, the identity of the individual to whom it pertains shall

1 be protected and shall not be disclosed unless it is germane to the
2 authorized purpose for which disclosure was sought. ~~and, if~~ **IF**
3 practicable, other information shall not be disclosed unless it is
4 germane to the authorized purpose for which disclosure was sought.
5 A person receiving information made confidential by this subsection
6 shall disclose the information to others only to the extent
7 consistent with the authorized purpose for which the information
8 was obtained. With the exception of records, data, and knowledge
9 generated by individuals or committees performing a peer review
10 function, which is not subject to disclosure, information
11 pertaining to a prisoner receiving mental health services from the
12 corrections mental health program may be disclosed under 1 or more
13 of the following circumstances:

14 (a) ~~Pursuant~~ **ACCORDING** to orders or subpoenas of a court of
15 record, or subpoenas of the legislature, unless the information is
16 made privileged by law.

17 (b) To an attorney for the prisoner, with the prisoner's
18 consent.

19 (c) If necessary to comply with another provision of law.

20 (d) To the department of corrections if the information is
21 necessary to protect the safety of the prisoner, other prisoners,
22 or the public, or to protect the prisoner's interactions with
23 others in the state correctional facility.

24 (e) To the department ~~of mental health~~ if the information is
25 necessary for the department to discharge a responsibility placed
26 upon it by law.

27 (f) To the office of the auditor general if the information is

1 necessary for that office to discharge its constitutional
2 responsibility.

3 (g) As necessary to enable a prisoner or the prisoner's
4 surviving spouse or other related person to apply for or receive
5 benefits.

6 (h) As necessary for the purpose of outside research,
7 evaluation, accreditation, or statistical compilation, if the
8 prisoner can be identified from the disclosure only if that
9 identification is essential in order to achieve the purpose for
10 which the information is sought or if preventing that
11 identification would clearly be impractical, but in no event if the
12 prisoner is likely to be harmed by the identification.

13 (i) To providers of mental health or other health services or
14 a public agency, when there is a compelling need for disclosure
15 based upon a substantial probability of harm to the prisoner or to
16 other persons.

17 (j) To a representative of the protection and advocacy system
18 designated by the governor in section 931 if both of the following
19 apply:

20 (i) A complaint regarding the provision of mental health
21 services by the corrections mental health program has been received
22 by the protection and advocacy system from or on behalf of the
23 prisoner.

24 (ii) The prisoner does not have a legal guardian, or the state
25 or the designee of the state is the legal guardian of the prisoner.

26 Sec. 1005f. (1) A person may be transferred to the center for
27 forensic psychiatry program under this chapter and may be

1 transferred between state mental health facilities upon
2 authorization by the director of the center for forensic psychiatry
3 program. The person is entitled to an administrative hearing
4 ~~pursuant~~ **ACCORDING** to rules of the department ~~of mental health~~
5 regarding the need and appropriateness of a transfer to another
6 state mental health facility upon receipt by the director of the
7 center for forensic psychiatry program of the person's objection to
8 the transfer. If an emergency transfer is required, and if
9 objection is made to the transfer, the hearing will be held at the
10 receiving facility.

11 (2) A person transferred to another state mental health
12 facility under this section shall not be commingled with other
13 recipients of mental health services except in cases in which it is
14 determined by the director of the center for forensic psychiatry
15 program, after consultation with the department of corrections, and
16 ~~pursuant~~ **ACCORDING** to rules promulgated by the department, ~~of~~
17 ~~mental health~~, that the person and the other recipients of mental
18 health services exhibit the same propensity for dangerous behavior
19 and require similar treatment plans and modalities.

20 (3) A person transferred under this section is entitled to all
21 the rights and privileges afforded to other mental health
22 recipients ~~pursuant to~~ **UNDER** chapter 7, except those rights and
23 privileges specifically excluded or modified by law.

24 Sec. 1006. (1) A prisoner admitted to the corrections mental
25 health program according to section 1003a or ~~section~~ 1003b shall be
26 discharged from the program when 1 or both of the following occur:

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

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

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

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

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

27 Sec. 1026. (1) Upon a showing that the defendant may be

1 incompetent to stand trial, the court shall order the defendant to
2 undergo an examination by personnel of either the center for
3 forensic psychiatry or other facility officially certified by the
4 department ~~of mental health~~ to perform examinations relating to the
5 issue of incompetence to stand trial. The defendant shall make
6 himself **OR HERSELF** available for the examination at the places and
7 times established by the center **FOR FORENSIC PSYCHIATRY** or other
8 certified facility. If the defendant, after being notified, fails
9 to make himself **OR HERSELF** available for the examination, the court
10 may order his **OR HER** commitment to the center **FOR FORENSIC**
11 **PSYCHIATRY** or other **CERTIFIED** facility without a hearing.

12 (2) When the defendant is to be held in a jail or similar
13 place of detention pending trial, the center **FOR FORENSIC**
14 **PSYCHIATRY** or other **CERTIFIED** facility may perform the examination
15 in the jail or may notify the sheriff to transport the defendant to
16 the center **FOR FORENSIC PSYCHIATRY** or other **CERTIFIED** facility for
17 the examination, and the sheriff shall return the defendant to the
18 jail upon completion of the examination.

19 (3) Except as provided in subsection (1), when the defendant
20 is not to be held in a jail or similar place of detention pending
21 trial, the court shall commit him **OR HER** to the center **FOR FORENSIC**
22 **PSYCHIATRY** or other **CERTIFIED** facility only when the commitment is
23 necessary for the performance of the examination.

24 (4) The defendant shall be released by the center **FOR FORENSIC**
25 **PSYCHIATRY** or other **CERTIFIED** facility upon completion of the
26 examination.

27 Sec. 1032. (1) If the defendant is determined incompetent to

1 stand trial, and if the court determines that there is a
2 substantial probability that, if provided a course of treatment, he
3 **OR SHE** will attain competence to stand trial within the time limit
4 established by section 1034, the court shall order him **OR HER** to
5 undergo treatment to render him **OR HER** competent to stand trial.

6 (2) The court shall appoint a medical supervisor of the course
7 of treatment. The **MEDICAL** supervisor may be any person or agency
8 willing to supervise the course of treatment, or the department. ~~of~~
9 ~~mental health.~~

10 (3) The court may commit the defendant to the custody of the
11 department, ~~of mental health,~~ or to the custody of any other
12 inpatient mental health facility if it agrees, only if commitment
13 is necessary for the effective administration of the course of
14 treatment. If the defendant, absent commitment to the department ~~of~~
15 ~~mental health~~ or other inpatient **MENTAL HEALTH** facility, would
16 otherwise be held in a jail or similar place of detention pending
17 trial, the court may enter an order restricting the defendant in
18 his **OR HER** movements to the buildings and grounds of the facility
19 at which he **OR SHE** is to be treated.

20 Sec. 1074. (1) If the juvenile is incompetent to proceed, but
21 the court finds that the juvenile may be restored to competency in
22 the foreseeable future, 1 of the following applies:

23 (a) If the offense is a traffic offense or a misdemeanor other
24 than a serious misdemeanor, the matter shall be dismissed.

25 (b) If the offense is a serious misdemeanor, the court may
26 dismiss the matter or suspend the proceedings against the juvenile.

27 (c) If the offense is a felony, the proceedings against the

1 juvenile shall be further suspended.

2 (2) If proceedings are suspended because the juvenile is
3 incompetent to proceed but the court finds that the juvenile may be
4 restored to competency in the foreseeable future, all of the
5 following apply:

6 (a) Before issuing a restoration order, the court shall hold a
7 hearing to determine the least restrictive environment for
8 completion of the restoration.

9 (b) The court may issue a restoration order that is valid for
10 60 days from the date of the initial finding of incompetency or
11 until 1 of the following occurs, whichever occurs first:

12 (i) The qualified forensic mental health examiner, based on
13 information provided by the qualified restoration provider, submits
14 a report that the juvenile has regained competency or that there is
15 no substantial probability that the juvenile will regain competency
16 within the period of the order.

17 (ii) The charges are dismissed.

18 (iii) The juvenile reaches 18 years of age.

19 (c) Following issuance of the restoration order, the qualified
20 restoration provider shall submit a report to the court and the
21 qualified forensic mental health examiner that includes the
22 information required under section 1066. The report shall be
23 submitted to the court and the qualified forensic mental health
24 examiner every 30 days, or sooner if and at the time either of the
25 following occurs:

26 (i) The qualified restoration provider determines that the
27 juvenile is no longer incompetent to proceed.

1 (ii) The qualified restoration provider determines that there
2 is no substantial probability that the juvenile will be competent
3 to proceed within the period of the order.

4 (3) Not later than 14 days before the expiration of the
5 initial 60-day order, the qualified restoration provider may
6 recommend to the court and the qualified forensic mental health
7 examiner that the restoration order be renewed by the court for
8 another 60 days, if there is a substantial probability that the
9 juvenile will not be incompetent to proceed within the period of
10 that renewed restoration order. The restoration order and any
11 renewed restoration order shall not exceed a total of 120 days.

12 (4) Except as otherwise provided in this section, upon receipt
13 of a report that there is a substantial probability that the
14 juvenile will remain incompetent to proceed for the foreseeable
15 future or within the period of the restoration order, the court
16 shall do both of the following:

17 (a) Determine custody of the juvenile as follows:

18 (i) The court may direct that civil commitment proceedings be
19 initiated, as allowed under section 498d.

20 (ii) If the court determines that commitment proceedings are
21 inappropriate, the juvenile shall be released to the juvenile's
22 parent, legal guardian, or legal custodian under conditions
23 considered appropriate to the court.

24 (b) Dismiss the charges against the juvenile.

25 (5) Upon receipt of a report from a qualified forensic mental
26 health examiner that there is a substantial probability that the
27 juvenile is unable to be restored due to serious emotional

1 disturbance, the court may in its discretion, except as provided
2 under the youth rehabilitation services act, 1974 PA 150, MCL
3 803.301 to 803.309, order that mental health services be provided
4 to the juvenile by the department, subject to the availability of
5 inpatient care, a community mental health services program, the
6 department, ~~of human services~~, a county department, ~~of human~~
7 ~~services~~, or another appropriate mental health services provider
8 for a period not to exceed 60 days. The court shall retain
9 jurisdiction over the juvenile throughout the duration of the
10 order. The entity ordered to provide services under this subsection
11 shall continue to provide services for the duration of the period
12 of treatment ordered by the court.

13 (6) Not later than 14 days before the expiration of an order
14 for treatment under this subsection or subsection (5), the entity
15 providing mental health services under that order shall submit a
16 report to the court and the qualified forensic mental health
17 examiner regarding the juvenile. Upon receipt of the report, the
18 court shall review the report and do either of the following:

19 (a) Renew the order for another period of treatment not to
20 exceed 60 days. The order for treatment and any renewed order shall
21 not exceed a total of 120 days.

22 (b) Determine custody of the juvenile and dismiss the charges
23 against the juvenile.

24 Enacting section 1. Sections 102 and 1006a of the mental
25 health code, 1974 PA 258, MCL 330.1102 and 330.2006a, are repealed.

26 Enacting section 2. This amendatory act takes effect 90 days
27 after the date it is enacted into law.