

Act No. 596  
Public Acts of 2018  
Approved by the Governor  
December 28, 2018  
Filed with the Secretary of State  
December 28, 2018  
EFFECTIVE DATE: March 28, 2019

**STATE OF MICHIGAN**  
**99TH LEGISLATURE**  
**REGULAR SESSION OF 2018**

Introduced by Reps. Kesto and Vaupel

# **ENROLLED HOUSE BILL No. 5820**

AN ACT to amend 1974 PA 258, entitled “An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health or substance use disorder services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness, substance use disorder, or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness, substance use disorder, or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts,” by amending a subheading of chapter 5 and sections 500, 501, 502, 503, 504, 505, 508, 509, 510, 511, 512, 515, 516, 517, 518, 519, 520, 521, 525, 526, 527, 528, 531, 532, 536, 537, 540, and 541 (MCL 330.1500, 330.1501, 330.1502, 330.1503, 330.1504, 330.1505, 330.1508, 330.1509, 330.1510, 330.1511, 330.1512, 330.1515, 330.1516, 330.1517, 330.1518, 330.1519, 330.1520, 330.1521, 330.1525, 330.1526, 330.1527, 330.1528, 330.1531, 330.1532, 330.1536, 330.1537, 330.1540, and 330.1541), sections 500, 502, 503, 505, 508, 509, 510, 511, 512, 516, 517, 518, 519, 520, 521, 527, 528, 531, 532, 536, 537, 540, and 541 as amended by 1995 PA 290, sections 504 and 515 as amended by 2014 PA 72, and section 525 as amended by 1998 PA 382.

*The People of the State of Michigan enact:*

Sec. 500. As used in this chapter, unless the context requires otherwise:

(a) “Administrative admission” means the admission of an individual with a developmental disability to a facility under section 509.

(b) “Alternative program of care and treatment” means an outpatient program of care and treatment suitable to the individual’s needs under the supervision of a psychiatrist that is developed in accordance with person-centered planning under section 712.

(c) “Court” means the probate court or the court with responsibility with regard to mental health matters for the county in which an individual with a developmental disability resides or was found.

(d) “Criteria for treatment” means the criteria specified in section 515 for admission of an adult with an intellectual disability to a facility, private facility, or alternative program of care and treatment under section 518.

(e) “Private facility” means an adult foster care facility operated under contract with a community mental health services program or on a private pay basis that agrees to do both of the following:

- (i) Accept the admission of an individual with developmental disability.
- (ii) Fulfill the duties of a facility as described in this chapter.

(f) "Treatment" means admission into an appropriate treatment facility or an outpatient program of care and treatment suitable to the individual's needs under the supervision of a psychiatrist that is developed in accordance with person-centered planning under section 712.

Sec. 501. The department shall prescribe the forms to be used under this chapter, and all facilities shall use department forms. At the direction of the supreme court, the state court administrative office shall prescribe the forms used for court proceedings under this chapter.

Sec. 502. An individual shall be admitted to a facility only according to the provisions of this act.

Sec. 503. (1) An individual under 18 years of age shall not be judicially admitted to a facility, private facility, or other residential program.

(2) Administrative admission under section 509 is the preferred form of admission for individuals 18 years of age or older.

Sec. 504. An individual with a developmental disability other than an intellectual disability is eligible for temporary and administrative admission under sections 508 and 509.

Sec. 505. (1) Six months before the eighteenth birthday of each resident in a facility, the resident shall be evaluated by the center for the purpose of determining whether he or she is competent to execute an application for administrative admission.

(2) If it is determined by the facility that the resident is not competent to execute an application for administrative admission, or otherwise requires the protective services of a guardian, a parent, or if none, another interested person or entity, the parent, guardian, or interested party shall be notified and requested to file a petition for the appointment of a plenary or partial guardian. If a petition is not filed, the facility may, but need not, file a petition.

Sec. 508. (1) An individual with a developmental disability referred by a community mental health services program may be temporarily admitted to a facility for appropriate clinical services if an application for temporary admission is executed by a person legally empowered to make the application and if it is determined that the individual is suitable for admission. The services to be provided to the individual shall be determined by mutual agreement between the community mental health services program, the facility, and the person making the application, except that no individual may be temporarily admitted for more than 30 days.

(2) An application for temporary admission shall contain the substance of subsection (1).

Sec. 509. (1) An individual with a developmental disability under 18 years of age shall be referred by a community mental health services program before being considered for administrative admission to a facility. An application for the individual's admission shall be executed by a parent, guardian, or, in the absence of a parent or guardian, a person in loco parentis if it is determined that the minor is suitable for admission.

(2) An individual with a developmental disability who is 18 years of age or older and is referred by a community mental health services program may be admitted to a facility on an administrative admission basis if an application for the individual's admission is executed by the individual if competent to do so, or by a guardian if the individual is not competent to do so, and if it is determined that the individual is suitable for admission.

(3) An application for administrative admission shall contain in large type and simple language the substance of sections 510, 511, and 512. At the time of admission, the rights set forth in the application shall be explained to the resident and to the person who executed the application for admission. In addition, a copy of the application shall be given to the resident, the person who executed the application, and to 1 other person designated by the resident.

Sec. 510. (1) Before the administrative admission of any individual, the individual may be received by the facility designated and approved by the community mental health services program for up to 10 days in order for a preadmission examination to be conducted. No individual may be administratively admitted unless the individual was referred by the community mental health services program and was given a preadmission examination by the facility for the purpose of determining the individual's suitability for admission.

(2) The preadmission examination shall include mental, physical, social, and educational evaluations, and shall be conducted under the supervision of a registered nurse or other mental health professional possessing at least a master's degree. The results of the examination shall be contained in a report to be made part of the individual's record, and the report shall also contain a statement indicating the most appropriate living arrangement that is necessary to meet the individual's treatment needs.

(3) At least once annually each administratively admitted resident shall be reexamined for the purpose of determining whether he or she continues to be suitable for admission.

Sec. 511. (1) Objection may be made to the admission of any administratively admitted resident. An objection may be filed with the court by a person found suitable by the court or by the resident himself or herself if he or she is at least 13 years of age. An objection may be made not more than 30 days after admission of the resident, and may be made subsequently at any 6-month interval following the date of the original objection or, if an original objection was not made, at any 6-month interval following the date of admission.

(2) An objection shall be made in writing, except that if made by the resident, an objection to admission may be communicated to the court or judge of probate and the executive director of the community mental health services program by any means, including but not limited to oral communication or informal letter. If the resident informs the facility that he or she desires to object to the admission, the facility shall assist the resident in submitting his or her objection to the court.

(3) Upon receiving notice of an objection, the court shall schedule a hearing to be held within 7 days, excluding Sundays and holidays. The court shall notify the person who objected, the resident, the person who executed the application, the executive director, and the director of the facility of the time and place of the hearing.

(4) The hearing is governed by sections 517 to 522, including the appointment of counsel and an independent medical or psychological evaluation, that the court considers necessary to ensure that all relevant information is brought to the court's attention, and by this section.

(5) The court shall sustain the objection and order the discharge of the resident if the resident is not in need of the care and treatment that is available at the facility or if an alternative to the care and treatment provided in a facility is available and adequate to meet the resident's needs.

(6) Unless the court sustains the objection and orders the discharge of the resident, the facility may continue to provide residential and other services to the resident.

(7) Unwillingness or inability of the parent, guardian, or person in loco parentis to provide for the resident's management, care, or residence is not grounds for refusing to sustain the objection and order discharge, but in that event the objecting person may, or a person authorized by the court shall, promptly file a petition under section 637 or, if the resident is a juvenile, under section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, to ensure that suitable management, care, or residence is provided.

Sec. 512. (1) A facility may detain an administratively admitted resident for a period not exceeding 3 days from the time that the person who executed the application for the resident's admission gives written notice to the facility of his or her intention that the resident leave the facility.

(2) When a facility is notified of a resident's intention to leave the facility, it shall promptly supply an appropriate form to the person who made the notification and notify the appropriate community mental health services program.

#### INTELLECTUAL DISABILITY TREATMENT

Sec. 515. A court may order appropriate outpatient treatment or admission into an appropriate treatment facility of an individual 18 years of age or older if the individual has been diagnosed as an individual with an intellectual disability and either of the following applies:

(a) The individual can be reasonably expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another person, and has overtly acted in a manner substantially supportive of that expectation.

(b) The individual has been arrested and charged with an offense that was a result of the intellectual disability.

Sec. 516. (1) Any person found suitable by the court may file with the court a petition that asserts that an individual meets the criteria for treatment specified in section 515.

(2) The petition shall contain the alleged facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to alleged and relevant facts, and if known the name and address of the nearest relative or guardian of the individual.

(3) If the petition appears on its face to be sufficient, the court shall order that the individual be examined and a report be prepared. To this end, the court shall appoint a qualified person who may but need not be an employee of the community mental health services program or the court to arrange for the examination, to prepare the report, and to file it with the court.

(4) If it appears to the court that the individual will not comply with an order of examination under subsection (3), the court may order a peace officer to take the individual into protective custody and transport him or her immediately to a facility recommended by the community mental health services program or other suitable place designated by the community mental health services program for up to 48 hours for the ordered examination.

(5) After examination, the individual shall be allowed to return home unless it appears to the court that he or she requires immediate admission to the community mental health services program's recommended facility in order to prevent physical harm to himself, herself, or others pending a hearing, in which case the court shall enter an order to that effect. If an individual is ordered admitted under this subsection, not later than 12 hours after he or she is admitted

the facility shall provide him or her with a copy of the petition, a copy of the report, and a written statement in simple terms explaining the individual's rights to a hearing under section 517, to be present at the hearing and to be represented by legal counsel, if 1 physician and 1 licensed psychologist or 2 physicians conclude that the individual meets the criteria for treatment.

(6) The report required by subsection (3) shall contain all of the following:

(a) Evaluations of the individual's mental, physical, social, and educational condition.

(b) A conclusion as to whether the individual meets the criteria for treatment specified in section 515.

(c) A list of available forms of care and treatment that may serve as an alternative to admission to a facility.

(d) A recommendation as to the most appropriate living arrangement for the individual in terms of type and location of living arrangement and the availability of requisite support services.

(e) The signatures of 1 physician and 1 licensed psychologist or 2 physicians who performed examinations serving in part as the basis of the report.

(7) A copy of the report required under subsection (3) shall be sent to the court immediately upon completion.

(8) The petition shall be dismissed by the court unless 1 physician and 1 licensed psychologist or 2 physicians conclude, and that conclusion is stated in the report, that the individual meets the criteria for treatment.

(9) An individual whose admission was ordered under subsection (5) is entitled to a hearing in accordance with section 517.

Sec. 517. (1) A hearing convened to determine whether an individual meets the criteria for treatment is governed by sections 517 to 522. Sections 517 to 522 do not apply to a hearing provided for in section 511 concerning an objection to an administrative admission.

(2) Upon receipt of a petition and a report as provided for in section 516 or 532, or receipt of a petition as provided for in section 531, the court shall do all of the following:

(a) Fix a date for a hearing to be held within 7 days, excluding Sundays or holidays, after the court's receipt of the documents or document.

(b) Fix a place for a hearing, either at a facility or other convenient place, within or outside of the county.

(c) Cause notice of a petition and of the time and place of any hearing to be given to the individual asserted to meet the criteria for treatment, his or her attorney, the petitioner, the prosecuting or other attorney specified in subsection (4), the community mental health services program, the director of a facility to which the individual is admitted, the individual's spouse if his or her whereabouts are known, the guardian, if any, of the individual, and other relatives or persons as the court may determine. The notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.

(d) Cause the individual to be given within 4 days of the court's receipt of the documents described in section 516 a copy of the petition, a copy of the report, unless the individual has previously been given a copy of the petition and the report, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical or psychological evaluation.

(e) Subsequently give copies of all orders to the persons identified in subdivision (c).

(3) The individual asserted to meet the criteria for treatment is entitled to be represented by legal counsel in the same manner as counsel is provided under section 454, and is entitled to all of the following:

(a) To be present at the hearing.

(b) To have upon demand a trial by jury of 6.

(c) To obtain a continuance for any reasonable time for good cause.

(d) To present documents and witnesses.

(e) To cross-examine witnesses.

(f) To require testimony in court in person from 1 physician or 1 licensed psychologist who has personally examined the individual.

(g) To receive an independent examination by a physician or licensed psychologist of his or her choice on the issue of whether he or she meets the criteria for treatment.

(4) The prosecuting attorney of the county in which a court has its principal office shall participate, either in person or by assistant, in hearings convened by the court of his or her county under this chapter, except that a prosecutor need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for a finding that the individual meets the criteria for treatment.

(5) Unless the individual or his or her attorney objects, the failure to timely notify a spouse, guardian, or other person determined by the court to be entitled to notice is not cause to adjourn or continue any hearing.

(6) The individual, any interested person, or the court on its own motion may request a change of venue because of residence; convenience to parties, witnesses, or the court; or the individual's mental or physical condition.

Sec. 518. (1) If the court finds that an individual does not meet the criteria for treatment, the court shall enter a finding to that effect, shall dismiss the petition, and shall direct that the individual be discharged if he or she has been admitted to a facility prior to the hearing.

(2) If the individual is found to meet the criteria for treatment, the court shall do 1 or a combination of the following:

(a) Order the individual to be admitted to a facility designated by the department and recommended by the community mental health services program.

(b) Order the individual to be admitted to a licensed hospital at the request of the individual or his or her family member, if private funds are to be utilized and the private facility complies with all of the admission, continuing care, and discharge duties and requirements described in this chapter for facilities.

(c) Order the individual to undergo an outpatient program for 1 year of care and treatment recommended by the community mental health services program as an alternative to being admitted to a facility.

Sec. 519. (1) Before making an order of disposition under section 518(2), the court shall consider ordering a course of care and treatment that is an alternative to admission to a facility. To that end, the court shall review the report submitted to the court under section 516(3), specifically reviewing alternatives and recommendations as provided under section 516(6)(c) and (d).

(2) If the court finds that a program of care and treatment other than admission to a facility is adequate to meet the individual's care and treatment needs and is sufficient to prevent harm or injury that the individual may inflict upon himself, herself, or others, the court shall order the individual to receive whatever care and treatment is appropriate under section 518(2)(c).

(3) If at the end of 1 year it is believed that the individual continues to meet the criteria for treatment, a new petition may be filed under section 516.

(4) If at any time during the 1-year period it comes to the attention of the court either that an individual ordered to undergo a program of alternative care and treatment is not complying with the order or that the alternative care and treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon himself, herself, or others, the court may without a hearing and based upon the record and other available information do either of the following:

(a) Consider other alternatives to admission to a facility, modify its original order, and direct the individual to undergo another outpatient program of alternative care and treatment for the remainder of the 1-year period.

(b) Enter a new order under section 518(2)(a) or (b) directing that the individual be admitted to a facility recommended by the community mental health services program. If the individual refuses to comply with this order, the court may direct a peace officer to take the individual into protective custody and transport him or her to the facility recommended by the community mental health services program.

Sec. 520. Before ordering the admission of an individual, the court shall inquire into the adequacy of care and treatment to be provided to the individual by the designated facility. Admission shall not be ordered unless the recommended facility to which the individual is to be admitted can provide the individual with care and treatment that is adequate and appropriate to his or her condition.

Sec. 521. Preference between the facility recommended by the community mental health services program and other available facilities under contract with the community mental health services program shall be given to the facility that can appropriately meet the individual's needs in the least restrictive environment and that is located nearest to the individual's residence. If the individual requests it or there are other compelling reasons for an order reversing the preference, the community mental health services program may place the individual in a facility that is not the nearest to the individual's residence.

Sec. 525. (1) The director of a facility may at any time discharge an administratively admitted resident or a resident admitted by court order whom the director considers suitable for discharge.

(2) The director of a facility shall discharge a resident admitted by court order when the resident no longer meets the criteria for treatment.

(3) If a resident discharged under subsection (1) or (2) has been admitted to a facility by court order, or if court proceedings are pending, both the court and the community mental health services program shall be notified of the discharge by the facility. If a resident met the criteria for treatment under section 515(b), the prosecuting attorney must also be notified of the discharge by a facility.

(4) If the court orders a person to be admitted under section 515 subsequent to dismissal of felony charges under section 1044(1)(b), the court shall include both of the following statements in the order unless the time for petitioning to refile charges under section 1044 has elapsed:

(a) A requirement that not less than 30 days before the resident's scheduled release or discharge, the director of the treating facility shall notify the prosecutor's office in the county in which charges against the resident were originally brought that the resident's release or discharge is pending.

(b) A requirement that not less than 30 days before the resident's scheduled release or discharge, the resident undergo a competency examination as described in section 1026. A copy of the written report of the examination along with the notice required in subdivision (a) shall be submitted to the prosecutor's office in the county in which the charges against the resident were originally brought. The written report is admissible as provided in section 1030(3).

Sec. 526. (1) A person providing alternative care and treatment to an individual under section 518(2)(c) may terminate the alternative care and treatment to an individual whom the provider of alternative care and treatment considers suitable for termination of care and treatment and shall terminate the alternative care and treatment when the individual no longer meets the criteria for admission.

(2) Upon termination of alternative care and treatment, the provider of the alternative care and treatment shall notify the court.

Sec. 527. If, upon the discharge of an individual admitted by court order or upon termination of alternative care and treatment to an individual receiving care and treatment under section 518(2), the community mental health services program determines that the individual would benefit from the receipt of further care and treatment, the community mental health services program shall make arrangements with the facility or provider of alternative care and treatment to continue to provide appropriate care and treatment to the individual on an administrative basis, or the community mental health services program shall assist the individual to obtain appropriate care and treatment from another source.

Sec. 528. (1) Except as provided in subsection (2), all leaves or absences from a facility other than release or discharge and all revocations of leaves and absences under section 537 are governed in accordance with rules or procedures established by the department or, in the case of a private facility, in accordance with procedures of its governing board.

(2) A resident who has been admitted subject to a court order and who has been on an authorized leave or absence from the facility for a continuous period of 1 year shall be discharged. Upon the discharge, the court shall be notified by the facility.

Sec. 531. (1) Every resident admitted by court order has the right to regular, adequate, and prompt review of his or her current status as an individual meeting the criteria for treatment. Six months after the date of an order of treatment, and every 6 months after that, the director of a facility to which a resident was admitted shall review the resident's status as an individual meeting the criteria for treatment.

(2) The results of each periodic review shall be made part of the resident's record, and shall be filed within 5 days of the review in the form of a written report with the court that ordered the resident's admission, and within the 5 days, notice of the results of the review shall be given by the facility to the resident, his or her attorney, and his or her nearest relative or guardian.

(3) If the report concludes that the resident continues to meet the criteria for treatment, and the resident or someone on his or her behalf objects to that conclusion, the resident has the right to a hearing and all other rights expressed or implied in sections 517 to 522 and may petition the court for discharge. The petition shall be presented to the court or a representative of the facility within 7 days, excluding Sundays and holidays, after the report is received. If the petition is presented to a representative of the facility, the representative shall transmit it to the court immediately.

Sec. 532. In addition to the right to a hearing under section 531, a resident admitted by court order has the right to a hearing and may petition the court for discharge without leave of court once within each 12-month period from the date of the original order of admission. The petition shall be accompanied by a physician's or a licensed psychologist's report setting forth the reasons for the physician's or licensed psychologist's conclusion that the resident no longer meets the criteria for judicial treatment. If no report accompanies the petition because the resident is indigent or is unable for reasons satisfactory to the court to procure a report, the court shall appoint a physician or a licensed psychologist to examine the resident, and the physician or licensed psychologist shall furnish a report to the court. If the report concludes that the resident continues to meet the criteria for treatment, the court shall so notify the resident and shall dismiss the petition for discharge. If the report concludes otherwise, a hearing shall be held according to sections 517 to 522.

Sec. 536. (1) A resident in a facility may be transferred to any other facility, or to a hospital operated by the department, if the transfer would not be detrimental to the resident and the responsible community mental health services program approves the transfer.

(2) The resident and his or her nearest relative or guardian shall be notified at least 7 days before any transfer, except that a transfer may be effected earlier if necessitated by an emergency. In addition, the resident may designate 2 other persons to receive the notice. If the resident, his or her nearest relative, or guardian objects to the transfer, the department shall provide an opportunity to appeal the transfer.

(3) If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer.

Sec. 537. (1) An individual is subject to being returned to a facility if both of the following are true:

(a) The individual was admitted to a facility on an application executed by someone other than himself or herself or by judicial order.

(b) The individual has left the facility without authorization, or has refused a lawful request to return to the facility while on an authorized leave or other authorized absence from the facility.

(2) The facility may notify peace officers that an individual is subject to being returned to the facility. Upon notification, a peace officer shall take the individual into protective custody and return him or her to the facility unless contrary directions have been given by the facility or the responsible community mental health services program.

(3) An opportunity for appeal shall be provided to any individual returned over his or her objection from any authorized leave in excess of 10 days, and the individual shall be notified of his or her right to appeal. In the case of a child less than 13 years of age, the appeal shall be made by his or her parent or guardian.

Sec. 540. (1) A determination that an individual meets the criteria for treatment, a court order directing that an individual be admitted to a facility or receive alternative care and treatment, or any form of admission to a private facility does not give rise to a presumption of, constitute a finding of, or operate as an adjudication of legal incompetence.

(2) An order of commitment under any previous statute of this state does not, in the absence of a concomitant appointment of a guardian, constitute a finding of or operate as an adjudication of legal incompetence.

Sec. 541. An individual admitted to a facility shall at the time of admission receive a copy of section 540. An individual discharged from a facility shall receive a copy of section 540 upon request.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



-----  
Clerk of the House of Representatives



-----  
Secretary of the Senate

Approved .....

-----  
Governor