

# HOUSE BILL NO. 5298

December 11, 2019, Introduced by Rep. Whiteford and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending sections 100b and 100c (MCL 330.1100b and 330.1100c),  
section 100b as amended by 2014 PA 200 and section 100c as amended  
by 2016 PA 320, and by adding section 137a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 100b. (1) "Facility" means a residential facility for the
- 2       care or treatment of individuals with serious mental illness,



1 serious emotional disturbance, or developmental disability that is  
2 either a state facility or a licensed facility.

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

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

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

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

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

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

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

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



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

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

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

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

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

16 (12) "Intellectual disability" means a condition manifesting  
17 before the age of 18 years that is characterized by significantly  
18 subaverage intellectual functioning and related limitations in 2 or  
19 more adaptive skills and that is diagnosed based on the following  
20 assumptions:

21 (a) Valid assessment considers cultural and linguistic  
22 diversity, as well as differences in communication and behavioral  
23 factors.

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

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



(d) With appropriate supports over a sustained period, the life functioning of the individual with an intellectual disability will generally improve.

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

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

**(15) "Medicaid" means the program of medical assistance established under section 105 of the social welfare act, 1939 PA 280, MCL 400.105.**

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

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

(a) A physician.

(b) A psychologist.

(c) A registered professional nurse licensed or otherwise authorized to engage in the practice of nursing under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(d) A licensed master's social worker licensed or otherwise authorized to engage in the practice of social work at the master's level under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.

(e) A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.



1 (f) A marriage and family therapist licensed or otherwise  
2 authorized to engage in the practice of marriage and family therapy  
3 under part 169 of the public health code, 1978 PA 368, MCL  
4 333.16901 to 333.16915.

5 (18) ~~(17)~~ "Minor" means an individual under the age of 18  
6 years.

7 (19) ~~(18)~~ "Multicultural services" means specialized mental  
8 health services for multicultural populations such as African-  
9 Americans, Hispanics, Native Americans, Asian and Pacific  
10 Islanders, and Arab/Chaldean-Americans.

11 (20) ~~(19)~~ "Neglect" means an act or failure to act committed  
12 by an employee or volunteer of the department, a community mental  
13 health services program, or a licensed hospital; a service provider  
14 under contract with the department, a community mental health  
15 services program, or a licensed hospital; or an employee or  
16 volunteer of a service provider under contract with the department,  
17 a community mental health services program, or a licensed hospital,  
18 that denies a recipient the standard of care or treatment to which  
19 he or she is entitled under this act.

20 Sec. 100c. (1) "Peace officer" means an officer of the  
21 department of state police or of a law enforcement agency of a  
22 county, township, city, or village who is responsible for the  
23 prevention and detection of crime and enforcement of the criminal  
24 laws of this state. For the purposes of sections 408, 426, 427a,  
25 and 427b, peace officer also includes an officer of the United  
26 States Secret Service with the officer's consent and a police  
27 officer of the Veterans' Administration Medical Center Reservation.

28 (2) "Peer review" means a process, including the review  
29 process required under section 143a, in which mental health



1 professionals of a state facility, licensed hospital, or community  
2 mental health services program evaluate the clinical competence of  
3 staff and the quality and appropriateness of care provided to  
4 recipients. Peer review evaluations are confidential in accordance  
5 with section 748(9) and are based on criteria established by the  
6 facility or community mental health services program itself, the  
7 accepted standards of the mental health professions, and the  
8 department.

9 (3) "Person requiring treatment" means an individual who meets  
10 the criteria described in section 401.

11 (4) "Physician" means an individual licensed or otherwise  
12 authorized to engage in the practice of medicine under part 170 of  
13 the public health code, 1978 PA 368, MCL 333.17001 to ~~333.17084,~~  
14 **333.17097**, or to engage in the practice of osteopathic medicine and  
15 surgery under part 175 of the public health code, 1978 PA 368, MCL  
16 333.17501 to 333.17556.

17 (5) "Primary consumer" means an individual who has received or  
18 is receiving services from the department or a community mental  
19 health services program or services from the private sector  
20 equivalent to those offered by the department or a community mental  
21 health services program.

22 (6) "Priority" means preference for and dedication of a major  
23 proportion of resources to specified populations or services.  
24 Priority does not mean serving or funding the specified populations  
25 or services to the exclusion of other populations or services.

26 (7) "Protective custody" means the temporary custody of an  
27 individual by a peace officer with or without the individual's  
28 consent for the purpose of protecting that individual's health and  
29 safety, or the health and safety of the public, and for the purpose



1 of transporting the individual under section 276, 408, or 427 if  
2 the individual appears, in the judgment of the peace officer, to be  
3 a person requiring treatment or is a person requiring treatment.  
4 Protective custody is civil in nature and is not an arrest.

5 **(8) "Psychiatric residential treatment facility" or "PRTF"**  
6 **means a facility other than a hospital that provides psychiatric**  
7 **services, as described in 42 CFR 441.151 to 441.182, in an**  
8 **inpatient setting to individuals under age 21.**

9 **(9) ~~(8)~~**—"Psychiatric unit" means a unit of a general hospital  
10 that provides inpatient services for individuals with serious  
11 mental illness or serious emotional disturbance. As used in this  
12 subsection, "general hospital" means a hospital as defined in  
13 section 20106 of the public health code, 1978 PA 368, MCL  
14 333.20106.

15 **(10) ~~(9)~~**—"Psychiatrist" means 1 or more of the following:

16 (a) A physician who has completed a residency program in  
17 psychiatry approved by the Accreditation Council for Graduate  
18 Medical Education or the American Osteopathic Association, or who  
19 has completed 12 months of psychiatric rotation and is enrolled in  
20 an approved residency program as described in this subdivision.

21 (b) A psychiatrist employed by or under contract with the  
22 department or a community mental health services program on March  
23 28, 1996.

24 (c) A physician who devotes a substantial portion of his or  
25 her time to the practice of psychiatry and is approved by the  
26 director.

27 **(11) ~~(10)~~**—"Psychologist" means an individual who is licensed  
28 or otherwise authorized to engage in the practice of psychology  
29 under part 182 of the public health code, 1978 PA 368, MCL



1 333.18201 to 333.18237, and who devotes a substantial portion of  
2 his or her time to the diagnosis and treatment of individuals with  
3 serious mental illness, serious emotional disturbance, substance  
4 use disorder, or developmental disability.

5 (12) ~~(11)~~—"Recipient" means an individual who receives mental  
6 health services from the department, a community mental health  
7 services program, or a facility or from a provider that is under  
8 contract with the department or a community mental health services  
9 program. For the purposes of this act, recipient does not include  
10 an individual receiving substance use disorder services under  
11 chapter 2A unless that individual is also receiving mental health  
12 services under this act in conjunction with substance use disorder  
13 services.

14 (13) ~~(12)~~—"Recipient rights advisory committee" means a  
15 committee of a community mental health services program board  
16 appointed under section 757 or a recipient rights advisory  
17 committee appointed by a licensed hospital under section 758.

18 (14) ~~(13)~~—"Recovery" means a highly individualized process of  
19 healing and transformation by which the individual gains control  
20 over his or her life. Related services include recovery management,  
21 recovery support services, recovery houses or transitional living  
22 programs, and relapse prevention. Recovery involves the development  
23 of a new meaning, purpose, and growing beyond the impact of  
24 addiction or a diagnosis. Recovery may include the pursuit of  
25 spiritual, emotional, mental, or physical well-being.

26 (15) ~~(14)~~—"Regional entity" means an entity established under  
27 section 204b to provide specialty services and supports.

28 (16) ~~(15)~~—"Rehabilitation" means the act of restoring an  
29 individual to a state of mental and physical health or useful





1 activity through vocational or educational training, therapy, and  
2 counseling.

3 (17) ~~(16)~~—"Resident" means an individual who receives services  
4 in a facility.

5 (18) ~~(17)~~—"Responsible mental health agency" means the  
6 hospital, center, or community mental health services program that  
7 has primary responsibility for the recipient's care or for the  
8 delivery of services or supports to that recipient.

9 (19) ~~(18)~~—"Rule" means a rule promulgated under the  
10 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
11 24.328.

12 **Sec. 137a. (1) The department shall, subject to appropriation**  
13 **of sufficient funding, establish PRTFs for Medicaid recipients**  
14 **under age 21 as defined under 42 CFR 441.151 to 441.182.**

15 (2) The department shall select PRTF providers through a  
16 request for proposals process. Public or private providers,  
17 including, but not limited to, those providing state-operated  
18 services, may respond to the request for proposals.

19 (3) To be eligible for reimbursement from the department, a  
20 PRTF must meet all of the following requirements:

21 (a) Be certified by the department.

22 (b) Be accredited by the Joint Commission, Commission on  
23 Accreditation of Rehabilitation Facilities, or Council on  
24 Accreditation.

25 (c) Be enrolled in the Medicaid Management Information System.

26 (d) Any other requirement the department considers appropriate  
27 and necessary to provide PRTF services and comply with 42 CFR  
28 441.151 to 441.182.

29 (4) The department may establish Medicaid policy and



- 1 promulgate administrative rules necessary to implement this
- 2 section.

