

SENATE BILL NO. 349

May 23, 2023, Introduced by Senators MCMORROW, MOSS, BRINKS, CHANG, GEISS, POLEHANKI, SINGH, KLINEFELT, CAVANAGH, MCCANN, IRWIN, MCDONALD RIVET, HERTEL, WOJNO, SANTANA, BAYER, CAMILLERI, CHERRY and ANTHONY and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending section 100a (MCL 330.1100a), as amended by 2020 PA
402.

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

1 a recipient, or sexual contact with or sexual penetration of a
2 recipient as those terms are defined in section 520a of the
3 Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed
4 by an employee or volunteer of the department, a community mental
5 health services program, or a licensed hospital or by an employee
6 or volunteer of a service provider under contract with the
7 department, community mental health services program, or licensed
8 hospital.

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

- 11 (a) Communication.
- 12 (b) Self-care.
- 13 (c) Home living.
- 14 (d) Social skills.
- 15 (e) Community use.
- 16 (f) Self-direction.
- 17 (g) Health and safety.
- 18 (h) Functional academics.
- 19 (i) Leisure.
- 20 (j) Work.

21 (4) "Adult foster care facility" means an adult foster care
22 facility licensed under the adult foster care facility licensing
23 act, 1979 PA 218, MCL 400.701 to 400.737.

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

29 (6) "Applicant" means an individual or his or her legal

1 representative who makes a request for mental health services.

2 (7) "Approved service program" means a substance use disorder
3 services program licensed under part 62 of the public health code,
4 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use
5 disorder treatment and rehabilitation services by the department-
6 designated community mental health entity and approved by the
7 federal government to deliver a service or combination of services
8 for the treatment of incapacitated individuals.

9 (8) "Assisted outpatient treatment" or "AOT" means the
10 categories of outpatient services ordered by the court under
11 section 468 or 469a. Assisted outpatient treatment may include a
12 case management plan and case management services to provide care
13 coordination under the supervision of a psychiatrist and developed
14 in accordance with person-centered planning under section 712.
15 Assisted outpatient treatment may also include 1 or more of the
16 following categories of services: medication; periodic blood tests
17 or urinalysis to determine compliance with prescribed medications;
18 individual or group therapy; day or partial day programming
19 activities; vocational, educational, or self-help training or
20 activities; assertive community treatment team services; alcohol or
21 substance use disorder treatment and counseling and periodic tests
22 for the presence of alcohol or illegal drugs for an individual with
23 a history of alcohol abuse or substance use disorder; supervision
24 of living arrangements; and any other services within a local or
25 unified services plan developed under this act that are prescribed
26 to treat the individual's mental illness and to assist the
27 individual in living and functioning in the community or to attempt
28 to prevent a relapse or deterioration that may reasonably be
29 predicted to result in suicide, the need for hospitalization, or

1 serious violent behavior. The medical review and direction included
2 in an assisted outpatient treatment plan shall be provided under
3 the supervision of a psychiatrist.

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

6 (10) "Board of commissioners" means a county board of
7 commissioners.

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

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

14 (13) "Child abuse" and "child neglect" mean those terms as
15 defined in section 2 of the child protection law, 1975 PA 238, MCL
16 722.622.

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

19 (a) A physician who has completed a residency program in child
20 and adolescent psychiatry approved by the Accreditation Council for
21 Graduate Medical Education or the American Osteopathic Association,
22 or who has completed 12 months of child and adolescent psychiatric
23 rotation and is enrolled in an approved residency program as
24 described in this subsection.

25 (b) A psychiatrist employed by or under contract as a child
26 and adolescent psychiatrist with the department or a community
27 mental health services program on March 28, 1996, who has education
28 and clinical experience in the evaluation and treatment of children
29 or adolescents with serious emotional disturbance.

1 (c) A psychiatrist who has education and clinical experience
2 in the evaluation and treatment of children or adolescents with
3 serious emotional disturbance who is approved by the director.

4 (15) "Children's diagnostic and treatment service" means a
5 program operated by or under contract with a community mental
6 health services program, that provides examination, evaluation, and
7 referrals for minors, including emergency referrals, that provides
8 or facilitates treatment for minors, and that has been certified by
9 the department.

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

13 (17) "Community mental health organization" means a community
14 mental health services program that is organized under the urban
15 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
16 124.512.

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

21 (19) "Consent" means a written agreement executed by a
22 recipient, a minor recipient's parent, a recipient's legal
23 representative with authority to execute a consent, or a full or
24 limited guardian authorized under the estates and protected
25 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the
26 authority to consent, or a verbal agreement of a recipient that is
27 witnessed and documented by an individual other than the individual
28 providing treatment.

29 (20) "Conversion therapy" means any practice or treatment by a

1 mental health professional that seeks to change an individual's
2 sexual orientation or gender identity, including, but not limited
3 to, efforts to change behavior or gender expression or to reduce or
4 eliminate sexual or romantic attractions or feelings toward an
5 individual of the same gender. Conversion therapy does not include
6 counseling that provides assistance to an individual undergoing a
7 gender transition, counseling that provides acceptance, support, or
8 understanding of an individual or facilitates an individual's
9 coping, social support, or identity exploration and development,
10 including sexual orientation-neutral intervention to prevent or
11 address unlawful conduct or unsafe sexual practices, as long as the
12 counseling does not seek to change an individual's sexual
13 orientation or gender identity.

14 (21) ~~(20)~~—"County community mental health agency" means an
15 official county or multicounty agency created under section 210
16 that operates as a community mental health services program and
17 that has not elected to become a community mental health authority
18 or a community mental health organization.

19 (22) ~~(21)~~—"Crisis stabilization unit" means a prescreening
20 unit established under section 409 or a facility certified under
21 chapter 9A that provides unscheduled clinical services designed to
22 prevent or ameliorate a behavioral health crisis or reduce acute
23 symptoms on an immediate, intensive, and time-limited basis in
24 response to a crisis situation.

25 (23) ~~(22)~~—"Department" means the department of health and
26 human services.

27 (24) ~~(23)~~—"Department-designated community mental health
28 entity" means the community mental health authority, community
29 mental health organization, community mental health services

1 program, county community mental health agency, or community mental
2 health regional entity designated by the department to represent a
3 region of community mental health authorities, community mental
4 health organizations, community mental health services programs, or
5 county community mental health agencies.

6 **(25)** ~~(24)~~—"Dependent living setting" means all of the
7 following:

8 (a) An adult foster care facility.

9 (b) A nursing home licensed under part 217 of the public
10 health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

11 (c) A home for the aged licensed under part 213 of the public
12 health code, 1978 PA 368, MCL 333.21301 to 333.21335.

13 **(26)** ~~(25)~~—"Designated representative" means any of the
14 following:

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

18 (b) A paramedic licensed or otherwise authorized under part
19 209 of the public health code, 1978 PA 368, MCL 333.20901 to
20 333.20979.

21 (c) A physician's assistant licensed or otherwise authorized
22 under part 170 or 175 of the public health code, 1978 PA 368, MCL
23 333.17001 to 333.17097 and 333.17501 to 333.17556.

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

27 **(27)** ~~(26)~~—"Developmental disability" means either of the
28 following:

29 (a) If applied to an individual older than 5 years of age, a

1 severe, chronic condition that meets all of the following
2 requirements:

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

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

6 (iii) Is likely to continue indefinitely.

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

9 (A) Self-care.

10 (B) Receptive and expressive language.

11 (C) Learning.

12 (D) Mobility.

13 (E) Self-direction.

14 (F) Capacity for independent living.

15 (G) Economic self-sufficiency.

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

20 (b) If applied to a minor from birth to 5 years of age, a
21 substantial developmental delay or a specific congenital or
22 acquired condition with a high probability of resulting in
23 developmental disability as defined in subdivision (a) if services
24 are not provided.

25 **(28)** ~~(27)~~—"Director" means the director of the department or
26 his or her designee.

27 **(29)** ~~(28)~~—"Discharge" means an absolute, unconditional release
28 of an individual from a facility by action of the facility or a
29 court.

1 **(30)** ~~(29)~~—"Eligible minor" means an individual less than 18
2 years of age who is recommended in the written report of a
3 multidisciplinary team under rules promulgated by the department of
4 education to be classified as 1 of the following:

5 (a) Severely mentally impaired.

6 (b) Severely multiply impaired.

7 (c) Autistic impaired and receiving special education services
8 in a program designed for the autistic impaired under R 340.1758 of
9 the Michigan Administrative Code or in a program designed for the
10 severely mentally impaired or severely multiply impaired.

11 **(31)** ~~(30)~~—"Emergency situation" means a situation in which an
12 individual is experiencing a serious mental illness or a
13 developmental disability, or a minor is experiencing a serious
14 emotional disturbance, and 1 of the following applies:

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

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

23 (c) The individual has mental illness that has impaired his or
24 her judgment so that the individual is unable to understand his or
25 her need for treatment and presents a risk of harm.

26 **(32)** ~~(31)~~—"Executive director" means an individual appointed
27 under section 226 to direct a community mental health services
28 program or his or her designee.

29 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.

2 Enacting section 2. This amendatory act does not take effect
3 unless Senate Bill No. 348 of the 102nd Legislature is enacted into
4 law.