

SUBSTITUTE FOR
SENATE BILL NO. 219

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 401, 427, 430, 461, 468, 472a, and 475 (MCL
330.1401, 330.1427, 330.1430, 330.1461, 330.1468, 330.1472a, and
330.1475), sections 401, 461, 468, 472a, and 475 as amended by 2018
PA 593, section 427 as amended by 2016 PA 320, and section 430 as
amended by 1995 PA 290.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 401. (1) As used in this chapter, "person requiring
2 treatment" means ~~(a), (b), or (c)~~: **any of the following individuals:**
3 (a) An individual who has mental illness ~~, and who as a result~~
4 **because** of that mental illness can reasonably be expected ~~within~~ **in**
5 the near future to intentionally or unintentionally seriously

1 physically injure ~~himself, herself, the individual's self~~ or
 2 ~~another individual, others,~~ and who has engaged in an act or acts
 3 or made significant threats that are substantially supportive of
 4 the expectation.

5 (b) An individual who has mental illness ~~, and who as a result~~
 6 **because** of that mental illness is unable to ~~attend to those of his~~
 7 ~~or her~~ **meet the individual's** basic physical needs, such as
 8 **obtaining** food, clothing, or shelter, that must be ~~attended to in~~
 9 ~~order met~~ for the individual to avoid serious harm in the near
 10 future, and who has demonstrated that inability by failing to
 11 ~~attend to meet~~ those basic physical needs.

12 (c) An individual who has mental illness, whose judgment is so
 13 impaired by that mental illness, and whose lack of understanding of
 14 the need for treatment has caused ~~him or her the individual~~ to
 15 demonstrate an unwillingness to voluntarily participate in or
 16 adhere to **necessary** treatment ~~that is necessary, on the basis of~~
 17 ~~competent clinical opinion,~~ to prevent a relapse or harmful
 18 deterioration of ~~his or her the individual's~~ condition, and
 19 presents a substantial risk of significant physical or mental harm
 20 to the ~~individual individual's self~~ or others.

21 (2) An individual whose mental processes ~~have been are~~
 22 weakened or impaired by ~~a~~ dementia, an individual with a primary
 23 diagnosis of epilepsy, or an individual with alcoholism or other
 24 drug dependence is not a person requiring treatment under this
 25 chapter unless the individual also meets the criteria specified in
 26 subsection (1). An individual described in this subsection may be
 27 hospitalized under the informal or formal voluntary hospitalization
 28 provisions of this chapter if ~~he or she is considered the hospital~~
 29 **director considers the individual** clinically suitable for

hospitalization. ~~by the hospital director.~~

Sec. 427. (1) If a peace officer ~~observes an individual~~
~~conducting himself or herself in a manner that causes the peace~~
~~officer~~ **has reasonable cause** to reasonably believe that ~~the an~~
individual is a person requiring treatment, the peace officer may
take the individual into protective custody and transport the
individual to a preadmission screening unit designated by a
community mental health services program for examination under
section 429 or for mental health intervention services. The
preadmission screening unit shall provide ~~these the~~ mental health
intervention services that it considers appropriate or shall
provide an examination under section 429. The preadmission
screening services may be provided at the site of the preadmission
screening unit or at a site designated by the preadmission
screening unit. ~~Upon~~ **On** arrival at the preadmission screening unit
or site designated by the preadmission screening unit, the peace
officer shall execute a petition for hospitalization of the
individual. As soon as practical, the preadmission screening unit
shall offer to contact an immediate family member of the ~~recipient~~
individual to ~~let~~ **inform** the family ~~know~~ **member** that ~~the recipient~~
~~has been taken into~~ **the individual is in** protective custody and
where ~~he or she~~ **the individual** is located. The preadmission
screening unit shall honor the ~~recipient's~~ **individual's** decision as
to whether an immediate family member is to be contacted and shall
document that decision in the ~~recipient's~~ **individual's** record. In
the course of providing services, the preadmission screening unit
may provide advice and consultation to the peace officer ~~, which~~
that may include a recommendation to release the individual from
protective custody. In all cases where a peace officer ~~has executed~~

1 **executes** a petition, the preadmission screening unit shall ensure
 2 that ~~an examination is conducted by a~~ physician or licensed
 3 psychologist **examines the individual**. The preadmission screening
 4 unit shall ensure **the** provision of follow-up counseling and
 5 diagnostic and referral services if needed if it is determined
 6 under section 429 that the ~~person~~ **individual** does not meet the
 7 requirements for hospitalization.

8 (2) A peace officer is not financially responsible for the
 9 cost of care of an individual for whom ~~a~~ **the** peace officer ~~has~~
 10 ~~executed~~ **executes** a petition under subsection (1).

11 (3) A hospital receiving an individual under subsection (1)
 12 who ~~has been~~ **is** referred by a community mental health services
 13 program's preadmission screening unit shall notify that
 14 **preadmission screening** unit of the results of ~~an~~ **the hospital's**
 15 examination of ~~that~~ **the** individual. ~~conducted by the hospital.~~

16 Sec. 430. If a patient is hospitalized under section 423, **a**
 17 **psychiatrist shall examine** the patient ~~shall be examined by a~~
 18 ~~psychiatrist~~ as soon after hospitalization as is practicable, but
 19 not later than 24 hours, excluding legal holidays, after
 20 hospitalization. The examining psychiatrist ~~shall~~ **must** not be the
 21 same physician ~~upon~~ **on** whose clinical certificate the patient was
 22 hospitalized. If the **examining** psychiatrist does not certify that
 23 the patient is a person requiring treatment, the patient ~~shall~~ **must**
 24 be released immediately. If the **examining** psychiatrist ~~does~~ **certify**
 25 **certifies** that the patient is a person requiring treatment,
 26 **including a person requiring treatment in the form of**
 27 **hospitalization**, the patient's hospitalization may continue pending
 28 hearings convened ~~pursuant to~~ **under** sections 451 to 465. **If the**
 29 **psychiatrist certifies that the patient is a person requiring**

1 treatment in the form of assisted outpatient treatment, a referral
2 must be made to the community mental health services program
3 serving the community where the patient resides and hearings may be
4 convened under sections 451 to 465.

5 Sec. 461. (1) ~~An~~ For a petition filed under section 434(1) to
6 (6), an individual may not be found to require treatment unless at
7 least 1 physician or licensed psychologist who has personally
8 examined that individual testifies in person or by written
9 deposition at the hearing.

10 (2) For a petition filed under section 434(7), ~~that does not~~
11 ~~seek hospitalization before the hearing, an individual may not be~~
12 ~~found to require treatment unless a psychiatrist who has personally~~
13 ~~examined that individual testifies. A psychiatrist's testimony is~~
14 ~~not necessary if a psychiatrist signs the petition. If a~~
15 ~~psychiatrist signs the petition, at least 1 physician or licensed~~
16 ~~psychologist who has personally examined that individual must~~
17 ~~testify. The requirement for testimony may be waived by the subject~~
18 ~~of the petition. If the testimony given in person is waived, a~~
19 ~~clinical certificate completed by a physician, licensed~~
20 ~~psychologist, or psychiatrist must be presented to the court before~~
21 ~~or at the initial hearing.~~ an individual may be found to require
22 treatment if both of the following apply:

23 (a) Except as otherwise provided in this subdivision, a
24 physician, psychologist, or qualified health professional
25 personally examines the individual and testifies that the
26 individual requires treatment. The subject of the petition may
27 waive the requirement for testimony.

28 (b) Except as otherwise provided in this subdivision, evidence
29 is presented that the physician, psychologist, or qualified health

1 professional who examined the individual under subdivision (a)
 2 discussed their findings and the plan for treatment for the
 3 individual with a psychiatrist during or immediately after the
 4 examination. This subdivision does not apply to a physician who is
 5 a psychiatrist.

6 (3) ~~The examinations required under this section for a~~
 7 ~~petition filed under section 434(7) shall be arranged by the court~~
 8 and the local community mental health services program or other
 9 entity as designated by the department **shall arrange the**
 10 **examinations required under this section for a petition filed under**
 11 **section 434(7).**

12 (4) A written deposition may be introduced as evidence at the
 13 hearing only if the ~~attorney for the~~ subject of the ~~petition was~~
 14 ~~given~~ **petition's attorney had** the opportunity to be present during
 15 the ~~taking of the deposition and to cross-examine the deponent.~~
 16 ~~This testimony or deposition may be waived by the~~ **The** subject of a
 17 petition **may waive this testimony or deposition.** ~~An individual~~ **The**
 18 **subject of the petition** may be found to require treatment even if
 19 the petitioner does not testify ~~, as long as if~~ there is **other**
 20 competent evidence from which the relevant criteria in section 401
 21 can be established.

22 (5) As used in this section:

23 (a) "Psychiatric nurse practitioner" means an individual who
 24 is licensed as a registered professional nurse under part 172 of
 25 the public health code, 1978 PA 368, MCL 333.17201 to 333.17242,
 26 who has been granted a specialty certification as a nurse
 27 practitioner by the Michigan board of nursing under section 17210
 28 of the public health code, 1978 PA 368, MCL 333.17210, and who has
 29 training in the area of mental health.

(b) "Qualified health professional" means a psychiatric nurse practitioner who is acting under the delegation of a psychiatrist under section 16215 of the public health code, 1978 PA 368, MCL 333.16215, or a physician's assistant who is acting pursuant to a practice agreement with a psychiatrist under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

Sec. 468. (1) For a petition filed under section 434, if the court finds that an individual is not a person requiring treatment, the court shall enter a finding to that effect and, if the ~~person~~ ~~has been~~ ~~individual~~ is hospitalized before the hearing, shall order that the ~~person~~ ~~individual~~ be discharged immediately.

(2) For a petition filed under section 434, if **the court finds that** an individual is ~~found to be~~ a person requiring treatment, the court shall do 1 of the following:

(a) Order the individual hospitalized in a hospital recommended by the community mental health services program or other entity as designated by the department.

(b) Order the individual hospitalized in a private or ~~veterans administration~~ **Veterans Administration** hospital at the request of the individual or ~~his or her~~ **the individual's** family, if private or federal funds ~~are to~~ **will** be utilized and if the hospital agrees. If the individual is hospitalized in a private or Veterans Administration hospital under this subdivision, ~~any~~ **a** financial obligation for the hospitalization ~~shall~~ **must** be satisfied from funding sources other than the community mental health services program, the department, or other state or county funding.

(c) Order the individual to undergo a program of combined hospitalization and assisted outpatient treatment, as recommended by the community mental health services program or other entity as

1 designated by the department.

2 (d) ~~Order~~ **Except as otherwise provided in this subdivision,**
3 **order** the individual to receive assisted outpatient treatment
4 through a community mental health services program, or other entity
5 as designated by the department, capable of providing the necessary
6 treatment and services to ~~assist~~ **help** the individual ~~to~~ live and
7 function in the community. ~~as specified in the order. The Subject~~
8 **to subsections (3) and (6), the community mental health services**
9 **program or other entity as designated by the department as**
10 **described in this subdivision has the sole discretion to make**
11 **decisions regarding the assessment, treatment, and discharge of an**
12 **individual receiving assisted outpatient treatment. This includes**
13 **the type, scope, frequency, intensity, and duration of the**
14 **treatment of the individual receiving outpatient treatment. If the**
15 **community mental health services program or other entity as**
16 **designated by the department does not communicate with the court**
17 **regarding the treatment of the individual receiving assisted**
18 **outpatient treatment, the court shall hold a hearing regarding the**
19 **treatment provided to the individual receiving assisted outpatient**
20 **treatment by the community mental health services program or other**
21 **entity as designated by the department. Except as otherwise**
22 **provided in this subdivision, the court order** may include a case
23 management plan and case management services and 1 or more of the
24 following:

25 (i) Medication.

26 (ii) Blood or urinalysis tests to determine compliance with or
27 effectiveness of prescribed medication.

28 (iii) Individual or group therapy, or both.

29 (iv) Day or partial day programs.

(v) Educational or vocational training.

(vi) Supervised living.

(vii) Assertive community treatment team services.

(viii) Substance use disorder treatment.

(ix) Substance use disorder testing for individuals with a history of alcohol or substance use and for whom ~~that~~ **the** testing is necessary to assist the court in ordering treatment designed to prevent deterioration. A court order for substance use testing is subject to **a** review hearing once every 180 days.

(x) ~~Any other~~ **Other** services ~~prescribed~~ to treat the individual's mental illness and either ~~to assist~~ **help** the individual ~~in living and functioning~~ **live and function** in the community or ~~to help~~ prevent a relapse or deterioration that may reasonably be predicted to result in suicide or the need for hospitalization.

(3) In developing an assisted outpatient treatment plan, a psychiatrist shall supervise the preparation and implementation of the assisted outpatient treatment plan. The assisted outpatient treatment plan ~~shall~~ **must** be completed ~~within~~ **not later than** 30 days after entry of the court's order ~~of~~ **for** assisted outpatient treatment and a ~~copy shall~~ **certificate of completion of the assisted outpatient treatment plan must** be forwarded to the probate court for filing ~~within~~ **not later than** 3 days after completion of the plan to be maintained in the court file.

(4) In developing an **order for** assisted outpatient treatment, ~~order,~~ the court shall consider ~~any~~ **a** preference or medication experience reported by the individual or ~~his or her~~ **the individual's** designated representative, whether ~~or not~~ the individual has an existing individual plan of services under

1 section 712, and ~~any direction included in a~~ **directions included in**
 2 **an existing** durable power of attorney or advance directive. ~~that~~
 3 ~~exists.~~

4 (5) Before an order ~~of~~ **for** assisted outpatient treatment
 5 expires, if the individual has not ~~previously~~ designated a patient
 6 advocate or executed a durable power of attorney or an advance
 7 directive, the responsible community mental health services program
 8 or other entity as designated by the department shall ascertain
 9 whether the individual desires to establish a durable power of
 10 attorney or an advance directive. If so, the community mental
 11 health services program or other entity as designated by the
 12 department shall direct the individual to the appropriate community
 13 resource for assistance in developing a durable power of attorney
 14 or an advance directive.

15 (6) If an order for assisted outpatient treatment conflicts
 16 with the provisions of an existing durable power of attorney,
 17 advance directive, or individual plan of services developed under
 18 section 712, the **order for** assisted outpatient treatment ~~order~~
 19 ~~shall~~ **must** be reviewed for possible adjustment by a psychiatrist
 20 not previously involved with developing the **order for** assisted
 21 outpatient treatment. ~~order.~~ If an order for assisted outpatient
 22 treatment conflicts with the provisions of an existing advance
 23 directive, durable power of attorney, or individual plan of
 24 services developed under section 712, the court shall state the
 25 court's findings on the record or in writing if the court takes the
 26 matter under advisement, including the reason for the conflict.

27 Sec. 472a. (1) Upon the filing of a petition under section 434
 28 and a finding that an individual is a person requiring treatment,
 29 the court shall issue an initial order ~~of~~ **for** involuntary mental

1 health treatment that ~~shall~~**must** be limited in duration as follows:

2 (a) An initial order ~~of~~**for** hospitalization ~~shall~~**must** not
3 exceed 60 days.

4 (b) An initial order ~~of~~**for** assisted outpatient treatment
5 ~~shall~~**must** not exceed 180 days.

6 (c) An initial order ~~of~~**for** combined hospitalization and
7 assisted outpatient treatment ~~shall~~**must** not exceed 180 days. The
8 hospitalization portion of the initial order ~~shall~~**must** not exceed
9 60 days.

10 (2) Upon the receipt of a petition under section 473 before
11 the expiration of an initial order under subsection (1) and a
12 finding that the individual continues to be a person requiring
13 treatment, the court shall issue a second order for involuntary
14 mental health treatment that ~~shall~~**must be limited in duration as**
15 **follows:**

16 (a) **A second order for hospitalization must** not exceed 90
17 days.

18 (b) **A second order for assisted outpatient treatment must not**
19 **exceed 1 year.**

20 (c) **A second order for combined hospitalization and assisted**
21 **outpatient treatment must not exceed 1 year. The hospitalization**
22 **portion of the second order must not exceed 90 days.**

23 (3) Upon the receipt of a petition under section 473 before
24 the expiration of a second order under subsection (2) and a finding
25 that the individual continues to be a person requiring treatment,
26 the court shall issue a continuing order for involuntary mental
27 health treatment that ~~shall~~**must be limited in duration as follows:**

28 (a) **A continuing order of hospitalization must** not exceed 1
29 year.

1 (b) A continuing order of assisted outpatient treatment must
2 not exceed 1 year.

3 (c) A continuing order of combined hospitalization and
4 assisted outpatient treatment must not exceed 1 year. The
5 hospitalization portion of a continuing order for combined
6 hospitalization and assisted outpatient treatment must not exceed
7 90 days.

8 (4) Upon the receipt of a petition under section 473 before
9 the expiration of a continuing order ~~of~~**for** involuntary mental
10 health treatment, including a continuing order issued under section
11 485a or a 1-year order ~~of~~**for** hospitalization issued under former
12 section 472, and a finding that the individual continues to be a
13 person requiring treatment, the court shall issue another
14 continuing order for involuntary mental health treatment ~~as~~
15 ~~provided in~~**under** subsection (3) for a period not to exceed 1 year.
16 The court shall continue to issue consecutive 1-year continuing
17 orders for involuntary mental health treatment under this section
18 until a continuing order expires without a petition having been
19 filed under section 473 or the court finds that the individual is
20 not a person requiring treatment.

21 (5) If a petition for an order ~~of~~**for** involuntary mental
22 health treatment is not brought under section 473 at least 14 days
23 before the expiration of an order ~~of~~**for** involuntary mental health
24 treatment ~~as described in~~**under** subsections (2) to (4), ~~a person an~~
25 **individual** who believes that ~~an another~~ individual continues to be
26 a person requiring treatment may ~~file a~~ petition under section 434
27 for an initial order ~~of~~**for** involuntary mental health treatment ~~as~~
28 ~~described in~~**under** subsection (1).

29 Sec. 475. (1) During the period of an order for assisted

1 outpatient treatment or combined hospitalization and assisted
 2 outpatient treatment, if the agency or mental health professional
 3 who is supervising an individual's assisted outpatient treatment
 4 program determines that the individual is not complying with the
 5 court order or that the assisted outpatient treatment has not been
 6 or will not be sufficient to prevent harm that the individual may
 7 inflict on ~~himself or herself~~ **the individual's self** or ~~upon~~ others,
 8 then the supervising agency or mental health professional shall
 9 notify the court immediately. If the individual believes that the
 10 assisted outpatient treatment program is not appropriate, the
 11 individual may notify the court of that fact.

12 (2) If it comes to the attention of the court that an
 13 individual subject to an order ~~of~~ **for** assisted outpatient treatment
 14 or combined hospitalization and assisted outpatient treatment is
 15 not complying with the order, that the assisted outpatient
 16 treatment has not been or will not be sufficient to prevent harm to
 17 the ~~individual or to~~ **individual's self or** others, or that the
 18 individual believes that the assisted outpatient treatment program
 19 is not appropriate, the court may do ~~either~~ **any** of the following
 20 without a hearing and based ~~upon~~ **on** the record and other available
 21 information:

22 (a) Consider ~~other~~ alternatives to hospitalization and modify
 23 the order to direct the individual to undergo another program of
 24 assisted outpatient treatment for the ~~duration of the order~~ **order's**
 25 **duration.**

26 (b) Modify the order to direct the individual to undergo
 27 hospitalization or combined hospitalization and assisted outpatient
 28 treatment. The duration of the hospitalization, including the
 29 number of days the individual has already been hospitalized if the

1 order being modified is a combined order, ~~shall~~**must** not exceed 60
2 days for an initial order or 90 days for a second or continuing
3 order. The modified order may provide that if the individual
4 refuses to comply with the psychiatrist's order to return to the
5 hospital, a peace officer shall take the individual into protective
6 custody and transport the individual to ~~the~~**a particular** hospital.
7 ~~selected.~~

8 **(c) Convene a status conference with the supervising agency**
9 **and the individual to review the individual's compliance with the**
10 **order.**

11 (3) During the period of an order for assisted outpatient
12 treatment or a combination of hospitalization and assisted
13 outpatient treatment, if the agency or mental health professional
14 who is supervising an individual's assisted outpatient treatment
15 determines that the individual is not complying with the court
16 order, the supervising agency or mental health professional shall
17 notify the court immediately.

18 (4) If it comes to the attention of the court that an
19 individual subject to an order ~~of~~**for** assisted outpatient treatment
20 or a combination of hospitalization and assisted outpatient
21 treatment is not complying with the order, the court may require 1
22 or more of the following, without a hearing:

23 (a) That the individual be taken to the preadmission screening
24 unit established by the community mental health services program
25 serving the community in which the individual resides.

26 (b) That the individual be hospitalized for a period of not
27 more than 10 days.

28 (c) ~~Upon~~**On the** recommendation ~~by~~**of** the community mental
29 health services program serving the community in which the

1 individual resides, that the individual be hospitalized for a
2 period of more than 10 days, but not longer than the duration of
3 the order for assisted outpatient treatment or a combination of
4 hospitalization and assisted outpatient treatment, or not longer
5 than 90 days, whichever is less.

6 (5) The court may direct peace officers to transport the
7 individual to a designated facility or a preadmission screening
8 unit ~~, as applicable,~~ and the court may specify **the** conditions
9 under which the individual may return to assisted outpatient
10 treatment before the order expires.

11 (6) An individual hospitalized without a hearing ~~as provided~~
12 ~~in~~**under** subsection (4) may object to the hospitalization according
13 to the provisions of section 475a.