



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

MENTAL HEALTH: DRIVER'S LICENSES

House Bill 4154 as introduced
First Analysis (3-14-89)

Sponsor: Rep. David M. Gubow
Committee: Mental Health

RECEIVED

APR 17 1989

Mich. State Law Library

H.B. 4154 (3-14-89)

THE APPARENT PROBLEM:

The Michigan Vehicle Code contains a section that requires the secretary of state to suspend the driver's licenses of people who are admitted to hospitals for the care and treatment of mental illness if the medical superintendent of the hospital notifies the Department of State that the patient is "afflicted with mental or physical infirmities or disabilities rendering it unsafe for him to drive."

A woman whose driver's license was suspended after she was released from a state hospital successfully sued the secretary of state in circuit court, challenging the constitutionality of this statute. The circuit court ruled that the statute was unconstitutional and revoked the suspension of the woman's driver's license. The secretary of state appealed the decision, and, in a split decision, the Court of Appeals upheld the lower court's decision. However, when the Department of Mental Health requested an opinion from the attorney general asking whether state mental health facilities should continue to follow the statute in light of the court decision, the attorney general ruled "that the duty of a medical superintendent of a state mental health facility imposed by MCL 257.303a; MSA 9.2003(1), to give notice to the secretary of state that a patient is rendered unsafe to drive a motor vehicle due to mental or physical infirmities is valid and should be observed."

In addition to the question that these court decisions and the attorney general's opinion raised over the status of this part of the motor vehicle code, the code also requires probate courts to take certain actions that they reportedly no longer carry out. Legislation has been proposed that would address these issues.

THE CONTENT OF THE BILL:

The bill would delete certain provisions currently in the Michigan Vehicle Code requiring the reporting of certain information to the secretary of state and the suspension of certain drivers' licenses.

More specifically, the code requires probate courts to report to the secretary of state "all changes of name authorized by such probate courts, and the name, address, age, description, and operator's or chauffeur's license number when available, of every person adjudged to be feeble minded, epileptic, or as a liquor or drug addict." (MCL 257.304) The code also requires the "medical superintendent" (the term currently used in state facilities is "clinical director") of a hospital to notify the Department of State whenever someone is admitted to the hospital whom the superintendent believes is "afflicted with mental or physical infirmities or disabilities rendering it unsafe for him to drive." When the department receives such a notice, it is required to suspend the person's driver's license until the medical superintendent notifies the department that the condition no longer exists. (MCL 303a)

The bill would delete the provision regarding the reporting duties of medical superintendents (MCL 303a) and would strike the reference in the code requiring probate courts to report to the secretary of state "the name, address, age, description, and operator's or chauffeur's license number when available, of every person adjudged to be feeble-minded, epileptic, or as a liquor or drug addict." (Probate courts would still be required to report to the secretary of state all changes of name they authorized.)

MCL 257.303a and 257.304

FISCAL IMPLICATIONS:

The Department of Mental Health reports that there will be undetermined savings to the department, and possibly to the Department of State and the probate courts, because of the elimination of the reporting requirement. (In fiscal year 1987-88, there were approximately 11,400 admissions and 11,800 discharges of mentally ill people from hospitals, each of which was required by law to be reported to the secretary of state.) (3-8-89)

ARGUMENTS:

For:

The Department of State used to take away the driver's licenses of people admitted to state psychiatric hospitals, but the Mental Health Code (Public Act 258 of 1974) expressly prohibits depriving recipients of mental health services of their rights, benefits, or privileges solely on the basis of their receiving such services (MCL 330.1702). The bill would delete from the Motor Vehicle Code archaic language and provisions that both predate and conflict with the Mental Health Code.

Section 303a of the Michigan Motor Vehicle Code currently contains provisions that discriminate against certain mentally ill people, by singling out only hospitalized patients for driver's license suspension, while saying nothing about other people who are treated on an outpatient basis. In addition, the section does not follow the due process provisions required elsewhere in the vehicle code (MCL 257.320) for the suspension or revocation of a license. And finally, the section suspends a patient's license until notification by the hospital's medical superintendent that the "condition no longer exists." However, people can be stabilized on medication, though the "condition" may still exist.

Reportedly, neither the probate courts nor the "medical superintendents" of hospitals have followed the reporting requirements of these two sections of the vehicle code for a number of years. The Department of State currently accepts complaints about drivers from anyone, and investigates these complaints as it decides is necessary, but some hospital medical directors worry about legal liability because of the existence of these provisions.

The bill would address these problems by striking these archaic provisions from the vehicle code.

OVER

POSITIONS:

The Department of Mental Health supports the bill. (3-8-89)

The Michigan Hospital Association supports the bill.
(3-8-89)

The Department of State supports the bill. (3-8-89)