

HOUSE BILL No. 4583

April 10, 1989, Introduced by Reps. Terrell, Clack, DeMars, Hunter, Stallworth, Honigman, Bennane, Harrison, Leland, Joe Young, Sr., Webb, Kilpatrick, Power, Sikkema, Martin and Bandstra and referred to the Committee on Judiciary.

A bill to amend sections 209a, 400, 498b, 498h, 498j, 498p, 500, 511, 600, 604, 637, 642, 707, 716, 930, 1001b, 1003a, 1003b, 1005, 1005a, 1005d, 1006, 1031, 1034, and 1050 of Act No. 258 of the Public Acts of 1974, entitled as amended

"Mental health code,"

section 209a as amended and sections 498h, 498j, 498p, and 707 as added by Act No. 186 of the Public Acts of 1984, section 400 as amended by Act No. 297 of the Public Acts of 1986, section 498b as amended by Act No. 155 of the Public Acts of 1988, and section 500 as amended by Act No. 76 of the Public Acts of 1987, being sections 330.1209a, 330.1400, 330.1498b, 330.1498h, 330.1498j, 330.1498p, 330.1500, 330.1511, 330.1600, 330.1604, 330.1637, 330.1642, 330.1707, 330.1716, 330.1930, 330.2001b, 330.2003a, 330.2003b, 330.2005, 330.2005a, 330.2005d, 330.2006, 330.2031, 330.2034, and 330.2050 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 209a, 400, 498b, 498h, 498j, 498p, 500,
2 511, 600, 604, 637, 642, 707, 716, 930, 1001b, 1003a, 1003b,
3 1005, 1005a, 1005d, 1006, 1031, 1034, and 1050 of Act No. 258 of
4 the Public Acts of 1974, section 209a as amended and
5 sections 498h, 498j, 498p, and 707 as added by Act No. 186 of the
6 Public Acts of 1984, section 400 as amended by Act No. 297 of the
7 Public Acts of 1986, section 498b as amended by Act No. 155 of
8 the Public Acts of 1988, and section 500 as amended by Act No. 76
9 of the Public Acts of 1987, being sections 330.1209a, 330.1400,
10 330.1498b, 330.1498h, 330.1498j, 330.1498p, 330.1500, 330.1511,
11 330.1600, 330.1604, 330.1637, 330.1642, 330.1707, 330.1716,
12 330.1930, 330.2001b, 330.2003a, 330.2003b, 330.2005, 330.2005a,
13 330.2005d, 330.2006, 330.2031, 330.2034, and 330.2050 of the
14 Michigan Compiled Laws, are amended to read as follows:

15 Sec. 209a. (1) Upon receipt of the notice required by sec-
16 tion 209(1), the appropriate county program, with the assistance
17 of the state facility, shall develop an individualized
18 pre-release plan for appropriate community placement and a
19 pre-release plan for aftercare services appropriate for each
20 individual about whom the county program received the notice. If
21 possible, the individual shall participate in the development of
22 a pre-release plan. In developing a pre-release plan for a
23 minor, the county program and the state children's facility shall
24 include all of the following in the planning process:

25 (a) The minor, if the minor is 14 years of age or older if
26 possible.

1 (b) The parent or guardian of the minor. As used in this
2 subdivision, "guardian" means any person with authority for the
3 care and custody of a minor pursuant to an order of the ~~probate~~
4 ~~court or the circuit~~ DOMESTIC RELATIONS court.

5 (c) Personnel from the school and other agencies if
6 possible.

7 (2) In the case of a minor in need of an aftercare service
8 with a residential component or an alternative to hospitaliza-
9 tion, if a county program cannot locate a suitable service or
10 alternative for the minor in the service area of the county pro-
11 gram, but a suitable service or alternative is available in the
12 service area of a county program of another county, the county
13 program responsible for planning for the minor may contract with
14 the other county program or with the agency operating the service
15 or alternative for the provision of services. The county program
16 or agency contracted with shall be located as close to the
17 minor's place of residence as possible.

18 (3) The state facility shall advise an individual, about
19 whom the county program has not received notice pursuant to sec-
20 tion 209(1), of the availability of pre-release planning services
21 offered by the county program. If the individual requests those
22 services, the county program shall be notified and shall develop
23 a plan for that individual.

24 (4) The county program shall offer post-release planning
25 services to each individual, within 10 days after the release of
26 the individual from the state facility, if pre-release planning
27 cannot be completed for 1 of the following reasons:

1 (a) The individual did not consent to notification of his or
2 her admission until shortly before release from the state
3 facility.

4 (b) The individual did not remain in the state facility for
5 a time that was sufficient to develop a pre-release plan.

6 (5) Unless covered by contractual agreement, disclosure of
7 information about the individual by the state facility shall be
8 made to those individuals involved in the development of the
9 plans, but shall be limited to:

10 (a) Home address, gender, and medication record.

11 (b) Other information necessary to determine financial and
12 social service needs, program needs, residential needs, and medi-
13 cation needs.

14 Sec. 400. As used in this chapter, unless the context
15 requires otherwise:

16 (a) "Department" means the department of mental health or
17 its official designee.

18 (b) "Hospital" means a facility, or portion of a facility,
19 for the inpatient treatment of persons who are mentally ill.

20 (c) "Director" means the chief officer of a hospital or a
21 person authorized by a director to act on his or her behalf.

22 (d) "Hospitalization" or "hospitalize" means to provide
23 treatment for a person as an inpatient in a hospital.

24 (e) "Treatment" means care, diagnostic, and therapeutic
25 services including the administration of drugs and any other
26 service for the treatment of an individual.

1 (f) "Subject of a petition" means an individual asserted to
2 require treatment, asserted not to require treatment, asserted to
3 be legally incapacitated and in need of a guardian, asserted not
4 to be legally incapacitated and in need of a guardian, or for
5 whom an objection to a hospitalization pursuant to section 484 or
6 498m has been made.

7 (g) "Court" means the ~~probate~~ DOMESTIC RELATIONS court for
8 the county of residence of the subject of a petition, or for the
9 county in which the subject of a petition was found.

10 (h) "Physician" means a person licensed by the state to
11 engage in the practice of medicine or osteopathic medicine and
12 surgery under article 15 of the Public Health Code, Act No. 368
13 of the Public Acts of 1978, being sections 333.16101 to 333.18838
14 of the Michigan Compiled Laws.

15 (i) "Psychiatrist" means a physician who devotes a substan-
16 tial portion of his or her time to the practice of psychiatry and
17 who has practiced psychiatry for 1 continuous year out of the 3
18 years immediately preceding his or her certification of ~~any~~ AN
19 individual under this chapter.

20 (j) "Psychologist" means a person licensed, with other than
21 a limited license, to engage in the practice of psychology under
22 article 15 of Act No. 368 of the Public Acts of 1978, as
23 amended, being sections 333.16101 to 333.18838 of the Michigan
24 Compiled Laws, and who devotes a substantial portion of his or
25 her time to the diagnosis and treatment of individuals with
26 mental or emotional disorders.

1 (k) "Certificate" or "certification" means the written
2 conclusion and statements of a physician or a psychologist that
3 an individual is a person requiring treatment, together with the
4 information and opinions, in reasonable detail, which underlie
5 the conclusion, on the form prescribed by the department or on a
6 substantially similar form.

7 (l) "Discharge" means the official release of an individual
8 from a hospital by action of the hospital or a court.

9 (m) "Protective custody" means the temporary custody of an
10 individual by a peace officer with or without the individual's
11 consent for the purpose of protecting that individual's health
12 and safety, or the health and safety of the public, and for the
13 purpose of transporting the individual if the individual appears,
14 in the judgment of the peace officer, to be a person requiring
15 treatment or is a person requiring treatment. Protective custody
16 is civil in nature and is not to be construed as an arrest.

17 (n) "Community mental health emergency service unit" means a
18 service component of a county program, as defined in section
19 200(a), which component has been certified for the rendering of
20 services under section 427 by the department according to rules
21 promulgated by the department, pursuant to section 114.

22 (o) "Peace officer" means an officer of the department of
23 state police or of a law enforcement agency of a county, town-
24 ship, city, or village who is responsible for the prevention and
25 detection of crime and enforcement of the criminal laws of this
26 state, and for the purpose of sections 408 and 427 shall also
27 include an officer of the United States secret service with the

1 officer's consent and a police officer of the veterans'
2 administration in the performance of the officer's duty on a
3 veterans' administration medical center reservation.

4 (p) "Community mental health board director" means the
5 director of a community mental health board or his or her
6 designee.

7 Sec. 498b. (1) "Certificate" means a certificate as defined
8 in section 400.

9 (2) "Child psychiatrist" means either of the following:

10 (a) A psychiatrist who specializes in the evaluation and
11 treatment of minors and is certified or eligible for certifica-
12 tion as a child psychiatrist by the American board of psychiatry
13 and neurology as approved by the board of medicine created under
14 article 15 of the public health code, Act No. 368 of the Public
15 Acts of 1978, being sections 333.16101 to 333.18838 of the
16 Michigan Compiled Laws.

17 (b) A psychiatrist employed by or under contract with the
18 department or county community health board with educational and
19 clinical experience in the evaluation and treatment of minors who
20 is approved by the director.

21 (3) "Children's diagnostic and treatment service" means a
22 children's diagnostic and treatment service as defined in section
23 200.

24 (4) "Community mental health emergency service unit" means a
25 community mental health emergency service unit as defined in
26 section 400.

1 (5) "County director" means a county director as defined in
2 section 200.

3 (6) "Court" means the ~~probate~~ DOMESTIC RELATIONS court for
4 the county in which a minor who has requested hospitalization,
5 for whom a request for hospitalization has been made, or who has
6 been hospitalized pursuant to this chapter either resides or was
7 found.

8 (7) "Department" means the department of mental health or
9 the official designee of the director of the department.

10 (8) "Discharge" means discharge as defined in section 400.

11 (9) "Emotional disturbance" means mental illness as defined
12 in section 400a, or a severe or persistent emotional condition
13 characterized by seriously impaired personality development,
14 individual adjustment, social adjustment, or emotional growth,
15 which is demonstrated in behavior symptomatic of that
16 impairment.

17 (10) "Guardian" means a person with authority for the care
18 and custody of a minor pursuant to an order of the ~~probate court~~
19 ~~or the circuit~~ DOMESTIC RELATIONS court.

20 (11) "Hospital" means a hospital as defined in section 400
21 which has specialized mental health services for the treatment of
22 minors.

23 (12) "Hospital director" means the chief executive officer
24 of a hospital or his or her designee.

25 (13) "Hospitalization" or "hospitalize" means to provide
26 specialized treatment for a minor as an inpatient in a hospital.

1 Sec. 498h. (1) A parent, guardian, or person in loco
2 parentis may request emergency admission of a minor to a
3 hospital, if the person making the request has reason to believe
4 that the minor is emotionally disturbed and that the minor
5 presents a serious danger to self or others.

6 (2) If the hospital to which the request for emergency
7 admission is made is not operated by or under contract to the
8 department or to a county community mental health board, the
9 request for emergency hospitalization shall be made directly to
10 the hospital. If the hospital director agrees that the minor
11 needs emergency admission, the minor shall be hospitalized. If
12 the hospital director does not agree, the person making the
13 request may request hospitalization of the minor pursuant to sec-
14 tion 498d.

15 (3) If the hospital to which the request for emergency
16 admission is made is operated by or under contract to the depart-
17 ment or to a county community mental health board, the request
18 shall be made to the emergency services unit of the county commu-
19 nity mental health board in the county where the minor resides.
20 If the county community mental health board has a children's
21 diagnostic and treatment service, the emergency services unit
22 shall refer the person making the request to that service. In
23 counties where there is no children's diagnostic and treatment
24 service, the emergency services unit shall refer the person
25 making the request to the appropriate hospital. If it is deter-
26 mined that emergency admission is not necessary, the person may
27 request hospitalization of the minor pursuant to section 498d.

1 If it is determined that emergency admission is necessary, the
2 minor shall be hospitalized or placed in an appropriate alterna-
3 tive program.

4 (4) If a person in loco parentis makes a request for emer-
5 gency admission and the minor is admitted to a hospital pursuant
6 to this section, the hospital director or the county director
7 immediately shall notify the parent or parents or the guardian of
8 the minor.

9 (5) If a minor is hospitalized in a hospital which is oper-
10 ated by or under contract with the department or with a county
11 community mental health board, the hospital director shall notify
12 the appropriate county director within 24 hours after the hospi-
13 talization occurs.

14 (6) If a peace officer, as a result of personal observation,
15 has reasonable grounds to believe that a minor is emotionally
16 disturbed and that the minor presents a serious danger to self or
17 others and if after a reasonable effort to locate the minor's
18 parent, guardian, or person in loco parentis, the minor's parent,
19 guardian, or person in loco parentis cannot be located, the peace
20 officer may take the minor into protective custody and transport
21 the minor to the appropriate county community mental health serv-
22 ice unit, if the county community mental health program has a
23 children's diagnostic and treatment service, or to a hospital if
24 the county does not have a children's diagnostic and treatment
25 service. After transporting the minor, the peace officer shall
26 execute a written request for emergency hospitalization of the
27 minor stating the reasons, based upon personal observation, the

1 peace officer believes that emergency hospitalization is
2 necessary. The written request shall include a statement that a
3 reasonable effort was made by the peace officer to locate the
4 minor's parent, guardian, or person in loco parentis. If it is
5 determined that emergency hospitalization of the minor is not
6 necessary, the minor shall be returned to his or her parent,
7 guardian, or person in loco parentis if an additional attempt to
8 locate the parent, guardian, or person in loco parentis is
9 successful. If the minor's parent, guardian, or person in loco
10 parentis cannot be located, the minor shall be turned over to the
11 protective services program of the department of social
12 services. If it is determined that emergency admission of the
13 minor is necessary, the minor shall be admitted to the appropri-
14 ate hospital or to an appropriate alternative program. The hos-
15 pital director or the county director immediately shall notify
16 the parent, guardian, or person in loco parentis. If the hospi-
17 tal is operated by or under contract with the department or with
18 a county community mental health board, the hospital director
19 shall also notify the appropriate county director within 24 hours
20 after the hospitalization occurs.

21 (7) An evaluation of a minor admitted to a hospital under
22 this section shall begin immediately after the minor is
23 admitted. The evaluation shall be conducted in the same manner
24 as provided in section 498e. If the minor is not found to be
25 suitable for hospitalization, the minor shall be released into
26 the custody of his or her parent, guardian, or person in loco
27 parentis and the minor shall be referred to the county director

1 who shall determine if the minor needs mental health services.
2 If it is determined that the minor needs mental health services,
3 the county director shall offer an appropriate treatment program
4 for the minor, if the program is available, or refer the minor to
5 another agency for services.

6 (8) A hospital director shall proceed under ~~either the~~
7 ~~revised probate code, Act No. 642 of the Public Acts of 1978,~~
8 ~~being sections 700.1 to 700.933 of the Michigan Compiled Laws, or~~
9 ~~chapter XIII A of Act No. 288 of the Public Acts of 1939, being~~
10 ~~sections 712A.1 to 712A.28~~ CHAPTER 93 OF THE REVISED JUDICATURE
11 ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING
12 SECTIONS 600.9301 TO 600.9399 of the Michigan Compiled Laws, as
13 warranted by the situation and the best interests of the minor,
14 under any of the following circumstances:

15 (a) The hospital director cannot locate a parent, guardian,
16 or person in loco parentis of a minor admitted to a hospital pur-
17 suant to subsection (6).

18 (b) The hospital director cannot locate the parent or guard-
19 ian of a minor admitted to a hospital by a person in loco paren-
20 tis pursuant to this section.

21 Sec. 498j. The parent or guardian of a minor admitted to a
22 hospital under this chapter shall be requested by the hospital to
23 give written consent to the treatment of the minor and for the
24 release of information from agencies or individuals involved in
25 treating the minor prior to hospitalization considered necessary
26 by the hospital for treatment of the minor. If consent to
27 treatment cannot be obtained, the director of the hospital may

1 proceed under ~~either the revised probate code, Act No. 642 of~~
2 ~~the Public Acts of 1978, being sections 700.1 to 700.933 of the~~
3 ~~Michigan Compiled Laws, or chapter XIIA of Act No. 288 of the~~
4 ~~Public Acts of 1939, being sections 712A.1 to 712A.28~~ CHAPTER 93
5 OF THE REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC
6 ACTS OF 1961, BEING SECTIONS 600.9301 TO 600.9399 of the Michigan
7 Compiled Laws, as warranted by the situation and the best inter-
8 ests of the minor.

9 Sec. 498p. (1) Upon periodic review of a hospitalized minor
10 pursuant to section 4981, or at any other time, if it is deter-
11 mined that the minor is no longer suitable for hospitalization,
12 the director of the hospital shall discharge the minor from the
13 hospital.

14 (2) If a minor discharged pursuant to subsection (1) has
15 been hospitalized pursuant to a court order, or if court proceed-
16 ings are pending, the court shall be notified of the minor's dis-
17 charge from the hospital.

18 (3) The director of a hospital shall notify the appropriate
19 county director of the pending discharge of a minor not less than
20 7 days before the minor is discharged from the hospital.

21 (4) Before a minor is discharged from a hospital pursuant to
22 subsection (1), the county director, with the assistance of the
23 hospital, shall develop an individualized pre-release plan for
24 the minor pursuant to section 209a.

25 (5) If the parent or guardian of a minor admitted to a hos-
26 pital pursuant to this chapter refuses to assume custody of the
27 minor upon discharge of the minor from the hospital, the hospital

1 director shall file or cause to be filed a petition in the
2 ~~juvenile division of the probate~~ DOMESTIC RELATIONS court
3 alleging that the minor is within the provisions of ~~section 2(b)~~
4 ~~of chapter XIII A of Act No. 288 of the Public Acts of 1939, being~~
5 ~~section 712A.2~~ CHAPTER 93 OF THE REVISED JUDICATURE ACT OF 1961,
6 ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS 600.9301
7 TO 600.9399 of the Michigan Compiled Laws, to ensure that the
8 minor is provided with appropriate management, care, and
9 residence. Arrangements considered suitable by the hospital
10 director and agreed to by the parent or guardian for care of the
11 minor outside the home of the parent or guardian shall not con-
12 stitute refusal to assume custody of the minor.

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

15 (a) "Department" means the department of mental health or
16 its official designee.

17 (b) "Director" means the chief officer of a facility or a
18 person authorized by a director to act on his or her behalf.

19 (c) "Facility" means a facility, or portion of a facility,
20 that is operated by or under contract with a public agency or is
21 licensed by the state, and that regularly admits persons with
22 developmental disabilities and provides residential and other
23 services.

24 (d) "Resident" means an individual who resides in a facility
25 and receives services from a facility, or who is on an authorized
26 leave of absence from the facility.

1 (e) "Physician" means a person licensed by the state to
 2 ENGAGE IN THE practice OF medicine or osteopathic medicine ~~or~~
 3 ~~the holder of a temporary license as provided by law~~ AND SURGERY
 4 UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE
 5 PUBLIC ACTS OF 1978, BEING SECTIONS 333.16101 TO 333.18838 OF THE
 6 MICHIGAN COMPILED LAWS.

7 (f) "Psychologist" means a person who is knowledgeable in
 8 the field of developmental disabilities by virtue of training or
 9 experience, and who, pursuant to article 15 of the public health
 10 code, Act No. 368 of the Public Acts of 1978, being sections
 11 333.16101 to 333.18838 of the Michigan Compiled Laws, is licensed
 12 as a psychologist.

13 (g) "Court" means the ~~probate~~ DOMESTIC RELATIONS court of
 14 the county of residence of a mentally retarded individual or of
 15 the county in which a mentally retarded individual was found.

16 (h) "Mentally retarded" means significantly subaverage gen-
 17 eral intellectual functioning that originates during the develop-
 18 mental period and is associated with impairment in adaptive
 19 behavior.

20 (i) "Developmental disability" means an impairment of gen-
 21 eral intellectual functioning or adaptive behavior that meets all
 22 of the following criteria:

23 (i) It originated before the person became 22 years of age.

24 (ii) It has continued since its origination or can be
 25 expected to continue indefinitely.

26 (iii) It constitutes a substantial burden to the impaired
 27 person's ability to perform normally in society.

1 (iv) It is attributable to 1 or more of the following:

2 (A) Mental retardation, cerebral palsy, epilepsy, or
3 autism.

4 (B) Any other condition of a person found to be closely
5 related to mental retardation because it produces a similar
6 impairment or requires treatment and services similar to those
7 required for a person who is mentally retarded.

8 (C) Dyslexia resulting from a condition described in sub-
9 paragraph (A) or (B).

10 (j) "Discharge" means the official release of an individual
11 from a facility by action of the facility or a court.

12 Sec. 511. (1) Objection may be made to the admission of any
13 administratively admitted resident. Objections may be filed with
14 the court by a person found suitable by the court or by the resi-
15 dent himself if he is at least 13 years of age. An objection may
16 be made not more than 30 days after admission of the resident,
17 and may be made subsequently at any 6-month interval following
18 the date of the original objection or, if an original objection
19 were not made, at any 6-month interval following the date of
20 admission.

21 (2) An objection shall be made in writing, except that if
22 made by the resident, an objection to admission may be communi-
23 cated to the court or judge of ~~probate~~ DOMESTIC RELATIONS COURT
24 by any means, including but not limited to oral communication or
25 informal letter. If the resident informs the facility that he
26 desires to object to his admission, the facility shall assist him
27 in submitting his objection to the court.

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

6 (4) The hearing shall be governed by those provisions of
7 sections 517 to 522, including the appointment of counsel and an
8 independent medical or psychological evaluation, which the court
9 deems necessary to ensure that all relevant information is
10 brought to its attention, and by the provisions of this section.

11 (5) The court shall sustain the objection and order the dis-
12 charge of the resident if the resident is not in need of the care
13 and treatment which is available at the facility or if an alter-
14 native to care and treatment in a facility is available and ade-
15 quate to meet the resident's needs.

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

19 (7) Unwillingness or inability of the parent, guardian, or
20 person in loco parentis to provide for the resident's management,
21 care, or residence shall not be grounds for refusing to sustain
22 the objection and order discharge, but in that event the object-
23 ing person may, or a person authorized by the court shall,
24 promptly file a petition under the neglect provisions of the
25 juvenile code to ensure that suitable management, care, or resi-
26 dence is provided.

1 Sec. 600. As used in this chapter, unless the context
2 requires otherwise:

3 (a) "Facility" means a child caring institution, a boarding
4 school, a convalescent home, an adult foster care facility for
5 more than 6 residents, a nursing home or home for the aged, a
6 mental hospital, psychiatric hospital or psychiatric unit, ~~and~~
7 OR an institution or community residential program which is
8 licensed by the state, and which regularly admits developmentally
9 disabled persons and provides residential and other services.

10 (b) "Physician" means a person licensed by the state to
11 practice medicine or osteopathic medicine AND SURGERY UNDER
12 ARTICLE 15 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
13 ACTS OF 1978, BEING SECTIONS 333.16101 TO 333.18838 OF THE
14 MICHIGAN COMPILED LAWS. ~~, or the holder of a temporary license~~
15 ~~as provided by law.~~

16 (c) "Psychologist" means a person who is knowledgeable in
17 the field of developmental disabilities by virtue of training or
18 experience, and who ~~, pursuant to~~ IS LICENSED UNDER PART 182 OF
19 Act No. 368 of the Public Acts of 1978, as amended, being sec-
20 tions 333.18201 to 333.18237 of the Michigan Compiled Laws.
21 ~~, is licensed as a full or limited psychologist, pursuant to~~
22 ~~section 18223(1) and (3), is entitled to use the term psycholo-~~
23 ~~gist or possesses training and experience equivalent to that nec-~~
24 ~~essary for licensure as a psychologist.~~

25 (d) "Court" means the ~~probate~~ DOMESTIC RELATIONS court for
26 the county of residence of a developmentally disabled person, or

1 for the county in which a developmentally disabled person was
2 found if a county of residence cannot be determined.

3 (e) "Developmental disability" means an impairment of gen-
4 eral intellectual functioning or adaptive behavior which meets
5 the following criteria:

6 (i) ~~It~~ AN IMPAIRMENT WHICH has continued since its origi-
7 nation or can be expected to continue indefinitely.

8 (ii) ~~It~~ AN IMPAIRMENT WHICH constitutes a substantial
9 burden to the impaired person's ability to perform normally in
10 society.

11 (iii) ~~It~~ AN IMPAIRMENT WHICH is attributable to 1 or more
12 of the following:

13 (A) Mental retardation, cerebral palsy, epilepsy, or
14 autism.

15 (B) Any other condition of a person found to be closely
16 related to mental retardation because it produces a similar
17 impairment or requires treatment and services similar to those
18 required for a person who is mentally retarded.

19 (C) Dyslexia resulting from a condition described in sub-
20 paragraph (A) or (B).

21 (f) "Developmentally disabled person" means a person suffer-
22 ing a developmental disability.

23 (g) "Mentally retarded person" means an individual having
24 significantly subaverage general intellectual functioning.

25 (h) "Interested person or entity" means an adult relative or
26 friend of the respondent, an official or representative of a
27 public or private agency, corporation, or association concerned

1 with the person's welfare, or any other person found suitable by
2 the court.

3 (i) "Plenary guardian" means a guardian who possesses the
4 legal rights and powers of a full guardian of the person, or of
5 the estate, or both.

6 (j) "Partial guardian" means a guardian who possesses fewer
7 than all of the legal rights and powers of a plenary guardian,
8 and whose rights, powers, and duties have been specifically enu-
9 merated by court order.

10 Sec. 604. (1) The court has jurisdiction over guardianship
11 proceedings for developmentally disabled persons.

12 (2) An appointment of a guardian for a developmentally dis-
13 abled person shall be made only pursuant to this chapter, except
14 that a guardian may be appointed for a minor where appropriate
15 pursuant to chapter ~~3~~ 93 of Act No. ~~288~~ 236 of the Public
16 Acts of ~~1939, as amended~~ 1961, being sections ~~703.1 to 703.35~~
17 600.9301 TO 600.9399 of the Michigan Compiled Laws.

18 Sec. 637. (1) A guardian for a developmentally disabled
19 person or the person's estate who was appointed before ~~the~~
20 ~~effective date of this act~~ DECEMBER 21, 1978, pursuant to chap-
21 ter 3 of FORMER Act No. 288 of the Public Acts of 1939, ~~as~~
22 ~~amended~~, or a guardian appointed pursuant to this chapter may be
23 discharged, or have his or her duties modified, when the
24 individual's capacity to perform the tasks necessary for the care
25 of his or her person or the management of his or her estate have
26 changed so as to warrant modification or discharge. The
27 developmentally disabled person, the person's guardian, or any

1 interested person on his or her behalf may petition the court for
2 a discharge or modification order under this section.

3 (2) A request under subsection (1), if made by the develop-
4 mentally disabled person, may be communicated to the court by any
5 means, including oral communication or informal letter. Upon
6 receipt of the communication the court shall appoint a suitable
7 person who may, but need not be, an employee of the state,
8 county, or court, to prepare and file with the court a petition
9 reflecting the communication.

10 (3) The court, upon receipt of a petition filed pursuant to
11 this section, shall conduct a hearing. At the hearing, the indi-
12 vidual shall have all of the rights indicated in sections 615 and
13 617.

14 (4) Upon conclusion of the hearing, the court shall enter a
15 written order setting forth the factual basis for its findings
16 and may do any of the following:

17 (a) Dismiss the petition.

18 (b) Remove the guardian and dissolve the guardianship
19 order.

20 (c) Remove the guardian and appoint a successor.

21 (d) Modify the original guardianship order.

22 (e) Make any other order which the court considers appropri-
23 ate and in the interests of the developmentally disabled person.

24 Sec. 642. (1) The surviving parent of a developmentally
25 disabled minor for whom a guardian has not been appointed may by
26 will appoint a testamentary guardian. The testamentary
27 appointment becomes effective, without, but subject to, probate,

1 immediately upon the death of the parent. A testamentary
2 guardian shall possess the powers of a parent, and shall serve
3 subject to the court's power to reduce the scope of guardianship
4 authority or to dismiss a guardian. The appointment shall termi-
5 nate when the minor attains 18 years of age, or the guardian is
6 dismissed, whichever occurs first. Upon assuming office, the
7 testamentary guardian shall notify the court in which the
8 decedent's will is to be probated.

9 (2) A parent who has been appointed guardian of his or her
10 developmentally disabled minor or adult child may by will, except
11 in the event that a standby guardian has been designated, appoint
12 a testamentary guardian. The testamentary appointment becomes
13 effective, without, but subject to, probate, immediately upon the
14 death of the initially appointed guardian. The testamentary
15 guardian possesses the powers of the initially appointed guardi-
16 an, shall be entitled to receive upon request a copy of a court
17 order creating or modifying the initial guardianship, and shall
18 serve subject to the power of the court which appointed the ini-
19 tial guardian to reduce the scope of guardianship authority or to
20 dismiss a guardian. ~~In the event that~~ IF the court probating
21 THE decedent's will does not have jurisdiction over the testamen-
22 tary guardian, except that if the court finds the will to be
23 invalid, the appointment shall be nullified. Upon assuming
24 office, the testamentary guardian shall notify the ~~probate~~
25 court which appointed the initial guardian and the ~~probate~~
26 court in which the will is subject to probate.

1 Sec. 707. (1) A minor 14 years of age or older may request
2 and receive mental health services and a mental health
3 professional may provide mental health services, on an outpatient
4 basis, excluding pregnancy termination referral services and the
5 use of chemotherapy, without the consent or knowledge of the
6 minor's parent, guardian, or person in loco parentis. Except as
7 otherwise provided in this section, the minor's parent, guardian,
8 or person in loco parentis shall not be informed of the services
9 without the consent of the minor unless the mental health profes-
10 sional treating the minor determines that there is a compelling
11 need for disclosure based on a substantial probability of harm to
12 the minor or to other persons, and if the minor is notified of
13 the mental health professional's intent to inform the minor's
14 parent, guardian, or person in loco parentis.

15 (2) Services provided to a minor pursuant to this section
16 shall, to the extent possible, promote the minor's relationship
17 to the parent, guardian, or person in loco parentis, and shall
18 not undermine the values that the parent, guardian, or person in
19 loco parentis has sought to instill in the minor.

20 (3) Services provided to a minor pursuant to this section
21 shall be limited to not more than 12 sessions or 4 months per
22 request for services. After the twelfth session or fourth month
23 of services the mental health professional shall terminate the
24 services or, with the consent of the minor, notify the parent,
25 guardian, or person in loco parentis to obtain consent to provide
26 further outpatient services.

1 (4) The minor's parent, guardian, or person in loco parentis
2 shall not be liable for the costs of services which are received
3 by a minor under subsection (1).

4 (5) This section shall not relieve a mental health profes-
5 sional from his or her duty to report suspected child abuse or
6 neglect pursuant to section 3 of the child protection law, Act
7 No. 238 of the Public Acts of 1975, being section 722.623 of the
8 Michigan Compiled Laws.

9 (6) As used in this section:

10 (a) "Guardian" means a person with authority for the care
11 and custody of a minor pursuant to an order of the ~~probate court~~
12 ~~or the circuit~~ DOMESTIC RELATIONS court.

13 (b) "Mental health professional" means a mental health pro-
14 fessional as defined in R 330.1001 of the Michigan administrative
15 code.

16 (c) "Person in loco parentis" means a person in loco paren-
17 tis as defined in section 498c.

18 Sec. 716. (1) Except as provided in subsections (2) and
19 (3), a recipient of mental health services shall not have surgery
20 performed upon him, nor shall he be the subject of
21 electro-convulsive therapy or of another procedure intended to
22 produce convulsions or coma, unless consent is obtained from:

23 (a) The recipient if he is 18 years of age or over and com-
24 petent to consent.

25 (b) The guardian of the recipient if the guardian is legally
26 empowered to execute such a consent.

1 (c) The parent of the recipient if the recipient is less
2 than 18 years of age.

3 (2) If the life of a recipient is threatened and there is
4 not time to obtain consent, the procedures listed in subsection
5 (1) may be performed without consent after the medical necessity
6 for the procedure has been documented and the documentation has
7 been entered into the record of the recipient.

8 (3) If one of the procedures listed in subsection (1) is
9 deemed advisable for a recipient, and if no one eligible under
10 subsection (1) to give consent can be found after diligent
11 effort, a ~~probate~~ DOMESTIC RELATIONS court may, upon petition
12 and after hearing, consent to performance of the procedure in
13 lieu of the person eligible to give consent.

14 Sec. 930. In the administration of the compact, the compact
15 administrator shall not transfer any patient to an institution in
16 another state without the prior written consent of the patient's
17 parents, nearest relative, or guardian. A copy of the consent
18 shall be placed on file in the ~~probate~~ DOMESTIC RELATIONS court
19 of the county issuing the order of judicial admission or in the
20 case of a nonjudicial admission, in the ~~probate~~ DOMESTIC
21 RELATIONS court of the county where the patient resides.

22 Sec. 1001b. (1) "Placement review committee process" means
23 the preparation of a follow-up treatment and service plan which
24 is prepared for a prisoner returning to a state correctional
25 facility from the department of mental health. The plan shall be
26 developed by the treatment staff of the department of corrections
27 and the department of mental health.

1 (2) "Prisoner" means a person confined in a state
2 correctional facility, but shall not include a person confined
3 pursuant to an order of ~~a juvenile division of the probate~~
4 ~~court~~ THE DOMESTIC RELATIONS COURT UNDER CHAPTER 96 OF ACT
5 NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS 600.9601 TO
6 600.9647 OF THE MICHIGAN COMPILED LAWS.

7 (3) "Protective environment and supportive milieu" means the
8 provision of routine medical care which may include chemotherapy
9 and other services including planned activities or directed
10 activities and a safe, secure environment with supervision.

11 (4) "Psychiatric inpatient services" means the provision of
12 mental health services including milieu for social and recrea-
13 tional activities, the provision of chemotherapy for treatment of
14 psychosis and depression, or the provision of group therapy and
15 behavioral modification treatment modalities.

16 (5) "State correctional facility" means a facility operated
17 by or contracted with the department of corrections for the pur-
18 pose of housing prisoners before parole or discharge.

19 Sec. 1003a. Unless ordered by the ~~probate~~ DOMESTIC
20 RELATIONS court, a prisoner shall not be transferred to the
21 center for forensic psychiatry program without having been
22 informed of possible treatment methods and without having pro-
23 vided written consent to transfer and treatment.

24 Sec. 1003b. The following are the procedures for securing
25 services provided to a prisoner under this chapter:

1 (a) A person may file with the officer in charge of the
2 state correctional facility a written notice alleging that a
3 particular prisoner is mentally ill or mentally retarded.

4 (b) Upon receipt by the officer in charge of the state cor-
5 rectional facility of notification alleging that a particular
6 prisoner is mentally ill or mentally retarded, the officer shall
7 notify the department of corrections. The department of correc-
8 tions shall then select a psychiatrist to examine the prisoner.

9 (c) If the examining psychiatrist certifies to the officer
10 in charge of the state correctional facility that the prisoner is
11 mentally ill or mentally retarded and that the prisoner requires
12 intensive or specialized care or psychiatric inpatient services,
13 the officer in charge ~~shall~~ immediately SHALL notify the center
14 for forensic psychiatry program.

15 (d) If the prisoner desires to be voluntarily transferred
16 from a state correctional facility to the center for forensic
17 psychiatry program the following procedures shall be observed:

18 (i) The officer in charge of the state correctional facility
19 shall transfer the prisoner to the center for forensic psychiatry
20 program.

21 (ii) Upon transfer, the prisoner shall be provided with con-
22 sultation with a recipient rights officer of the department of
23 mental health, who shall determine if the transfer was made in
24 the manner required by section 1003a, and confirm that the pris-
25 oner was informed of the possible treatment methods and that the
26 transfer was made voluntarily.

1 (iii) Except as otherwise provided in subparagraph (iv), a
2 prisoner who is voluntarily transferred under this section shall
3 not be hospitalized more than 3 days, excluding Sundays and legal
4 holidays, after the prisoner gives notice of his or her intention
5 to terminate the hospitalization and return to the state correc-
6 tional facility. When the center for forensic psychiatry program
7 is advised by a prisoner of an intention to terminate hospital-
8 ization, the center shall promptly provide the written form
9 required for termination of hospitalization and return the pris-
10 oner to the state correctional facility.

11 (iv) If written notice of termination of hospitalization has
12 been given pursuant to subparagraph (iii) and has not been with-
13 drawn, and if the director of the center for forensic psychiatry
14 program determines that the prisoner continues to be mentally ill
15 or mentally retarded and continues to require intensive or spe-
16 cialized care or psychiatric inpatient services, the director, or
17 a person designated by the director, within 3 days, excluding
18 Sundays and holidays, of the receipt by the program of the
19 notice, shall file an application for continued hospitalization
20 with the ~~probate~~ DOMESTIC RELATIONS court for the county in
21 which the correctional facility from which the prisoner was
22 transferred is located. The application shall be accompanied by
23 certificates of 2 physicians, at least 1 of whom must be a psy-
24 chiatrist, supporting the findings of the director of the
25 program. A hearing shall be held on the application in the
26 manner provided by section 1005(2). The center may continue
27 hospitalization pending disposition of the application.

1 (e) If a psychiatrist for the department of corrections
2 determines that a prisoner is mentally ill or mentally retarded
3 and that involuntary transfer to the department of mental health
4 is warranted, the department of mental health shall select a psy-
5 chiatrist to examine the prisoner. If the psychiatrist selected
6 by the department of mental health concurs in the findings of the
7 psychiatrist of the department of corrections and certifies that
8 the prisoner is mentally ill or mentally retarded and requires
9 intensive or specialized care or psychiatric inpatient services,
10 a hearing shall be held pursuant to section 1005. If the psychi-
11 atrists for the 2 departments fail to agree that a prisoner is
12 mentally ill or mentally retarded and in need of intensive or
13 specialized care or psychiatric inpatient services, an indepen-
14 dent psychiatrist, selected and approved by the department of
15 corrections and the department of mental health, shall examine
16 the prisoner and determine and certify whether or not the pris-
17 oner is mentally ill or mentally retarded and if the prisoner
18 requires intensive or specialized care or psychiatric inpatient
19 services. If the independent psychiatrist concurs with the psy-
20 chiatrist for the department of corrections, a hearing shall be
21 held pursuant to section 1005.

22 Sec. 1005. (1) Upon receipt of certification as required by
23 section 1003b, the officer in charge of the state correctional
24 facility shall file a petition for a determination that the pris-
25 oner is mentally ill or mentally retarded with the ~~probate court~~
26 ~~in~~ DOMESTIC RELATIONS COURT FOR the county in which the state

1 correctional facility is located. The petition shall include the
2 required psychiatric certificates.

3 (2) The hearing shall be held promptly, but not more than 7
4 days after receipt by the court of the petition filed pursuant to
5 subsection (1).

6 (3) Notice of the petition and of the time and place of a
7 hearing shall be given to the prisoner who is the subject of the
8 petition; ~~—~~ to the prisoner's attorney; ~~—~~ to the petitioner;
9 ~~—~~ to the officer in charge of the state correctional facility;
10 ~~—~~ to the guardian, if any, of the prisoner; ~~—~~ and to other
11 relatives or persons as the court ~~may consider~~ CONSIDERS
12 appropriate. Notice required by this subsection shall be given
13 by the court at the earliest practicable time and sufficiently in
14 advance of the hearing date to permit preparation.

15 (4) Within 4 days after the receipt by the court of a peti-
16 tion filed pursuant to subsection (1), the court shall cause the
17 prisoner who is the subject of the petition to be given a copy of
18 the petition, a copy of each certificate executed in connection
19 with the proceeding, and notice of all of the following rights:

20 (a) The right to a full hearing.

21 (b) The right to be present at the hearing.

22 (c) The right to be represented by counsel.

23 (d) The right to demand a jury trial.

24 (e) The right to an independent medical evaluation at the
25 prisoner's own expense, or if indigent, at the expense of the
26 state.

1 (5) A prisoner who is the subject of a petition is entitled
2 to the rights listed in ~~subsection~~ SUBSECTIONS (3) AND (4).

3 (6) Unless an appearance of counsel has been entered on
4 behalf of a prisoner who is the subject of a petition, the court,
5 within 48 hours after its receipt of a petition, shall appoint
6 counsel to represent the prisoner.

7 (7) If, after consultation with appointed counsel, the pris-
8 oner desires to waive the right to counsel, the prisoner may do
9 so by advising the court in writing.

10 (8) The prisoner shall be present at ~~all hearings~~ EACH
11 HEARING unless the prisoner waives the right to be present and
12 the court is satisfied that the prisoner's attendance at the
13 hearing would be injurious.

14 Sec. 1005a. (1) A hearing held pursuant to section 1005 may
15 be held in a place that the DOMESTIC RELATIONS court directs
16 within the county in which the state correctional facility is
17 located.

18 (2) Legal counsel for the petitioner shall participate in a
19 hearing convened by the court and shall offer to the court proofs
20 that substantiate that the prisoner is mentally ill or mentally
21 retarded.

22 (3) A party to a proceeding may present documents and wit-
23 nesses and may cross-examine witnesses.

24 (4) The court shall receive all relevant, competent, and
25 material evidence which may be offered. Rules of evidence in a
26 civil action are applicable, except to the extent that specific
27 exceptions have been provided for by law or court rule.

1 Sec. 1005d. (1) If the DOMESTIC RELATIONS court finds that
2 the prisoner is mentally ill or mentally retarded, the court
3 shall enter a finding to that effect and shall order that the
4 prisoner be transferred for treatment to the center for forensic
5 psychiatry program.

6 (2) An initial order for treatment under this section shall
7 be for a period not to exceed 90 days.

8 (3) If, before the expiration of the initial 90-day order
9 made under this section, the director of the center for forensic
10 psychiatry program believes that the prisoner continues to be
11 mentally ill or mentally retarded and requires intensive or spe-
12 cialized care or psychiatric inpatient services, the director,
13 not less than 14 days before the expiration of the order, shall
14 petition the court for a determination that the prisoner contin-
15 ues to require those services. Upon receipt of a petition under
16 this subsection, after notice and an opportunity for testimony,
17 the court may authorize continued care at the center for forensic
18 psychiatry program for an additional period not to exceed 90
19 days.

20 (4) If, before the expiration of the second 90-day order,
21 the director of the center for forensic psychiatry program
22 believes that the condition of a prisoner is such that the pris-
23 oner continues to be mentally ill or mentally retarded and
24 requires intensive or specialized care or psychiatric inpatient
25 services, the director, not less than 14 days before the expira-
26 tion of the order, shall petition the court for a determination
27 that the prisoner continues to require those services and for an

1 order continuing the hospitalization. After a hearing, a
2 specific order of continuing hospitalization may be ~~made~~ ISSUED
3 for a period not to exceed 180 days. ~~may be issued.~~ Upon com-
4 pletion of the order for continuing hospitalization, and if the
5 director of the center for forensic psychiatry program believes
6 that the prisoner continues to be mentally ill or mentally
7 retarded and requires intensive or specialized care or psychiat-
8 ric inpatient services, the director shall petition for an ini-
9 tial order of treatment pursuant to subsection (1).

10 (5) A petition for a renewal order under subsection (3) or
11 (4) shall contain a statement setting forth ALL OF the
12 following:

13 (a) The reasons for the director's determination that the
14 prisoner continues to be mentally ill or mentally retarded and
15 requires intensive or specialized care or psychiatric inpatient
16 services.

17 (b) A statement describing the treatment program provided to
18 the prisoner.

19 (c) The results of the course of treatment.

20 (d) A clinical estimate as to the time further treatment
21 will be required.

22 (6) The petition shall be accompanied by a certificate exe-
23 cuted by a psychiatrist.

24 (7) ~~(6)~~ If at any hearing held under this section the
25 court finds that the prisoner is not mentally ill or mentally
26 retarded, the court shall enter a finding to that effect and
27 shall order that the petition be dismissed.

1 Sec. 1006. (1) A prisoner admitted to the department of
2 mental health center for forensic psychiatry program pursuant to
3 section 1003b who is nearing discharge from the center, shall be
4 provided the benefits of a modified placement review committee
5 process, and shall be discharged when ~~any~~ EITHER of the follow-
6 ing occurs:

7 (a) The prisoner ceases to require intensive or specialized
8 care or psychiatric inpatient services.

9 (b) Except as otherwise provided in subsection (4), the
10 prisoner's criminal sentence expires, less good time credits and
11 other statutory reductions pursuant to section 1004(2).

12 (2) When a prisoner is to be discharged before the expira-
13 tion of the prisoner's criminal sentence, the department of
14 mental health shall first notify the department of corrections of
15 the pending discharge, and shall transmit a full report on the
16 condition of the prisoner to the department of corrections. The
17 report shall include specific recommendations for continuing care
18 of the prisoner.

19 (3) If the prisoner is discharged before the expiration of
20 the prisoner's sentence, the prisoner shall be returned to the
21 state correctional facility ~~—~~ unless an authority empowered to
22 release the prisoner from custody under the criminal sentence has
23 notified the department of mental health that the prisoner has
24 been paroled or otherwise released from the custody of the
25 department of corrections.

26 (4) If the prisoner is to be discharged because of the
27 expiration of the prisoner's criminal sentence, the head of the

1 facility of the department of mental health, ~~at least~~ NOT LESS
2 THAN 14 days before the expiration of the sentence, may file a
3 petition asserting that the prisoner is a person requiring treat-
4 ment or that the prisoner meets the criteria for judicial admis-
5 sion, as defined by section 401 or 515, with the ~~probate court~~
6 ~~of~~ DOMESTIC RELATIONS COURT FOR the prisoner's county of
7 residence.

8 (5) The department of mental health shall be responsible for
9 assuring that needed aftercare reintegration and community-based
10 mental health services are offered to mentally ill and mentally
11 retarded persons who are leaving prison, upon referral by the
12 department of corrections. Upon request from the department of
13 corrections, community-based mental health services shall be pro-
14 vided by the department of mental health throughout the parole
15 period.

16 Sec. 1031. If the defendant is determined incompetent to
17 stand trial, and if the court determines that there is not a sub-
18 stantial probability that, if provided a course of treatment, he
19 OR SHE will attain competence to stand trial within the time
20 limit established by section 1034, the court may direct a prose-
21 cuting attorney to file a petition asserting that the defendant
22 is a person requiring treatment as defined by section 401 or
23 meets the criteria for judicial admission as defined by section
24 515 with the ~~probate~~ DOMESTIC RELATIONS court of the
25 defendant's county of residence.

26 Sec. 1034. (1) No order or combination of orders issued
27 under section 1032 or 1040, or both, shall have force and effect.

1 for a total period in excess of 15 months or 1/3 of the maximum
2 sentence the defendant could receive if convicted of the charges
3 against him OR HER, whichever is lesser; nor after the charges
4 against the defendant are dismissed.

5 (2) The court shall provide for notification of defense
6 counsel, the prosecution, and the medical supervisor of treatment
7 whenever the charges against the defendant are dismissed and
8 whenever an order whose stated time period has not elapsed is
9 voided by the court.

10 (3) If the defendant is to be discharged or released because
11 of the expiration of an order or orders under section 1032 or
12 1040, the supervisor of treatment prior to the discharge or
13 release may file a petition asserting that the defendant is a
14 person requiring treatment as defined by section 401 or meets the
15 criteria for judicial admission as defined by section 515 with
16 the ~~probate~~ DOMESTIC RELATIONS court of the defendant's county
17 of residence.

18 Sec. 1050. (1) The court shall immediately commit any
19 person who is acquitted of a criminal charge by reason of insan-
20 ity to the custody of the center for forensic psychiatry, for a
21 period not to exceed 60 days. The court shall forward to the
22 center a full report, in the form of a settled record, of the
23 facts concerning the crime which the patient was found to have
24 committed but of which he was acquitted by reason of insanity.
25 The center shall thoroughly examine and evaluate the present
26 mental condition of the person in order to reach an opinion on
27 whether the person meets the criteria of a person requiring

1 treatment or for judicial admission set forth in section 401 or
2 515.

3 (2) Within the 60-day period the center shall file a report
4 with the court, prosecuting attorney, and defense counsel. The
5 report shall contain a summary of the crime which the patient
6 committed but of which he was acquitted by reason of insanity and
7 an opinion as to whether the person meets the criteria of a
8 person requiring treatment or for judicial admission as defined
9 by section 401 or 515, and the facts upon which the opinion is
10 based. If the opinion stated is that the person is a person
11 requiring treatment, the report shall be accompanied by certifi-
12 cates from 2 physicians, at least 1 of whom shall be a psychia-
13 trist, which conform to the requirements of section ~~400(j)~~
14 400(K).

15 (3) After receipt of the report, the court may direct the
16 prosecuting attorney to file a petition pursuant to section 434
17 or 516 for an order of hospitalization or an order of admission
18 to a facility with the ~~probate~~ DOMESTIC RELATIONS court of the
19 person's county of residence or of the county in which the crimi-
20 nal trial was held. Any certificates that accompanied the report
21 of the center may be filed with the petition, and shall be suffi-
22 cient to cause a hearing to be held pursuant to section 451 even
23 if they were not executed within 72 hours of the filing of the
24 petition. The report from the court containing the facts con-
25 cerning the crime for which he was acquitted by reason of insan-
26 ity shall be admissible in the hearings.

1 (4) If the report states the opinion that the person meets
2 the criteria of a person requiring treatment or for judicial
3 admission, and if a petition is to be filed pursuant to subsec-
4 tion (3), the center may retain the person pending a hearing on
5 the petition. If a petition is not to be filed, the prosecutor
6 shall notify the center in writing. The center, upon receipt of
7 the notification, shall cause the person to be discharged.

8 (5) The release provisions of sections 476 to 479 of this
9 act shall apply to a person found to have committed a crime by a
10 court or jury, but who is acquitted by reason of insanity, except
11 that a person shall not be discharged or placed on leave without
12 first being evaluated and recommended for discharge or leave by
13 the department's program for forensic psychiatry, and authorized
14 leave or absence from the hospital may be extended for a period
15 of 5 years.

16 Section 2. (1) This amendatory act shall take effect
17 January 1, 1990.

18 (2) This amendatory act shall not take effect unless Senate
19 Bill No. _____ or House Bill No. 4567 (request no. 01659'89) of
20 the 85th Legislature is enacted into law.