

HOUSE BILL No. 4824

May 16, 1989, Introduced by Rep. Bennane and referred to the Committee on Public Health.

A bill to amend sections 400, 498o, and 600 of Act No. 258 of the Public Acts of 1974, entitled as amended

"Mental health code,"

section 400 as amended by Act No. 297 of the Public Acts of 1986 and section 498o as added by Act No. 186 of the Public Acts of 1984, being sections 330.1400, 330.1498o, and 330.1600 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 400, 498o, and 600 of Act No. 258 of
2 the Public Acts of 1974, section 400 as amended by Act No. 297 of
3 the Public Acts of 1986 and section 498o as added by Act No. 186
4 of the Public Acts of 1984, being sections 330.1400, 330.1498o,
5 and 330.1600 of the Michigan Compiled Laws, are amended to read
6 as follows:

1 Sec. 400. As used in this chapter, unless the context
2 requires otherwise:

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

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

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

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

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

14 (f) "Subject of a petition" means an individual asserted to
15 require treatment, asserted not to require treatment, asserted to
16 be legally incapacitated and in need of a guardian, asserted not
17 to be legally incapacitated and in need of a guardian, or for
18 whom an objection to a hospitalization pursuant to section 484 or
19 498m has been made.

20 (g) "Court" means the probate court for the county of resi-
21 dence of the subject of a petition, or for the county in which
22 the subject of a petition was found.

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

1 (i) "Psychiatrist" means a physician who devotes a
2 substantial portion of his or her time to the practice of psychi-
3 atry and who has practiced psychiatry for 1 continuous year out
4 of the 3 years immediately preceding his or her certification of
5 any individual under this chapter.

6 (j) "Psychologist" means a person licensed, with other than
7 a limited OR MASTER'S DEGREE license, to engage in the practice
8 of psychology under article 15 of Act No. 368 of the Public Acts
9 of 1978, as amended, being sections 333.16101 to 333.18838 of the
10 Michigan Compiled Laws, and who devotes a substantial portion of
11 his or her time to the diagnosis and treatment of individuals
12 with mental or emotional disorders.

13 (k) "Certificate" or "certification" means the written con-
14 clusion and statements of a physician or a psychologist that an
15 individual is a person requiring treatment, together with the
16 information and opinions, in reasonable detail, which underlie
17 the conclusion, on the form prescribed by the department or on a
18 substantially similar form.

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

21 (m) "Protective custody" means the temporary custody of an
22 individual by a peace officer with or without the individual's
23 consent for the purpose of protecting that individual's health
24 and safety, or the health and safety of the public, and for the
25 purpose of transporting the individual if the individual appears,
26 in the judgment of the peace officer, to be a person requiring

1 treatment or is a person requiring treatment. Protective custody
2 is civil in nature and is not to be construed as an arrest.

3 (n) "Community mental health emergency service unit" means a
4 service component of a county program, as defined in section
5 200(a), which component has been certified for the rendering of
6 services under section 427 by the department according to rules
7 promulgated by the department, pursuant to section 114.

8 (o) "Peace officer" means an officer of the department of
9 state police or of a law enforcement agency of a county, town-
10 ship, city, or village who is responsible for the prevention and
11 detection of crime and enforcement of the criminal laws of this
12 state, and for the purpose of sections 408 and 427 shall also
13 include an officer of the United States secret service with the
14 officer's consent and a police officer of the veterans' adminis-
15 tration in the performance of the officer's duty on a veterans'
16 administration medical center reservation.

17 (p) "Community mental health board director" means the
18 director of a community mental health board or his or her
19 designee.

20 Sec. 498o. (1) Except as provided in subsection (4), a
21 minor hospitalized pursuant to this chapter shall not be kept in
22 the hospital more than 3 days, excluding Sundays and holidays,
23 after receipt by the hospital of a written notice of intent to
24 terminate the hospitalization of the minor executed by the
25 minor's parent, guardian, or person in loco parentis or by the
26 minor if the minor is 14 years of age or older and was admitted
27 to the hospital upon his or her own request.

1 (2) Upon receipt of an oral request to terminate
2 hospitalization of a minor pursuant to subsection (1), the hospi-
3 tal promptly shall supply the necessary form for termination of
4 hospitalization to the person giving notice.

5 (3) Upon receipt of notice or an oral request pursuant to
6 subsection (1) or (2) by a hospital operated by or under contract
7 with the department or a county community mental health board,
8 the hospital director immediately shall notify the county
9 director.

10 (4) If notice of intent to terminate hospitalization is
11 received by a hospital pursuant to subsection (1) or (2), and the
12 director of the hospital determines that the minor to whom the
13 notice applies should remain in the hospital, the director of the
14 hospital or a person designated by the director of the hospital
15 shall file, within 3 days, excluding Sundays and holidays, after
16 receipt of the notice, a petition with the court requesting an
17 order to continue hospitalization of the minor. The petition
18 shall be accompanied by 1 certificate executed by a child psychi-
19 atrist and 1 certificate executed by either a physician or a psy-
20 chologist who holds other than a limited OR MASTER'S DEGREE
21 license to practice psychology. If a petition is filed with the
22 court pursuant to this subsection, the hospital shall continue to
23 hospitalize the minor pending a court hearing on the petition.

24 (5) Upon receipt of a petition to continue hospitalization
25 of a minor pursuant to subsection (4), the court shall schedule a
26 hearing to be held within 7 days, excluding Sundays and holidays,

1 after receipt of the petition. The hearing shall be convened
2 pursuant to sections 451 to 465.

3 (6) If the court finds the minor to be suitable for hospi-
4 talization by clear and convincing evidence, the court shall
5 order the minor to continue hospitalization for not more than 60
6 days. If the court does not find by clear and convincing evi-
7 dence that the minor is suitable for hospitalization, the court
8 shall order the minor discharged from the hospital.

9 Sec. 600. As used in this chapter, unless the context
10 requires otherwise:

11 (a) "Facility" means a child caring institution, a boarding
12 school, a convalescent home, an adult foster care facility for
13 more than 6 residents, a nursing home or home for the aged, a
14 mental hospital, psychiatric hospital or psychiatric unit and an
15 institution or community residential program which is licensed by
16 the state, and which regularly admits developmentally disabled
17 persons and provides residential and other services.

18 (b) "Physician" means a person licensed by the state to
19 practice medicine or osteopathic medicine, or the holder of a
20 temporary license as provided by law.

21 (c) "Psychologist" means a person who is knowledgeable in
22 the field of developmental disabilities by virtue of training or
23 experience, and who, pursuant to PART 182 OF Act No. 368 of the
24 Public Acts of 1978, as amended, being sections 333.18201 to
25 333.18237 of the Michigan Compiled Laws, is licensed as a full,
26 MASTER'S DEGREE, or limited psychologist, pursuant to section
27 ~~18223(1) and (3)~~ 18223 OF THAT ACT, is entitled to use the term

1 psychologist or possesses training and experience equivalent to
2 that necessary for licensure as a psychologist.

3 (d) "Court" means the probate court for the county of resi-
4 dence of a developmentally disabled person, or for the county in
5 which a developmentally disabled person was found if a county of
6 residence cannot be determined.

7 (e) "Developmental disability" means an impairment of gen-
8 eral intellectual functioning or adaptive behavior ~~which~~ THAT
9 meets the following criteria:

10 (i) It has continued since its origination or can be
11 expected to continue indefinitely.

12 (ii) It constitutes a substantial burden to the impaired
13 person's ability to perform normally in society.

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

15 (A) Mental retardation, cerebral palsy, epilepsy, or
16 autism.

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

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

23 (f) "Developmentally disabled person" means a person suffer-
24 ing a developmental disability.

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

1 (h) "Interested person or entity" means an adult relative or
2 friend of the respondent, an official or representative of a
3 public or private agency, corporation, or association concerned
4 with the person's welfare, or any other person found suitable by
5 the court.

6 (i) "Plenary guardian" means a guardian who possesses the
7 legal rights and powers of a full guardian of the person, or of
8 the estate, or both.

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

13 Section 2. This amendatory act shall not take effect unless
14 House Bill No. 4638 of the 85th Legislature is enacted into law.