

SENATE BILL No. 8

January 11, 1989, Introduced by Senator CRUCE and referred to the
Committee on Education and Mental Health.

A bill to amend Act No. 258 of the Public Acts of 1974,
entitled as amended
"Mental health code,"
as amended, being sections 330.1001 to 330.2106 of the Michigan
Compiled Laws, by adding sections 846 and 848.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 258 of the Public Acts of 1974, as
2 amended, being sections 330.1001 to 330.2106 of the Michigan
3 Compiled Laws, is amended by adding sections 846 and 848 to read
4 as follows:

5 SEC. 846. (1) THE DEVELOPMENTALLY DISABLED DEPENDENT TRUST
6 FUND IS CREATED AS A SEPARATE FUND IN THE STATE TREASURY TO BE
7 ADMINISTERED BY THE DIRECTOR. THE STATE TREASURER SHALL DEPOSIT
8 TO THE CREDIT OF THE TRUST FUND MONEY RECEIVED FROM THE

1 DEPARTMENT FOR THAT PURPOSE AND SHALL CAUSE PAYMENTS TO BE MADE
2 FROM THE FUND UPON PROPER AUTHORIZATION BY THE DIRECTOR.

3 (2) THE ASSETS OF THE TRUST FUND SHALL BE PRESERVED,
4 INVESTED, AND EXPENDED ONLY IN THE MANNER AND FOR THE PURPOSES
5 SET FORTH IN THIS SECTION. AT THE END OF EACH FISCAL YEAR, AN
6 UNEXPENDED BALANCE IN THE TRUST FUND CARRIES FORWARD TO THE NEXT
7 FISCAL YEAR AND DOES NOT REVERT TO THE STATE GENERAL FUND.

8 (3) THE DEPARTMENT MAY ACCEPT MONEY FROM AN INDIVIDUAL ON
9 BEHALF OF A PERSON WITH A DEVELOPMENTAL DISABILITY RESIDING IN
10 THIS STATE FOR DEPOSIT IN THE TRUST FUND ACCORDING TO AN AGREE-
11 MENT WITH THE INDIVIDUAL NAMING THE PERSON WITH A DEVELOPMENTAL
12 DISABILITY AS BENEFICIARY.

13 (4) THE DEPARTMENT SHALL MAINTAIN A SEPARATE ACCOUNT IN THE
14 TRUST FUND FOR EACH NAMED BENEFICIARY. THE DIRECTOR SHALL AUTHO-
15 RIZE THE STATE TREASURER TO MAKE PAYMENTS AS NECESSARY FROM EACH
16 ACCOUNT TO THE DEPARTMENT. THE DEPARTMENT SHALL SPEND THE MONEY
17 IN EACH ACCOUNT ONLY TO PROVIDE SERVICES FOR THE NAMED BENEFI-
18 CIARY ACCORDING TO DEPARTMENT RULES AND UNDER THE TERMS OF AN
19 AGREEMENT BETWEEN THE DEPARTMENT AND THE NAMED BENEFICIARY OR THE
20 PARENT OR GUARDIAN OF THE NAMED BENEFICIARY. THE AGREEMENT SHALL
21 SPECIFY THE SERVICES TO BE PROVIDED TO THE NAMED BENEFICIARY.
22 SERVICES PROVIDED MAY INCLUDE, BUT ARE NOT LIMITED TO, ANY OF THE
23 FOLLOWING:

24 (A) LIFELONG EDUCATION PROGRAMS.

25 (B) JOB TRAINING.

26 (C) MEDICAL CARE AND EQUIPMENT.

1 (D) TREATMENT PROGRAMS.

2 (E) RESPITE SERVICES.

3 (F) LONG-TERM RESIDENTIAL CARE.

4 (5) THE MONEY IN AN ACCOUNT, TOGETHER WITH ACCUMULATED
5 INTEREST ON THE MONEY, IF ANY, SHALL BE RETURNED TO THE PARENT OR
6 GUARDIAN ONLY IN 1 OF THE FOLLOWING CIRCUMSTANCES:

7 (A) THE NAMED BENEFICIARY DIES.

8 (B) THE DIRECTOR DETERMINES THAT THE MONEY IN THE ACCOUNT
9 CANNOT BE USED FOR SERVICES FOR THE NAMED BENEFICIARY IN A MANNER
10 CONSISTENT WITH DEPARTMENT RULES AND THE AGREEMENT.

11 (C) THE DIRECTOR DETERMINES THAT ANOTHER CIRCUMSTANCE EXISTS
12 THAT PRESENTS A COMPELLING REASON TO RETURN THE MONEY REMAINING
13 IN THE ACCOUNT.

14 (6) THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF TRUST
15 FUND MONEY AND SHALL CREDIT EARNINGS TO THE TRUST FUND, ALLOCAT-
16 ING THE EARNINGS PRO RATA TO THE RESPECTIVE ACCOUNTS OF THE NAMED
17 BENEFICIARIES OF THE TRUST FUND.

18 (7) THE DEPARTMENT SHALL PROMULGATE RULES UNDER THE ADMINIS-
19 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
20 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
21 LAWS, FOR THE ADMINISTRATION OF THE TRUST FUND.

22 (8) UNDER SECTION 30 OF THE INCOME TAX ACT OF 1967, ACT
23 NO. 281 OF THE PUBLIC ACTS OF 1967, BEING SECTION 206.30 OF THE
24 MICHIGAN COMPILED LAWS, AN INDIVIDUAL MAY DEDUCT FROM TAXABLE
25 INCOME THE AMOUNT OF A PAYMENT MADE BY THE INDIVIDUAL TO THE
26 TRUST FUND UNDER SUBSECTION (3) IN THE TAX YEAR.

1 (9) PAYMENTS MADE BY AN INDIVIDUAL TO THE TRUST FUND AND
2 AMOUNTS PAID FROM THE TRUST FUND ON BEHALF OF A BENEFICIARY MAY
3 BE DEDUCTIBLE FROM THE INDIVIDUAL'S OR BENEFICIARY'S TAXABLE
4 INCOME ACCORDING TO THE INCOME TAX ACT OF 1967, ACT NO. 281 OF
5 THE PUBLIC ACTS OF 1967, BEING SECTIONS 206.1 TO 206.532 OF THE
6 MICHIGAN COMPILED LAWS, AND THE CITY INCOME TAX ACT, ACT NO. 284
7 OF THE PUBLIC ACTS OF 1964, BEING SECTIONS 141.501 TO 141.787 OF
8 THE MICHIGAN COMPILED LAWS.

9 (10) THE DIRECTOR SHALL TAKE THE NECESSARY STEPS TO SEEK AN
10 OPINION FROM THE FEDERAL INTERNAL REVENUE SERVICE TO DETERMINE
11 WHETHER AN AMOUNT PAID BY AN INDIVIDUAL TO THE TRUST FUND UNDER
12 SUBSECTION (3) IS DEDUCTIBLE OR EXCLUDABLE FROM THE INDIVIDUAL'S
13 ADJUSTED GROSS INCOME UNDER THE INTERNAL REVENUE CODE, AND
14 WHETHER THE AMOUNT OF A PAYMENT MADE FROM THE TRUST FUND TO PRO-
15 VIDE SERVICES FOR A BENEFICIARY UNDER SUBSECTION (4) IS DEDUCTI-
16 BLE OR EXCLUDABLE FROM THE BENEFICIARY'S ADJUSTED GROSS INCOME
17 UNDER THE INTERNAL REVENUE CODE. THE DIRECTOR SHALL INFORM THE
18 LEGISLATURE OF THE COMMISSIONER'S OPINION ON THOSE QUESTIONS AND
19 OF ANY CHANGE IN THIS SECTION OR OTHER LAW THAT MAY BE NECESSARY
20 TO MAKE THOSE AMOUNTS DEDUCTIBLE OR EXCLUDABLE UNDER THE INTERNAL
21 REVENUE CODE, IF IT IS POSSIBLE TO MAKE EITHER OF THOSE AMOUNTS
22 DEDUCTIBLE OR EXCLUDABLE UNDER THE INTERNAL REVENUE CODE.

23 (11) THE DEPARTMENT SHALL NOT TAKE INTO CONSIDERATION THAT A
24 BENEFICIARY RECEIVES MONEY FROM THE TRUST FUND OR SERVICES FUNDED
25 BY MONEY FROM THE TRUST FUND IN DETERMINING WHETHER THE DEPART-
26 MENT DOES OR DOES NOT PROVIDE A FREE SERVICE OR PROGRAM TO THE
27 BENEFICIARY.

1 SEC. 848. (1) REGARDLESS OF THE AGE OF THE PERSON WITH A
2 DEVELOPMENTAL DISABILITY, A PARENT OR GUARDIAN OF A PERSON WITH A
3 DEVELOPMENTAL DISABILITY MAY AUTHORIZE THE PARENT'S OR GUARDIAN'S
4 EMPLOYER TO DEDUCT AND WITHHOLD AN AMOUNT FROM THE PARENT'S OR
5 GUARDIAN'S COMPENSATION EACH PAY PERIOD, WHICH AMOUNT SHALL NOT
6 EXCEED AN AGGREGATE ANNUAL TOTAL OF \$5,000.00. THE AUTHORIZATION
7 SHALL BE IN WRITING ON A FORM PROVIDED BY THE DEPARTMENT AND
8 SIGNED BY THE PARENT OR GUARDIAN. BEFORE PROVIDING A FORM TO A
9 PERSON, THE DEPARTMENT SHALL VERIFY THAT THE PERSON IS THE PARENT
10 OR GUARDIAN OF A PERSON WITH A DEVELOPMENTAL DISABILITY WHO IS
11 ELIGIBLE FOR DEPARTMENT SERVICES UNDER THIS ACT, AND SHALL ON THE
12 FORM CERTIFY THE PARENT'S OR GUARDIAN'S ELIGIBILITY TO MAKE AN
13 AUTHORIZATION. UPON RECEIPT OF A DULY SIGNED AND CERTIFIED
14 AUTHORIZATION FORM, AN EMPLOYER SHALL DEDUCT AND WITHHOLD THE
15 AUTHORIZED AMOUNT AND FORWARD IT TO THE STATE TREASURER AS PRO-
16 VIDED IN THIS SECTION.

17 (2) AN EMPLOYER REQUIRED UNDER THIS SECTION TO DEDUCT AND
18 WITHHOLD AN AMOUNT FROM A PARENT'S OR GUARDIAN'S COMPENSATION
19 PURSUANT TO AN ELECTION BY THE PARENT OR GUARDIAN SHALL DEDUCT
20 AND WITHHOLD AN AMOUNT IN EACH PAY PERIOD EQUAL TO THE AMOUNT
21 AUTHORIZED BY THE PARENT OR GUARDIAN FOR A PAY PERIOD. IF THE
22 PARENT'S OR GUARDIAN'S COMPENSATION FOR A PARTICULAR PAY PERIOD
23 IS LESS THAN THE AMOUNT DESIGNATED BY THE PARENT OR GUARDIAN FOR
24 THE PAY PERIOD, THE EMPLOYER SHALL NOT WITHHOLD ANY AMOUNT FOR
25 THAT PAY PERIOD.

26 (3) AN AMOUNT WITHHELD UNDER THIS SECTION ACCRUES TO THE
27 STATE ON THE LAST DAY OF THE MONTH IN WHICH IT IS WITHHELD, AND

1 THE EMPLOYER SHALL PAY THE AMOUNT TO THE STATE TREASURER NO LATER
2 THAN 15 DAYS AFTER THE END OF THE MONTH.

3 (4) AN EMPLOYER REQUIRED BY THIS ACT TO DEDUCT AND WITHHOLD
4 AMOUNTS AS DIRECTED BY A PARENT OR GUARDIAN HOLDS THE AMOUNT
5 WITHHELD AS A TRUSTEE FOR THE STATE, IS LIABLE FOR THE PAYMENT OF
6 THE AMOUNT TO THE STATE, AND IS NOT LIABLE TO ANY INDIVIDUAL FOR
7 THE AMOUNT OF THE PAYMENT.

8 (5) IF THE EMPLOYER IS A CORPORATION AND DOES NOT FOR ANY
9 REASON PAY THE AMOUNT DUE AS REQUIRED UNDER THIS ACT, EACH OFFI-
10 CER OF THE CORPORATION HAVING CONTROL OF, SUPERVISION OF, OR
11 CHARGED WITH THE RESPONSIBILITY FOR MAKING THE PAYMENTS IS PER-
12 SONALLY LIABLE FOR A FAILURE TO PAY. THE DISSOLUTION OF A CORPO-
13 RATION DOES NOT DISCHARGE A CORPORATE OFFICER'S LIABILITY FOR THE
14 FAILURE OF THE CORPORATION TO REMIT THE AMOUNT THAT WAS DUE
15 BEFORE DISSOLUTION. THE SUM DUE FOR ANY LIABILITY IMPOSED UPON A
16 CORPORATE OFFICER UNDER THIS SUBSECTION MAY BE ASSESSED BY THE
17 STATE TREASURER AND COLLECTED IN THE SAME MANNER AS STATE INCOME
18 TAX WITHHOLDING UNDER SECTIONS 23 AND 24 OF ACT NO. 122 OF THE
19 PUBLIC ACTS OF 1941, BEING SECTIONS 205.23 AND 205.24 OF THE
20 MICHIGAN COMPILED LAWS.

21 (6) UPON RECEIPT OF MONEY FROM A PARENT'S OR GUARDIAN'S
22 EMPLOYER UNDER SUBSECTION (3), THE STATE TREASURER SHALL MAKE A
23 RECORD OF THE AMOUNT RECEIVED AND SHALL FORWARD THAT AMOUNT TO
24 THE COUNTY COMMUNITY HEALTH PROGRAM DESIGNATED BY THE PARENT OR
25 GUARDIAN. THE STATE TREASURER MAY ADOPT A PROCEDURE FOR PAYMENT
26 TO THE COUNTY COMMUNITY MENTAL HEALTH PROGRAMS THAT MAKES PAYMENT

1 AT INTERVALS LESS FREQUENT THAN MONTHLY, BUT SHALL MAKE PAYMENTS
2 NO LESS FREQUENTLY THAN QUARTERLY.

3 (7) A COUNTY COMMUNITY MENTAL HEALTH PROGRAM SHALL USE MONEY
4 RECEIVED UNDER THIS SECTION FROM THE PARENT OR GUARDIAN TO MEET
5 THE FINANCIAL LIABILITY UNDER THIS CHAPTER FOR SERVICES TO THE
6 PERSON WITH A DEVELOPMENTAL DISABILITY SPECIFIED BY THE PARENT OR
7 GUARDIAN, ACCORDING TO AN INDIVIDUALIZED WRITTEN PLAN OF SERVICES
8 DEVELOPED IN CONSULTATION WITH THE PARENT OR GUARDIAN. SERVICES
9 PROVIDED MAY INCLUDE, BUT ARE NOT LIMITED TO, ANY OF THE
10 FOLLOWING:

11 (A) LIFELONG EDUCATION PROGRAMS.

12 (B) JOB TRAINING.

13 (C) MEDICAL CARE AND EQUIPMENT.

14 (D) TREATMENT PROGRAMS.

15 (E) RESPITE SERVICES.

16 (F) LONG-TERM RESIDENTIAL CARE.

17 (8) A COUNTY COMMUNITY MENTAL HEALTH PROGRAM SHALL PROVIDE
18 INFORMATION TO A PARENT OR GUARDIAN ON SERVICES AVAILABLE FOR A
19 PERSON WITH A DEVELOPMENTAL DISABILITY AND SHALL PREPARE UPON
20 REQUEST A PROPOSED INDIVIDUALIZED WRITTEN PLAN OF SERVICES FOR A
21 PARENT OR GUARDIAN TO CONSIDER IN DECIDING WHETHER TO ELECT
22 DEDUCTION AND WITHHOLDING OF COMPENSATION UNDER THIS SECTION.

23 (9) AN AUTHORIZATION EXECUTED UNDER SUBSECTION (1) IS IRREV-
24 OCABLE FOR A PERIOD OF 1 YEAR UNLESS THE DIRECTOR GIVES WRITTEN
25 PERMISSION TO THE PARENT OR GUARDIAN AND THE EMPLOYER FOR REVOC-
26 TION OF THE AUTHORIZATION. THE DIRECTOR SHALL GIVE PERMISSION TO

1 A PARENT OR GUARDIAN AND AN EMPLOYER FOR REVOCATION OF AN
2 AUTHORIZATION ONLY IN 1 OF THE FOLLOWING CIRCUMSTANCES:

3 (A) THE PERSON WITH A DEVELOPMENTAL DISABILITY DIES.

4 (B) THE DIRECTOR DETERMINES THAT THE AMOUNT BEING DEDUCTED
5 AND WITHHELD CANNOT BE USED FOR SERVICES FOR THE PERSON WITH A
6 DEVELOPMENTAL DISABILITY IN A MANNER CONSISTENT WITH DEPARTMENT
7 RULES AND THE INDIVIDUALIZED WRITTEN PLAN OF SERVICES UNDER SUB-
8 SECTION (7).

9 (C) THE DIRECTOR DETERMINES THAT ANOTHER CIRCUMSTANCE EXISTS
10 THAT PRESENTS A COMPELLING REASON TO GRANT PERMISSION FOR
11 REVOCATION.

12 (10) THE AMOUNT DEDUCTED AND WITHHELD BY A PARENT'S OR
13 GUARDIAN'S EMPLOYER UNDER THIS SECTION MAY BE DEDUCTIBLE FROM THE
14 PARENT'S OR GUARDIAN'S TAXABLE INCOME ACCORDING TO THE INCOME TAX
15 ACT OF 1967, ACT NO. 281 OF THE PUBLIC ACTS OF 1967, BEING SEC-
16 TIONS 206.1 TO 206.532 OF THE MICHIGAN COMPILED LAWS, AND THE
17 CITY INCOME TAX ACT, ACT NO. 284 OF THE PUBLIC ACTS OF 1964,
18 BEING SECTIONS 141.501 TO 141.787 OF THE MICHIGAN COMPILED LAWS.

19 (11) THE DIRECTOR SHALL TAKE THE NECESSARY STEPS TO SEEK AN
20 OPINION FROM THE COMMISSIONER OF THE FEDERAL INTERNAL REVENUE
21 SERVICE TO DETERMINE WHETHER AN AMOUNT OF A PARENT'S OR
22 GUARDIAN'S INCOME DEDUCTED AND WITHHELD BY THE PARENT'S OR
23 GUARDIAN'S EMPLOYER UNDER THIS SECTION IS DEDUCTIBLE OR EXCLUD-
24 ABLE FROM THE PARENT'S OR GUARDIAN'S ADJUSTED GROSS INCOME UNDER
25 THE INTERNAL REVENUE CODE. THE DIRECTOR SHALL INFORM THE LEGIS-
26 LATURE OF THE COMMISSIONER'S OPINION ON THAT QUESTION AND OF ANY
27 CHANGE IN THIS SECTION OR OTHER LAW THAT MAY BE NECESSARY TO MAKE

1 THAT AMOUNT DEDUCTIBLE OR EXCLUDABLE UNDER THE INTERNAL REVENUE
2 CODE, IF IT IS POSSIBLE TO MAKE THAT AMOUNT DEDUCTIBLE OR EXCLUD-
3 ABLE UNDER THE INTERNAL REVENUE CODE.

4 (12) THE DEPARTMENT SHALL NOT TAKE INTO CONSIDERATION THAT A
5 PERSON RECEIVES SERVICES FUNDED BY MONEY RECEIVED UNDER THIS SEC-
6 TION IN DETERMINING WHETHER THE DEPARTMENT DOES OR DOES NOT PRO-
7 VIDE A FREE SERVICE OR PROGRAM TO THE PERSON.

8 Section 2. This amendatory act shall not take effect unless
9 all of the following bills of the 85th Legislature are enacted
10 into law:

11 (a) House Bill No. _____ or Senate Bill No. _____ (request
12 no. 00071'89 a).

13 (b) House Bill No. _____ or Senate Bill No. _____ (request
14 no. 00071'89 b).